

GAHC010164912021



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

Case No. : PIL (Suo Moto)/6/2021

XXX AND 41 ORS.
XXX

2: RAHMAT ALI
SON OF ABDUL HAMID HAJI
RESIDENT OF VILLAGE 3 NO. ARIMARI
DALGAON
REVENUE CIRCLE
P.O.- KHARUPETIA
DISTRICT DARRANG
ASSAM
PIN-784115.

3: JIARUL HAQUE
S/O ABDUL HAMID HAJIR/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115

4: IMAN ALI
S/O SAIDULLA
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115

5: SOLEMAN ALI
S/O SIANAT ALI HAJI

R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115

6: ABDUL HAMID HAJI
S/O HABEJUDDIN
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115

7: RAJIB ALI
S/O MUNTAZ ALI HAJI
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115

8: AHAR ALI
S/O AFAJUDDIN
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115

9: SABED ALI
S/O AFAJUDDIN
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115

10: MOBED
S/O AFAJUDDIN
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA

DIST-DARRANG
ASSAM
PIN-784115

11: IJAR ALI
S/O MOTLEB ALI
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115

12: JANIF ALI
S/O KHALIL
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115

13: ESAF ALI
S/O TALEB ALI
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115

14: MOINUL HAQUE
S/O ABDUL RASHID
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115.

15: HANIF ALI
S/O KHALIL ALI
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115

16: JAYEDA KHATUN
W/O ESAF ALI
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115

17: AFSAR ALI
S/O SABED ALI
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115

18: SAHED ALI
S/O HAMID
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115

19: IBRAHIM
S/O JAYNAL
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115

20: MAHILA BEGUM
W/O JUNAB ALI
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115

21: AYUB ALI
S/O ASMAT HAJI

R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115

22: MOQBUL HUSSAIN

S/O PURA SHEIKH
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115

23: SIDDIQUE ALI

S/O SIYANAT HAJI
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115

24: MOTLEB ALI

S/O ABDUL HAMID
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115

25: FULURUDDIN

S/O SOJU SHEIKH
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115

26: GAJIUR RAHMAN

S/O AJGAR ALI
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115

27: KUDDUS ALI
S/O SAIDULLA
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115

28: MOSLEMUDIN

S/O SAIFUDDIN
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115

29: HAJRAT ALI
S/O SAITULLA
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115

30: AFSAR ALI
S/O MUNTAJ ALI
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115

31: JAHAR ALI
S/O NUR HUSSAIN
R/O VILL 3 NO. ARIMARI

DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115

32: BAJID MUSTAFA

S/O ABED ALI
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115.

33: IKRAMUL
S/O MOTLEB
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115

34: JUNAB ALI
S/O AFAJUDDIN
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115.

35: SAIBOR HAQUE

S/O NAJIRUDDIN
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115

36: SADEK ALI
S/O ABDUL HAMID
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE

P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115

37: SAHERA KHATUN
W/O ABDUL HAMID
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115.

38: ASMAT ALI

S/O MUNTAJ ALI
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115

39: ABED ALI

S/O MUNTAJ ALI
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115.

40: MD. SALAM

S/O SOFU SHEIKH
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115.

41: SAHIDAR
S/O MOSLEM ALI
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE

P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115

42: ISA HAQUE
S/O ABDUL HUSSAIN
R/O VILL 3 NO. ARIMARI
DALGAON REVENUE CIRCLE
P.O.-KHARUPETIA
DIST-DARRANG
ASSAM
PIN-784115
VERSUS

IN RE- THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE CHIEF SECRETARY
JANATA BHAWAN
DISPUR GUWAHATI 781006

2:THE PRINCIPAL SECRETARY
TO THE GOVT. OF ASSAM
REVENUE AND DISASTER MANEGEMENT DEPARTMENT
JANATA BHAWAN
DISPUR
GUWAHATI 781006
3:THE DIRECTOR GENERAL OF POLICE
ASSAM
ASSAM POLICE HEADQUARTERS
ULUBARI
GUWAHATI 781007
4:THE DEPUTY COMMISSIONER

DARRANG
MANGALDAI
784125
5:THE SUPERINTENDENT OF POLICE
DARRANG
MANGALDAI
784125
6:THE CIRCLE OFFICER

CIRCLE OFFICE
SIPAJHAR
MARAI
784145
7:XXX AND 40 ORS
XXX

Advocate for : SC

GHC

Advocate for : GA

ASSAM appearing for IN RE- THE STATE OF ASSAM AND 5 ORS

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HONOURABLE MR. JUSTICE ROBIN PHUKAN

JUDGMENT

Date : 24-01-2023

(A.M. Bujur Barua, J)

This is a Suo Moto PIL taken up on the basis of a letter dated 27.12.2021, made by Sri Paresh Malakar, on behalf of the citizens associated with Asom Nagarik Samaj, to the Hon'ble The Chief Justice, Gauhati High Court, whereby a request was made to Suo Moto cognizance take up the incident of alleged police brutalities at Garukhuti-Dholpur in the Darrang District of Assam.

2. The letter of 27.12.2021, refers to certain incident, that took place on 23.09.2021, where a heavily armed team of Assam Police Personnel was deployed by the Govt. of Assam at Garukhuti-Dholpur in the Sipajhar Revenue Circle of Darrang District, to carry out certain evictions. When protest were made by the people against the eviction, in the ensuing melee, the police resorted to firing to disperse the crowd and in such event, three persons were reported to have died.

