

GAHC010224522025



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

Case No. : PIL/62/2025

SRI MARKUSH BASUMATARY
SON OF LATE RAJENDRA BASUMATARY, VILLAGE-SOUTH GANDABIL,
P.S.-AMGURI, VCDC-AMGURI, DISTRICT-CHIRANG, BTAD ASSAM.

VERSUS

1.THE STATE OF ASSAM AND OTHERS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF
ASSAM, DISPUR, GUWAHATI-6

2:THE CHIEF EXECUTIVE MEMBER
BODOLAND TERRITORIAL COUNCIL
BTC SECRETARIAT BODOFANWGWR KOKRAJHAR
PIN-783370 ASSAM

3:THE JOINT SECRETARY
BODOLAND TERRITORIAL COUNCIL
BODO NWGWR KOKRAJHAR PIN-783370
DISTRICT-KOKRAJHAR ASSAM

4:3THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPARTMENT
DISPUR GUWAHATI-06.

5:5THE JOINT SECRETARY TO THE GOVERNMENT OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPARTMENT
DISPUR GUWAHATI-06.

6:THE COMMISSIONER AND SECRETARY
TO THE GOVERNMENT OF ASSAM W.P.T. AND B.C. DEPARTMENT
DISPUR GUWAHATI-06.

7:THE DIRECTOR OF LAND RECORDS AND SURVEYS ETC
ASSAM RUPNAGAR GUWAHATI-781032 DISTRICT-KAMRUP M ASSAM

8:THE DIRECTOR OF LAND REQUISITION ACQUISITION
REFORMS ASSAM RUPNAGAR GUWAHATI PIN-781032
DISTRICT-KAMRUP M ASSAM.

9:THE OFFICERONSPECIAL DUTY
POLITICAL CABINET CELL DEPARTMENT
DISPUR GUWAHATI-06.

10:THE DIRECTOR PRINTING AND STATIONERY ASSAM
BAMUNIMAIDAM GUWAHATI-21 DISTRICT-KAMRUP M ASSAM

11:THE DISTRICT COMMISSIONER KOKRAJHAR
DISTRICT-KOKRAJHAR BTAD ASSAM PIN-783370

12:THE DISTRICT COMMISSIONER KAJALGAON
DISTRICT-CHIRANG BTAD ASSAM PIN-783390

13:THE DISTRICT COMMISSIONER MUSHALPUR
DISTRICT-BAKSA BTAD ASSAM PIN-781366

14:THE DISTRICT COMMISSIONER UDALGURI
DISTRICT-UDALGURI BTAD ASSAM PIN-78244

For the Petitioner(s) : Ms. F. Nag, Advocate on behalf of Mr. A. Narzari,
Advocate.

For the Respondent(s) : Ms. S. Sarma, Government Advocate, Assam for
respondent Nos.1, 9, 10, 11, 12, 13 & 14.
: Ms. B. Bora, Standing Counsel, BTC for respondent Nos.2 &
3.
: Ms. N. Bordoloi, Standing Counsel, Revenue & Disaster
Management Department for respondent Nos.4, 5, 7 & 8.
: Mr. A. Banerjee, Standing Counsel, WPT & BC for
respondent No.6.

- B E F O R E -

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

23.02.2026

(Ashutosh Kumar, CJ)

This Public Interest Litigation (PIL) has been filed by a Bodo

tribal farmer, residing in South Gandabil village in Chirang district; which falls under the Bodoland Territorial Council (BTC) area.

In this petition, a challenge has been made to the two recent Government notifications that give Special Land Protection Rights to the persons of Nepali-origin, who are referred as Gorkhas, inside the Tribal Belts and Blocks of Kokrajhar, Chirang, Baksa and Udalguri districts under BTC.

Notification dated 20.07.2021 was issued by the Assam Government, in its Revenue and Disaster Management Department, declaring Gorkhas, who are Indian citizens and living in the afore-noted 4(four) districts of BTC, before 10.02.2003 would fall in the protected class under Section 160(2) of the Assam Land and Revenue Regulation, 1886.

This Notification allows them to get land settlement and protection in tribal areas.

On 04.01.2025, BTC had issued another Notification accepting "Gorkha Certificates" for the purposes of land allotment and settlement inside the BTC areas.

The contention of the petitioner is that these Notifications are illegal and unconstitutional.

The contention is buttressed by the reasoning that the Sixth Schedule of the Constitution and the Bodoland Accord of 2003 aimed at protecting the land rights of Scheduled Tribes, primarily, Bodos in the 4(four) districts, referred to above.

The non-tribals were to have only very limited safeguards

under Clause 4.3 of the Accord. These non-tribals could not be given the same protected class status as the tribals/Bodos.

It is also urged that Gorkhas are not Scheduled Tribes in Assam; rather they are a migrant community from Nepal.

It is also urged that Chapter X of the Assam Land and Revenue Regulation, 1886 protects only backward classes who are primitive, lack education and cannot look after their own land welfare. Gorkhas do not fall in that category today.

The petitioner labels such Notifications to be nothing more than vote-bank politics, which would have a cascading effect on the tribal lands and the demography of BTC.

On these grounds, it has been urged that the Notifications are in teeth of the provisions of Article 244(2), 275(1), Sixth Schedule and Article 300A of the Constitution of India.

Issue notice.

Notice issued to respondent Nos.1, 9, 10, 11, 12, 13 and 14 is accepted by Ms. S. Sarma, learned Government Advocate, Assam; notice issued to respondent Nos.2 and 3 is accepted by Ms. B. Bora, learned Standing Counsel, BTC; Notice issued to respondent Nos.4, 5, 7 and 8 is accepted by Ms. N. Bordoloi, learned Standing Counsel, Revenue and Disaster Management Department and notice issued to respondent No.6 is accepted by Mr. A. Banerjee, learned Advocate.

Let counter affidavits(s) be filed by the respondents by the next date.

The learned counsel for the petitioner shall furnish copies of the petition to the learned counsel for the respondents.

Re-notify on 24.04.2026.

JUDGE

CHIEF JUSTICE

Comparing Assistant