

GAHC010075832020



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

Case No. : PIL/29/2020

MRINMOY KHATANAR AND ANR.
S/O- LATE BIJOY CH KHATANAR, R/O- NARIKALBARI PATH, MT ROAD,
GUWAHATI- 781024

2: AMAR JYOTI DEKA
S/O- LATE BHABENDRA NATH DEKA
R/O- H NO. 20
NAMONI PATH
KARBI PATH
MOTHER TERESA PATH
P.O- BAMUNIMAIDAM
P.S- GEETANAGAR
GHY- 21
ASSA

VERSUS

UNION OF INDIA AND 9 ORS
REP. BY THE SECRETARY TO THE GOVT OF INDIA, MIN OF
ENVIRONMENT, FOREST AND CLIMATE CHANGE, INDIRA PARYAVARAN
BHAWAN, JORBAGH ROAD, NEW DELHI- 110003

2:MINISTRY OF ENVIRONMENT AND FOREST AND CLIMATE CHANGE
NER OFFICE
LAW U SIB
LUMBATNGEN
NEAR MTC WORKSHOP
SHILLONG- 7930211

3:THE STATE OF ASSAM
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT OF ASSAM
ENVIRONMENT AND FOREST DEPTT
DISPUR
GUWAHATI- 06

4:THE CHIEF SECRETARY
TO THE GOVT OF ASSAM
DISPUR SECRETARIAT COMPLEX
GUWAHATI- 06

5:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS AND HEAD OF
FOREST FORCE
H BLOCK
2ND FLOOR
JANATA BHAWAN
DISPUR
GUWAHATI- 781006
ASSAM

6:THE PRINCIPAL CHIEF CONSERVATOR OF FOREST (WILDLIFE)
H BLOCK
2ND FLOOR
JANATA BHAWAN
DISPUR
GUWAHATI- 781006
ASSAM

7:NATIONAL BOARD FOR WILDLIFE
REP. BY THE STANDING COMMITTEE OF NATIONAL BOARD FOR
WILDLIFE
MIN OF ENVIRONMENT
FOREST AND CLIMATE CHANGE (WILDLIFE DIVISION)
6TH FLOOR
VAYU WING
INDIRA PARYAVARAN BHAWAN
JORBAGH ROAD
NEW DELHI- 110003

8:STATE BOARD FOR WILDLIFE
REP. BY ITS CHAIRMAN
DISPUR SECRETARIAT COMPLEX
GUWAHATI- 06

9:COAL INDIA LIMITED
COAL BHAWAN
PREMISE NO. 04 MAR
PLAT NO AF-III
ACTION AREA -1A
NEW TOWN
RAJARHAT
KOLKATA- 700156

10:CHIEF GENERAL MANAGER
NE COAL FIELDS
COAL INDIA LIMITED
SUB DIV MARGHERITA
DIST- TINSUKIA
ASSAM
PIN- 786181

11:NATIONAL BIODIVERSITY
AUTHORITY

12:STATE BIODIVERSITY
BOARD
ASSAM.

13:THE PRINCIPAL SECRETARY
TO THE GOVT. OF ASSAM
HOME AND POLITICAL DEPARTMENT
ASSAM.

14:THE DIRECTOR GENERAL OF POLICE
ASSAM POLICE DEPARTMENT
ULUBARI
GUWAHATI
ASSAM-781007

Advocate for the Petitioner : MR. D K DAS, MRS. R S CHOWDHURY,MR. S
BISWAKARMA,MR T DAS

Advocate for the Respondent : ASSTT.S.G.I., MR. P N GOSWAMI, ADDL. AG, ASSAM (R-13 &
14),MR. S K DUTTA (INTERVENER),GA, ASSAM,SC, COAL INDIA,SC, FOREST,MR. M Z
AHMED (R9, R10),MS. B DUTTA (R9, R10),MR. S K SHARMA (R9, R10)

Linked Case : PIL/36/2020

BASANTA DEKA
S/O. LT. LOKNATH DEKA
R/O. KARUNAMOYEE HOUSING APARTMENT
M.C. ROAD
UZAN BAZAR
GUWAHATI-781003.

