

GAHC010239582024



2024:GAU-AS:11948

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

Case No. : WP(C)/5993/2024

FARIDA KHANOM
D/O- AHMED KHAN,
R/O- BORBORI,
P.O- AMD P.S- LAHARIGHAT,
PIN-782127, DIST- MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT, DISPUR, ASSAM,
GUWAHATI- 781006

2:THE DISTRICT COMMISSIONER
MORIGAON
ASSAM

3:THE MORIGAON ZILLA PARISHAD
REPRESENTED BY THE CHIEF EXECUTIVE OFFICER
P.O. AND P.S. MORIGAON
DIST- MORIGAON
ASSAM
PIN- 782105

4:THE CHIEF EXECUTIVE OFFICER

MORIGAON ZILLA PARISHAD
P.O. AND P.S. MORIGAON
DIST- MORIGAON
ASSAM
PIN- 782105

5:THE MOIRABARI ANCHALIK PANCHAYAT
REPRESENTED BY THE EXECUTIVE OFFICER
P.O. MOIRABARI
P.S. MORIGAON
DIST- MORIGAON
ASSAM
PIN- 78212

Advocate for the Petitioner : MR. P K MUNIR, MR. A. GAYAN

Advocate for the Respondent : SC, P AND R.D., GA, ASSAM

Linked Case : WP(C)/5601/2024

MD. MARUF SADDAM HUSSAIN
SON OF TAMIR UDDIN RESIDENT OF VILLAGE- TATIKOTA
POST-OFFICE- MOIRABARI
POLICE STATION- MOIRABARI
DISTRICT- MORIGAON (ASSAM)

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF
ASSAM
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT

2:THE COMMISSIONER
PANCHAYAT AND RURAL DEVELOPMENT
ASSAM
JURIPAR
PANJABARI
GUWAHATI-37
ASSAM

3:THE DISTRICT COMMISSIONER
MORIGAON
MORIGAON
ASSAM
PIN- 782105

4:ZILLA PARISHAD

MORIGAON
REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER

5:MOIRABARI ANCHALIK PANCHAYAT
REPRESENTED BY ITS EXECUTIVE OFFICER

6:SELIM CHOUDHURY
S/O- MUJJAMEL HUSSAIN
R/O- MOIRABARI
P.O. AND P.S. MOIRABARI
DIST.- MORIGAON
ASSAM
PIN- 782126

Advocate for : MR S BORTHAKUR
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 5 ORS

Linked Case : WP(C)/4313/2024

GAUTOM MEDHI
S/O DHANESWAR MEDHI
RESIDENT OF VILLAGE HAHCHARA PO BHURBANDHA
PS MORIGAON DIST MORIGAON
ASSAM 782104

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED bY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT
DISPUR GUWAHATI ASSAM 781006

2:THE MORIGAON ZILLA PARISHAD
REPRESENTED BY THE CHIEF EXECUTIVE OFFICER
PO AND PS MORIGAON
DIST MORIGAON
ASSAM 782105

3:THE CHIEF EXECUTIVE OFFICER

MORIGAON ZILLA PARISHAD
PO AND PS MORIGAON
DIST MORIGAON
ASSAM 782105

4:THE BHURBANDHA ANCHALIK PANCHAYAT
REP. BY THE EXECUTIVE OFFICER
PO BHURBANDHA
PS AND DIST MORIGAON
ASSAM 78205

5:THE EXECUTIVE OFFICER

BHURBANDHA ANCHALIK PANCHAYAT
PO BHURBANDHA
PS AND DIST MORIGAON
ASSAM 782104

6:SACHIN KUMAR BORA
S/O PHULENDRA BORA

RESIDENT OF VILLAGE CHAKABAHI
PO KUMURAGURI
PS MORIGAON
DIST MORIGAON
ASAM 782104

Advocate for : MR. M K HUSSAIN
Advocate for : SC
P AND R.D. appearing for THE STATE OF ASSAM AND 5 ORS

Linked Case : WP(C)/4311/2024

APURBA KR NATH
S/O LTAE BHUBAN CH. NATH

RESIDENT OF VILLAGE HABIBARANGABARI PO HABIBARANGABARI
PS MIKIRBHETA
DIST MORIGAON
ASSAM 782106

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED Y THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT
DISPUR GUWAHATI ASSAM 781006

2:THE MORIGAON ZILLA PARISHAD

REPRESENTED BY THE CHIEF EXECUTIVE OFFICER
PO AND PS MORIGAON
DIST MORIGAON
ASSAM 782105

3:THE CHIEF EXECUTIVE OFFICER

MORIGAON ZILLA PARISHAD
PO AND PS MORIGAON
DIST MORIGAON
ASSAM 782105

4:THE BHURBANDHA ANCHALIK PANCHAYAT
REP. BY THE EXECUTIVE OFFICER
PO BHURBANDHA
PS AND DIST MORIGAON
ASSAM 78205

5:THE EXECUTIVE OFFICER

BHURBANDHA ANCHALIK PANCHAYAT
PO BHURBANDHA
PS AND DIST MORIGAON
ASSAM 782104

6:SUMANTA KUMAR NATH
S/O LATE KHAGEN CH. NATH
RESIDENT OF PARASUTANGUNI
PO HABIBARANGABARI
PS MIKIRBHETA
DIST MORIGAON
ASSAM 782106

Advocate for : MR. M K HUSSAIN
Advocate for : SC
P AND R.D. appearing for THE STATE OF ASSAM AND 5 ORS

Linked Case : WP(C)/3663/2024

RAJ HUSSAIN
S/O- LATE ALTAF HUSSAIN
R/O- VILL.- PAIKAN PART-II
P.O. AND P.S. KRISHNAI
DIST. GOALPARA
ASSAM
PIN- 783126.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT
DISPUR
GUWAHATI-6.

2:THE COMMISSIONER

PANCHAYAT AND RURAL DEVELOPMENT
ASSAM
JURIPAR
PANJABARI
GHY-37.

3:THE DISTRICT COMMISSIONER
GOALPARA
DIST. GOALPARA
ASSAM

4:THE CHIEF EXECUTIVE OFFICER
GOALPARA ZILLA PARISHAD
GOALPARA
ASSAM

5:KRISHNAI ANCHALIK PANCHAYAT
REPRESENTED BY THE EXECUTIVE OFFICER
KRISHNAI ANCHALIK PANCHAYAT
P.O. AND P.S. KRISHNAI
DIST. GOALPARA
ASSAM
PIN- 783126.

