GAHC010058202024

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

Case No. : I.A.(Civil)/924/2024

PRAMOD KALITA AND 2 ORS
S/O UTTAM KALITA, BY OCCUPATION-CATTLE FARMER, R/O VILL-CHAKARDO, NEAR DEEPOR BEEL RANGE OFFICE, P.O.-AZARA, DIST-KAMRUP (M), ASSAM-781017

2: SONESH TERON
S/O LATE BINAN TERON
BY OCCUPATION-FARMER
R/O VILL-PAMOHI
P.O. AND P.S.-GARCHUK
DIST-KAMRUP(M)
ASSAM-781035

3: DIPAK TERANG
S/O LATE RADHARAM TERANG
BY OCCUPATION-SELF BUSINESS
R/ OVILL-PAMOHI
P.O. AND P.S.-GARCHUK
DIST-KAMRUP (M)
ASSAM-78103

VERSUS

THE UNION OF INDIA AND 17 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA, MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE, INDIRA PARYAVARAN BHAWAN, JORBAGH ROAD, NEW DELHI-110003

2:THE MINISTRY OF INDIAN RAILWAYS
REPRESENTED BY ITS SECRETARY
RAIL BHAWAN HEAD QUARTERS 1 RAISINA ROAD NEW DELHI

3:MINISTRY OF ENVIRONMENT
FOREST AND CLIMATE CHANGE

NORTH EASTERN REGIONAL OFFICE
LAW-U-SIB
LUMBATNGEN
NEAR MTC WORKSHOP
SHILLONG-7930211

4:THE STATE OF ASSAM
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM
ENVIRONMENT AND FOREST DEPARTMENT
DISPUR
GUWAHATI-781006

5:THE CHIEF SECRETARY TO THE GOVERNMENT OF ASSAM
REPRESENTING THE COMMITTEE APPOINTED BY THE NATIONAL GREEN TRIBUNAL KOLKATTA EAST ZONE (TO MONITOR ACTIVITIES IN DEEPOR BEEL AREA WITH SPECIFIC TOR) DISPUR SECRETARIAT COMPLEX
GUWHAATI-6

6:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS AND HEAD OF FOREST FORCE
H-BLOCK
2ND FLOOR
JANATA BHAWAN
DISPUR
GUWAHATI-781006
ASSAM

7:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS (WILDLIFE)
H-BLOCK
2ND FLOOR
JANATA BHAWAN
DISPUR
GUWHAATI-781006
ASSAM

8:THE COMMISSIONER AND SECRETARY GUWAHATI MUNICIPAL ADMINISTRATION
GUWAHATI

9:THE GUWHAATI MUNICIPAL CORPORATION
REPRESENTED BY ITS CHAIRMAN
GUWAHATI

10:THE GUWAHATI METROPOLITAN DEVELOPMENT AUTHORITY
REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER
BHANGAGARH
GUWAHATI

11:STATE BOARD FOR WILDLIFE
REPRESENTED BY ITS CHAIRMAN
DISPUR SECRETARIAT COMPLEX
GUWAHATI-781006

12:THE NORTH EASTERN FRONTIER RAILWAY
REPRESENTED BY ITS CHIEF GENERAL MANAGER HEAD QUARTERS
MALIGAON
GUWAHATI

13:THE ASSAM STATE POLLUTION CONTROL BOARD
REPRESENTED BY ITS SECRETARY
GUWAHATI

14:CHIEF GENERAL MANAGER
NORTH EASTERN FRONTIER RAILWAYS
MALIGAON
GUWAHATI
ASSAM

15:THE ASSAM TOURISM DEVELOPMENT CORPORATION
REPRESENTED BY ITS DIRECTOR
GUWAHATI

16:THE DEPUTY COMMISSIONER
KAMRUP (M)
GUWAHATI

17:CENTRAL WETLAND REGULATORY AUTHORITY
REPRESENTED BY PCCF AND HOFF
ASSAM
ARANYA BHAWAN
PANJABARI
GUWAHATI-781037

18:THE SECRETARY TO THE GOVT. OF ASSAM
DEPARTMENT OF WATER RESOURCES
DISPUR
GUWAHATI-78100

For the Petitioner : Mr. D.K. Das, Advocate
Mr. M. Khataniar, Advocate
Mr. H. Betala, Advocate

