



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

Case No. : WA/7/2023

PEOPLE FOR ANIMALS AND ANR
THROUGH ITS CHAIRPERSON (TRUSTEE) NAMELY MS. MANEKA SANJAY
GANDHI, HAVING ITS OFFICE AT A-4, MAHARANI BAGH, NEW DELHI-110065
2: HUMANE SOCIETY INTERNATIONAL/ INDIA
THROUGH ITS MANAGING DIRECTOR MS. ALOKPARNA SENGUPTA
HAVING ITS REGISTERED OFFICE AT SHOP NO. 39
SHREEJI SHOPPING ARCADE
SETH GOPALJI
HEMRAJ SINGH COMPOUND
M.G.ROAD
BORIVALI (E)
MUMBAI-40006

VERSUS

NEIZEVOLIE KUOTSU ALIAS TONI KUOTSU AND 7 ORS
S/O KEVILAZO KUOTSO, R/O H.NO. 097, MIDDLE MIDLANE, KOHIMA
NAGALAND 2:ABEI ZATSU
RESIDENT OF LATE NEKUOSA ZATSU
RESIDENT OF T KHEL
KOHIMA VILLAGE
KOHIMA NAGALAND

3:KETOUNYUU
D/O LT. RUBEIHIE
R/O D. KHEL
KOHIMA VILLAGE
KOHIMA NAGALAND

4:THE STATE OF NAGALAND
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF NAGALAND
KOHIMA

5:THE COMMISSIONER OF FOOD SAFETY

DEPT. OF FAMILY HEALTH AND WELFARE
GOVT. OF NAGALAND
NAGALAND CIVIL SECRETARIAT
KOHIMA NAGALAND

6:THE KOHIMA MUNICIPAL COUNCIL (KMC)
REPRESENTED BY ITS ADMINISTRATOR
GOVT. OF NAGALAND
KOHIMA NAGALAND

7:FOOD SAFETY AND STANDARDS AUTHORITY OF INDIA (FSSAI)
UNDER MINISTRY OF HEALTH AND FAMILY WELFARE
THROUGH ITS CHAIRPERSON
FDA BHAWAN
KOTLA ROAD
NEW DELHI-110002

8:THE UNION OF INDIA
REPRESENTED BY THE SECRETARY
MINISTRY OF HEALTH AND FAMILY WELFARE
GOVT. OF INDIA
ROOM NO. 348
A WING
NIRMAN BHAWAN
NEW DELHI-11001

Linked Case : WA/12/2024

AKHIL BHARAT KRUSHI GO SEVA SANGH
A REGISTERED CHARITABLE TRUST
DULY REPRESENTED BY ITS MEMBER
SHRI HIREN D SHAH
AGED ABOUT 54
S/O SHRI DINESH CHANDRA SHAH
HAVING ITS REGISTRATION OFFICE
GOPURI WARDHA TAL.- WARDHA MAHARASHTRA-441001 AND ALSO AT 101
SUNDER DHAM CO. OP. HSG. SOCIETY
JAMBLI GALI
BORIVALI (W) MUMBAI
MAHARASHTRA-400092
EMAIL- KRSAWBI@GMAIL.COM
M.NO. 9323908480

VERSUS

NEIZEVOLIE KUOTSU ALIAS TONI KUOTSU AND 9 ORS

S/O KEVILAZO KUOTSU
R/O H.NO. 097
MIDDLE MIDLANE
KOHIMA NAGALAND

2:ABEI ZATSU
S/O LATE NEKUOSA ZATSU
R/O T. KHEL
KOHIMA VILLAGE
KOHIMA NAGALAND

3:KETOUNYUU
D/O LATE RUBEIHIE
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KOHIMA NAGALAND

4:THE STATE OF NAGALAND
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF NAGALAND

5:THE COMMISSIONER OF FOOD SAFETY
DEPT. OF FAMILY HEALTH AND WELFARE
GOVT. OF NAGALAND
NAGALAND CIVIL SECRETARIAT
KOHIMA NAGALAND

