

GAHC010207442018



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

Case No. : PIL 63/2018

1: SILCHAR TRUCK OWNERS ASSOCIATION SOCIETY AND ANR
KALIBARI ROAD, SILCHAR, P.S. SILCHAR, DIST. CACHAR,
ASSAM,
(REP. BY ITS GENERAL SECRETARY SRI ABDUL AHAD LASKAR)

2: SRI ABDUL AHAD LASKAR
S/O LT. ANDULRAHMAN LASKAR
VILL- MADHURBOND
P.O. OLD LAKHIMPUR ROAD

P.S. SILCHAR
DIST. CACHAR
ASSAM

VERSUS

1: THE STATE OF ASSAM AND 3 ORS.
REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM,
DISPUR, GUWAHATI - 781006.

2: THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
TRANSPORT DEPARTMENT
DISPUR
GUWAHATI- 781006

3: THE DEPUTY COMMISSIONER
CACHAR
SILCHAR
ASSAM
PIN - 788001.

4: THE DISTRICT TRANSPORT OFFICER

CACHAR
SILCHAR

ASSAM
PIN -788001

Advocate for the Petitioner : MR. U DUTTA

Advocate for the Respondent : GA, ASSAM

Linked Case : PIL 53/2017

1:TAHER AHMED CHOUDHURY
S/O. NURUL ISLAM CHOUDHURY
R/O. HOUSE NO. 17
JURI PATH
CRISTIAN BASTI
GUWAHATI-05.

VERSUS

1:THE UNION OF INDIA and 6 ORS.
REP. BY THE SECRETARY TO THE UNION OF INDIA
MINISTRY OF ROAD TRANSPORT AND HIGHWAYS
NEW DELHI-110001.

2:THE NATIONAL HIGHWAYS AUTHORITY OF INDIA
REP. BY THE SECRETARY
NEW DELHI-110001.

3:THE STATE OF ASSAM
REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM
DISPUR
GUWAHATI-6.

4:ADDL. CHIEF SECRETARY TO THE GOVT. OF ASSAM
DISPUR
GUWAHATI-6.

5:THE COMM. and SECY. TO THE GOVT. OF ASSAM
ENVIRONMENT and FOREST DEPTT.
DISPUR

GUWAHATI-6.

6:THE COMM. and SECY. TO THE GOVT. OF ASSAM
TRANSPORT DEPTT.

DISPUR

GUWAHATI-06.

7:THE COMM. and SECY. TO THE GOVT. OF ASSAM
HOME and POLITICAL DEPTT.

DISPUR

GUWAHATI-06.

Advocate for the Petitioner : MR. N H LASKAR

Advocate for the Respondent : ASSTT.S.G.I.

BEFORE

**HON'BLE THE CHIEF JUSTICE MR. A.S. BOPANNA
HON'BLE MR. JUSTICE ARUP KUMAR GOSWAMI**

29.03.2019

(A.S. Bopanna, CJ)

Heard Mr. U Dutta and Mr. AY Choudhury, learned counsel for the petitioners. Also heard Mr. Y Doloi, learned Standing Counsel, Transport Department, Government of Assam as well as Mr. TC Chutia, learned Additional Senior Government Advocate, Assam for the respondents.

These petitions are filed in the nature of public interest essentially seeking implementation of the provisions as contained in the Motor Vehicles Act, 1988 and to bring to book the erring vehicles which are either illegally transporting materials or transporting materials by overloading the vehicles.

In so far as the concern expressed in PIL 63/2018, it is with specific reference to NH-306 which is a highway measuring about 90 kilometers connecting Assam and Mizoram. It is stated therein that the weighbridge which was situated at Lailapur (Dholai) to check weight of the loaded trucks is not in operation presently and no checking is being carried out on the vehicles for being overloaded or transporting any material which is not permitted to be

transported.

In so far as the case as put forth in PIL 53/2017, though no specific reference is made, certain averments are made with regard to the citizens being subjected to harassment on NH-40 and 44 between Hailakandi and Guwahati. In that regard the grievance expressed is with regard to non-implementation of the provisions of the Motor Vehicles Act, 1988 and the representation dated 11.9.2017 made by the petitioner not being considered by the Chief Secretary to the Government of Assam. In that light, since both these petitions relate to the making of weighbridges operational and implementing the provisions of law, they were taken up together and disposed of by this common order.

In the additional affidavit filed by the respondent No.4 in PIL 63/2018, namely, the District Transport Officer, reference is made to both the petitions and with particular reference to NH- 306, it is indicated therein that neither the weighbridge is operational, nor is there any check point. In fact though reference is made to the provisions as contained in Section 114, 115 and 116 of the Motor Vehicles Act, 1988 and the Assam Motor Vehicles Rules, 2003, helplessness is expressed with regard to enforcement of the said provisions. From the said affidavit, it is clear that the provisions of law are not being implemented and the transport operators are violating law with impunity. While taking note of this aspect, we have also taken note of the decision of the Hon'ble Supreme Court in the case of *Paramjit Bhasin & Ors. –vs- Union of India & Ors., (2005) 12 SCC 642*, wherein the Hon'ble Supreme Court while examining the provisions under Sections 113, 114, 194 and 200 of the Motor Vehicles Act, has taken note that plying of overloaded vehicles is not permissible and strict enforcement of the provisions is required. Despite such guidelines being laid down by the Hon'ble Supreme Court and the provisions of law being in place, in the present facts it is noticed that the implementation is not done. Since several departments are required to coordinate in a circumstance where the District Transport officials are expressing helplessness, it would be appropriate for the Chief Secretary to the Government of Assam to devise methods of securing coordination of the departments in implementation of law. It is in that view, we refrain from directing any particular method to be followed by the respondents. However, the respondents shall take steps to implement the law by devising appropriate mechanism and if the enforcement officials are not in a position to carry out their duty because of the situation

as expressed in the affidavit, necessary security measures are also to be devised. In that regard all steps to be taken shall be so taken and the law shall be implemented in an expeditious manner but, in any event, the time taken to implement the law shall not be more than four months from this day. The direction to implement the law is in order to put in place appropriate mechanism to prevent illegal transportation and/or overloading of the vehicles in the national highways, more particularly, in NH-306 to which the matter relates.

In so far the grievance as expressed in PIL 53/2017, since we have taken note that the representation dated 11.9.2017 is made to the Chief Secretary to the Government of Assam, the Chief Secretary while considering other aspects shall also take into consideration the grievance put forth in the representation and an appropriate decision be taken within the time frame as already indicated above.

In terms of the above, these petitions stand disposed of.

JUDGE

CHIEF JUSTICE

Comparing Assistant