Advocate for : MR H R A CHOUDHURY
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 4 ORS

Linked Case : WP(C)/5859/2024

BULBUL ISLAM
SON OF IMAN ALI
RESIDENT OF VILLAGE- MOIRABARI

P.O.- MOIRABARI
P.S.- MOIRABARI
DISTRICT- MORIGAON
ASSAM
PIN- 782126

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT
DISPUR
ASSAM
GUWAHATI- 781006

2:THE MORIGAON ZILLA PARISHAD
REPRESENTED BY THE CHIEF EXECUTIVE OFFICER
P.O. AND P.S. MORIGAON
DIST- MORIGAON
ASSAM
PIN- 782005

3:THE CHIEF EXECUTIVE OFFICER
MORIGAON ZILLA PARISHAD
P.O. AND P.S. MORIGAON
DIST- MORIGAON
ASSAM
PIN- 782005

4:THE MOIRABARI ANCHALIK PANCHAYAT
REPRESENTED BY THE EXECUTIVE OFFICER
P.O. MOIRABARI
P.S. MORIGAON
DIST- MORIGAON
ASSAM
PIN- 782126

5:THE EXECUTIVE OFFICER
MOIRABARI ANCHALIK PANCHAYAT
P.O. MOIRABARI
P.S. MORIGAON
DIST- MORIGAON
ASSAM
PIN- 782126

6:TASLIM MUKTAR
SON OF LATE ABUL BASHAR MUKTAR

RESIDENT OF VILLAGE- HATIMURIA
P.O. MOIRABARI
P.S. MOIRABARI
DIST- MORIGAON
ASSAM
PIN- 782126

Advocate for : MR. A M AHMED
Advocate for : SC
P AND R.D. appearing for THE STATE OF ASSAM AND 5 ORS

Linked Case : WP(C)/3632/2024

MD. ALIM UDDIN
SON OF LATE RAMIJ UDDIN
RESIDENT OF VILLAGE- KUPOTIMARI
POST-OFFICE- BHURAGAON
POLICE-STATION- BHURAGAON
DISTRICT- MORIGAON (ASSAM)

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF
ASSAM
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT

2:THE COMMISSIONER
PANCHAYAT AND RURAL DEVELOPMENT
ASSAM
JURIPAR
PANJABARI
GUWAHATI-37
ASSAM

3:THE DISTRICT COMMISSIONER
MORIGAON
MORIGAON
ASSAM
PIN- 782105

4:ZILLA PARISHAD
MORIGAON
REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER

5:LAHARIGHAT ANCHALIK PANCHAYAT
REPRESENTED BY ITS EXECUTIVE OFFICER

Advocate for : MR S BORTHAKUR
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 4 ORS

Linked Case : WP(C)/4076/2024

SHAFIKUL ISLAM
S/O- LATE ABDUL KADDUS

VILLAGE- BANJARAPARA

P.S- BARPETA
DIST- BARPETA
ASSAM
PIN-781314

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE THE GOVT. OF
ASSAM
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT
DISPUR
ASSAM
GUWAHATI-781006

2:THE COMMISSIONER
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT
ASSAM
JURIPAR
PANJABARI
GUWAHATI-781037
ASSAM

3:THE BARPETA ZILLA PARISHAD
REP. BY THE CHIEF EXECUTIVE OFFICER

BARPETA
ASSAM
PIN-781301

4:THE CHIEF EXECUTIVE OFFICER

BARPETA ZILLA PARISHAD
BARPETA
ASSAM
PIN-781301

5:THE BARPETA ANCHALIK PANCHAYAT
REP. BY THE EXECUTIVE OFFICER
DIST- BARPETA
ASSAM

6:THE EXECUTIVE OFFICER

BARPETA ANCHALIK PANCHAYAT
P.S AND DIST- BARPETA
ASSAM

7:KHANDAKAR ABDUL JALIL
S/O- KHANDAKAR ABUL HUSSAIN

VILLAGE-BANIARAPARA
P.S- BARPETA

DIST- BARPETA
ASSAM
PIN-781314

Advocate for : MR. A M AHMED
Advocate for : SC
P AND R.D. appearing for THE STATE OF ASSAM AND 6 ORS

Linked Case : WP(C)/4481/2024

MD. AINUL HOQUE
S/O MOFIZ UDDINR/O VILL- ROWMARI
P.O. ROWMARI
P.S. RUPAHIHAT
DIST. NAGAON
ASSAM
PIN-782125

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM

PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT
DISPUR
ASSAM
GUWAHATI-781006

2:THE NAGAON ZILLA PARISHAD

REPRESENTED BY THE CHIEF EXECUTIVE OFFICER
P.O. AND P.S. NAGAON
DIST. NAGAON
ASSAM
PIN-782001

3:THE CHIEF EXECUTIVE OFFICER

NAGAON ZILLA PARISHAD

P.O. AND P.S. NAGAON
DIST. NAGAON
ASSAM
PIN- 782001

4:THE RUPAHIHAT ANCHALIK PANCHAYAT

REPRESENTED BY THE EXECUTIVE OFFICER
P.O. RUPAHIHAT

P.S. NAGAON
DIST. NAGAON
ASSAM
PIN-782125

5:THE EXECUTIVE OFFICER

RUPAHIHAT ANCHALIK PANCHAYAT
PO. RUPAHIHAT
P.S. NAGAON

DIST. NAGAON
ASSAMPIN-782125

6:UTTAM KONWAR
S/O BHUGESWAR KONWAR
R/O VILL- UKHAHAPAR

P.O. GOTONGA
P.S. RUPAHIHAT
DIST. NAGAON
ASSAM
PIN-782125

Advocate for : MR. M K HUSSAIN
Advocate for : SC
P AND R.D. appearing for THE STATE OF ASSAM AND 5 ORS

Linked Case : WP(C)/3613/2024

MD. ANSER ALI
S/O- LATE MOMIN ALI
VILL. AND P.O. KADANG
P.S. KALGACHIA
DIST. BARPETA
ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT
DISPUR
GUWAHATI-06.