VERSUS

THE UNION OF INDIA AND 5 ORS.
REP. BY SECRETARY
MINISTRY OF ENVIRONMENT
FOREST AND CLIMATE CHANGE
(MoEF AND CC)
GOVT. OF INDIA
NEW DELHI.

2:THE NATIONAL BOARD OF WILD LIFE (NBWL)

REP. BY THE CHAIRPERSON
MINISTRY OF ENVIRONMENT
FOREST AND CLIMATE CHANGE
(MoEF AND CC)
GOVT. OF INDIA
NEW DELHI.

3:THE STATE OF ASSAM

REP. BY ITS CHIEF SECRETARY
ASSAM SACHIVALAYA
DISPUR
GUWAHATI-06.

4:THE ASSAM STATE BOARD FOR WILD LIFE (SBWL)

REP. BY THE CHAIRPERSON
DEPTT. OF ENVIRONMENT
GOVT. OF ASSAM
ASSAM SACHIVALAYA
DISPUR
GUWAHATI-06.

5:THE GENERAL MANAGER

M/S COAL INDIA LTD.
COAL BHAWAN
PREMISE NO.004
MAR
PLOT NO.AF-III
ACTION AREA 1A
NEWTON RAJARHAT
KOLKATA-7000156.

6:THE GENERAL MANAGER

M/S NORTH EASTERN COAL FIELDS LTD.
COAL INDIA LTD.
BLACK DIAMOND TOWERS
G.S. ROAD
GUWAHATI.

7:NATIONAL BIODIVERSITY
AUTHORITY

8:STATE BIODIVERSITY
BOARD
ASSAM.

Advocate for : MR. T GOGOI
Advocate for : ASSTT.S.G.I. appearing for THE UNION OF INDIA AND 5 ORS.

Linked Case : PIL/39/2022

MRINMOY KHATANIAR AND ANR
S/O. LT. BIJOY CH. KHATANIAR
R/O. NARIKALBARI PATH
M.T. ROAD
GUWAHATI-781024
ASSAM.

2: AMAR JYOTI DEKA
S/O. LT. BHABENDRA NATH DEKA
R/O. HOUSE NO.20
NAMONI PATH
KARBI PATH
MOTHER TERESA PATH
P.O. BAMUNIMAIDAM
P.S. GEETANAGAR
GUWAHATI-781021
ASSAM.
VERSUS

THE UNION OF INDIA AND 11 ORS
REP. BY THE SECRETARY TO THE GOVT. OF INDIA
MINISTRY OF ENVIRONMENT
FOREST AND CLIMATE CHANGE
INDIRA PARYAVARAN BHAWAN
JORBAGH ROAD
NEW DELHI-110003.

2:MINISTRY OF ENVIRONMENT

FOREST AND CLIMATE CHANGE
NORTH EASTERN REGIONAL OFFICE
LAW-U-SIB
LUMBATNGEN
NEAR MTC WORKSHOP
SHILLONG-7930211.

3:THE STATE OF ASSAM

REP. BY THE PRINCIPAL SECY. TO THE GOVT. OF ASSAM
ENVIRONMENT AND FOREST DEPTT.
DISPUR
GUWAHATI-781006.

4:THE CHIEF SECRETARY TO THE GOVT. OF ASSAM

DISPUR SECRETARIAT COMPLEX
GUWAHATI-781006.

5:THE COMMISSIONER AND SECRETEARY TO THE GOVT. OF ASSAM

MINES AND MINERALS DEPTT.
DISPUR
GUWAHATI-781006
ASSAM.

6:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS AND HEAD OF
FOREST FORCE

H-BLOCK
2ND FLOOR
JANATA BHAWAN
DISPUR
GUWAHATI-781006
ASSAM.

7:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS (WILDLIFE)

H-BLOCK
2ND FLOOR
JANATA BHAWAN
DISPUR
GUWAHATI-781006
ASSAM.

8:THE NATIONAL BOARD FOR WILDLIFE

REP. BY THE STANDING COMMITTEE OF NATIONAL BOARD FOR WILDLIFE
MINISTRY OF ENVIRONMENT
FOREST AND CLIMATE CHANGE (WILDLIFE DIVISION)
6TH FLOOR
VAYU WING
INDIRA PARYAVARAN BHAWAN
JORBAGH ROAD
NEW DELHI-110003.

