

GAHC010190862024



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

Case No. : PIL/66/2024

RAJEEV BHATTACHARYYA AND ANR
S/O LATE HIRANYA BHATTACHARYYA, 302 BASISTHA ROAD, THE
WILDERNESS BELTOLA GUWAHATI ASSAM 781028

2: SHRI GAURAV CHOUDHURY

S/O SRI SUKRITI CHOUDHURY
17
ANANDA PATH
BEHIND ML HOSTEL
DISPUR GUWAHATI 781006 KAMRUP M ASSA

VERSUS

UNION OF INDIA AND 13 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY
OF ENVIRONMENT FOREST AND CLIMATE CHANGE, INDIRA
PARYAVARAN BHAWAN, JORBAGH ROAD, NEW DELHI 110003

2:MINISTRY OF ENVIRONMENT
FOREST AND CLIMATE CHANGE
NORTHEASTERN REGIONAL OFFICE
LAW U SIB
LUMBATNGEN
NEAT MTC WORKSHOP SHILLONG
793021

3:THE STATE OF ASSAM
REPRESENTED BBY THE PRINCIPAL SECRETARY TO THE GOVT. OF
ASSAM
ENVIRONMENT AND FOREST DEPARTMENT
DISPUR GUWAHATI 06

4:THE CHIEF SECRETARY TO THE GOVT. OF ASSAM

DISPUR SECRETARIAT COMPLEX
GUWAHATI 06

5:THE CHIEF SECRETARY TO THE GOVT. OF ASSAM
DEPARTMENT OF FOREST DISPUR ASSAM

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

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

8:THE NORTH EASTERN FRONTIER RAILWAY

REPRESENTED BBY ITS CHIEF GENERAL MANAGER
HEAD QUARTER MALIGAON GUWAHATI

9:THE CHIEF WILDLIFE WARDEN
ASSAM DEPARTMENT OF FOREST GOVT. OF ASSAM
GUWAHATI ASSAM

10:THE NATIONAL BOARD FOR WILDLIFE
REP. BY THE SC
NATIONAL BOARD FOR WILDLIFE MINISTRY OF ENVIRONMENT
FOREST AND CLIMATE CHANGE (WILDLIFE DIVISION)6TH FLOOR
VAYU WING
INDIRA PARYAVARAN BHAWAN
JORBAGH ROAD
NEW DELHI 110003

11:THE STATE BOARD FOR WILDLIFE
REPRESENTED BY ITS CHAIRMAN
DISPUR SECRETARIAT COMPLEX
GUWAHATI 06

12:THE DEPUTY COMMISSIONER

KAMRUP M ASSAM

13:THE DIVISIONAL FOREST OFFICER (WILDLIFE)
KAMRUP M GUWAHATI DISPUR GUWAHATI

14:THE DIVISIONAL FOREST OFFICER
KAMRUP EAST DIVISION
GUWAHATI ASSA

Advocate for the Petitioner : MR. M KHATANIAR, MS. K M TALUKDAR,MR D K DAS

Advocate for the Respondent : DY.S.G.I., MRS. R DEVI,SC, FOREST,GA, ASSAM

Linked Case : PIL/62/2024

SUBRAT TALUKDAR
S/O SRI GOPENDRA NATH TALUKDAR

RESIDENT OF 601
BASERA RETREAT M.T ROAD
LANKESHWAR GUWAHATI 781014 DIST KAMRUP M ASSAM

VERSUS

THE UNION OF INDIA AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA .MINISTRY OF
ENVIRONMENT FOREST AND CLIMATE CHANGE
INDIRA PARYAVARAN BHAWAN
JORBAGH ROAD NEW DELHI

2:THE STATE OF ASSAM
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM
ASSAM SACHIVALAYA
DISPUR GUWAHATI 781006

3:THE SPECIAL CHIEF SECRETARY
GOVT. OF ASSAM
ENVIRONMENT AND FOREST DEPARTMENT
ASSAM SACHIVALAYA
DISPUR GUWAHATI 781006

4:THE ADDITIONAL CHIEF SECRETARY
GOVT. OF ASSAM
ENVIRONMENT AND FOREST DEPARTMENT

ASSAM SACHIVALAYA
DISPUR GUWAHATI 781006

5:THE PRINCIPAL CHIEF CONSERVATOR OF FOREST AND HEAD OF FOREST
FORCE
ARANYA BHAWAN
PANJBARI
GUWAHATI 781037

6:THE DISTRICT COMMISSIONER

KAMRUP M LICHUBAGAN
HENGRABARI GUWAHATI 78103

For the petitioners : Mr. H. Betala, Advocate in
PIL 66/2024
Mr. V. Rajkhowa, Advocate in
PIL 62/2024
For the respondents : Mr. P.N. Goswami,
Addl. A.G., Assam/S.C. Forest
Mr. A.R. Tahbildar, Advocate
On behalf of Mrs. R. Devi, C.G.C.

– B E F O R E –

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

27-02-2026

(Ashutosh Kumar, C.J.)

We have heard Mr. V. Rajkhowa, learned Advocate for the petitioner in PIL 62/2024 and Mr. P.N. Goswami, learned Additional Advocate General, Assam/Standing Counsel, Forest for the respondents.

The Government of Assam, exercising its authority under Section 18 of the Wildlife (Protection) Act, 1972 (hereinafter to be referred as "1972,

Act") issued a preliminary notification on 28.03.2022 to designate an area of approximately 117 square kilometres as Garbhanga Wildlife Sanctuary, located in the district of Kamrup (Metro).

By virtue of such expression of its intention to declare a wildlife sanctuary in the Garbhanga reserved forest, the protection under Sections 27 to 33A of the 1972 Act became operative.

It appears that, later, vide Notification dated 26.09.2023, the Government of Assam, in its Environment and Forest Department, cancelled the preliminary notification on Garbhanga Wildlife Sanctuary with immediate effect.

In the affidavit filed on behalf of the Forest Department, it has been stated that it would be difficult to make a wildlife sanctuary in the Garbhanga region for the reason of large-scale settlements of people since times immemorial.

What has been questioned in this PIL is that once an intention was expressed by way of a preliminary notification of creating a wildlife sanctuary, it could not have been recalled.

Mr. Goswami, learned Additional Advocate General, Assam, however, submits that *prima facie* it appears that the preliminary notification, which was issued under Section 18 A of the 1972 Act, was incorrect as the area falls under a reserved forest and for making any wildlife sanctuary out of a reserved forest land, the enabling provision would be Section 26A 1(b) the 1972 Act. However, he submits that the notification, expressing the intention to declare an area within the Garbhanga reserved forest as a sanctuary was withdrawn because of

the difficulties faced by the Government in its Forest Department in eviction of settlers and their resettlement.

Mr. Rajkhowa, learned Advocate for the petitioner, however, with reference to Sections 18A, 19 to 24 and 26 to 34 of the 1972 Act submits that the rationale behind dropping the idea of making a wildlife sanctuary is flawed and is against the principles enshrined in the Directive Principles of State policy to maintain forest wealth and foster bio-diversity.

This Court would like to know from the State in the Department of Environment and Forest about the difficulties in detail as resettlement otherwise also is required to be effected for the settlers in the reserved forest area.

Let an appropriate affidavit by a responsible officer in the Department of Environment and Forest be filed by the next date.

Re-notify on **05.05.2026**.

JUDGE

CHIEF JUSTICE

Comparing Assistant