

GAHC010169892020



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

**Case No. : WP(C)/5048/2020**

PRIYA PAL BHIKKHU  
S/O SRI MON KUMAR CHAKMA  
VILLAGE GHOLA DHAN KARBARI PARA, DIST AMARPUR, SOUTH  
TRIPURA, 799104  
PRESENTLY RESIDING AT MAYA SAROVBAR AREA, PO BODHGAYA, DIST  
GAYA, BIHAR, 824231

VERSUS

THE STATE OF ASSAM AND 5 ORS.  
REPRESENTED BY THE COMMISSIONER AND SECRETARY, WELFARE OF  
PLAIN TRIBES AND BACKWARD CLASSES DEPARTMENT, GOVT. OF  
ASSAM, DISPUR ,GUWAHATI 781006

2:THE COMMISSIONER AND SECRETARY  
PLANNING AND DEVELOPMENT  
GOVT. OF ASSAM  
DISPUR  
GUWAHATI ASSAM 781006

3:THE JOINT SECRETARY  
WELFARE OF PLAIN TRIBES AND BACKWARD CLASSES DEPARTMENT  
DISPUR  
GUWAHATI ASSAM 781006

4:THE DEPUTY SECRETARY  
WELFARE OF PLAIN TRIBES AND BACKWARD CLASSES DEPARTMENT  
DISPUR  
GUWAHATI ASSAM 781006

5:THE DIRECTOR  
WELFARE OF PLAIN TRIBES AND BACKWARD CLASSES DEPARTMENT  
DISPUR  
GUWAHATI ASSAM 781006

6:THE DEPUTY COMMISSIONER  
HAILAKANDI  
ASSAM 78815

**Advocate for the Petitioner** : MS. M B BARUAH

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

**BEFORE**  
**HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

**ORDER**

**30-09-2021**

Heard Ms. M.B. Baruah, learned counsel for the petitioner. Also heard Shri R. Dhar, learned Standing Counsel, WPT & BC, Department whereas Shri N. Goswami, learned State Counsel represents the other State respondents.

Considering the subject matter in dispute and also the development which has taken place during the pendency of this writ petition, the same has been disposed of at the admission stage.

The petitioner who belongs to the Chakma Community has filed this petition as an offshoot of certain directions passed by this Court in its order dated 19.07.2011 in WP(C) No. 1656/2011. The said writ petition was in connection with proper representation of the Chakma Community in the Development Council for the Hills Tribe in the Barak Valley.

Ms. Bujor Baruah, the learned counsel by referring to the aforesaid order of this Court has drawn the attention to the observations made in paragraphs 18 & 19 which is extracted herein below:-

*“18. There is, however, a disturbing feature in this case. This is an admitted position that the Memo of Settlement was signed as far back as on 18.3 .1996 between the President of the Cachar Hills People Federation and the Deputy Secretary to the Government of Assam,*

*W.P.T.& B.C. Department in presence of the then Chief Minister of Assam, late Hiteswar Saikia with avowed Objectives of Setting of the Councils to provide maximum possible autonomy within a frame work of Constitution of India for social, economic, educational, ethnic and cultural advancements of the Hills Tribes living in the District of Cachar, Karimganj and Hailakandi. The Government of Assam has taken no further step except to constitute and re-constitute the Interim Council from time to time. The Council so far constituted/re-constituted has not attained any legal status as no legislation has been passed providing constitution of Barak Valley Hills Tribe Development Council to achieve the promised objectives. Any right thinking person would question how long such situation would continue. Is it not a political and social exploitation over the backward Hills tribes people in the name of providing false assurances of so called maximum possible autonomy. Time is ripe for taking up the matter seriously by the State Government to bring a legislation as has been done so far in cases of other tribes like Rabha, Mishing, Tiwa (Lalung) , So nowal Kachari, Tengal Kachari, Deuri etc. The State Government must do away with the ad-hoc Interim Council and provide regular elected Council by enacting appropriate law.*

*19. Having regard to the facts and circumstances of the case, this court, with great expectation, would direct the respondent-authorities, particularly the respondent No.1, the Commissioner and Secretary to the Govt. of Assam, W .P.T & B.C. Department to enquire or cause an enquiry through a competent officer in the rank of Joint Secretary of its department to make on the spot verification /enquiry and find out whether due and proper representation has been given to all the hills tribes, who would submit a report to him for taking remedial steps. It is directed that if any Hills Tribe is left out or unrepresented steps be taken to include members to represent such unrepresented tribes in the reconstituted council. It is also directed that there is an over representation of any particular Hills Tribe, they should be excluded to maintain the balance of representation. The respondent No.1 shall take into consideration the cases of petitioner No.1, 4 to 13 for inclusion in the Council as members for giving due representation to their respective tribes if found justified. It is further directed that the respondents particularly respondent No.1 shall take necessary steps for introducing/placing Bill before the State Legislative Assembly for enactment of appropriate law providing election, constitution of council and other provisions for managing the affairs of the Barak Valley Hills Tribe Development Council, preferably during the present financial year."*

It is alleged in the writ petition that though the guidelines were laid down

in the aforesaid judgment dated 19.07.2011, nothing was done to implement the judgment in its spirit and there was no representation of the Chakma Community. However, Shri Dhar, the learned Standing Counsel for the Department has submitted that during the pendency of this writ petition, a notification has been issued by the Department constituting a fresh Barak Valley Hill Tribes Development Council by dissolving the earlier Council.

It is submitted that in the new Council, there is representation of the Chakma Community by inclusion of one member namely Shri Karuna Chakma. He accordingly submits that the grievance of the petitioner being redressed, the writ petition is liable to be closed.

The learned counsel for the petitioner however submits that nomination of one member of the Chakma Community in the Council is not an adequate representation taking into account the population pattern and also the guidelines laid down by the Court in its earlier order dated 19.07.2011 as per which, there should be adequate representation and over representation is also not encouraged.

By drawing the attention of this Court to the notification dated 17.02.2021, the learned counsel for the petitioner has submitted that there are six members from the Rongmei Community which gives an indication of over representation. However, this Court is of the opinion that in absence of an appropriate data showing the population pattern and also keeping into consideration that such nomination are antipleasure of the Government, no enforceable right accrues upon the petition.

In any case, the petition appears to be filed in taking into consideration with general interest of the Chakma Community and not being individual interest of the petitioner. In that view of the matter and particularly in view of the development which had taken place during the pendency of the Writ petition in the form of issuance of the notification dated 17.02.2021, nothing

survives for further adjudication in this writ petition.

Accordingly, the writ petition is closed.

A copy of the notification dated 17.02.2021 is made a part of the records.

**JUDGE**

**Comparing Assistant**