

GAHC010088452023



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

**Case No. : WP(C)/2844/2023**

SRIMANTA DAS AND 37 ORS  
S/O SRI HEMAKANTA DAS, R/O VILL-BALIKUCHA, P.S.-RAHA, P.O.-  
GASPARA, DIST-NAGAON (ASSAM), PIN-782425

2: JYOTI PRASAD SAIKIA  
S/O LT. KASHIRAM SAIKIA  
R/O VILL-KARHALIGAON  
P.O.-KOLLONGPAR HALOWAGAON  
P.S.-RUPAHIHAT  
DIST-NAGAON (ASSAM)  
PIN-782141

3: UTPAL MASORONG  
S/O SRI RAMSING LASKAR  
R/O VILL-SIMALUGURI  
P.O.-KACHUMARI  
P.S.-NAGAON  
DIST-NAGAON (ASSAM)  
PIN-782426

4: MRINAL BORAH  
S/O LT. HAREN BORAH  
R/O VILL-ULUANE  
P.O.-KUMARGAON  
P.S.-RUPAHE  
DIST-NAGAON (ASSAM)  
PIN-782460

5: CHAND MIYA  
S/O ALI AHMED  
R/O VILL-BHULAKATA  
P.O. AND P.S.-BISWANATH CHARIALI  
DIST-SONITPUR (ASSAM)  
PIN-784177

6: RUPAM BASUMATARY  
S/O DHARANIDHAR BASUMATARY  
R/O VILL-HIMANIPUR  
P.O.-MEZANGJULI  
P.S.-DHEKIAJULI  
DIST-SONITPUR (ASSAM)  
PIN-784110

7: MADHAB CH. ROY  
S/O LT. NARAYAN CH. ROY  
R/O VILL-SIRAJULI SATRA  
P.O. AND P.S.-DHEKIAJULI  
DIST-SONITPUR  
PIN-784110

8: ROBIN CH. BORO  
S/O SRI PUNEYSWAR BORO  
R/O VILL-BORBIL  
P.S.-THELAMARA  
P.O.-BORBIL  
DIST-SONITPUR (ASSAM)  
PIN-784149

9: TABIBAR AHMED  
S/O LT. ALTABUDDIN AHMED  
R/O VILL- JANGAL BASTI  
W/NO-1  
P.O. AND P.S.-DHEKIAJULI  
DIST- SONITPUR (ASSAM)  
PIN-784110

10: BIJOY DEKA  
S/O BUDESWAR DEKA  
R/O VILL-MAJGAON  
P.O.-PAHUMARA  
P.S.-NORTH LAKHIMPUR  
DIST-LAKHIMPUR (ASSAM)  
PIN-787031

11: UMA KANTA TAYUNG  
S/O PADHMA RAM TAYUNG  
R/O VILL-NUNIBARI  
P.O.-RAIDINGIA  
P.S.-NARAYANPUR  
DIST-LAKHIMPUR  
PIN-784165

12: NATRADHAR BORAH  
S/O LT. NARAM BORAH  
R/O VILL-MOHPARA  
P.O.-CHALCHALI  
P.S.-SAMOGURI  
DIST-NAGAON (ASSAM)  
PIN-782141

13: DHURBA HAZARIKA  
S/O LT. THANESWAR HAZARIKA  
R/O VILL AND P.O.-BHELAGURI  
P.S.-SAMAGURI  
DIST-NAGAON (ASSAM)  
PIN-782140

14: MD. ANUAR HUSSAIN  
S/O LT. MAIR UDDIN  
R/O VILL-RANGALOO  
P.O.-JUMUR MUKH  
P.S.-KAMPUR  
DIST-NAGAON (ASSAM)  
PIN-782428

15: DADUL BORO @ DULAL  
S/OLT. NAKUL BORO  
R/O VILL-BORBIL KOCHARI GAON  
P.O.-BORBIL  
P.S.-THELAMARA  
DIST-SONITPUR (ASSAM)  
PIN-784149

16: ARUN BISWAS  
S/O SAITENDRA BISWAS  
R/O VILL-WARIGADING  
P.O.-BARAPUTIA  
P.S.-HOJAI  
DIST-NAGAON (ASSAM)  
PIN-782428

17: RAGHU NATH BHAKAT  
S/O SRI ATUL CH. BHAKAT  
R/O VILL-JINKATA PT.1  
P.O.-MAHAMAYAHAT  
P.S.-GOLAKGANJ  
DIST-DHUBRI (ASSAM)  
PIN-783335