9:STATE BOARD FOR WILDLIFE

REP. BY ITS CHAIRMAN
DISPUR
SECRETARIAT COMPLEX
GUWAHATI-781006.

10:THE DIRECTOR OF GEOLOGY AND MINING

OFFICE OF THE DIRECTORATE OF GEOLOGY AND MINING
KAHILIPARA
GUWAHATI.

11:COAL INDIA LTD.

COAL BHAWAN
PREMISE NO.-04 MAR
PLOT NO. AF-III
ACTION AREA-1A
NEWTOWN
RAJARHAT
KOLKATA-700156.

12:CHIEF GENERAL MANAGER

NORTH EASTERN COALFIELDS
COAL INDIA LTD.
SUB-DIV. -MARGHERITA
DIST. TINSUKIA
ASSAM-786181.

Advocate for : MR D K DAS
Advocate for : ASSTT.S.G.I. appearing for THE UNION OF INDIA AND 11 ORS

Linked Case : PIL/45/2020

BIBEK DAS AND ANR

S/O- LATE REBAKANTA DAS
R/O- VILL- KUHIARBARI
P.O- ARAGANG
P.S- GINGIA
DIST- BISWANATH
ASSAM
PIN- 784167

2: PANKAJ KUMAR DAS
S/O- LATE LAMBODAR DAS
R/O- H NO. 49
BYE LANE 3
SREENAGAR
R G BARUAH ROAD
P.S- DISPUR
DIST- KAMRUP (M)
ASSAM
PIN- 781005
VERSUS

THE UNION OF INDIA AND 7 ORS
REP. BY THE SECRETARY
MIN OF ENVIRONMENT
FOREST AND CLIMATE CHANGE
GOVT OF INDIA
NEW DELHI- 110001

2:NATIONAL BOARD FOR WILDLIFE
REP. BY THE DIRECTOR OF WILDLIFE PRESERVATION
PARYAVARAN BHAWAN
LODI ROAD
NEW DELHI- 110001

3:MIN OF MINES
GOVT OF INDIA
REP. BY ITS SECRETARY (MINES)
NEW DELHI- 110001

4:THE STATE OF ASSAM
REP. BY PRINCIPAL CHIEF CONSERVATOR OF FORESTS AND HEAD OF
FOREST FORCE
DEPTT OF ENVIRONMENT AND FORESTS
GOVT OF ASSAM
ARANYA BHAWAN
PANJABARI
GUWAHATI
ASSAM
PIN- 781037

5:DEPTT OF MINES AND MINERALS
GOVT OF ASSAM
REP. BY ITS ADDL CHIEF SECRETARY TO THE GOVT OF ASSAM
ASSAM SECRETARIAT
GUWAHATI- 781006
ASSAM

6:THE DIVISIONAL FOREST OFFICER
DIGBOI FOREST DIVISION
P.O- DIGBOI
DIST- TINSUKIA
ASSAM
PIN- 786171

7:THE GENERAL MANAGER
COAL INDIA LIMITED
COAL BHAWAN
PREMISE NO. 04
MAR
PLOT NO AF III
ACTION AREA - 1A
NEW TOWN
RAJARHAT
KOLKATA- 700156
WEST BENGAL

8:THE GENERAL MANAGER
M/S NORTH EASTERN COALFIELDS COAL INDIA LIMITED
BLACK DIAMOND TOWERS
GS ROAD
GUWAHATI
ASSAM
PIN- 781006

9:NATIONAL BIODIVERSITY
AUTHORITY.

10:STATE BIODIVERSITY
BOARD
ASSAM.