2:THE CHIEF EXECUTIVE OFFICER
BARPETA ZILLA PARISHAD
BARPETA AND IN-CHARGE PRESIDENT
MANDIA ANCHALIK PANCHAYAT
MANDIA
DIST. BARPETA
ASSAM

3:THE EXECUTIVE OFFICER
MANDIA ANCHALIK PANCHAYAT
MANDIA
DIST. BARPETA
ASSAM

4:MONCHER ALI
S/O- LATE MAMIN ALI
VILL. AND P.O. KADONG
P.S. AND DIST. BARPETA

ASSAM

Advocate for : MR. R ALI

Advocate for : SC

P AND R.D. appearing for THE STATE OF ASSAM AND 3 ORS

Linked Case : WP(C)/5858/2024

ABDUL JALIL

SON OF LATE HARAN RASHID

RESIDENT OF VILLAGE- BHAURIABHITHA

P.S.- CHHAYGAON

DISTRICT- KAMRUP

ASSAM.

PIN- 781136.

VERSUS

THE STATE OF ASSAM AND 6 ORS

REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM

PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT

DISPUR

GUWAHATI- 781006.

2:THE KAMRUP ZILLA PARISHAD

AMINGAON

REPRESENTED BY THE CHIEF EXECUTIVE OFFICER

AMINGAON

DIST. KAMRUP

ASSAM

PIN- 781331.

3:THE CHIEF EXECUTIVE OFFICER

KAMRUP ZILLA PARISHAD

AMINGAON

DIST.- KAMRUP

ASSAM

PIN- 781331.

4:THE GOROIMARI ANCHALIK PANCHAYAT
REPRESENTED BY THE EXECUTIVE OFFICER

P.O.- GOROIMARI
P.S- CHHAYGAON

DISTRICT- KAMRUP
ASSAM.

5:THE EXECUTIVE OFFICER
GOROIMARI ANCHALIK PANCHAYAT
P.O. GOROIMARI
P.S. CHHAYGAON

DISTRICT- KAMRUP
ASSAM.

6:MD. SAYEDUR RAHMAN
SON OF LATE SAGAR ALI

VILLAGE- CHAMPUPARA GAON

P.O.- CHAMPUPARA

P.S.- CHHAYGAON

DISTRICT- KAMRUP
ASSAM

PIN- 781136.

7:MD. SURMAN ALI
SON OF LATE MUNNAF ALI

VILLAGE- CHAMPUPARA GAON
P.O.- CHAMPUPARA

P.S.- CHHAYGAON

DISTRICT- KAMRUP
ASSAM

PIN- 781136.

Advocate for : MR. A M AHMED
Advocate for : SC

P AND R.D. appearing for THE STATE OF ASSAM AND 6 ORS

Linked Case : WP(C)/3649/2024

PADMA KANTA HAZARIKA AND ANR
S/O LATE LAKHI KANTA HAZARIKA
RESIDENT OF VILLAGE AND PO SALAGURI
PS DHING
DIST NAGAON
ASSAM

2: SRI MUKUL HUSSAIN
S/O LATE SAMAR ALI
RESIDENT OF HAIDUBI
PO BATAMARI
DIST NAGAON
ASSAM
VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT
DISPUR
GUWAHATI 781006

2:THE NAGAON ZILLA PARISHAD
REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER
PO AND DIST NAGAON
ASSAM 782001

3:THE BATADRAVA ANCHALIK PANCHAYAT
REPRESENTED BY ITS EXECUTIVE OFFICER
PO DHING
DIST NAGAON
ASSAM 782122

Advocate for : MR. D A KAIYUM
Advocate for : SC
P AND R.D. appearing for THE STATE OF ASSAM AND 2 ORS

Linked Case : WP(C)/3615/2024

KADAM ALI
S/O- LATE ABDUL MAZID

VILLAGE- MOURIGAON

P.S- BAGHBAR
DIST- BARPETA
ASSAM
PIN-781308

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
DEPARTMENT OF PANCHAYAT AND RURAL DEVELOPMENT
DISPUR
GUWAHATI- 781006

2:THE COMMISSIONER
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT
JURIPAR
PANJABARI
GUWAHATI- 781037

3:THE BARPETA ZILLA PARISHAD
REPRESENTED BY THE CHIEF EXECUTIVE OFFICER BARPETA
BARPETA
PIN- 781301
ASSAM

4:THE CHIEF EXECUTIVE OFFICER
BARPETA ZILLA PARISHAD
BARPETA
ASSAM
PIN- 781301

5:THE MANDIA ANCHALIK PANCHAYAT
REP. BY THE EXECUTIVE OFFICER

DISTRICT- BARPETA (ASSAM)
PIN- 781308.

6:THE EXECUTIVE OFFICER

MANDIA ANCHALIK PANCHAYAT
P.O.- MANDIA
P.S.- BAGHBAR
DISTRICT- BARPETA (ASSAM)
PIN- 781308.

Advocate for : P. GHOSH

Advocate for : SC

P AND R.D. appearing for THE STATE OF ASSAM AND 5 ORS

Linked Case : WP(C)/4824/2024

PUNYA KUMAR PATAR

S/O LATE DHARANI PATAR

RESIDENT OF VILLAGE BORBORI

PO PUKARKATA PS BHURAGAON

DIST MORIGAON

ASSAM 782121

VERSUS

THE STATE OF ASSAM AND 5 ORS

REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM

PANCHAYAT AND RURAL DEVELOPMENT DEPT. DISPUR

GWUAHATI ASSAM 06

2:THE MORIGAON ZILLA PARISHAD

REP. BY ITS CHIEF EXECUTIVE OFFICER

PO AND PS AND DIST MORIGAON

ASSAM 782105

3:THE CHIEF EXECUTIVE OFFICER

MORIGAON ZILLA PARISHAD

PO AND PS AND DIST MORIGAON

ASSAM 782105

4:THE LAHARIGHAT ANCHALIK PANCHAYAT

REPRESENTED BY THE EXECUTIVE OFFICER

PO LAHARIGHAT

PS AND DIST MORIGAON

ASSAM 782127

5:THE EXECUTIVE OFFICER

LAHARIGHAT ANCHALIK PANCHAYAT

PO LAHARIGHAT

PS AND DIST MORIGAON

ASSAM 782127

6:GAUTAM PATAR
S.O LATE DURGESWAR PATAR

VILLAGE BATABORI
PO CHATANTOLI
PS LAHARIGHAT
DIST MORIGAON
ASSAM 782127

Advocate for : MR. M K HUSSAIN
Advocate for : SC
P AND R.D. appearing for THE STATE OF ASSAM AND 5 ORS

Linked Case : WP(C)/5745/2024

MOHANTA DEWRI
S/O GORSING DEWRI
R/O TEGHERIA GAON
P.S. JAGIROAD
P.O. KAJAJ NAGAR
DIST. MORIGAON
ASSAM
PIN-782413

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT
PANJABARI
GHY- 781037

2:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM

PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT
DISPUR
GUWAHATI-781006.

3:THE CHIEF EXECUTIVE OFFICER

ZILLA PRISHAD
MORIGAON
ASSAM-782105.

4:THE EXECUTIVE OFFICER

MAYANG ANCHALIK PANCHAYAT

JAGI BHAKATGAON
MORIGAON
ASSAM

Advocate for : MR. M K BORO
Advocate for : SC
P AND R.D. appearing for THE STATE OF ASSAM AND 3 ORS

Linked Case : WP(C)/5724/2024

MD. JAKIR HUSSAIN
S/O- LATE MOKBUL HUSSAIN
R/O- VILLAGE DATIALBORI
P.O- DATIALBORI
DIST- MORIGAON
ASSAM

VERSUS

THE STATE OF ASSAM AND 6 ORS
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT
ASSAM
DISPUR
GUWAHATI- 781006.

2:THE DISTRICT COMMISSIONER
MORIGAON
ASSAM

3:THE MORIGAON ZILLA PARISHAD
REP. BY ITS CHIEF EXECUTIVE OFFICER
PO AND PS AND DIST MORIGAON
ASSAM 782105

4:THE CHIEF EXECUTIVE OFFICER

MORIGAON ZILLA PARISHAD
PO AND PS AND DIST MORIGAON
ASSAM 782105

5:THE MOIRABARI ANCHALIK PANCHAYAT
MOIRABARI
REPRESENTED BY ITS EXECUTIVE OFFICER
P.O.-MOIRABARI
DIST- MORIGAON
ASSAM

6:THE EXECUTIVE OFFICER
OF MOIRABARI ANCHALIK PANCHAYAT MOIRABARI
P.O.-MOIRABARI
DIST- MORIGAON
ASSAM

7:MD. RAHUL AMIN
S/O- ABDUL SAMAD

VILL- BORBARI
P.O- LAHARIGAT
DIST- MORIGAON
ASSAM
PIN-782127

Advocates for the petitioner(s) : Mr. PK Munir
Mr. AM Ahmed
Mr. FU Borbhuiya
Mr. MK Boro
Mr. R Ali
Mr. B Rahman
Mr. S Borthakur
Mr. DA Kaiyum
Mr. MK Hussain

Advocates for the respondent(s): Mr. K Konwar
Additional Advocate General, Assam.
Mr. AK Ghose
Mr. S Dutta
Standing Counsel, P & RD

Department, Govt. of Assam
Mr. MU Mahmud

Date of hearing : 19.11.2024

Date of Judgment : 29.11.2024

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

JUDGMENT & ORDER(CAV)

Heard Mr. PK Munir, Mr. AM Ahmed, Mr. FU Borbhuiya, Mr. MK Boro, Mr. R Ali, Mr. B Rahman, Mr. S Borthakur, Mr. DA Kaiyum, Mr. MK Hussain, the learned counsels appearing on behalf of the petitioners in the present batch of writ petitions. Also heard Mr. K Konwar, the learned Additional Advocate General, Assam, who is also the Standing Counsel of the P& RD Department, Government of Assam. In addition to that, on behalf of the P & RD Department, Mr. S Dutta appears. Mr. AK Ghose, Mr. A Sarma and Mr. MU Mahmud, the learned counsels appear on behalf of the private respondents in the batch of writ petitions.

2. The instant batch of writ petitions were filed challenging the Notification dated 29.06.2024 issued by the Principal Secretary to the Government of Assam, P & RD Department whereby the process of settlement of Haats, Ghats, Fisheries, Pounds etc. for the year 2024-25 for which various Notice Inviting Tenders were floated were cancelled on the basis of a decision of the Cabinet decision dated 27.06.2024. In addition to that, in some of the writ petitions, the

Cabinet decision dated 27.06.2024 had also been assailed. The petitioners herein who have been intimated that they are the highest bidders have also sought for a writ in the nature of mandamus directing the respondent authorities to bring the tender process to a logical conclusion by allowing them to run the settlements.

3. For deciding the dispute(s) involved in the batch of writ petitions, this Court would like to deal with the facts which led to the filing of the batch of writ petitions.

4. The materials on record reveal that the various Anchalik Panchayats under the Assam Panchayat Act, 1994 (for short, the Act of 1994) had issued NITs for settlement of Haats, Ghats, Ferries, Fisheries etc. in the month of May, 2024. Pursuant to the NITs, the petitioners herein along with various other bidders participated in the said bid process and were informed respectively that their bids were accepted and thereby asking the petitioners to do the needful in terms with Rule 47(11) of the Assam Panchayat (Financial) Rules, 2002 (for short, the Rules of 2002). While the said process was on going, a Notification was issued on 29.06.2024 by the Principal Secretary to the Government of Assam, P & RD Department informing all the concerned that pursuant to a Cabinet decision held on 27.06.2024, the Governor of Assam had cancelled the ongoing process for settlement of Haats, Ghats, Fisheries, Pounds etc., for the year 2024-25 for which the NITs were already floated. In the said Notification, it was also mentioned that until new tenders are floated and finalized, the existing lessees may be given extensions at the settlement value fixed for the year 2023-24. The reasons for cancellation was also spelt out in the impugned Notification

wherein it was mentioned that the decision was taken by the Cabinet on the basis of certain complaints being received at various levels that the small traders, vendors and other sellers in the Haats and Bazaars etc. were often exploited by the bidders who quote exorbitantly high bid prices to grab the lease, and, as such, the Governor of Assam was pleased to make provisions that no settlement shall be made with the bidders who quote more than 10% of the average settled value of the last 3(three) years of these Haats, Ghats, Fisheries, Pounds etc. It was also mentioned that the new NITs would be issued which will include these conditions and would be floated for settlement of the Haats, Ghats, Fisheries, Pounds etc., for the year 2024-25.

5. On the basis of the impugned Notification, various office orders were issued by the Zilla Parishads thereby cancelling the entire tender process. Being aggrieved, the instant batch of writ petitions have been filed seeking the relief as above mentioned.

6. The State of Assam had filed the affidavit-in-opposition justifying the impugned Notification, the details of which, this Court would refer while taking note of the submissions of the learned counsels.

7. In the backdrop of the above facts, let this Court now take note of the submissions made on behalf of the parties.

8. Mr. S Borthakur, the learned counsel appearing on behalf of some of the writ petitioners submitted that Section 105 of the Act of 1994 stipulates how

settlement of Haats, Ghats, Fisheries, Pounds etc., are to be made by the Anchalik Panchayat. Referring to Sub-Section (2) of Section 105, the learned counsel submitted that the detailed procedure for settling of Haats, Ghats, Fisheries, Pounds etc., by way of tender has been specifically prescribed in Rule 47 of the Rules of 2002. The learned counsel further referred to Section 105 of the Act of 1994 which stipulates that re-settlement shall be made subject to the confirmation of the Zilla Parishad and in respect to the writ petitioners for whom he represents the Zilla Parishad had confirmed such settlement. The learned counsel further referred to Rule 47 of the Rules of 2002 and, more particularly submitted that the interference in the said tender process by the Government would only be permissible when a case comes within the ambit of Section 105(4) of the Act of 1994 or in a case coming within the ambit of Sub-Rules (9), (10), and (12) of Rule 47(9) of the Rules of 2002.

9. The learned counsel further referred to the provisions of the Constitution of India and, more particularly Article 243G and 243H which stipulates that the powers, authorities and responsibilities of the panchayat as well as the powers to impose taxes by the panchayats have been already stipulated under the Act of 1994. He submitted that Constitution (Seventy Third) Amendment Act, 1992 was enacted thereby inserting Part IX to the Constitution of India so that the panchayats are empowered and enabled to function as institutions of Self-Governance. The learned counsel, therefore, submitted that in view of the mandate of the Act of 1994 as well as the Rules framed therein under read with the Constitutional provisions as contained in Part IX of the Constitution, interference of the State Government is minimal, else it would make the amendment to the Constitution nugatory. He, therefore, submitted that when

this Court is dealing with the instant proceedings, this Court has to keep in mind the said aspect while interpreting the provisions of the Act of 1994.

10. Mr. S Borthakur, the learned counsel further submitted that if the interpretation is not made in such a manner, it would result in undue interference by the State Government in all matters, resultantly, the object behind the amendment of the Constitution about decentralization of power and permitting the Panchayats to function as institutions of Self Governance would become nugatory. The learned counsel referred to the judgment of the Supreme Court in the Case of the ***State of Maharashtra Vs. Reliance Industries Limited reported in (2017) 10 SCC 713***, and more particularly, referred to paragraph 27.

11. The learned counsel Mr. Borthakur further submitted that the impugned Notification whereby the earlier leasee was permitted to continue is completely contrary to Sections 105 and Rule 47 of the Rules of 2002.

12. Mr. FU Borbhuiya, the learned counsel appearing on behalf of some of the petitioners submitted that the petitioners for whom he represents have not only challenged the Notification dated 29.06.2024, but also have challenged the Cabinet decision dated 27.06.2024. He submitted that the Cabinet decision which was made would result in arbitrariness and unreasonableness, inasmuch as, when all bidders quote the maximum permissible viable rate, it would result in pick and choose policy.

13. Mr. PK Munir, Mr. AM Ahmed, Mr. MK Boro, Mr. R Ali, Mr. B Rahman, Mr. DA Kaiyum and Mr. MK Hussain have also made similar submissions. But for the sake of brevity, this Court is not repeating the same.

14. *Per contra*, Mr. K. Konwar, the learned Additional Advocate General, Assam submitted that the petitioners had no right to challenge the Notification dated 29.06.2024, *inasmuch as*, no rights had accrued upon them on the basis of being informed about the acceptance of their bids. He submitted that in addition to the acceptance of the bids there are other formalities which are required to be performed and in absence thereof, there is no concluded contract. In addition to that, he submitted that merely being the highest bidder would not confer any right to get a settlement.

15. The learned Additional Advocate General, Assam further submitted that the State of Assam keeping in tune with the Directive Principles of the State Policy and, more particularly, Articles 38 and 39 had made a State Policy for the benefit of the common people, thereby to insert a viable range within which the tenders would be accepted. He submitted that this State Policy had to be made taking into account that the small traders, vendors and other sellers in the Haats, Bazaars etc. are often exploited by the bidders, who quote exorbitantly high bid price to grab the lease. Further to that, in order to confer benefit upon the common people by bringing down the price of the commodities being traded, it has become a necessity that a viable range had to be incorporated in the tender documents. On that basis a decision was taken by the Cabinet on 27.06.2024. The said Cabinet decision was then notified by the impugned Notification dated 29.06.2024 whereby the ongoing process of settlement of the

Haats, Ghats, Fisheries, Pounds etc. for the year 2024-25 was cancelled.

16. Mr. K. Konwar, the learned Additional Advocate General, Assam further submitted that the power so exercised is in terms with Section 122(1) of the Act of 1994, whereby the State had been empowered to issue directions to any Panchayat in matters relating to State and National Policies and such directions were binding upon the Panchayat. He, therefore, submitted that it now being a policy decision of the State to have a viable range in order to protect the exploitation of the small traders, vendors and other sellers the State had the power to issue such directions.

17. The learned Additional Advocate General, Assam further submitted with all fairness that in view of the settled position of law, he would not contest the aspect pertaining to the extension granted to the old lessees at their existing rate till fresh tenders were not floated. He submitted that pursuant to the stay orders passed, the Anchalik Panchayats are presently running the markets in question.

18. Replying to the submissions made by Mr. K Konwar, the learned Additional Advocate General, Assam, Mr. S Borthakur, the learned counsel for the petitioners submitted that the interpretation so sought to be given by the State Government to Section 122 of the Act of 1994 would amount to undue interference in all matters of the Panchayats by the State Government inspite of the fact that by way of legislation, the powers of the State Government have already endowed upon the Panchayats. He, therefore, submitted that the

manner in which the respondent State had taken the decision by issuing the Notification dated 29.06.2024 was not in accordance with law and, accordingly, liable to be interfered with. He further submitted that the respondents be further directed to bring the said tender proceedings to a logical conclusion as per the mandates of Rule 47 of the Rules of 2002.

19. Upon hearing the learned counsels appearing on behalf of the parties and upon perusal of the materials on record, the following points for determination arise for consideration:

(i). Whether the impugned Cabinet decision dated 27.06.2024 as well as the impugned Notification issued on 29.06.2024 are contrary to the provisions of the Act of 1994 as well as the constitutional mandate in Part IX of the Constitution?

(ii). Whether the rights of the petitioners have been affected on the basis of the impugned Cabinet decision dated 27.06.2024 as well as the impugned Notification dated 29.06.2024?

20. Part IX of the Constitution of India was inserted by the Constitution (Seventy Third) Amendment Act 1992. The said amendment was brought to give effect to one of the Directive Principles of the State Policy (DPSP), namely Article 40 of the Constitution, whereby the State is required to take steps to organise village Panchayats and endow upon them with such powers and authority as may be necessary to enable them to function as units of self government. The instant proceedings relate primarily to the devolution of the powers of the State upon the Panchayats as mandated in Article 243G and Article 243H of the Constitution of India. Under such circumstances, it is

necessary to deal with the said Articles of the Constitution. Article 243 G of the Constitution is reproduced hereinunder:

‘243G. Powers, authority and responsibilities of Panchayats. – Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats at the appropriate level, subject to such conditions as may be specified therein, with respect to-

(a) the preparation of plans for economic development and social justice;

(b) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.’

21. A perusal of the above-quoted Article 243 G shows that the legislature of the State may, by law, endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self government and such law may contain, provisions for devolution of powers and responsibilities upon Panchayats at appropriate level subject to such conditions as may be specified therein. The conditions have been enumerated in Sub-Articles (a) and (b) of Article 243G of the Constitution. The conditions relate to preparation of plans for economic development and social justice as well as to implementation of schemes for economic development and social justice as may be entrusted to them, including those in relation to matters listed in the Eleventh Schedule. A further reading of Article 243 G read with the Eleventh Schedule to the Constitution would show that it is not a source of legislative power and it is only an enabling provision that empowers the State to endow functions and devolve powers and responsibilities to Panchayats by enacting

relevant law. Article 243 H of the Constitution is reproduced hereinunder:

‘ 243H. Powers to impose taxes by, and Funds of, the Panchayats.-

The Legislature of a State may, by law,-

(a) authorise a Panchayat to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;

(b) assign to a Panchayat such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;

(c) provide for making such grants-in-aid to the Panchayats from the Consolidated Fund of the State; and

(d) provide for constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Panchayats and also for the withdrawal of such moneys therefrom,

as may be specified in the law.’

22. A perusal of the above-quoted Article mandates that the legislative of the State may, by law, authorize a Panchayat to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits; Further, the Legislature of the State may, by law, assign to the Panchayats such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits. In addition to that, the Legislature of the State, may, by law, provide for making such grants-in-aid to the Panchayats from the Consolidated Fund of the State as well as provide for constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Panchayats and also for the withdrawal of such moneys therefrom. Therefore, it would be seen that the power to be exercised by the Panchayats is subject to the law made by the Legislature. At this stage, it is pertinent to mention that in the instant batch of writ petitions, there is no challenge to the law made by the Legislature. However, from the contentions of the parties, one can discern that the contentions of the

petitioners is that Section 122 of the Act of 1994 should be read with the Constitutional Scheme as envisaged in Part IX of the Constitution.

23. Pursuant to the amendment made to the Constitution whereby Part IX was inserted with effect from 24.04.1993, the Act of 1994 was enacted. The powers conferred upon the Anchalik Panchayat to settle Haats can be traced to Section 105 of the Act of 1994. Section 105 of the Act of 1994 is reproduced hereinunder:

“105. Settlement of Hats by Anchalik Panchayat.

(1) All Hats within the territorial jurisdiction of Anchalik Panchayat shall be settled in the manner prescribed for a period coinciding with and not exceeding one Panchayat financial year by inviting tenders at the office of the Anchalik Panchayat by its President.

(2) Detailed procedure for inviting and submission of such tenders shall be such as may be prescribed.

(3) The powers of examination and final acceptance of such tenders shall be vested in the Standing Committee referred to in Section 52 (1) (a).

(4) All settlement made under sub-section (3) shall be subject to the confirmation of the Zilla Parishad;

Provided that in case of any dispute, the Anchalik Panchayat may refer such case to the Government and the aggrieved party may appeal to Government whose decision in this regard shall be final.

(5) Failure to settle any Hat for want of adequate value, the Anchalik Panchayat, as may be decided by the Zilla Parishad, may be entrusted with the direct management of such Hat by the Anchalik Panchayat.

(6) All sale proceeds of hats shall be deposited in the Anchalik Panchayat fund and distributed in the manner hereinafter prescribed:

(a) an amounts equivalent to twenty percent of the total sale proceeds of Hats,

shall be made over to the Zilla Parishad funds, and

(b)an amount equivalent to forty percent of the sale proceeds of Hats shall be equally distributed to all the Gaon Panchayats under the Anchalik Panchayat and remaining forty percent retained in the Anchalik Panchayat Fund:

Provided that amount due if any, on account of annual installment for repayment of the loan with interest incurred by the erstwhile Mahkuma Parishad, Anchalik Panchayat and Gaon Panchayat for improvement of hats falling within the jurisdiction of the Anchalik Panchayat and Gaon Panchayat concerned shall be paid out of the forty percent share of sale proceeds of hats made over to Anchalik Panchayat or Gaon Panchayat as the case may be."

24. A perusal of the above-quoted Section 105 of the Act of 1994 would reveal that settlement of the Haats within the territorial jurisdiction of an Anchalik Panchayat shall be settled in the manner prescribed for a period coinciding with and not exceeding one Panchayat financial year, by inviting tenders at the Office of the Anchalik Panchayat by its President. Therefore, in terms with Sub-Section (1) of Section 105, it is clear that the settlement can be made for a period of only one Panchayat financial year, that too, by inviting tenders. Sub-Section (2) of Section 105 stipulates about the detailed procedure for invitation and submission of such tenders and in the manner to be prescribed. Sub-Section (4) of Section 105 stipulates that all settlements made under Sub-Section (3) shall be subject to confirmation of the Zilla Parishads. Sub-Section (5) of Section 105 stipulates that if there is a failure to settle any Haats for want of adequate value, the Anchalik Panchayats, as may be decided by the Zilla Parishad, may be entrusted with the direct management of such Haat by the Anchalik Panchayat.

25. The prescription as mentioned in Sub-Section (1) and (2) of Section 105 of

the Act of 1994 can be traced to Rule 47 of the Rules of 2002. At this stage, it is very pertinent to take note of Rule 47(2) of the Rules of 2002 which stipulates that the tender notice is required to be floated at least 45 days before the last date of the Panchayat financial year and such tender notice shall state, amongst others, the conditions for submission of tenders, including the amount of security money for the purpose. This aspect is seen from sub-clause (ii) of Rule 47(2) of the Rules of 2002. Sub-Rule (10) of Rule 47 stipulates that a tender of the highest bidder shall be accepted and in a circumstance, where the highest bidder is not accepted, the government's prior and formal approval is required. Sub- Rules (11), (12) and (13) of Rule 47 being relevant are reproduced hereinunder:

“Rule 47..... (11) On acceptance of the tender, the Panchayat concerned shall inform the selected tenderers concerned requiring the tenderers to submit within seven days from the date of issuing the acceptance letter to-

(i) Deposit with the Panchayat concerned not less than thirty percent of his quoted amount in his tender as security. The amount of security shall be recorded in the Register in FORM No.12 and accept a duly stamped lease in a Form as specified in Annexure-8 of the Schedule of these rules.

(ii) The Panchayat concerned shall provide the Form of lease and stamps papers at the concerned lessee's cost

(12) If the tenderer referred to in sub-clauses (ii) fails either to deposit the required amount or to accept the lease within the stipulated period of seven days, the Panchayat concerned shall refer the matter to the Government whose decision in this regard, shall be final:

Provided that the lease shall not be issued before deposit of the required amount by the tenderer as referred to in sub-clause (i) of clause(11).

(13) Failure of the tenderer to comply with the condition set forth in sub-

clause (11) (i), (ii) shall result in forfeiture of his earnest money deposited in concerned Panchayat's Fund."

26. A perusal of the above quoted Sub-Rules would show that once the tender is accepted, the Panchayat concerned shall inform the selected tenderer requiring the tenderer within 7(seven) days from the date of issue of the acceptance letter, to deposit with the Panchayat concerned not less than 30% of the quoted amount in the tender as security and accept a duly stamped lease in a form as specified in Annexure- 8 of the Schedule of the Rules. In addition to that, the Panchayat concerned shall provide the form of lease and stamp paper at the concerned lessee's cost. Sub-Rule (12) mandates that if the tenderer fails either to deposit the required amount or accept the lease within the stipulated period of seven days, the Panchayat concerned shall refer the matter to the government, whose decision in this regard shall be final. Sub-Rule (13) categorically mentions that if there is a failure on the part of the tenderer to comply with the conditions set forth in Sub-clause (i) and (ii) of Rule (11), the tenderer shall forfeit the earnest money deposited in the concerned Panchayat fund. These Sub-Rules (11), (12) and (13) of the Rule 47 of the Rules of 2002 as quoted above, is of vital relevance for the adjudication of the instant dispute, *inasmuch as*, there is no formal settlement without the compliance to Sub-Rule Clause (i) and (ii) of Rule 47(11) of the Rules of 2002.

27. Coming back to the Act of 1994, it is further relevant to take note of Section 122 of the Act of 1994. The said Section being important for the purpose of the instant dispute is reproduced hereinunder:

“122. Direction from Government.

(1) Notwithstanding anything contained in this Act, it shall be lawful for the

Government to issue directions to any Panchayat in matters relating to State and national policies and such directions shall be binding on the Panchayat.

(2)The Government may

(a)call for any record or register or other document in possession or under the control of any Panchayat;

(b)require any Panchayat to furnish return, plan, estimate, statement, accounts or statistics; and

(c) require any Panchayat to furnish any information or report on any matter connected with such Panchayat.”

28. A perusal of the Sub-Section (1) of Section 122 shows that it starts with a non-obstante clause thereby empowering the Government of Assam to issue directions to any Panchayat in matters relating to State and National policies and such directions shall be binding on the Panchayats. Further to that in terms with Sub-Section (2) of Section 122 of the Act of 1994, the Government may call for any record or register or other documents in possession or under the control of any Panchayat; require any Panchayat to furnish return, plan, estimate, statement, accounts or statistics; and require any Panchayat to furnish any information or report on any power connected with such Panchayats. The non-obstante Clause contained in Section 122, thereby overriding the other provisions of the Act of 1994 shows that the Government has pervasive control over the working of the Panchayats. In addition to that the Government also exercise supervisory jurisdiction in respect to settlement to be made by law upon the Government is not the subject matter of challenge.

29. This Court further finds it relevant to take note of Article 38 of the

Constitution of India. There are two Sub-Articles in the said Article. In terms of Sub-Article (1) of Article 38, the State is required to strive to promote the welfare of the people by securing and protecting as effectively as it may, a social order in which justice, social, economic and political, shall inform all institutions of the National life. Sub-Article (2) of Article 38 mandates that the State, in particular, strive to minimize the inequalities in income and endeavor to eliminate inequalities in status, facilities and opportunities not only amongst individuals, but also amongst groups of people residing in different areas or engaged in different vocations. The reference to Article 38 has been made taking into account that it is the submission of the Additional Advocate General that keeping in tune with the said Article, the Cabinet decision was taken which resulted in the impugned Notification dated 29.06.2024.

30. On the edifice of the above provisions, let this Court now take up the Cabinet decision dated 27.06.2024. The Cabinet decision was taken to ensure fair prices for markets and bazaar. This decision was taken in view of concerns received from various quarters on account of high bidding which results in settlement of markets, Public Bazaars, Haats, Ghats, etc., at exorbitant prices and in order to make payment of the bid amount, the bidders collect the same from the traders, vendors and sellers of the concerned markets. Consequently, the prices of the goods traded in these markets are also high which affects the general public. The State of Assam which is a welfare State for the benefit of the common people had taken the Cabinet decision to have a viable rate in the bids.