18: DIP KANTA BHAKAT

S/O LT. KAMALESWAR BHAKAT  
R/O VILL-GHARAIAL DANGA  
P.O.-MAHAMAYAHAT  
P.S.-GOLAKGANJ  
DIST-DHUBRI (ASSAM)  
PIN-783335

19: JOGANNATH DEVNATH  
S/O PUMA CH. DEVNATH  
R/O VILL-SHILDANGA  
P.O.-HATIPOTA  
P.S.-CHAPAR  
DIST-DHUBRI (ASSAM)  
PIN-783348

20: HANIF ALI SK  
S/O ATAB ALI  
R/O VILL-TELIPARA  
P.O.-GENAAMARI  
P.S.-GAURIPUR  
DIST-DHUBRI (ASSAM)  
PIN-783348

21: MD RIBUL ALI  
S/O MD SULTAN ALI  
R/O VILL-BHUYAN  
P.O.-CHENGAMARI  
P.S.-SOOTIA  
DIST- SONITPUR (ASSAM)  
PIN-784175

22: MOZIBUR RAHMAN @ MAZIBAR RAHMAN  
S/O LT SAHARUDDIN  
R/O VILL- NO 2 KUMOLIA  
P.O.-PANIBHARAL  
P.S.-BISWANATH CHARIALI  
DIST- SONITPUR (ASSAM)  
PIN-784176

23: GHANENDRA NATH  
S/O AMRIT NATH  
R/O VILL- RAJA MAYONG  
P.O.-RAJA MAYONG  
P.S.-MAYONG  
DIST-MORGAN  
PIN-782411

24: JITEN NATH

S/O BADRA KT NATH  
R/O VILL-BAMUNBORI  
P.O.-BAMUNBORI  
P.S.-MIKIRBHETA  
DIST- MORIGAON (ASSAM)  
PIN-782103

25: NOMIT NAIDING  
S/O SRI RONTA NAIDING  
R/O VILL-HATIKHALI  
P.O.-HATIKHALI  
P.S.-HATIKHALI  
DIST-DIMA HASO (ASSAM)  
PIN-788832

26: CHANDAN ARDAU  
S/O SRI MAINON ARDAU  
R/O VILL- KASH KARLI GAON  
P.O.-BORLANGFER  
P.S.-BORLANGFER  
DIST- KARBI ANGLONG (ASSAM)  
PIN-782447

27: NARESWAR KR. NATH  
S/O LT EKARAM NATH  
R/O VILL-POLOKHAGURI  
P.O.-GANDHIBORI  
P.S.-RAHA  
DIST-NAGAON (ASSAM)  
PIN-782103

28: RAJEN RABHA  
S/O LT KOTO RABHA  
R/O VILL-KHERONI MAJGAON  
P.O.-KHERONI  
DIST-KARBI ANGLONG (ASSAM)  
PIN-782448

29: NAHEJ ALI  
S/O HASHEM ALI  
R/O VILL-NALDUBA  
P.O.-MORNAI  
P.S.-MORNAI  
DIST-GOALPARA (ASSAM)  
PIN-783101

30: DHRUBA JYOTI DEKA  
S/O LT HAREN DEKA

R/O VILL-DONGABARI  
P.O.-DONGABARI  
P.S.-JAGIROAD  
DIST-MORIGAON (ASSAM)  
PIN-782410

31: ROBIRAM BASUMATARY  
S/O NAGEN BASUMAATARY  
R/O VILL-GARMARA KACHARI GAON  
P.O.-GARMARA  
P.S.-DHEKIAJULI  
DIST-SONIPUR (ASSAM)  
PIN-784111

32: GIRDHAR SHILL  
S/O LT. KESHAB SHILL  
R/O VILL AND P.O.-GHATUA  
P.S.-THELAMARA  
DIST-SONITPUR (ASSAM)  
PIN-784149

33: DIPAK SAIKIA  
S/O LT LILADHAR SAIKIA  
R/O VILL-BHUTAIGAON  
P.S.-NAGAON SADAR  
P.O.-URIAGAON  
DIST-NAGAON (ASSAM)  
PIN-782003

34: MANIK PATOR  
S/O LT JOPORA PATAR  
R/O VILL-PANDIT GHAT  
P.O.-BARPANI  
P.S.-KACHURA  
DIST-NAGAON (ASSAM)  
PIN-

35: UJJAL BORAH  
S/O MOHEN BORAH  
R/O BHERBHERIGAON  
P.O.-HALOWAGAON  
P.S.-SAMAGURI  
DIST-NAGAON (ASSAM)  
PIN-782141

