

GAHC010234612019



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

**Case No. : PIL/60/2019**

BACHPAN BACHAO ANDOLAN  
A CHARITABLE SOCIETY HAVING ITS OFFICE AT L-6, KALKAJI, NEW  
DELHI 110019 AND REP. BY ITS GENERAL SECRETARY MR. R.S.  
CHAURAUSIA

2: SAMPURNA BEHURA  
D/O LT. GANGA DHAR BEHURA  
R/O FLAT NO. 501  
TECHNOLOGY APARTMENT  
PATPARGANJ  
DELH

VERSUS

THE STATE OF ASSAM AND 4 ORS.  
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM, SOCIAL WELFARE  
DEPTT. BLOCK-D, 1ST. FLOOR, JANATA BHAWAN, DISPUR, GAUHATI-  
781006

2:DIRECTORATE OF SOCIAL WELFARE  
REP. BY THE DIRECTOR  
KACHARI GHAT  
MG ROAD  
UZAN BAZAR  
GAUHATI-781001

3:ASSAM STATE COMMISSION FOR PROTECTION OF CHILD RIGHTS  
REP. BY THE CHAIRPERSON  
BYE LANE NO. 1  
H.NO. 1  
SAMMANOY PATH  
SURVEY  
BELTOLA-BASISTHA ROAD  
GAUHATI-781028

4:THE DIRECTOR GENERAL OF POLICE  
OFFICE DR. BK KAKATI RD. ULUBARI  
GAUHATI  
ASSAM 781007

5:REGISTRAR  
GAUHATI HIGH COURT  
GAUHATI  
ASSA

**Advocate for the Petitioner** : MR. P P SARMA, N CHAUDHURY,MR. M DAS,MR. B D DEKA

**Advocate for the Respondent** : GA, ASSAM, SMT. PRIYAMBADA MISHRA, PROG.  
OFFICER,SRI ASHOK SHARMA, PROG. MANAGER,DR. PREETY LEKHA DEKA, ACS,MR. R  
K D CHOUDHURY, DY. S.G.I.,SC, GHC

Linked Case : PIL(Suo Moto)/2/2023

IN RE- PLIGHT OF CHILDREN IN TEMPORARY SHELTER HOMES  
X

VERSUS

THE STATE OF ASSAM AND ANR.  
X

2:THE MEMBER SECRETARY  
THE ASSAM STATE LEGAL SERVICES AUTHORITY

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Advocate for : MR. B D KONWAR SR. ADV. (AMICUS CURIAE)  
Advocate for : MR. D NATH (SR. GOVT. ADVOCATE  
ASSAM) appearing for THE STATE OF ASSAM AND ANR.

Linked Case : PIL(Suo Moto)/1/2018

X-X-X  
X-X-X

VERSUS

IN RE THE GOVT OF ASSAM AND 3 ORS  
REP. BY THE SECRETARY  
DEPTT. OF SOCIAL WELFARE  
BLOCK-D  
1ST FLOOR  
JANATA BHAWAN  
DISPUR  
GUWAHATI- 781006

2:DIRECTORATE OF SOCIAL WELFARE  
REP. BY THE DIRECTOR  
KACHARI GHAT  
M G ROAD  
UZAN BAZAR  
GUWAHATI- 781001

3:ASSAM STATE COMMISSION FOR PROTECTION OF CHILD RIGHTS  
REP. BY THE CHAIRPERSON  
BYE LANE NO.1  
H NO.1  
SAMMANOY PATH  
SURVEY  
BELTOLA- BASISTHA ROAD  
GUWAHATI- 781028

4:UNION OF INDIA  
REP. BY THE SECRETARY MIN OF WOMEN AND CHILD DEVELOPMENT  
SHASTRI BHAWAN  
NEW DELHI- 01

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Advocate for : MR. H K DAS( SC  
GHC)

Advocate for : GA

ASSAM appearing for IN RE THE GOVT OF ASSAM AND 3 ORS

**BEFORE**  
**HONOURABLE MR. JUSTICE KALYAN RAI SURANA**  
**HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

**ORDER**

**22.08.2024**

(K.R. Surana, J.)