3. The allegation made in the letter also refers to certain incidents, where a cameraman, engaged by the Darrang District Administration to document the situation was seen to be repeatedly stomping over the dead body of Moinul Haque. The letter also states that about 800 families in the area have been evicted and such people were living in the land from where they were evicted for several decades and that the evictions were carried out without any prior notice.

4. Accepting the said letter dated 27.12.2021, the PIL (Suo Moto) No.6/2021 was

registered and Mr. TJ Mahanta, learned Senior Counsel was requested to appear on behalf of the Gauhati High Court.

5. Apparently from reading of the letter, two causes of action had arisen: (1) first cause of action is that certain people were killed in the police firing which was connected with the eviction that had been carried out and (2) the second cause of action is that the persons who were evicted are required to be rehabilitated.

6. When the matter was taken on 04.10.2021, the learned Advocate General of Assam stated that the Government of Assam had already appointed a retired High Court Judge, namely, Mr. Justice B.D. Agarwal (Retd.), as "One-man Inquiry Commission" to enquire into the incident that took place on 23.09.2021. In the circumstance, although certain affidavits were filed by the respondents in course of the proceeding, a statement is made by Mr. TJ Mahanta, learned Senior Counsel for the Gauhati High Court that in the meantime, the inquiry by the Commission, referred above is going on.

7. Mr. J Handique, learned counsel for the Revenue and Disaster Management Department, Government of Assam, upon being instructed by the Departmental Secretary has made a statement that whenever the report and recommendation is made by the One-man Inquiry Commission, the Government would look into it and take whatever appropriate actions under the law are to be taken in the circumstance.

8. As regards the other cause of action, that the evicted people are required to be rehabilitated, we take note that in PIL No.65/2021 (Debabrata Saikia vs. State of Assam), the same issue had been raised as regards the rehabilitation of the concerned evicted people and in the said PIL, the order dated 24.01.2023 had already been passed, which from para 6 onwards is extracted as below:

"6. After hearing the learned counsel for the parties, what is discernible is that some 400 to 500 families were evicted from their respective lands and that in respect of the land from which the eviction were made, there is also a Cabinet decision to set up an agro farm/model project in the Sipajhar area of Darrang district of Assam. After perusal of the PIL petition as well as hearing the learned counsel for the petitioner, no material nor any ground could be pointed out which may lead the Court to arrive at any such conclusion to interfere with a Cabinet decision of the Government of Assam to set up an agro farm/model project at Sipajhar.

7. Interference of a Cabinet decision is circumscribed and it cannot be that a

Cabinet decision would be interfere for an oblique purpose of seeking certain rehabilitation which may be required pursuant to any such eviction or displacement that may take place while implementing such Cabinet decision. From such point of view, we look into the other prayers of the petitioner i.e. for payment of appropriate compensation under the Right to Fair Compensation and Transparency in land Acquisition, Rehabilitation and Resettlement Act, 2013 as well as the Right to Fair Compensation and Transparency in land Acquisition and Rehabilitation and Resettlement Rules, 2015.

8. *We have taken note of a statement made by Mr. J Handique, learned counsel for the Revenue and Disaster Management Department of the Government of Assam from the records and information provided to him by the departmental officials that approximately about 700 families were affected in the eviction that had been carried forward pursuant to the aforesaid Cabinet decision that may have been taken. A further statement is made upon information being provided by the departmental officials that in the meantime about 600 families had already been resettled by giving alternative plots of land. What remains is the balance of about approximately 100 families who had not been provided with the adequate rehabilitation of alternative land.*

9. *In this respect, Mr. J Handique, learned counsel for the Revenue and Disaster Management Department makes a statement that out of such families, some families may have other alternative land elsewhere, but were occupying land from which they were evicted and may have gone back to their original land or are presently not available before the revenue authorities for examining their claim.*

10. *As 600 families had already been rehabilitated out of the approximately 700 families who were evicted, we are of the view that no further consideration is required in this PIL petition other than in respect of those balance approximately 100 families who according to the learned counsel for the petitioner are yet to be rehabilitated and it is also an admitted position of the respondents in the Revenue and Disaster Management Department.*

11. *Here again, a further consideration would be whether such people had any alternative land or they are landless people or actually whether they are in requirement of any rehabilitation by allotment of alternative land.*

12. *In the circumstance, we require such other families from the balance of approximately 100 families who are said to have not been rehabilitated to make their individual applications before the Deputy Commissioner, Darrang providing in detail all materials that may support their claim for allotment of any alternative land for the purpose of rehabilitation. We further provide that in the event any such application is made, the Deputy Commissioner shall pass individual reasoned orders within a period of six months from the date of receipt of such applications from the individual applicants. In doing so, the Deputy Commissioner shall also give the individual applicants an opportunity of hearing and also allow them to produce any relevant materials that they may intend to rely upon to substantiate their claim for allotment of land for the purpose of rehabilitation.*

13. By requiring the Deputy Commissioner to pass individual reasoned orders on any such individual applications of the applicants, we clarify that we are not expressing any view that such applicants are entitled to any allotment of any such land or that they are not entitled to any such allotment and it is for the Deputy Commissioner to pass its own reasoned orders on the individual facts and circumstance of each of the applications.

14. In view of the subsequent circumstance as indicated above, we are of the view that no further adjudication is required in the claim made in this PIL petition and accordingly the PIL petition stands closed”.

9. As regards the cause of action for rehabilitating the evicted people, the said provisions as provided in para 6 onwards in the order dated 24.01.2023, in the PIL No.65/2021, would also applicable in the present case.

10. PIL stands closed with the aforesaid provisions.

JUDGE

JUDGE

Comparing Assistant