36: MANJIL BORAH  
S/O MOHEN BORAH  
R/O BHERIBERIGAON

P.O.-HALOWAGAON  
P.S.-SAMAGURI  
DIST-NAGAON (ASSAM)  
PIN-78214

37: NAREN BORDOLOI  
S/O APERSON BORDOLOI  
R/O DHEMAJI  
P.O.-FULAGURI  
P.S.-RAHA  
DIST-NAGAON (ASSAM)  
PIN-782103

38: LAXMAN BISWAS  
S/O RAJU KR. BISWAS  
R/O PUB SATMARI  
P.O.-HINDU BLOCK  
P.S.-HOJAI  
DIST- NAGAON (ASSAM)  
PIN-78244

VERSUS

THE STATE OF ASSAM AND 2 ORS  
REPRESENTED BY THE COMMISSIONER AND SECRETARY, HOME AND  
POLITICAL DEPARTMENT, ASSAM SECRETARIAT, CM BLOCK, SECOND  
FLOOR, DISPUR, GUWAHATI, ASSAM-781006

2:DIRECTOR GENERAL OF POLICE  
ASSAM  
ASSAM POLICE HEADQUARTERS  
ULUBARI  
GUWAHATI-781007

3:DIRECTOR GENERAL OF CIVIL DEFENSE AND COMMANDANT  
GENERAL OF HOME GUARDS  
ASSAM  
BELTOLA  
GUWAHATI-78102

**Advocate for the Petitioner : MR. M K CHOUDHURY**  
**Advocate for the Respondent : GA, ASSAM**

**BEFORE**  
**HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

**ORDER**

**09.06.2023**

Heard Shri P. Chakraborty, learned counsel for the petitioners. Also heard Shri R. Dhar, learned State Counsel for the State respondents.

2. Considering the subject matter in dispute and also the nature of the relief claimed, this writ petition is taken up for disposal at the motion stage.

3. The petitioners, who are 38 in numbers, claimed to have been initially inducted as Home Guards after undergoing certain training. In the year 2012, they were engaged as Special Police Officers (SPOs) and were deputed in various places in the BTAD area which was facing a volatile situation at that time. The petitioners claimed to have discharged their duties sincerely whereafter their services were discontinued.

4. Shri Chakraborty, learned counsel for the petitioners has drawn the attention of this Court to an order dated 23.11.2022 passed in WP(C)/7479/2022 instituted by the same petitioners wherein, this Court had issued a direction for consideration of the representation which were said to pending before the Home Secretary, Government of Assam and the DGP, Assam. The said representations were submitted praying for re-appointment as SPOs.

5. In this writ petition, the petitioners have prayed for a direction in the nature of mandamus to appoint them as Constables under the Directorate of Civil Defence and Home Guards and also not to fill up the posts which were advertised on 31.03.2023 for filling up such posts.

6. Shri Dhar, learned State Counsel submits that the prayer made in this writ petition is misconceived. He points out that this writ petition which is in continuation of the earlier writ petition is for a direction for considering the case of the petitioners for appointment to the post of Constable and with an interim prayer to stay the recruitment process as per the advertisement dated 28.12.2022 and notice dated 31.03.2023. He submits that the order dated 23.11.2022 passed in the earlier writ

petition would make it clear that the direction was only for consideration of the representations submitted by the petitioners for re-appointment as SPOs and therefore the said writ petition cannot be connected with the recruitment process initiated vide the advertisement dated 28.12.2022. He further submits that it would open for the petitioners to apply in terms of the said advertisement.

7. After hearing the learned counsel for the parties, this Court finds force in the contention made on behalf of the respondents. This Court has noted that the order dated 23.11.2022 passed by this Court in WP(C)/7479/2022 pertained to consideration of a representation for re-appointment of the petitioners as SPOs. Therefore, issuing a writ in the nature of mandamus for their appointment as Constable may not be called for. This Court is also of the opinion that a recruitment process which have been initiated in accordance with law is not liable to be stayed at the instance of certain individuals on frivolous grounds which may not be in the interest of public. In any case, this Court has noted that there is no embargo in law for the petitioners to apply and participate in the aforesaid recruitment process for the post of Constable under the Directorate of Civil Defence and Home Guards, Assam.

8. Under the aforesaid facts and circumstances, this Court is of the opinion that no case for interference is made out and accordingly the writ petition stands dismissed.

9. It is however observed that if the recruitment process initiated vide the advertisement dated 28.12.2022 has not been culminated and the opportunity of applying for the same is still there, the petitioners are free to apply for the same, in which case, their cases may be considered at par with similarly situated persons.

**JUDGE**

**Comparing Assistant**