

GAHC010038732023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/1786/2023

PARESH LAHKAR AND 17 ORS
S/O LT. BASISTHA, VILL-PANIMAJKUCHI, P.S.-GHOGRAPAR, P.O.-BARAJOL,
DIST-NALBARI, PIN-781369

2: KANU SARKAR
S/O PRAFULLA
VILL-BARALKUCHI
P.S.-GHOGRAPAR
P.O.-TINIPUKHURI
DIST-NALBARI
PIN-781367

3: MANOJ DAS
S/O MAHINDRA
VILL-BARALKUCHI
P.S.-GHOGRAPAR
P.O.-TINIPUKHURI
DIST-NALBARI
PIN-781367

4: DWIJEN SARKAR
S/O DINESH
VILL-BARALKUCHI
P.S.-GHOGRAPAR
P.O.-TINIPUKHURI
DIST-NALBARI
PIN-781367

5: ALI AHMED
S/O KHANMAMUD
VILL-BARALKUCHI
P.S.-GHOGRAPAR
P.O.-TINIPUKHURI
DIST-NALBARI

PIN-781367

6: ABUBAKKAR SIDDIK AHMED
S/O LT. KUDRAT ALI AHMED
P.S.-GHOGRAPAR
P.O.-BARAJOL
DIST-NALBARI
PIN-781369

7: MD. GAMIR ALI
S/O LT. MESER ALI
VILL-BALIPARA
P.S.-GHOGRAPARA
P.O.-BARAJOL
DIST-NALBARI
PIN-781369

8: ABDUL MAZID KHAN
S/O LT. LALMAMUD KHAN
VILL-SONKURIHA
P.S.-GHOGRAPARA
P.O.-BARAJOL
DIST-NALBARI
PIN-781369

9: HIRAN BARMAN
S/O LT. HEMATA
VILL-SONKURIHA
P.S.-GHOGRAPAR
P.O.-BARAJOL
DIST-NALBARI
PIN-781369

10: DILWAR HUSSAIN
S/O LT. ABDUL HUSSAIN
VILL-ARARA
P.S.-GHOGRAPAR
P.O.-ALLIA
DIST-NALBARI
PIN-781369

11: ABDUL AWAL AHMED
S/O LT. ABDUL HALIM
VILL-ARARA
P.S.-GHOGRAPAR
P.O.-ALLIA
DIST-NALBARI
PIN-781369

12: MAHENDRA KALITA
VILL-ARARA
P.S.-GHOGRAPAR
P.O.-ALLIA
DIST-NALBARI
PIN-781369

13: DHIMAN KALITA
VILL-ARARA
P.S.-GHOGRAPAR
P.O.-ALLIA
DIST-NALBARI
PIN-781369

14: NURMAHAMMAD ALI
VILL-CHOTO ALLIYA
P.S.-GHOGRAPAR
P.O.-ALLIA
DIST-NALBARI
PIN-781369

15: SAFIKUL ISLAM
S/O HAMED ALI
VILL-CHOTO ALLIYA
P.S.-GHOGRAPAR
P.O.-ALLIA
DIST-NALBARI
PIN-781369

16: MUZAFFAR HUSSAIN
S/O BAHAR ULLA
VILL-NAMATI
P.S.-GHOGRAPAR
P.O.-ALLIA
DIST-NALBARI
PIN-781369

17: PABAN ADHIKARI @ PABAN DUTTA
S/O KARANI KANTA
VILL-NARAYANGAON
P.S.-GHOGRAPAR
P.O.-TINIPUKHURI
DIST-NALBARI
PIN-781367

18: RAMEN SALOI
S/O RUHINI

VILL-NARAYANGAON
P.S.-GHOGRAPAR
P.O.-TINIPUKHURI
DIST-NALBARI
PIN-78136

VERSUS

UNION OF INDIA AND 5 ORS
REPRESENTED BY THE SECRETARY, MINISTRY OF HOME AFFAIRS,
NORTH BLOCK, CENTRAL SECRETARIAT, NEW DELHI-110001

