

GAHC010201802018



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

Case No. : PIL/60/2018

BOBRUBAHAN SAIKIA
S/O. SRI MRINAL SAIKIA, RESIDENT OF JUGIBARI VILLAGE, P.O.
NABHETA, P.S. GOLAGHAT, DISTRICT- GOLAGHAT, ASSAM.

VERSUS

THE CHAIRMAN AND MD, NEEPCO LTD. AND 5 ORS.
LOWER NEW COLONY, SHILLONG- 793003, MEGHALAYA.

2:THE MANAGER (C)
DAM AND SPILLWAY DIVISION
DOYANG HYDRO ELECTRIC PLANT
NORTH EASTERN ELECTRIC POWER CORPORATION LTD.
DOYANG
WOKHA
NAGALAND.

3:THE HEAD OF PLANT
DAM AND SPILLWAY DIVISION
DOYANG HYDRO ELECTRIC PLANT
NORTH EASTERN ELECTRIC POWER CORPORATION LTD.
DOYANG
WOKHA
NAGALAND.

4:THE STATE OF ASSAM
REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM
DISPUR
GUWAHATI-6.

5:THE COMMISSIONER AND SECRETARY
GOVT. OF ASSAM

FOREST DEPTT.
DISPUR
GUWAHATI-6.

6:THE DEPUTY COMMISSIONER

GOLAGHAT DISTRICT
ASSAM.

7:THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPARTMENT
DISPUR
GUWAHATI-6

Advocate for the Petitioner : MR. R K DUTTA

Advocate for the Respondent : SC, NEEP CO.

BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 11/06/2024
Vijay Bishnoi, CJ

Heard Mr. U.J. Saikia, learned counsel for the petitioner. We have also heard Mr. D.K. Mishra, learned senior counsel assisted by Ms. S. Todi, learned counsel for the respondent nos. 1, 2 & 3 and Mr. D. K. Sarmah, learned Additional Senior Government Advocate, Assam along with Ms. S. Konwar, learned Government Advocate, Assam, representing the respondent nos. 4 & 6.

2. This PIL petition is filed by the petitioner highlighting an incident happened on 26/07/2018 and 27/07/2018 in Golaghat district of Assam wherein, on account of release of water from river Doyang by the NEEPCO, several villages were effected on account of rising level of water. It is the allegation of the petitioner that flood had occurred due to sudden release of water of Doyang Hydro Electric Project located in Wokha District of Nagaland and the said project is under the NEEPCO.

3. This Court vide order dated 15/03/2022, after hearing the leaned counsel for the parties has appointed the District Judge, Golaghat to conduct an enquiry into the matter and submit a report before this Court by passing the following order :-

“The matter relates to a flood which occurred on 26.07.2018 and 27.07.2018 in Golaghat district in Assam, which was caused by incessant rainfall resulting in swelling of the river Doyang as a result several villages were affected. It also resulted in loss of properties of the residents of the villages situated on the riverbank. The petitioner alleges that the flood had occurred due to sudden release of water at the Doyand Hydro-Electric Project located in Wokha District of Nagaland, which is a project under the North Eastern Electric Power Corporation Limited (NEEPCO) on river Doyang.

An explanation has been given by the NEEPCO authority saying as to the cause of the flood and as to what measure they are taking in this regard.

There are allegations and counter allegations. In order to arrive at the truth, we appoint the District Judge, Golaghat, to conduct an enquiry into the matter and submit a report before this court within a period of Ninety days. While conducting the enquiry, the District Judge, Golaghat, would be at liberty to take the statements of the affected persons and also to take help from the concerned authorities, such as, the Central Water Authority, etc.

The petitioner and the NEEPCO authority will be at liberty to place their documents before the District Judge, Golaghat.”

4. Pursuant to that, the District Judge, Golaghat has submitted its report dated 20/10/2022 with the following conclusions :-

“After considering the entire circumstances, I have found that the water level of river Dhansiri and Doyang was gradually increasing from 24/07/2018. Prior to 27/07/2018 some of the villages were flooded with river water. In the meantime when NEEPCO authority released the excess water (above L 324) from their dam since 5 a.m. on 27/07/2018 till 5 a.m. on 28/07/2018, as a result flood situation was deteriorated and villagers lost their livestock and properties including damage of their different cultivation. A newly constructed bridge was also swept away by the flood water. It is admitted fact that huge loss was incurred by the flood affected people.

Regarding negligence of NEEPCO as alleged by the writ petitioner, I have found that District Administration, Golaghat was alerted by the NEEPCO on 21/07/2018 by Wats-app message. In said message it was clearly mentioned that water will be released from the dam if water level will reach above 324m and on that day i.e. 21/07/2018 water level reached 320.50m. From then DAM authority had been conveying the information through Whats-app messages regarding rising of water level in the dam, time to time. District Administration was well acquainted with the next coming situation from 21/07/2018 onwards but they did not take appropriate steps to evacuate residents from river bank areas. As a result flood condition deteriorated more. As water of rivers was already in rising condition, due to rain water, for which after release of excess water from the dam, it caused severe damage to public and private properties along with loss of livestock. Though the District Administration had requested the NEEPCO to keep the water in reservoir for some time but was not possible for them because that would cause major damage to the entire project as stated by the Authority (NEEPCO). So, considering the communications between the NEEPCO and Golaghat District Administration since 21/07/2018, the NEEPCO is not solely liable for the flood. During inquiry, negligence on the part of the District Administration is also revealed."

5. Learned counsel appearing for the petitioner has submitted that as a matter of fact, there was lack of coordination between the NEEPCO authorities as well as the State Authorities and on account of the fact that prior information regarding release of water from Doyang river has not been furnished to the District authorities, due to which the effected people from the concerned villages could not be evacuated or warned in time. As a result of which, heavy loss has been caused to the properties of the villagers.

6. *Per contra*, learned counsel for the NEEPCO has vehemently submitted that the NEEPCO has informed the State authorities well in advance regarding release of water after it reached a certain level. It is submitted that the District Judge in its report also has clearly mentioned that there is no negligence on the part of the NEEPCO.

7. It is contended that, as a matter of fact, from time to time, meeting is convened between the

District Administration and the NEEPCO authorities. In those meetings, understanding has arrived that the NEEPCO would inform the District authorities regarding the release of water well in advance. It is also submitted that the unfortunate incident on 26/07/2018 and 27/07/2018 happened on account of unexpected heavy rainfall. Learned counsel for NEEPCO has emphasized that a mechanism is in place to prevent the situation of flood and the NEEPCO is bound to follow the said mechanism in its full letter and spirit in future.

8. Learned counsel for the respondent State has also submitted that the State and the NEEPCO authorities are in tandem and will follow the protocol regarding release of water. It is also stated by the learned counsel for the State that the unfortunate incident of flood situation on 26/07/2018 and 27/07/2018 happened on account of unexpected heavy rainfall.

9. Having heard the learned counsel for the parties and after going through the materials on record, we are of the view that the State administration as well as the NEEPCO authorities are required to function with a better coordination to prevent a flood like situation that has happened in the last week of July, 2018.

10. We hope and trust that the State Administration and the NEEPCO authorities shall take effective steps for preventing any such situation in future.

11. With these observations, this PIL petition is disposed of.

JUDGE

CHIEF JUSTICE

sukhamay

Comparing Assistant