

GAHC010240172019



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

Case No.: WP(C)/2585/2018

ARUN RAI AND 7 ORS.
S/O- SHRI RAM KRISHNA RAI
R/O- ANIL NAGAR
BYE LANE NO. 6
RAJGARH LINK ROAD
GHY-7
P.S. GEETANAGAR
DIST- KAMRUP (M)
ASSAM

2: NABIN RAI
S/O- SRI BINDESHWAR RAI
R/O- ANIL NAGAR
BYE LANE NO. 6
RAJGARH LINK ROAD
GHY-7
P.S. GEETANAGAR
DIST- KAMRUP (M)
ASSAM

3: DEBEND RAI
S/O- LT RAMESHWAR RAI
R/O- ANIL NAGAR
BYE LANE NO. 6
RAJGARH LINK ROAD
GHY-7
P.S. GEETANAGAR
DIST- KAMRUP (M)
ASSAM

4: UMA SHANKAR RAI
S/O- LT AYODHYA RAI
R/O- ANIL NAGAR
BYE LANE NO. 6

RAJGARH LINK ROAD
GHY-7
P.S. GEETANAGAR
DIST- KAMRUP (M)
ASSAM

5: SHAHADEO RAI
S/O- LT JHARI RAI
R/O- ANIL NAGAR
BYE LANE NO. 6
RAJGARH LINK ROAD
GHY-7
P.S. GEETANAGAR
DIST- KAMRUP (M)
ASSAM

6: BINOY RAI
S/O- SRI DEBENDRA RAI
R/O- ANIL NAGAR
BYE LANE NO. 6
RAJGARH LINK ROAD
GHY-7
P.S. GEETANAGAR
DIST- KAMRUP (M)
ASSAM

7: SUSHIL RAI
S/O- SRI KISHORI YADAV
R/O- ANIL NAGAR
BYE LANE NO. 6
RAJGARH LINK ROAD
GHY-7
P.S. GEETANAGAR
DIST- KAMRUP (M)
ASSAM

8: AJAY KR RAI
S/O- SRI DEBENDRA RAI
R/O- ANIL NAGAR
BYE LANE NO. 6
RAJGARH LINK ROAD
GHY-7
P.S. GEETANAGAR
DIST- KAMRUP (M)
ASSAM
VERSUS

GAUHATI MUNICIPAL CORPORATION AND 6 ORS.

REP. BY ITS COMMISSIONER
PANBAZAR
GHY-1

2:THE HEALTH OFFICER
VETERINARY SECTION GAUHATI MUNICIPAL CORPORATION
GHY
PANBAZAR
GHY-1

3:ENFORCEMENT OFFICER
GAUHATI MUNICIPAL CORPORATION
PANBAZAR
GHY-1

4:INSPECTOR/ OBSERVER
GUWAHATI MUNICIPAL CORPORATION
GHY
PANBAZAR
GHY-1

5:RAMEN THAKURIA
S/O. LATE KANDARPA THAKURIA
R/O. BYE LANE- 5
GOLAP BORBORA PATH
ANIL NAGAR
GUWAHATI-7.

6:SRI DILIP KALITA
S/O. LATE HARAKANTA KALITA
R/O. BYE LANE-5
GOLAP BORBORA PATH
ANIL NAGAR
GUWAHATI-7.

7:SRI GIRISH DEKA
S/O. BANSHI RAM DEKA
R/O. BYE LANE-5
GOLAP BORBORA PATH
ANIL NAGAR
GUWAHATI-7.

Advocate for : G UDDIN
Advocate for : SC. G.M.C. appearing for GAUHATI MUNICIPAL CORPORATION
AND 6 ORS.

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
O R D E R

04.08.2023

The applicants herein are aggrieved by the issuance of notices dated 09.04.2018 enclosed as Annexure-3 (A), 3(B), 3(C), 3(D), 3 (E), 3(F), 3(G), 3 (H) on the ground that the said notices were issued and the petitioners were directed to close down their cowsheds without providing any opportunity of hearing to the petitioners.

2. Mr. M. Smith, the learned counsel appearing on behalf of the respondent Nos.5, 6 & 7 submits that they were complainants at whose behest the GMC Authority had taken action. It is the specific case of the respondent Nos.5, 6 & 7 that they are the residents nearby the cowsheds maintained by the petitioners and as the cowsheds have been maintained in an unhygienic condition, the same is affecting the said respondents as well as the nearby residents.

3. Mr. S. Bora, the learned counsel appearing on behalf of the GMC submits that taking into account that no hearing was granted to the petitioners before issuance of the impugned notices dated 09.04.2018, the GMC Authority would pass appropriate order after hearing both the petitioners as well as the private respondents and thereupon pass appropriate order as deem fit taking into account the provisions of law. Mr. S. Bora, the learned counsel appearing on behalf of the GMC further submits upon instructions that the Commissioner of GMC shall hear both the petitioners as well as the private respondents on 22.08.2023 at 11:00 AM in the Office of the Commissioner of GMC at Bhangagarh.

4. Taking into account that the impugned notices dated 09.04.2018 enclosed as Annexure- Annexure-3 (A), 3(B), 3(C), 3(D), 3 (E), 3(F), 3(G), 3 (H) were issued without hearing the petitioners, this Court, on the ground of violation of the principles of natural justice, sets aside the impugned notices dated 09.04.2018.

5. This Court further taking into account the submission of Mr. S. Bora, the learned counsel appearing on behalf of the GMC, grants liberty to the petitioners as well as the private respondents, if so advised, to appear before the Commissioner, GMC on 22.08.2023 at 11:00 AM in the Office of the GMC at Bhangagarh and the Commissioner, GMC is directed to hear the parties and thereupon shall pass appropriate orders as deemed fit as per the extant of law.

6. The petitioners as well as the private respondents would be further at liberty to submit their written statements, if so advised, in that regard on the date so fixed.

7. With the above observation and direction, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant