

GAHC010146942024



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

**Case No. : W.P.(Crl.)/23/2024**

SIEMTHANG HMAR AND 2 ORS

2: LALTHAVEL HMAR

3: LALCHUNGHNUNG

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VERSUS

THE STATE OF ASSAM AND 6 ORS  
THROUGH THE COMMISSIONER AND SECRETARY,  
HOME DEPARTMENT,  
HAVING ADDRESS AT ASSAM SECRETARIAT,

CM BLOCK, SECOND FLOOR,  
DISPUR, GUWAHATI, ASSAM- 781006.

2:THE CHIEF SECRETARY  
GOVT. OF ASSAM  
HAVING ADDRESS AT CM BLOCK  
3RD FLOOR

JANATA BHAWAN  
DISPUR

GUWAHATI  
ASSAM- 781006.

3:THE DIRECTOR GENERAL OF POLICE  
ASSAM  
ASSAM POLICE HEADQUARTERS

ULUBARI  
GUWAHATI- 781007.

4:THE DISTRICT COMMISSIONER  
CACHAR  
DIST. CACHAR  
ASSAM- 788001.

5:THE SUPERINTENDENT OF POLICE  
CACHAR DISTRICT  
ASSAM POLICE  
CLUB ROAD

TARAPUR  
SILCHAR

ASSAM- 788001.

6:THE OFFICER-IN-CHARGE  
LAKHIPUR POLICE STATION  
DISTRICT- CACHAR  
ASSAM.

7:THE CHIEF SECRETARY  
STATE OF MIZORAM  
NEW SECRETARIAT COMPLEX

AIZAWL- 796001

AGARWALA,MR A.K. HAJONG,MS A HUSSAIN,MR I CHAKMA,MR. S. K. CHAKMA,MS N DEKA

**Advocate for the Respondent** : GA, ASSAM,

**BEFORE**  
**HONOURABLE MR. JUSTICE KALYAN RAI SURANA**  
**HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

**ORDER**

**Date : 07.08.2024**  
[K.R. Surana, J]

Heard Mr. C. Gonsalves, learned Senior counsel through Video Conferencing assisted by Ms. D. Ghosh, learned counsel for the petitioners. Also heard Mr. D. Saikia, learned Advocate General, Assam assisted by Mr. D. Nath, learned Senior Government Advocate representing respondent Nos. 1 to 6.

2. In the course of the submissions, the learned Senior counsel for the petitioners has submitted that he has received instructions on the Post Mortem Report, which is annexed to the affidavit-in-opposition filed by the respondent Nos. 1, 2, 3, 5 and 6 and upon instructions he has submitted that the family members of the petitioners would have no objection to take custody of the dead bodies and to perform their last rights.

3. In this context, the learned Advocate General has submitted that in the event the petitioners desire to take the dead body out of the State, the State would provide necessary assistance upto the Border of the State of Assam.

4. In view of the said submissions, the interim prayer nos. (a) and (b) are no longer required to be addressed. Accordingly, it is provided that the petitioners and/or any other family members of the 3 (three) deceased persons, whose dead bodies are lying in the morgue of SMCH, Silchar, shall be at liberty to satisfy the Chief Superintendent-Cum-Principal, SMCH, Silchar as to their

identities and thereafter, take the dead bodies into their custody for performing their last rights. The written prayer for taking custody of the those dead bodies shall be presented before the Chief Superintendent-Cum-Principal, SMCH, Silchar.

5. In the event the family members of the deceased desired to take away the dead bodies outside the State of Assam by road, they would inform the Superintendent of Police, Cachar, who do the needful to enable the family members of the deceased to take away the dead bodies. Their logistic support shall be provided upto the nearest Airport or to the nearest border of the State of Assam.

6. In view of the above, this Court is of the considered opinion that the presence of respondent No.7 is no longer required in connection with this writ petition. Accordingly, the Court is inclined to strike out the name of respondent No.7 from the array of respondents. The Registry shall do the needful.

7. The learned Advocate General has submitted that the State had filed a short affidavit in view of the situation where the dead body of the 3 (three) persons were lying in the morgue of SMCH, Silchar and he prays that 2 (two) weeks time be granted to the State to file a detailed affidavit in the matter.

8. The said prayer is considered and allowed.

9. The State shall file an affidavit by 30.08.2024 and rejoinder, if any by the petitioners shall be filed atleast one day prior to the next date of listing.

10. As agreed to by all the sides, list this matter again on 10.09.2024.

**JUDGE**

**JUDGE**

**Comparing Assistant**