31. It is further apparent from the submissions made by the learned Additional

Advocate General as well as the contents of affidavit-in-opposition filed by respondent State that on account of bidding high prices for settlement of markets, Public Bazaars, Haats, Ghats, etc., the small traders, vendors and other sellers in the Haats and Bazaars etc., are exploited by the lessees in order to recuperate the high bid price at which settlements have been made. It further transpires that in view of such higher amount being charged from small traders, vendors and other sellers in the Haats and Bazaars, it affects on the price of the goods traded by these small traders, vendors and other sellers and, consequently, it affects the prices of the goods which are traded and thereby increase in prices of the commodities. In order to curb these menace, the Cabinet decision was taken on 27.06.2024. In the opinion of this Court the Cabinet decision is in tune with Article 38 of the Constitution of India. This Government decision which was taken on 27.06.2024 was duly notified by the impugned Notification dated 29.06.2024, whereby it was duly notified that a viable range, which would be up to 10% of the average settled value of the last three years, would be incorporated in the tender conditions and as such, the Governor of Assam have cancelled the ongoing tender process.

32. In the opinion of this Court, this part of the Cabinet decision dated 27.06.2024, nor the impugned Notification dated 29.06.2024 can be said to be in conflict with any provisions of law. Section 122 of the Act of 1994, as observed above, empowers the State to pass directions in relation to National policies as well as the State policies. The Cabinet decision amounts to a State Policy based upon the DPSP. The impugned Notification dated 29.06.2024 is the policy decision which gives effect to the State Policy.

33. At this stage, if this Court duly takes note of the submission of the learned counsels for the petitioners to the effect that that such interference so made by exercising powers under Section 122 of the Act of 1994 by the State Government would amount to rendering the Part IX of the Constitution nugatory, in the opinion of this Court is misconceived for two reasons: First, the powers conferred upon the Panchayats under Article 243G and 243H is subject to the law made by the Legislature of the State. The law made by the Legislature of the State includes the provisions of Section 122 (1) which confers supervisory powers to the Government over the Panchayats. Section 122(1) has not been put to challenge; Secondly, Section 122(1) confers power upon the State Government to issue directions upon the Panchayats in connection with National policies as well as State policies which are binding upon the Panchayats. The decision so taken in the Cabinet keeping in tune with Article 38 of the Constitution being a State policy and therefore, it cannot be said that such exercise of the powers by the State would amount to rendering Part IX of the Constitution nugatory. In that view of the matter, the impugned Cabinet decision dated 27.06.2024 as well as the impugned Notification dated 29.06.2024 insofar as cancellation of the tender process as well as inserting a viable rate do not call for any interference.

34. Be that as it may, a question arises as to whether the second part of the Cabinet decision dated 27.06.2024 and the impugned Notification dated 29.06.2024 to grant extensions to the existing lessee at the same rate as settled for the financial year 2023-24 was contrary to the provisions of Section 105(5) as well as Rule 47 of the Rules of 2002. It is a well settled principle of law that when the Statute mandates a thing to be done in a particular way, the same has

to be done in that manner or not at all. Section 105(1) of the Act of 1994 categorically mandates that the lease would be granted for one Panchayat Financial year. In addition to that, it is also seen from Section 105(5) of the Act of 1994 that in the circumstance that the settlement cannot be made, then the said Haat, Markets, Bazaar etc., is required to be run by the Anchalik Panchayat upon such decision of the Zilla Parishad. Under such circumstances, this Court is of the opinion that the Cabinet decision and the impugned Notification cannot run contrary to the provisions of Section 105 of the Act of 1994. Furthermore, the granting of extension is totally foreign to the provisions of the Act of 1994.

35. In view of the above analysis, this Court is of the opinion that the impugned Cabinet decision dated 27.06.2024 as well as the impugned Notification dated 29.06.2024 insofar as, the cancellation of the tender process is concerned for the year 2024-25 and to incorporate the viable rate do not call for any interference. However, as regards the aspect pertaining to extension to be granted to the existing lessees at the same rate as in the year 2023-24 as contained in the impugned Cabinet decision dated 27.06.2024 and the impugned Notification dated 29.06.2024 is interfered with.

36. Now let this Court take up the Second point for determination as to whether the impugned Cabinet decision as well as the impugned Notification have affected any rights of the petitioners. In the foregoing paragraphs of the instant judgment, this Court had duly taken note of the provisions of Rules 11 to 13 of Rule 47 of the Rules of 2002. It is seen from a perusal of the said Rules that a right would be created when there is a concluded contract. The concluded contract would only arise when there is a formal lease entered

into. It is very pertinent at this stage to mention that on 27.06.2024, the Cabinet decision was taken and the same was duly informed to all Panchayats vide the impugned Notification dated 29.06.2024. As admittedly in all the writ petitions, there was no creation of rights by execution of a lease prior to 29.06.2024, no right had accrued upon the petitioners on the basis of being intimated that their tenders were accepted being the highest bidder. It is further relevant to mention here that if any lease entered into by the concerned Panchayats after 29.06.2024 in favour of any of the petitioners or any bidders after the cancellation of the tender process by the Governor, the same would be *nonest* as it would be contrary to the impugned Notification dated 29.06.2024 and the mandates of Sections 122(1) of the Act of 1994.

37. Accordingly the instant batch of writ petitions are disposed of with the following observation(s) and direction(s):

(i). The impugned Cabinet decision dated 27.06.2024 as well as the impugned Notification dated 29.06.2024 calls for no interference, in so far as cancellation of the tender process for the period of 2024-25 and the decision to incorporate a viable rate in the tenders.

(ii). The impugned Cabinet decision dated 27.06.2024 as well as the impugned Notification dated 29.06.2024 in so far as granting of extension to the existing lessee till new tenders are not issued runs counter to Section 105 of the Act of 1994 as well as Rule 47 of the Rules of 2002 and, as such, the impugned Cabinet decision dated 27.06.2024 as well as the impugned Notification dated 29.06.2024 to that extent are interfered with.

(iii). The respondent authorities are directed to run the Haats in question till

finalization of fresh tenders under the direct management of the concerned Anchalik Panchayat.

(iv). The respondent authorities are directed to complete the fresh tender process upon finalization of the modalities at the earliest and preferably within three months from the date of the instant judgment.

JUDGE

Comparing Assistant