

GAHC010174692023



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

Case No. : WP(C)/4609/2023

SUBHAM DAS AND 5 ORS
S/O- SUSANKAR DAS ,
R/O- MAISAM GAON, BARPATHAR,
P.O- RAJAGAON BARPANI,
P.S- KACHUA,
DIST- NAGAON, ASSAM

2: DIPANKAR SAHA
S/O- JUSHNA SAHA

R/O- MAISAM GAON
BARPATHAR

P.O- RAJAGAON BARPANI

P.S- KACHUA

DIST- NAGAON
ASSAM

3: PADHYANDRA PAL
S/O- LATE KASHI NATH PAL

R/O- MAISAM GAON
BARPATHAR

P.O- RAJAGAON BARPANI

P.S- KACHUA

DIST- NAGAON
ASSAM

4: SADIP SARKAR

S/O- BINAY SARKAR

R/O- LENGERI
BARPATHAR

P.O- RAJAGAON BARPANI

P.S- KACHUA

DIST- NAGAON
ASSAM

5: BABUL BARMAN
S/O- KHITISH BARMAN

R/O- MAISAM GAON
BARPATHAR

P.O- RAJAGAON BARPANI

P.S- KACHUA

DIST- NAGAON
ASSAM

6: MITHUN NANDI
S/O- KANULAL NANDI

R/O- MAISAM GAON
BARPATHAR

P.O- RAJAGAON BARPANI

P.S- KACHUA

DIST- NAGAON
ASSA

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
DISPUR, GUWAHATI-6

2:THE PRINCIPAL SECRETARY
KARBI ANGLONG AUTONOMOUS COUNCIL

DIPHU

KARBI ANGLONG
ASSAM
PIN-782460

3:THE COMMISSIONER OF TAXES
DEPARTMENT OF TAX
KAR BHAWAN
DISPUR
GUWAHATI-05
ASSAM

4:THE SUPERINTENDENT OF TAXES
KARBI ANGLONG AUTONOMOUS COUNCIL
DIPHU
KARBI ANGLONG
ASSAM
PIN-782460

5:THE DEPUTY COMMISSIONER OF TAXES
KARBI ANGLONG AUTONOMOUS COUNCIL
DIPHU
KARBI ANGLONG
ASSAM
PIN-782460

6:THE DEPUTY COMMISSIONER
NAGAON
ASSAM
PIN-78200

Advocate for the Petitioner : MR A SHARMA

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 14-08-2023

Heard Mr. G. Baishya, learned counsel for the writ petitioners.

Assailing the notice dated 05-04-2023 alleging willful violation of Section 3 of the

Karbi Anglong District (Trading by Non-Tribals) Regulations, 1953, the petitioners have approached this Court *inter alia* contending that they have obtained trade license from the competent authority, viz. Kathiatoli Anchalik Panchayat and therefore, the impugned notice issued by the KAAC authority was unsustainable in the eyes of law.

Mr. J. Chutia, learned standing counsel, KAAC submits that there is provision of appeal and therefore, this writ petition be disposed of by directing the petitioner to avail the alternative remedy. It is also the submission of Mr. Chutia that the writ petition is not maintainable due to absence of Kathiatoli Anchalik Panchayat as a party to this proceeding. Mr. Chutia has further submitted that the respondent No. 5 is a non-entity since there is no Deputy Commissioner of Taxes in Karbi Anglong Autonomous Council. As such, on the request of Mr. Chutia the name of respondent No. 5 is hereby struck off from the array of parties.

Mr. B. Gogoi, learned standing counsel, Taxes Department, Assam prays for some time to obtain instruction in the matter.

Issue notice of motion returnable in 04 weeks.

Since Mr. M. Goswami, learned Govt. Advocate, Assam has accepted notice on behalf of respondent Nos. 1 and 6, Mr. J. Chutia has accepted notice on behalf of respondent Nos. 2 and 4; and Mr. B. Gogoi has accepted notice on behalf of respondent No. 3, service of notice is deemed to be complete in this case.

Extra copies of the writ petition, requisite in numbers, be furnished to the learned departmental counsel.

The question of maintainability of the writ petition is kept open and shall be gone into at the stage of admission hearing.

JUDGE

GS

Comparing Assistant