

Page No.# 1/6 vs The Union Of India And 14 Ors on 17 January, 2023

Author: Suman Shyam

Bench: Suman Shyam

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GAHC010160192020

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

Case No. : PIL/70/2020

ASSAM PUBLIC WORKS AND ANR
HAVING ITS OFFICE AT-5B, SUBANSIRI APARTMENT, R.G.B. ROAD, P.O.
ZOO ROAD, P.S. GITANAGAR, DIST.- KAMRUP (M), ASSAM, GHY-24, REP.
BY ITS GENERAL SECY.- SRI DHRUBAJYOTI TALUKDAR, 33 YEARS

2: DHRUBAJYOTI TALUKDAR
S/O- SRI KABI MOHAN TALUKDAR
R/O- SAMPRITI PATH
DAKHIN GAON
P.O. SAWKUCHI
P.S. DISPUR
DIST.- KAMRUP (M)
ASSAM
GHY-4

VERSUS

THE UNION OF INDIA AND 14 ORS
REP. BY THE SECY. TO THE GOVT. OF INDIA, MINISTRY OF
ENVIRONMENT AND FOREST, NEW DELHI-1

2:THE SECY. TO THE MINISTRY OF HOME AFFAIRS
GOVT. OF INDIA
NEW DELHI

3:THE STATE OF ASSAM
REP. BY THE CHIEF SECY. TO THE GOVT. OF ASSAM
DISPUR
GHY-06

4:THE STATE OF MIZORAM

REP. BY THE CHIEF SECY. TO THE GOVT. OF MIZORAM
AIZAWL
AIZAWL- 796001

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5:THE COMM. AND SECY. TO THE GOVT. OF ASSAM
FOREST AND ENVIRONMENT DEPTT.
DISPUR
GHY-6

6:THE DIRECTOR GENERAL OF POLICE
ASSAM POLICE HEADQUARTERS
ULUBARI
GHY-07

7:THE DIRECTOR GENERAL OF POLICE
MIZORAM POLICE HEADQUARTERS
AIZAWL- 796001

8:DY. COMMISSIONER
CACHAR (ASSAM)
AT SILCHAR
SILCHAR- 788001

9:DY. COMMISSIONER
KARIMGANJ (ASSAM)
AT KARIMGANJ
KARIMGANJ- 788710

10:THE SUPERINTENDENT OF POLICE
CACHAR (ASSAM)
AT SILCHAR
SILCHAR- 788001

11:THE SUPERINTENDENT OF POLICE
KARIMGANJ (ASSAM)
AT KARIMGANJ
KARIMGANJ- 788710

12:DY. COMMISSIONER
KOLASIB (MIZORAM)
PROJECT VENG
KOLASIB- 796081

13:THE SUPERINTENDENT OF POLICE
KOLASIB (MIZORAM)
AT POLICE COMPLEX
KHUANGPUILAM
VENGTHAR
KOLASIB- 796082

14:THE DIVISIONAL FOREST OFFICER

CACHAR FOREST DIVISION
SADARGHAT MARKET
NATIONAL HIGHWAY 53
SILCHAR- 788009

15:THE DIVISIONAL FOREST OFFICER
KARIMGANJ FOREST DIVISION
KARIMGANJ (ASSAM)
AT KARIMGANJ
SILCHAR- 78871

Advocate for the Petitioner : MR. U K NAIR

Advocate for the Respondent : ASSTT.S.G.I.

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 17-01-2023 Suman Shyam, J Heard Mr. D.P. Borah, learned counsel for the petitioners. Also heard Mr. A. Kalita, learned Addl. Advocate General, Mizoram appearing for the respondent Nos. 4, 7, 12 and 13, Mr. R.K.D. Choudhury, learned DSGI appearing for the respondent Nos. 1 and 2 and Mr. K.P. Pathak, learned standing counsel, Forest Department, Govt. of Assam appearing for the respondent Nos. 5, 14 and 15. Remaining respondents are not present before this Court.

In this Public Interest Litigation (PIL) the petitioners have alleged that the land belonging to the Forest Department, Assam situated in the border area separating Mizoram and Assam, has been encroached by people belonging to the State of Mizoram and despite being aware of the said fact, the State Government has not taken appropriate Page No.# 4/6 steps for evicting the encroachers from such forest land.