6:THE KOHIMA MUNICIPAL COUNCIL (KMC)
REPRESENTED BY ITS ADMINISTRATOR
GOVT. OF NAGALAND
KOHIMA NAGALAND

7:FOOD SAFETY AND STANDARDS AUTHORITY OF INDIA (FSSAI)
AN AUTONOMOUS BODY UNDER THE MINISTRY OF HEALTH AND FAMILY
WELFARE
THROUGH ITS CHAIRPERSON
FDA BHAWAN KOTLA ROAD NEW DELHI

8:THE UNION OF INDIA
REPRESENTED BY THE SECRETARY
MINISTRY OF HEALTH AND FAMILY WELFARE
GOVT. OF INDIA
ROOM NO. 348 A WING
NIRMAN BHAWAN
NEW DELHI-110011

9:PEOPLE FOR ANIMALS AND ANIMAL WELFARE ORGANISATION
HAVING ITS OFFICE AT A-4 MAHARANI BAGH
NEW DELHI-110065

REPRESENTED BY ITS CHAIRPERSON (TRUSTEE)
MS MANEKA SANJAY GANDHI

10:HUMAN SOCIETY INTERNATIONAL INDIA
REGISTERED OFFICE AT SHOP NO.39
SHREEJI SHOPPING ARCADE SETH GOPALJI
HEMRAJ SINGH COMPOUND
M.G. ROAD
BORIVALI
MUMBAI -400066

REPRESENTED BY ITS MANAGING DIRECTOR MS. ALOKPORNA SENGUPTA

For the Petitioner(s) : Ms. P. Anand, Sr. Advocate

Ms. Shalini Agarwal, Advocate
Mr. J. Konwar, Advocate

For the Respondent(s) : Mr. J. Gaur, Advocate

Mr. L. Iralu, Advocate

Ms. V. Suokhrie, Addl. AG, NGL

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
ORDER

23.07.2026

Heard Ms. P. Anand, the learned Senior Counsel assisted by Ms. Shaalini Agarwal, the learned counsel who appears on behalf of the Appellants in WA No.7/2023. Mr. J. Gaur, the learned counsel appears on behalf of the Appellant in WA No.12/2024. Mr. L. Iralu, the learned counsel appears on behalf of the Respondent Nos.1, 2 and 3 in WA No.7/2023 who are

also the Respondents in WA No.12/2024.

2. Two learned Judges of this Court have passed separate judgments whereby Hon'ble Mr. Justice Budi Habung dismissed the Writ Appeal being WA No.7/2023 and WA No.12/2024 and affirmed the judgment of the learned Single Judge dated 02.06.2023 passed in WP(C) No.128(K)/2020. On the other hand, Hon'ble Mr. Justice Robin Phukan vide a separate dissenting judgment, allowed both the Writ Appeals and set aside the judgment and order dated 02.06.2023 passed in WP(C) No.128(K)/2020. While both the learned Judges passed separate judgments, the learned Judges, however, did not formulate the points where they differed. Be that as it may, in view of the divergence of opinions, the Hon'ble Chief Justice of the Gauhati High Court has placed the matter before this Court to resolve the divergence in the opinions vide an administrative order dated 12.05.2026.

3. Ms. P. Anand, the learned Senior Counsel appearing on behalf of the Appellants in WA No.7/2023, drew the attention of this Court to the judgment of the Supreme Court in the case of ***State of Andhra Pradesh through Principal Secretary & Others vs.***

Pratap Karan and Others, reported in **(2016) 2 SCC 82** and submitted that a similar issue arose in the said proceedings before the Supreme Court and the Supreme Court at Paragraph No.56 of the said judgment held that there was no infirmity in the learned Third Judge formulating the points of difference and thereupon upholding one of the judgments delivered by the differing Judges. The learned Senior Counsel also referred to a judgment of the High Court of Himachal Pradesh in the case of ***Rajeev Bhardwaj vs. State of Himachal Pradesh***, reported in **2020 SCC OnLine HP 2105** and specifically referred to Paragraph No.59 wherein also the learned Third Judge to whom the reference was made, culled down the points of difference between the two differing Judges.

