

GAHC010187332014



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

Case No. : Cont.Cas(C)/531/2014

RUPESWAR KUMAR and 14 ORS
S/O LT. RAMPOTI KUMAR, R/O VILL. and P.O. BALISTRA, P.S. KHOYA, DIST-
KAMRUP, ASSAM, PIN-781350

2: MD. DHAN MOHAMMAD ALI
S/O LT. PHULBAR ALI R/O VILL and P.O. MONAKUCHI P.S. HAJO DIST.
KAMRUP
ASSAM. PIN- 781104.

3: SRI DHIRESWAR DAS
S/O SRI HARAKANTA DAS R/O VILL and P.O. MONAKUCHI P.S. HAJO DIST.
KAMRUP
ASSAM. PIN- 781104.

4: MUKUL BORA
S/O LT. UMESH CHANDRA BORA R/O VILL- GARAL BARUAH PARA P.O.
BHATTAPARA
P.S. AZARA
ASSAM
PIN- 781017.

5: MUKUTA DAS
S/O LT. BHADRESWAR DAS R/O VILL- BARKUCHI P.O. MIRZA
P.S. PALASHBARI
DIST. KAMRUP
ASSAM. PIN- 781125.

6: SRI PRANAB DAS
S/O BIJOY DAS R/O VILL and P.O. GERUA
P.S. HAJO DIST. KAMRUP
ASSAM. PIN- 781102.

7: SRI MANAB CHANDRA DAS
S/O SRI NABIN CHANDRA DAS R/O VILL- HAJO SANTIPUR P.O. and P.S.

HAJO ASSAM
PIN- 781102.

8: SRI MONO DAS
S/OLT. RUPESWAR DAS R/O VILL and P.O GERUA P.S. HAJO DIST. KAMRUP
ASSAM. PIN- 781102.

9: SRI MADAN KALITA
S/O SRI BANSHIT KALITA R/O VILL- BARDADHI P.O. GERUA P.S. HAJO
DIST. KAMRUP
ASSAM. PIN-781102

10: SRI BHABESH DAS
S/O SRI GOPAL DAS R/O VILL- RORAL MIRZAPUR P.O. BHATTAPARA P.S.
AZARA
DIST. KAMRUP
ASSAM. PIN- 781017.

11: SRI SRIDHAR DAS
S/O LT. RUPESWAR DAS R/O VILL and .O. MONAKUCHI P.S. HAJO DIST.
KAMRUP
ASSAM. PIN- 781104.

12: SRI NAKUL KUMAR ROY
S/OLT. NANI GOPAL ROY R/O FATASHIL GANESHPARA NEAR
BATHOUMANDIR
P.O. DHIRENPARA
P.S. FATASIL AMBARI
GUWAHATI
DIST. KAMRUP
ASSAM. PIN- 781025.

13: SRI SABIN BORO
S/O SRI BHEBORAM BORO R/O FATASIL MANPARA
KALIAGOHAIN PATH
P.O. DHIREMPARA
P.S. FATASIL AMBARI
DIST. KAMRUP
ASSAM. PIN- 781025.

14: SRI JAYDEV DAS
S/O LT. HARA KANTA DAS R/O VILL and P.O. MONAKUCHI
P.S.HAJO DIST. KAMRUP
ASSAM. PIN- 781104.

15: SRI INDRESWAR DAS
S/O SRI RADHA RAM DAS R/O VILL and P.O. MONAKUCHI P.S. HAJO DIST.
KAMRUP

ASSAM. PIN- 781104

VERSUS

MS. MONALISA GOSWAMI and ANR
COMMISSIONER, GUWAHATI MUNICIPAL CORPORATION, GUWAHATI.

2:MR. DEB KUMAR MISRA
JOINT COMMISSIONER
GUWAHATI MUNICIPAL CORPORATION
GUWAHATI

Advocate for the Petitioner : MR.B DAS

Advocate for the Respondent : MR. D SAIKIA, SR.ADV.

BEFORE
THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY
ORDER

07.02.2024

The present application is filed alleging wilful and deliberate violation of this court's order dated 29.11.2023 passed in WP(C) 6944/2013. The direction, which alleged to have been not complied with is quoted hereinbelow:

“5. In my opinion, in the instant case, the kind of direction issued in the order dated 05.06.2012 cannot be passed straightaway in view of the fact that an enquiry is necessary first to determine as to whether the petitioners were engaged by the GMC authorities under the "Clean Guwahati Scheme" in the year 1999. The respondent authorities are, accordingly, directed to first make an enquiry for determination of the question as to whether the petitioners were engaged by them in the year 1999 under the Clean Guwahati Scheme and were subsequently retrenched from service or not. Upon such enquiry, if the petitioners are found to have been engaged by them in the year 1999 under the Clean Guwahati Scheme and were subsequently retrenched from service, the respondent authorities will consider the feasibility or otherwise of the engagement of the petitioners as Mazdoors, Sweepers etc. in accordance with the order dated 05.06.2012 passed by this court in WP(C) 2642/2012 provided that their services are required in future.

the writ petition is disposed of in the above direction.”

2. Mr. S Bora, learned counsel representing the GMC has submitted that in terms of this Court's order, an enquiry was initiated directing all concerned Divisional Heads, GMC to submit records of engagement of the daily wage earner under "Clean Guwahati Scheme" by a communication dated 09.05.2023 issued by the Municipal Secretary, GMC.
3. The said report reveals that except the petitioner No. 15, Sri Sabin Boro, there is no record of the engagement of the other petitioners under the "Clean Guwahati Scheme" or any other scheme in Guwahati Municipal Corporation in any division.
4. It is submitted that in the said report the "Clean Guwahati Scheme" was adopted in the year 1994 and same was dissolved long back. However, a meeting was held on 15.07.2023 under the Chairmanship of the Secretary to the Government of Assam, Department of Housing & Urban Affairs to discuss various issues relating to Horijon and Mazdoor Union. In the said meeting, it was discussed and deliberated how to explore the possibility to engage the incumbents whose name appeared in the list. Thereafter, another discussion was held in the Mayor-In-Council meeting held on 08.08.2023 and a direction was issued to all the Executive Engineers, GMC to take necessary action as per the decision of this Court passed in WP(C) 6944/2013.
5. From the aforesaid report, it is seen that most of the petitioners were never engaged in the year 1999 under the "Clean Guwahati Scheme" and those persons who were engaged, their continuation are being explored by the GMC authority.
6. Therefore, this court finds that no contempt has been committed in the backdrop of aforesaid exercise. The order dated 20.09.2023 also reflects that Mr. A Dasgupta, learned Senior counsel made a submission before this court

that he required some instructions from his clients. However, his junior, Mr. JK Sarma, learned counsel has submitted today that they have not received any instruction from their clients.

7. The fact also remains that the respondent/ contemnor has long been retired and no endeavour has been made either to intimate the present incumbents who are responsible for implementation of this order or implead them as party respondents.
8. In that view of the matter and in view of the report produced by Mr. Bora, this court finds that as the respondents are taking steps for implementation of the order, this contempt petition needs to be closed at this stage. Accordingly, same stands closed. However, the petitioners shall be at liberty, if so advised, to re-agitate their grievances and/ or re-open this contempt case by filing IA if cause of action survives.
9. A copy of the report on Cont.Cas(C) 531/2014 is kept on record and marked as document 'X' and a copy of the same also be handed over to the learned counsel for the petitioner.
10. Contempt petition stands closed. This order may not be treated as any determination on the report of the committee.

JUDGE

Comparing Assistant