Advocate for : MS. D GHOSH
Advocate for : ASSTT.S.G.I. appearing for THE UNION OF INDIA AND 7 ORS

Linked Case : PIL/30/2020

VIKRAM RAJKHOWA AND ANR.
S/O SRI JYOTI PRASAD RAJKHOWA
R/O NARIKAL BARI
P.S GEETANAGAR
GUWAHATI-781024
DIST. KAMRUP(M)
ASSAM

2: SANTANU BARTHAKUR
S/O SRI AWANI BARTHAKUR R/O GANESH MANDIR PATH
NEW GUWAHATI
P.S. NOONMATI
DIST. KAMRUP(M)
ASSAM
VERSUS

THE UNION OF INDIA AND 16 ORS.
REP. BY THE SECRETARY MINISTRY OF ENVIRONMENT FOREST AND
CLIMATE CHANGE (MOEF AND CC)
GOVT. OF INDIA
NEW DELHI

2:THE SECRETARY
MINISTRY OF ENVIRONMENT FOREST AND CLIMATE CHANGE GOVT. OF
INDIA
NEW DELHI

3:THE CHAIRPERSON
STANDING COMMITTEE OF NATIONAL BOARD FOR WILD LIFE (NBWL)
MINISTRY OF ENVIRONMENT FOREST AND CLIMATE CHANGE GOVT. OF
INDIA
NEW DELHI

4:THE CHAIRPERSON
NATIONAL BIODIVERSITY AUTHORITY (NBA)
MINISTRY OF ENVIRONMENT FOREST AND CLIMATE CHANGE GOVT. OF
INDIA
NEW DELHI

5:THE CHAIRPERSON
FOREST ADVISORY COMMITTEE (FAC)
MINISTRY OF ENVIRONMENT FOREST AND CLIMATE CHANGE GOVT. OF
INDIA
NEW DELHI

6:THE COMMISSIONER AND SECREATRY
ENVIRONMENT AND FOREST DEPTT. GOVT. OF ASSAM

SACHIVALAYA
DISPUR
GUWAHATI-781006
ASSAM

7:THE PRINCIPAL CHIEF CONSERVATOR OF FOREST
ARANYA BHAWAN
PANJABARI
GUWAHATI

8:THE DIVISIONAL FOREST OFFICER
DIGBOI FOREST DIVISION
P.O. DIGBOI
DIST. TINSUKIA

9:THE CHAIRPERSON
STATE BOARD FOR WILD LIFE (SBWL)
ASSAM
DEPTT. OF ENVIRONMENT AND FOREST
GOVT. OF ASSAM
ASSAM SACHIVALAYA
DISPUR
GUWAHATI-781006

10:THE CHAIRPERSON
ASSAM STATE BIODIVERSITY BOARD (ASBB)
DEPTT. OF ENVIRONMENT AND FOREST
GOVT. OF ASSAM
ASSAM SACHIVALAYA
DISPUR
GUWAHATI-781006

11:THE PRINCIPAL SECRETARY
TO THE GOVT. OF ASSAM
MINES AND MINERALS DEPTT. ASSAM SACHIVALAYA
DISPUR
GUWAHATI-781006

12:THE DEPUTY COMMISSIONER
TINSUKIA
O/O DEPUTY COMMISSIONER
BORGURI
DIST. TINSUKIA

13:THE DIRECTOR GENERAL OF POLICE
ASSAM
ASSAM POLICE HEAD QUARTERS
ULUBARI

GUWAHATI-781007

14:THE SUPERINTENDENT OF POLICE
TINSUKIA
O/O THE SUPERINTENDENT OF POLICE
BORGURI
DIST. TINSUKIA

15:THE STATE OF ARUNACHAL PRADESH
REP. BY ITS CHIEF SECREATRY
ITANAGAR
ARUNACHAL PRADESH

16:THE GENERAL MANAGER
M/S COAL INDIA LTD. COAL BHAWAN PREMISE NO. 004 MAR
PLOT NO. AF-III
ACTION AREA-1A
NEWTOWN
RAJARHAT
KOLKATA-700156

17:THE GENERAL MANAGER
M/S NORTH EASTERN COALFIELDS
COAL INDIA LTD. BLACK DIAMOND TOWER
GS ROAD
GUWAHATI
KAMRUP (M)
ASSAM

18:NATIONAL BIODIVERSITY
AUTHORITY.

19:STATE BIODIVERSITY
BOARD
ASSAM.

Advocate for : PETITIONER IN PERSON
Advocate for : GA
ASSAM appearing for THE UNION OF INDIA AND 16 ORS.

