

GAHC010255252018



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

**Case No. : PIL/74/2018**

SWATI BIDHAN BARUAH  
D/O- SUPTI RANJAN BARUAH, R/O- PANDU CABIN ( NEAR RAILWAY B G  
OFFICE), P.O- PANDU, GUWAHATI- 781012, DIST-KAMRUP(M), ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS  
REP. BY THE CHIEF SECRETARY TO THE GOVT OF ASSAM, DISPUR,  
GUWAHATI- 06, DIST- KAMRUP(M), ASSAM

2:THE PRINCIPAL SECRETARY  
TO THE GOVT OF ASSAM  
HEALTH AND FAMILY WELFARE DEPTT  
DISPUR  
GUWAHATI- 06  
DIST- KAMRUP(M)  
ASSAM

3:THE UNION OF INDIA  
REP. BY THE SECRETARY TO THE GOVT OF INDIA  
MIN OF HEALTH AND FAMILY WELFARE  
NEW DELHI

4:THE MEMBER SECRETARY  
ASSAM STATE LEGAL SERVICES AUTHORITY  
GAUHATI HIGH COURT  
OLD BLOCK  
GUWAHATI-1

**Advocate for the Petitioner** : PETITIONER IN PERSON,

**Advocate for the Respondent** : GA, ASSAM, MR. D P BORAH SC-HEALTH AND FAMILY  
WELFARE DEPTT.,MS. D BORAH, SC-HEALTH AND FAMILY WELFARE DEPTT.  
,ASSTT.S.G.I.

**BEFORE**  
**HONOURABLE MR. JUSTICE SUMAN SHYAM**  
**HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

**ORDER**

**06.09.2024**

**(Suman Shyam, J)**

Heard Swati Bidhan Baruah, the petitioner appearing in person in this PIL. We have also heard Mr. R. K. D. Choudhury, learned Dy.SGI appearing for the respondent No.3. Mr. D. Upamanyu, learned Standing Counsel, Health Department, Govt. of Assam has appeared for the respondent No.2 and Mrs. R. B. Bora, learned Govt. Advocate, Assam has appeared for the respondent No.1. Ms. A. Choppy, learned counsel is present on behalf of respondent No.4.

The issue raised in this PIL, reduced to its essence, pertains to the alleged apathy on the part of the various authorities, in their failure to address the medical needs of the members of the Transgender community living in Assam, more particularly, extending the facility of reconstructive surgery. The petitioner submits that although there is a Central Government scheme permitting the members of the community to avail the benefits of reconstructive surgery, due to lack of proper guidelines and clear instructions, neither the Central Govt. nor the State Government of Assam is coming forward with any concrete step so as to redress the grievance of the transgender community in this regard. The petitioner has further submitted that due to such confusion prevailing in the matter, not only the rights guaranteed under Section 15(g) of the Transgender Persons (Protection of Rights) Act, 2019 but even the fundamental right of the members of the community as guaranteed under Article 21 of the Constitution

of India is being violated.

After hearing the submission of the petitioner and after going through the materials placed on record, we are of the view that the concern raised in this petition is of serious nature and calls for immediate attention of the concerned authorities. Instead of treating this as adversarial litigation, an effort should be made by all concerned, so as to find out ways and means for suitably addressing the grievance of the members of the Transgender community within the legal framework existing in the country and in furtherance of the scheme(s) framed by the Central Government and the State Government, to that end.

With that objective in mind and considering the nature of issues involved in this proceeding, we request the learned Advocate General, Assam, Mr. D. Saikia to render assistance to this Court in this matter. Mr. D. Upamanyu, learned Standing Counsel, Health Department, Assam to bring this order to the notice of the learned Advocate General, Assam.

Registry to list this case again on 26.09.2024 by reflecting the name of Mr. D. Saikia, AG, Assam in the Cause List.

The learned Dy.SGI may also obtain specific instruction on the issues flagged in this order and address the Court on the next date fixed.

**JUDGE**

**JUDGE**

**Comparing Assistant**