Heard Mr. P. P. Sarma, learned counsel for the petitioner. Also heard Mr. D. Nath, learned Senior Govt. Advocate appearing for the State, Mr. N.K. Sarma, learned counsel appearing on behalf of Mr. H.K. Das, learned Standing Counsel, Gauhati High Court and Mr. R.K.D. Choudhury, learned DSGI for the Union of India. Also heard Dr. Preety Lekha Deka, ACS, Deputy Secretary to Govt. of Assam, Women and Child Development Department, who appears along with Sri Ashok Sharma, Programme Manager (CP), ASCPS, Assam and Smt. Priyambada Mishra, Programme Officer, CICP, SCPS, Assam.

2. It is submitted that for the purpose of notifying the Draft Rules and the Draft Child Protection Policy, various stake holders are required to be consulted and for that process, he prays for some more time.

3. The relevant paragraph-6 of the order dated 25.06.2024 passed by this Court in this matter is extracted below:-

*In respect of the directions contained in para 5 and 6 of the order dated 28.03.2024, the learned Senior Government Advocate has submitted that the Draft Rules have been finalised after the State level consultation and as per his instructions, the Draft Rules would be placed*

*before the Government on 26.06.2024. It is also submitted that the Draft Child Protection Policy has already been submitted to the State and they are awaiting approval of the said Policy at the earliest. We hope and trust that both the Draft Rules as well as the Draft Child Protection Policy shall be finally notified by the appropriate Government prior to the next date of listing of this matter.*

4. The said order was passed on 25.06.2024, and the matter has been taken up after almost 2 months. The delay in notifying the Draft Rules as well as the Draft Child Protection Policy discloses that the State Government or its concerned officers do not have the will to give tooth to the child protection laws like Juvenile Justice (Care and Protection of Children) Act. Due to insensitivity of the various stake holders in giving their inputs so that the State can notify the Draft Rules as well as the Draft Child Protection Policy, we express our displeasure.

5. From the note of the Secretary of the Government of Assam, Women and Child Development Department, which has been placed before the Court in respect of paragraph-6 of the order dated 25.06.2024, it is seen that a vague comment has been made to the effect that the Government is in the process of consultation with various departments concerned and once the process of consultation is over, the Rules will be sent to the Legislative Department for vetting the same. Therefore, the Court is inclined to direct the State to file an affidavit by an authority not below the rank of Secretary to the Government of Assam, wherein the State authorities will indicate about the process of consultation and explain what is such process; which are the departments that are to be consulted for the purpose of notifying the Draft Rules and Draft Child Protection Policy;

the status of consultation which has taken place between 25.06.2024 and 21.08.2024; what is the estimate of the Government about the time which they intend to consume before the Draft Rules and the Draft Child protection policy would be notified; as well as the estimated time that might be consumed in the Legislative Department before the actual notification is made.

6. It is put on record that this writ proceeding is not an adversarial litigation. The purpose of the Juvenile Justice (Care and Protection of Children) Act is already contained in the Act. Therefore, the Court would expect more dynamism from the State Government in notifying the Rules and Child Protection Policy.

7. In respect of the compliance of various directions contained in the order dated 25.06.2024, the same would be addressed by the State by way of an affidavit through respective Departments concerned.

8. We again hope and trust that the directions contained in paragraph-6 of the order dated 25.06.2024 is complied with at the earliest in the best interest of the children for whom the Act referred above has been enacted.

9. The Court also hopes that the Government is conscious of the fact that the present Bench is monitoring the issues on the basis of various directions which are contained in the orders passed from time to time by the Supreme Court of India.

10. The affidavit as directed above shall be file at least one day prior to the next date of listing, with advance copies to all sides.

11. List the matter on 13.09.2024.

**J U D G E**

**J U D G E**

**Comparing Assistant**