2:STATE OF ASSAM
REPRESENTED BY ITS CHIEF SECRETARY
BLOCK-C
3RD FLOOR
ASSAM SECRETARIAT
DISPUR
GUWAHATI-781006
ASSAM

3:GENERAL ADMINISTRATION DEPARTMENT
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT
OF ASSAM
GENERAL ADMINISTRATION DEPARTMENT
ASSAM SECRETARIAT
DISPUR
GUWAHATI-781006

4:HOME AND POLITICAL DEPARTMENT
REPRESENTED BY THE COMMISSIONER AND SECRETARY
GOVERNMENT OF ASSAM
ASSAM SECRETARIAT
DISPUR
GUWAHATI-781006

5:WELFARE OF BODOLAND DEPARTMENT
REPRESENTED BY SECRETARY
GOVERNMENT OF ASSAM
ASSAM SECRETARIAT
DISPUR
GUWAHATI-781006

6:BODOLAND TERRITORIAL COUNCIL
REPRESENTED BY THE SECRETARY
BODOFA NWGWR
BODOLAND TERRITORIAL COUNCIL SECRETARIAT
KOKRAJHAR

BODOLAND TERRITORIAL REGION (BTR)
ASSA

Advocate for the Petitioner : MR. M K CHOUDHURY

Advocate for the Respondent : DY.S.G.I.

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

Date : 31-03-2023

Heard Mr. M.H. Choudhury, learned counsel for the petitioners, who submits that the Notification dated 31.12.2022 issued by the Principal Secretary to the Government of Assam, General Administration Department, by which 10 villages under Ghorgrapar Revenue Circle of Nalbari District, which were outside the Bodoland Territorial Region (BTR in short) have now been included in Baksa District under the Bodoland Territorial Region, should be set aside.

2. The petitioners' counsel submits that the 10 villages, which have been put under the Bodoland Territorial Region (BTR in short) is closer to Nalbari Town, which is in Nalbari District and as such, the petitioners, who are living in those 10 villages will lose various rights including political rights, if they are transferred from a non-BTR to a BTR area.

3. The petitioners' counsel submits that the petitioners have also submitted a representation dated 10.01.2023 against the transfer of the 10 villages from the non-BTR area to BTR area to the Deputy Commissioner, Nalbari. However, no decision has been taken on the same till date.

4. Mr. M. Goswami, learned counsel appears for respondent Nos. 2 & 4, Mr. S.R. Raba, learned counsel appears for respondent No. 6, Ms. R. Devi, learned counsel appears for respondent No. 1 and Mr. A. Phukan, learned standing counsel GAD also appears for respondent No. 3.

5. The learned counsels for the respondents submit that the writ petition should be dismissed, as the inclusion of 10 villages from non-BTR area to a BTR area is a Policy and Administrative decision of the Government and as such, this Court should not interfere in the said decision, particularly when there is nothing to show that any legal or Fundamental Rights of the petitioners have been violated.

6. I have heard the learned counsels for the parties.

7. On perusing the impugned Notification dated 31.12.2022, it is seen that the placing of the 10 villages mentioned in the said notification within the administrative jurisdiction of Baksa District from Nalbari District has been done for better administrative convenience.

8. Without going through the merits of the said Notification dated 31.12.2022, it is seen that the petitioners have not give any representation to the State Government against the impugned Notification dated 31.12.2022. Instead, the petitioners have submitted a Representation /Memorandum dated 10.01.2023 to the Deputy Commissioner, Nalbari, to include the 10 villages mentioned in the impugned notification within the Nalbari District.

9. In view of the fact that the petitioners have not availed of the alternative remedy available by first approaching the State Government with regard to their

grievance, this Court is not inclined to entertain this writ petition and/or exercise it's discretion in this case.

10. The writ petition is dismissed, with liberty being given to the petitioners to approach the State Government with their grievance in the first instance.

JUDGE

Comparing Assistant