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 06.02.2025

(K.R. Surana, J)

The learned counsel for all the PIL's are present. The State is represented by Mr. P. Sarmah, learned Addl. Senior Govt. advocate.

2. Mr. D.K. Das, along with Mrs. R.S. Choudhury, learned counsel for the petitioner in PIL 29/2020 and PIL 39/2022 has brought to the notice of the Court to the order dated 19.09.2024. By the said order, this Court took notice that on 27.04.2023, the learned counsel appearing for the Principal Secretary to the Govt. of Assam, Home and Political Department and the Director General of Police, Assam, who were impleaded as respondent nos. 13 and 14 in PIL 29/2020 were granted time to file affidavit-in-opposition.

3. Despite the matter being listed thereafter on 29.10.2024 and 20.11.2024, the affidavit by the said authorities has not been filed.

4. The issue raised in PIL 29/2020, amongst others, relates to assailing of the proposal of diversion of 98.59 hectare of forest land in Saleki PRF for Tikok Open Cast Project and for setting aside the approval granted to the Coal India Ltd. other issues raised is to declare the Dehing Patkai Elephant Forest Reserve and the corridors and other eco-sensitive areas around the said sanctuary as ecological fragile region; and also to declare Jeypore Forest Reserve, Tirap PRF, Dalai PRF, Makumpani PRF under Dibrugarh and Digboi Forest Division as Wildlife Sanctuary and for high level enquiry by the CBI or by the CVC to fasten criminal and civil liability on the erring official of the forest department as well as against the officials of Coal India Ltd., purported to be in

terms of the directions issued by the Supreme Court of India in the case of T.N. Godavarman, Thirumulpad.

5. We also take note of the order dated 30.03.2023, passed by this Court, whereby illegal coal mining operations by the Coal India Ltd. was brought to the notice of the Court and this Court also recorded the statements made by the learned DSGI to the effect that Coal India Ltd., had stopped its mining activities in the reserve forest area and the mining activities are now been carried on by some other entities. Taking note of the same, this Court had observed that undisputedly it is the obligation of the Ministry of Environment and Forest and Climate Change in collaboration with the State Government to ensure that the illegal mining activities are not carried out within the State of Assam and therefore, direction was issued to the concerned official of the Central Government in collaboration with the responsible officials of the State Government to ensure that the mining activities shall not be allowed unless conditions mentioned in the letter quoted in the order dated 30.03.2023 are satisfied.

6. In the said context, an affidavit by the Home Department of the State as well as by the Director General of Police, Assam was deemed to be essential. About 22 months approximately has gone by and the affidavit by the said two authorities have not been filed. Therefore, the Court has no other option but to ensure compliance of the orders of the Court upon the said authorities to file an affidavit. Therefore, the Court is inclined to order as under:

- (i) That, (1) the Principal Secretary to the Govt. of Assam, Home and Political Department (Head of the Department by whatever nomenclature addressed), and (2) the Director General of Police, Assam shall personally appear before this Court at 10.30 AM on

14.02.2025 along with all the relevant records of the concerned police station within the area of which such illegal coal mining operations are being alleged.

(ii) The personal appearance would not be required if an affidavit, as directed earlier is filed positively on 13.02.2025, failing which the personal appearance as directed earlier is required to be complied with.

(iii) The affidavit to be filed should indicate the steps taken for closure of all illegal mining activities within the area covered by this PIL and also referred hereinbefore in this order.

7. The Court is conscious of the fact that, ordinarily, Government officials holding top positions ought not to be called before this Court. However, if personal appearance is not ordered, it appears that no affidavits are being filed. Therefore, the only alternative would be to initiate contempt proceedings against the erring officials for adversely affecting the administration of justice through their non-cooperation, which will have far-reaching consequences.

8. Mr. P. Sarmah, learned Addl. Senior Govt. advocate shall ensure that the downloaded copy of this order be transmitted to the two authorities referred above, which will constitute a notice to the said authorities for their personal appearance on their failure to file affidavit as directed.

9. List on 14.02.2025.

JUDGE

JUDGE

Comparing Assistant