Mr. Kalita, learned Addl. Advocate General, Mizoram submits that the State is disputing the stand of the petitioners to the effect that the forest land of Assam is under encroachment by people from the State of Mizoram. According to Mr. Kalita, the larger issue involved in this matter is the inter-state boundary dispute and efforts are on at the highest level to resolve such dispute at the earliest. Expressing hope that a breakthrough will be achieved in the matter in near future, the learned Addl. Advocate General, Mizoram submits that at this stage, no order is required to be passed in the matter by this Court.

By referring to the affidavit filed on behalf of the respondent No. 2, Mr. R.K.D. Choudhury has also supported the stand of Mr. Kalita by submitting that there is an inter- state boundary dispute

between the two neighbouring States and the matter is being looked into at the level of Union Home Ministry, with the participation of both the State Governments. Since the issue is sensitive in nature, no judicial order is required to be passed at this stage.

Mr. K.P. Pathak, learned standing counsel, Forest Department, Govt. of Assam submits that although he is not denying encroachment of forest land, yet, considering the border dispute between the two States and the steps initiated at the highest level, he is not in a position to make any further submission in the matter.

We find that on 08-03-2021, the respondent No. 2 has filed an affidavit making following statements in paragraph 2.

Page No.# 5/6 "2. As far as Respondent No. 2 is concerned, following points are submitted with reference to contentions made in PIL No. 70/2020:-

(i) There is boundary dispute between Assam and Mizoram. Ministry of Home Affairs (Government of India) has been urging bilateral talks between the State Governments of Assam and Mizoram to resolve the Inter-State Boundary issue and de-escalate tension.

(ii) Union Home Secretary held discussions with Chief Secretaries and DGPs of Assam and Mizoram on 19.10.2020 and urged upon them to take steps for restoration of normalcy and peace on the inter-state border. Joint Secretary (North East) also visited disputed border areas on 21.10.2020 and held discussions with the Senior Officers of both the State Governments at Silchar, Assam. Union Home Secretary held discussions again on 29.10.2020 with the Chief Secretaries of Assam and Mizoram and it was decided that the Deputy Commissioners of both sides with Superintendents of Police and Divisional Forest Officers should meet to find ways to restore normalcy. It was also suggested that the deployment of police force by both the states be on their side of the borders to de-escalate the tensions on the border. Subsequently, another VC was convened by the Union Home Secretary on 08.11.2020 with the Chief Secretaries of the Governments of Assam and Mizoram wherein, it was agreed that both the State Governments would take necessary steps for restoring peace along Assam-Mizoram border, including withdrawal of Armed Police deployed by the disputing States.

(iii) Since Law and Order is a State Subject, the Ministry of Home Affairs has repeatedly urged upon both the State Governments to work towards the restoration of complete peace and amity and de-escalate tensions along the border areas."

From the stand taken by the respondent No. 2, it is apparent that there is an inter- state border dispute between the State of Assam and Mizoram which had lead to a tensed situation amongst the people living on either side of the border. The affidavit also mentions about law and order issues which is required to be resolved by the respective State Governments. The fact that the Ministry of

Home Affairs, Govt. of India is looking into the matter for restoration of peace and amity between the people of both the States is also visible. A bare reading of the aforesaid affidavit, considered in the light of the submissions made by the learned counsel for the parties, leaves no room for doubt that Page No.# 6/6 this is not a ordinary case of encroachment of land but is an inter-state boundary dispute which has to be resolved at the highest level by giving utmost importance to maintenance of public peace and law and order. Since the respondents counsel have assured this Court that the matter will be resolved soon through an amicable process at the intervention of the Ministry of Home Affairs, Govt. of India with the assistance of both the State Governments, we do not deem it appropriate to keep this PIL pending before this Court any further. This PIL is accordingly closed.

However, we make it clear that once the inter-state boundary dispute is resolved, if the petitioners continue to feel aggrieved in the matter, then it will be open for them to approach this Court once again, by filing a fresh petition.

With the above observation, the writ petition stands disposed of.

GS

JUDGE

JUDGE

Comparing Assistant