

GAHC010121042023



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

Case No. : PIL/45/2023

1.PRITOM HAZARIKA AND ANR
S/O- HARENDRA KUMAR HAZARIKA, R/O- MANIK NAGAR, P.O.
JAPORIGOG, P.S. DISPUR, PIN- 781005, GUWAHATI, KAMRUP(M), ASSAM

2: JON JYOTI SARMAH
S/O- LATE JAMINI SARMAH R/O- KHUTIKATIA NAGAON PIN- 782002
DIST. NAGAON ASSAM

VERSUS

1.THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM,
ASOM SACHIVALAYA, DISPUR, GUWAHATI, PIN- 781006, KAMRUP(M),
ASSAM

2:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
PERSONNEL DEPARTMENT ASOM SACHIVALAYA DISPUR
GUWAHATI PIN- 781006 ASSAM

3:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
DEPARTMENT OF HOME AND POLITICAL ASOM SACHIVALAYA
DISPUR GUWAHATI PIN- 781006 KAMRUP METRO ASSAM

4:THE DIRECTOR GENERAL OF POLICE ASSAM KAMRUP(M)
GUWAHATI PIN- 781007 ASSAM

5:THE COMMITTEE CONSTITUTED FOR IMPLEMENTATION
OF ONE MAN INQUIRY COMMISSION HEADED BY JUSTICE (RETD.) B K
SHARMA RETIRED JUDGE OF HONBLE GAUHATI HIGH COURT
REGARDING ANOMALIES AND MALPRACTICES IN CONDUCT OF
EXAMINATIONS BY APSC IN CCE- 2013 (REPRESENTED BY ITS MEMBER
SECRETARY) OFFICE OF THE INQUIRY COMMISSION RELATING TO
AFFAIRS OF APSC MAGISTRATE COLONY 1ST FLOOR HOUSE NO 4
HEDAYATPUR GUWAHATI-781003 KAMRUP(M) ASSAM.

For the Petitioner(s) : Mr. S. Borthakur, Advocate.
: Mr. D. Saikia, Advocate.
For the Respondent(s) : Mr. D. Nath, Senior Government Advocate, Assam.

- B E F O R E -

HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR
HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

16.03.2026

(Ashutosh Kumar, CJ)

We have heard Mr. S. Borthakur, learned Advocate for the petitioners and Mr. D. Nath, learned Senior Government Advocate, Assam for the State.

This Public Interest Litigation (PIL) has been filed with the objective of ensuring timely action by the State authorities, pursuant to the report submitted by Justice (Retired) B.K. Sharma, who had been appointed as a One-Man Commission of Inquiry to look into the allegations of irregularities, corruption and malpractice in the selection process, conducted by the Assam Public Service Commission (in short, "APSC") for the years 2013-2014.

In fact, one PIL No.79/2025 was filed before this Court, highlighting the rampant corruption and irregularities in the appointment process, conducted by the APSC and this Court, in its wisdom, directed the Government of Assam to conduct a proper inquiry into the alleged misconduct.

It appears that in compliance with the afore-noted order passed by this Court, the Government of Assam, in its Home and Political

Department, notified the Commission of Inquiry with Justice (Retired) B.K. Sharma as the sole Member.

The contention of Mr. S. Borthakur, learned Advocate for the petitioners is that the Commission, after having made detailed investigation in the matter, submitted its report on 02.04.2022, but no concrete action has been taken by the State on the recommendations made by the Commission; some of which are really essential for maintaining the purity and sanctity of the public examination.

Commenting on the inaction of the State in that regard, Mr. Borthakur has pointed out that it has undermined the very purpose of inquiry and the Government would be under an obligation to be alive to the situation and take necessary/remedial action. He has further submitted that the State Government cannot be permitted to remain passive on the recommendations made by a judicially directed Commission of Inquiry.

After having heard the learned Advocates for the parties, what has caught our attention is that after 2014, every year, APSC has conducted public examination but there has not been any reported complaint so as to question the purity of such processes. This necessarily implies that all the remedial measures may have been taken though not stated in clear terms that such remedial measures were pursuant to the recommendations made by the Commission.

That apart, we cannot lose sight of the fact that the report of a Commission of Inquiry is recommendatory in nature as it is only a fact-finding body with its suggestions.

It is trite that such recommendations are not binding on the Government and, therefore, the Courts cannot compel the Government to implement the report. The Government would be perfectly within its rights either implement the report; or reject it; or partially implement it.

The reason for this proposition is not far to seek. A Commission of Inquiry does not adjudicate rights of the parties nor does it determine guilt in any manner of anyone concerned.

Precisely, for this reason, it is judicially non-enforceable and would depend upon the policy choices of the Government. The implementation of the report would thus fall in the administrative priorities. What the Court of law must ensure is that the report is properly laid before the legislature; considered by the Government and in some instances, assess whether the rejection of the report is *mala fide* or arbitrary.

Here there is no contention on behalf of the petitioner that the report of the Commission of Inquiry has been rejected or only partially accepted.

The suggestions given in the report are for maintaining proper standard of the selection/ appointment process.

Since we have not been made aware of later selection processes conducted by the APSC to have been plagued by any large-scale corruption, it is understood that most of the suggestions, which are of general nature, have already been implemented and under these circumstances, we find it difficult to accede to the request of the petitioners for issuing any directive for implementation of the report.

We may hasten to add that according to the petitioners, the report has already been made public.

For the afore-noted reasons, we consign this petition without any specific direction to the State.

While parting, we may state that if the selection process in a State maintains its standard, the administration of the State is run properly and thus, it would be expected of the Government to find out any evils in the system and revamp the same, which would be possible only on periodic assessment of the functioning of the system.

This PIL stands disposed off.

JUDGE

CHIEF JUSTICE

Comparing Assistant