For the Respondents : Mr. D. Saikia, AG, Assam

Ms. P. Baruah, Advocate
Mr. S. Baruah, SC, PCB
Mr. C. Sarma, Advocate
Mr. S.K. Medhi, CGC
Mr. B. Chakraborty, Advocate

BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 05-04-2024

(Vijay Bishnoi, CJ)

This I.A. is filed on behalf of the PIL petitioner with a prayer to issue a direction to the concerned authority not to do land fill up in the Deepor Beel area and not to allow any type of construction activities in and around the Deepor Beel site till the demarcation notification of Ramsar Site of Deeper Beel is made along with the notification for its Eco-sensitive Zone as required under the Wetland (Conservation and Management) Rules, 2017 and place the record pertaining to the Cabinet decision taken or pending approval of the Eco-sensitive Zone of Deepor Beel.

2. It appears that during the pendency of this I.A. the counsel for the petitioner has informed this Court that on 27-03-2024 that the State Cabinet has already taken a decision to de-notify the Deeper Beel Wildlife Century. The learned Advocate General, Assam Mr. D. Saikia on 03-04-2024 has submitted that though the State Cabinet has decided to de-notify the Deepor Beel Wildlife Century, however, no formal notification has

been issued till date and he prays for some time to file response on behalf of the State Government.

3. Today an additional affidavit is filed on behalf of the State Government wherein it is stated that the Cabinet in its meeting has decided to de-notify the Deepor Beel Wildlife Century while taking into note of the fact that at the time of notifying the Deepor Beel area as Wildlife Century in the year 2009, certain formalities, which are mandatory in nature, has not been carried out. It is also submitted that though the Cabinet has taken a decision to de-notify the Deepor Beel Wildlife Century but no formal notification has been issued till date in the absence of certain formalities such as to seek prior permission from the State Board of Wildlife and National Board of Wildlife and also prior approval from the Hon'ble Supreme Court. It is stated in the affidavit that only after getting approval from the State Board of Wildlife and National Board of Wildlife as well as from the Supreme Court, the notification for de-notifying the Deepor Beel Wildlife Century will be issued.

4. Having heard the learned Advocate General, Assam and after taking into consideration the fact that the State Government had declared the Deepor Beel as Wildlife Century by issuing a notification in the year 2009, the said notification was challenged before this Court by way of filing W.P.(C) No. 4113/2009 and the fact that the learned Single Judge of this Court has set aside the said notification dated 21-02-2009 vide decision dated 21-12-2017. The said decision of the learned Single Judge was challenged before the Division Bench of this Court by the State of Assam and the Division Bench of this Court vide judgment dated 24-03-2023 passed in W.A. No. 02/2018, has reversed the judgment of the learned Single Judge by allowing the appeal filed by the State. Now

suddenly the State Government has come up with the stand that in the year 2009, when the Deepor Beel Wildlife Century was notified, certain formalities, which was mandatory in nature, had not been carried out. It is informed that against the decision of the Division Bench of this Court on 24-03-2023, passed in W.A. No. 02/2018, a SLP is pending adjudication before the Hon'ble Supreme Court.

5. Be that as it may, once the notification declaring the Deepor Beel as Wildlife Century has been affirmed by the Division Bench of this Court and a SLP filed against the decision of the Division Bench is pending consideration in the Hon'ble Supreme Court, we are of the view that any decision to de-notify the Deepor Beel Wildlife Century is not warranted at this stage. Hence, we direct the State Government not to issue any notification de-notifying the Deepor Beel Wildlife Century.

6. This order would, however, be subject to any further order(s) passed by the Hon'ble Supreme Court on the above subject.

The I.A. is accordingly disposed of.

List the PIL No. 18/2023 on 27-05-2024. On the next date, the District Commissioner, Kamrup (Metro) may file his response regarding issuance of Wildlife Management Rules.

JUDGE **CHIEF JUSTICE**

GS

Comparing Assistant