

GAHC010187222023



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

Case No. : PIL/58/2023

CHINMOY SHARMA AND ANR.

S/O- NILAMBAR SARMA, R/O- 02 KAMAKHYA GATE, P.S. JALUKBARI, P.O.
BHARALUMUKH, GUWAHATI, KAMRUP (M)

2: RAHMAN TARIQ MASUD

S/O- LATE MD. MOTIUR RAHMAN

R/O- HOUSE NO. 115A

KUMARPARA

B.R. PHUKAN ROAD

GUWAHATI- 78100

VERSUS

THE STATE OF ASSAM AND 4 ORS.

REPRESENTED BY ITS COMMISSIONER AND SPECIAL SECRETARY TO THE
GOVERNMENT OF ASSAM, DEPARTMENT OF PUBLIC WORKS (ROADS),
JANATA BHAWAN, DISPUR, GUWAHATI- 781006

2:THE ASSAM PUBLIC WORKS (ROADS) DEPARTMENT

REPRESENTED BY ITS SECRETARY TO THE GOVERNMENT OF ASSAM
DISPUR

GUWAHATI- 781006

3:THE CHIEF ENGINEER

DEPARTMENT OF PUBLIC WORKS (ROADS) DEPARTMENT
GOVERNMENT OF ASSAM

CHANDMARI

GUWAHATI- 781003

4:THE DIRECTOR

SHREE GAUTAM CONSTRUCTION COMPANY LTD.

HAVING ITS REGISTERED OFFICE AT THE 4TH FLOOR

AMAZE TOWN

A.T.ROAD

PALTAN BAZAR
GUWAHATI- 781001

5:THE DIRECTOR
ANUPAM NIRMAN PT. LTD.
HAVING ITS REGISTERED OFFICE AT 7TH FLOOR
EXOTICE GREENS
191
RG BARUAH ROAD NEAR SHRADDHANJALI KANAN PARK
GUWAHATI- 78100

For the petitioners : Mr. S. Biswas, Advocate

For the respondents : Mr. D. Saikia,
Advocate General, Assam
Mr. D. Nath,
Senior Govt. Advocate, Assam

– B E F O R E –

HON'BLE THE CHIEF JUSTICE

HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

23-08-2023

S. Mehta, C.J.

Heard learned counsel appearing for the parties and perused the material placed on record.

The petitioners herein have approached this Court through this petition filed under Article 226 of the Constitution of India styling it to be a Public Interest Litigation. The State of Assam represented by the Commissioner & Special Secretary to the Government of Assam, Department of Public Works (Roads) and the Public Works (Roads) Department are amongst the respondents impleaded in this petition.

The prayer clause of the writ petition would indicate that the only relief, which the petitioners have sought in this writ petition, is that the respondent authorities be directed to carry out the construction of the Maligaon Flyover after adopting the necessary safety measures for protection of the commuters whose lives are at stake due to the alleged careless attitude of the authorities while enhancing the pace of ongoing construction of the flyover.

We have heard and considered the submissions advanced by the petitioners' counsel Mr. S. Biswas and the learned Advocate General Mr. D. Saikia and have gone through the pleadings of the writ petition and the documents placed on record.

Law is well settled by a catena of judgments rendered by the Hon'ble Supreme Court that public interest litigation writ petitions should be filed with utmost caution after extensive research on the subject matter. Convincing material has to be placed on record before the challenge projected to be in the interest of public can be entertained in exercise of the high prerogative writ jurisdiction.

However, in the case at hand, learned counsel for the petitioners was unable to point out that any research was made by the petitioners so as to fortify the assertions made in this writ petition regarding alleged lack of care in the construction of the flyover in question. Vague and unsubstantiated allegations are levelled in the petition which is basically founded on the photostat copies of some newspaper reports and a tweet made by a person, namely, somanigaurav.

Evidently thus, the petitioners have filed this instant writ petition in a reckless casual manner without taking due care to collect proper material so as to justify invocation of the extra-ordinary writ jurisdiction of this Court.

We find no material on record of the case which can be considered sufficient to accept the averments made in this petition regarding the alleged negligence in the construction of the flyover in question and the so called accidents which happened due to the lack of appropriate safety measures. The petitioners did not even approach the authorities concerned before rushing to this Court for filing this writ petition branding it to be a PIL at the eleventh hour when the flyover is about to be opened for the use of public.

Needless to say that the construction of the flyover at the location Maligaon was the dire need of the citizens of Guwahati. The span of road where the flyover has been constructed is highly congested and creates a bottleneck due to which severe traffic jams are created. It has been observed that even ambulances get stuck in the traffic jams and thus, the early construction of the bridge is a very welcome measure which requires appreciation from all quarters.

Thus, by completing the construction of the flyover in remarkably quick time, the authorities concerned have acted with due diligence and in public interest. The attempt of the petitioners to question the actions of the government agencies and in trying to delay the process through this writ petition at this highly belated stage cannot be termed *bona fide*. Hence, the PIL fails and is dismissed as being devoid of merit.

JUDGE

CHIEF JUSTICE

Comparing Assistant