

GAHC010120252022



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

Case No. : WP(C)/4167/2022

AJIT BORTHAKUR
S/O LATE KAMALESWAR BORTHAKUR, R/O KACHALUKHOWA, NEAR
HOUSING COLONY, WARD NO. 12, P.S.-NAGAON SADAR, P.O.-NAGAON,
PIN-782001, DIST-NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, TRANSPORT DEPARTMENT, DISPUR,
GUWAHATI-6

2:THE ASSISTANT COMMISSIONER TO THE GOVERNMENT OF ASSAM
TRANSPORT DEPARTMENT
DISPUR
GUWAHATI-6

3:THE DEPUTY COMMISSIONER OF TRANSPORT
ASSAM
GUWAHATI-6

4:THE DISTRICT TRANSPORT OFFICER
NAGAON
P.O. AND P.S.-NAGAON
PIN-782001
DIST-NAGAON
ASSAM

5:MRIDUPABAN BORAH
S/O LATE PRAFULLA CH. BORAH
R/O VILL-KUJIDAH
P.O.-HATICHONG

P.S.-JAJORI
DIST-NAGAON
ASSAM
PIN-78214

Advocate for the Petitioner : MS M BORAH

Advocate for the Respondent : SC, TRANSPORT

Linked Case : WP(C)/4106/2022

DEEP BANIKYA
SON OF LATE GOPAL BANIKYA
RESIDENT OF SHIBPUR
WARD NO. 3
NEAR L.P. SCHOOL
P.O. AND P.S.- ABHAYAPURI
DISTRICT- BONGAIGAON
ASSAM
PIN- 783384.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM
TRANSPORT DEPARTMENT
DISPUR
GUWAHATI-6.

2:THE ASSISTANT COMMISSIONER TO THE GOVERNMENT OF ASSAM
TRANSPORT DEPARTMENT
DISPUR
GUWAHATI-6.

3:THE DEPUTY COMMISSIONER OF TRANSPORT
ASSAM
GUWAHATI-6.

4:THE DISTRICT TRANSPORT OFFICER
BARPETA
P.O. AND P.S.- BARPETA
PIN- 781301
DISTRICT- BARPETA

ASSAM.
5:BIKASH DAS
RESIDENT OF VILLAGE DURAMARI
P.O.- DURAMARI
P.S.- SORBHOG
DISTRICT- BARPETA
ASSAM
PIN- 781317.

Advocate for : MS M BORAH
Advocate for : SC
TRANSPORT appearing for THE STATE OF ASSAM AND 4 ORS

Linked Case : WP(C)/4120/2022

NABAJYOTI HAZARIKA
SON OF LATE MAHESH HAZARIKA
RESIDENT OF VILLAGE URIAGAON
P.O. URIAGAON
P.S. NAGAON SADAR
DISTRICT NAGAON
ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM
TRANSPORT DEPARTMENT
DISPUR
GUWAHATI-6

2:THE ASSISTANT COMMISSIONER TO THE GOVERNMENT OF ASSAM

TRANSPORT DEPARTMENT
DISPUR
GUWAHATI-6

3:THE DEPUTY COMMISSIONER OF TRANSPORT

ASSAM
GUWAHATI-6.
4:THE DISTRICT TRANSPORT OFFICER

NAGAON
P.O. AND P.S. NAGAON

DISTRICT NAGAON
ASSAM
PIN 782001.
5:SMTI. RAKHI SAIKIA
WIFE OF ANUP KUMAR SAIKIA
RESIDENT OF B.B. ROAD
MARWARI PATTY
P.O. AND P.S. NAGAON
DISTRICT NAGAON
ASSAM
PIN 782001.

Advocate for : MS M BORAH

Advocate for : SC

TRANSPORT appearing for THE STATE OF ASSAM AND 4 ORS

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

06.10.2023

Heard Ms. M. Borah, learned counsel appearing for the writ petitioners. Also heard Ms. M. D. Borah, learned Standing Counsel, Transport Department, Assam appearing for the official respondents. Mr. R. Sarma, learned counsel is present on behalf of respondent No.5 in WP(C) No.4106/2022.

In all these writ petitions the petitioners are licence holders for setting up Auto Emission Testing Stations (AETS) in their respective places. The grievance of the petitioners is that there is no proper guidelines issues by the Transport Department for setting up new AETS by maintaining proper distance between two such stations.

Ms. M. D. Borah, learned Standing Counsel, Transport Department, Assam submits that the Department has already issued a notification dated 29.10.2019 laying down certain guidelines and by the judgment and order dated 16.02.2022 passed in WP(C) No.6369/2021 and a batch of similar writ petitions,

the learned Single Judge had issued certain directions in the matter which are available in paragraphs 9 and 10 of the order. According to Ms. M. D. Borah, the said order would cover the case of the present petitioners as well. Therefore, these writ petitions can be disposed of in terms of the order dated 16.02.2022 passed by the learned Single Judge.

Ms. M. Borah, learned counsel for the petitioners and Mr. R. Sarma, learned counsel for the private respondent are also in agreement with the said proposition.

I find from the order dated 16.02.2022 passed in WP(C) No.6369/2021 and the batch of connected writ petitions that the petitioners therein had also expressed similar nature of grievance. Taking note of the grievance expressed in the writ petition the learned Single Judge had passed the order dated 16.02.2022 disposing of the writ petitions with the following directions and observations :-

“9. The respondent Transport Department stated that license to conduct Carbon Monoxide/Hydrocarbon/Oxides of Nitrogen Emission Test for Automobiles Exhaust or permit to conduct Smoke Test for Diesel/Petrol Engine Vehicles have not yet been issued and further clarified that without such reports of the District Transport Officer, new license relating to private AETS shall not be considered.

10. After hearing the learned counsels for the parties and considering entire aspect of the matters, the Court is of the view that till the Transport Department of the State Government does not come with a new Guidelines regarding installation and grating of license for new AETS, the respondent Transport Department of the State shall strictly follow all the specifications as provided by the Commissioner of Transport, Government of Assam in its letter No.CT-AETS/6693 dated 29.10.2019.”

Since the learned counsel for the parties are in agreement that the aforesaid directions would be applicable and cover the case of the present petitioners as well, I dispose of this writ petition by providing that the order dated 16.02.2022 passed by the learned Single Judge in WP(C) No.6369/2021 and the batch of connected writ petitions will apply in the case of the present petitioners as well.

Writ Petition stands closed.

JUDGE

Comparing Assistant