

GAHC010247492022



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

Case No. : PIL/70/2022

RENSING BEY
S/O- LATE SAI BEY,
R/O- VILLAGE PRILOO,
P.O- KHERONI, WEST KARBI ANGLONG,
PIN-782448

VERSUS

THE STATE OF ASSAM AND 3 ORS
THROUGH THE CHIEF SECRETARY , GOVT. OF ASSAM, DISPUR,
GUWAHATI-781006

2:THE COMMISSIONER AND SECRETARY
GOVT. OF ASSAM
HILL AREA DEPARTMENT
DISPUR, GUWAHATI-781006

3:THE UNION OF INDIA
THROUGH THE SECRETARY
MINISTRY OF HOME AFFAIRS
NEW DELHI-01

4:KARBI ANGLONG AUTONOMOUS COUNCIL
THROUGH THE PRINCIPAL SECRETARY
DIPHU, PIN-78246

For applicant(s)/appellant(s) : Mr. R.P. Sarmah, Sr. Advocate
Mr. D. Doley, Advocate
Ms. A. Deka, Advoca

For respondent(s) : Mr. R.S. Ronghang, Advocate
Mr. K.K. Parasar, CGC
Mr. D. Sharma, Addl. Sr. GA, Assa

– BEFORE –

HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI

HON'BLE MR. JUSTICE KARDAK ETE

17.07.2024

(Vijay Bishnoi, CJ)

This PIL petition is filed by the petitioner with a prayer to issue directions to the respondent State of Assam and its departments not to encroach upon the subjects, which are allocated to the Karbi Anglong Autonomous Council (KAAC) under the 6th Schedule of the Constitution of India and also governed by the Memorandum of Settlement, 2011. The petitioner has also prayed for issuing directions to the respondent State of Assam and its departments to withdraw/recall the notifications, including the Cabinet decisions, which transgress upon the allotted subjects and also not to interfere in the legislative and executive powers of the KAAC on the allotted subjects.

Several instances have been pointed out in this writ petition to demonstrate such alleged encroachment and transgression by the State of Assam and its departments upon the legislative as well executive functioning of the KAAC on the allotted subjects.

Reply to the writ petition is filed on behalf of the respondent State clarifying that the State Government is not encroaching upon the legislative or executive powers of the KAAC on the allotted subjects. Clarifications have also been given in respect of the action taken by the State Government from time to time, which, as per the petitioner are the actions of encroachment upon the rights of the KAAC.

Learned counsel appearing on behalf of the petitioner submits that although from the reply of the State Government it appears that the State Government has, by and large, not encroached upon the functions of the KAAC over the allotted

subjects, however, there are instances where some attempts are being made, which appear to be transgression over the rights of the KAAC by the State Government.

At this stage, learned counsel appearing for the respondent State has submitted that as per the stand of the State Government, the Memorandum of Settlement, 2011 arrived at between the State Government, KAAC and other stakeholders is to be honoured and till date the State Government has not attempted to transgress over the rights of the KAAC on the allotted subjects and in future also the State Government is bound to honour the conditions laid down in the Memorandum of Settlement, 2011 in its full letter and spirit.

Learned counsel appearing on behalf of the respondent Union of India has also assured this Court that so far as the actions required to be taken by the Union of India in terms of the Memorandum of Settlement, 2011 are concerned, the process is going on and the Central Government shall take every possible steps to abide by the terms and conditions of the Memorandum of Settlement, 2011.

In view of the above submissions made on behalf of the learned counsel for the parties, we are of the view that no further order is required to be passed in this PIL petition and the same is, therefore, disposed of accordingly.

JUDGE

CHIEF JUSTICE

Comparing Assistant