4. This Court has duly perused both the judgments so placed by the learned Senior Counsel appearing on behalf of the Appellants in WA No.7/2023, and more particularly, to Paragraph Nos.55 & 56 of the judgment in the case of the ***State of Andhra Pradesh(supra)***. Taking into account its relevance, the said Paragraph Nos.55 & 56 in the case of the ***State of Andhra Pradesh (supra)*** is reproduced herein under:-

“55. In *Rulia Devi v. Raghunath Prasad*, a Bench of the

Patna High Court while considering the provision of Section 98 CPC vis-à-vis Clause 28 of the Letters Patent held:

“7. It will be observed that the Letters Patent does not confine the point of difference to a question of law and since it is not subject to any limitation mentioned in Section 98 of the Civil Procedure Code, it must be held that a difference between the Judges constituting a Division Bench, for the purpose of reference to a third Judge, can be on a question of fact also. However, in the present case, the learned Judges did not jointly formulate the points of difference, after delivering their separate judgments. They have in the order-sheet merely stated that as they differed the case should be placed before the Hon’ble the Chief Justice for placing it before a third Judge.

8. Mr Yogendra Mishra, appearing for the respondent-plaintiff raised a preliminary objection that since the points were not stated by the Bench, the reference to the third Judge was illegal. I do not see any merit in this argument inasmuch as the points, although not expressly enumerated by a joint order, are apparent from the judgments. It is nowhere peremptorily prescribed that the difference of opinion has to be formulated by a joint order. Besides, the irregularity in not doing so, if at all, is of formal nature and does not vitiate the proceeding including the reference. On

examining the observations contained in para 23 of the judgment of the Madras High Court in A.K. Gopalan v. District Magistrate, Malabar, Mr Mishra stated that he withdrew his objection and the reference may be treated as good and be decided on merits."

56. Coming back to the instant case, the two learned Judges of the Division Bench passed separate judgments. One of the learned Judges allowed the appeal and set aside the trial court judgment, whereas another learned Judge affirmed the trial court finding and dismissed the appeal. Both the learned Judges differed not only on the point of facts but also on the point of law. The learned Chief Justice, therefore, referred the matter to the third Judge for deciding the appeal. The learned third Judge, after going through the judgments of the learned differing Judges, formulated various issues and recorded his finding on all the points. The learned third Judge finally upheld the finding recorded by one of the learned differing Judges and allowed the appeal. In our considered opinion, therefore, there has been complete compliance with Clause 36 of the Letters Patent of the Andhra Pradesh High Court and the impugned judgment cannot be vitiated on that account."

5. In view of the opinion of the Supreme Court in the case of the ***State of Andhra Pradesh (supra)***, this

Court is of the opinion that this Court can formulate the points of difference which could be culled out from the two judgments delivered by the two Hon'ble Judges of this Court.

6. This Court has also heard the learned Senior Counsel appearing on behalf of the Appellants as well as the learned counsel appearing on behalf of the Respondents on points of difference and upon hearing the following points of difference are culled out for adjudication of the present reference:-

(i) Whether the Regulation 2.5.1(a) of the Food Safety and Standards (Food Products Standards and Food Additives) Regulation, 2011 is merely definitional/standard setting or whether it prohibits slaughter of any animal not enumerated therein?

(ii) Whether Food Safety and Standards Authority of India (FSSAI) had acted beyond its delegated powers by issuing the Circular dated 06.08.2014 or in other words, whether the Circular in question is ultra vires the provisions of the Food Safety and Standards Act, 2006 and the Regulations framed therein under?

(iii) Whether the Chief Secretary, Nagaland had

the authority to issue the Notification dated 04.07.2020 banning commercial import, trading of dogs and dog market as well as sale of dog meat in market and dining in restaurants?

(iv) Whether the fundamental rights of the Writ Petitioners, i.e. the Respondents Nos.1, 2 & 3 in the Writ Appeals, have been affected on the basis of the impugned Notification dated 04.07.2020?

(v) Whether the FSSAI letter dated 06.08.2014 has statutory force to create or sustain such prohibition?

7. Taking into account that this Court has today formulated the points of difference, an opportunity has to be granted to all the parties to address on these points of difference. Accordingly this Court fixes this matter on 10.09.2026 at 2:00 PM for hearing.

8. The parties are granted liberty to submit written submissions on the basis of the points of difference formulated by this Court today, if so advised.

9. List accordingly.

JUDGE

Comparing Assistant