

GAHC010175362020



2025:GAU-AS:5227

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

Case No. : PIL/80/2020

AMRI KARBI DEVELOPMENT SOCIETY AND 2 ORS.
OFFICE HEAD-SAMATA (FONG-ARI), P.O.-SAMATA, P.S.-SONAPUR, DIST-
KAMRUP, ASSAM, PIN-782402

2: HAREN PHANGCHO
S/O LATE SASHI PHANGCHO
VILL-MARKANG
P.O.-NORTAP
P.S.-SONAPUR
DIST-KAMRUP(M)
ASSAM
PIN-782402

3: BHAGEN TERON
S/O LATE CHANDRA KANTA TERON
VILL-TALONI
P.O.-DHUPGURI
P.S.-KHETRI
DIST-KAMRUP(M)
ASSAM
PIN-78240

VERSUS

THE STATE OF ASSAM AND 7 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, REVENUE AND DISASTER MANAGEMENT DEPARTMENT,
BLOCK-C, ASSAM SECRETARIAT, DISPUR, GUWAHATI-781006

2: THE CHAIRMAN
GUWAHATI METROPOLITAN DEVELOPMENT AUTHORITY
3RD FLOORS STATFED BUILDING
GMCH ROAD P.O. AND P.S.-BHANGAGARAH
GUWAHATI PIN-781005

3:THE CHIEF EXECUTIVE OFFICER
GUWAHATI METROPOLITAN DEVELOPMENT AUTHORITY
3RD FLOORS
STATFED BUILDING
GMCH ROAD
P.O. AND P.S.-BHANGAGARH
GUWAHATI
PIN-781005

4:THE DEPUTY SECRETARY TO THE GOVT. OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPARTMENT
BLOCK-C
ASSAM SECRETARIAT
DISPUR GUWAHATI
PIN-781006

5:THE DEPUTY COMMISSIONER
KAMRUP(M)
DIST-KAMRUP(M)
GUWAHATI-781001

6:THE CIRCLE OFFICER
SONAPUR REVENUE CIRCLE
P.O.-SONAPUR
DIST-KAMRUP(M)
ASSAM PIN-782402

7:UNION OF INDIA
THROUGH THE SECRETARY
MINISTRY OF HOME AFFAIRS
SOUTH BLOCK
NEW DELHI-110001

8:THE DIRECTORATE GENERAL ASSAM RIFLES
HEAD QUARTERS
ASSAM RIFLES
LAITKOR LAITMUKHRAH
SHILLONG
MEGHALAYA
PIN-79300

Advocate for the Petitioner : MR. M SARANIA, MS. I KEITZAR,MR H MEDHI,MR. A I KATHAR

Advocate for the Respondent : GA, ASSAM, MS. N BORDOLOI, SC, REVENUE DEPTT. ASSAM,ASSTT.S.G.I.,SC, G M D A

BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

Date of hearing : 22.04.2025
Date of Judgment & Order : 30.04.2025

JUDGMENT & ORDER(ORAL)

(N. Unni Krishnan Nair, J.)

Heard Mr. M. Sarania, learned counsel, appearing on behalf of the petitioners. Also heard Ms. N. Bordoloi, learned standing counsel, Revenue Department, appearing on behalf of respondents No. 1 & 4; Mr. P. Nayak, learned Addl. Advocate General, Assam, appearing on behalf of respondents No. 2 & 3; Mr. N. Das, learned Government Advocate, Assam, appearing on behalf of respondents No. 5 & 6; and Mr. R. K. D. Choudhury, learned Dy. SGI, appearing on behalf of respondents No. 7 & 8.

2. The petitioners, herein, i.e. Amri Karbi Development Society, and its Office Bearers, have instituted the present PIL petition, praying for the following reliefs:

“I. Certiorari shall not be issued directing the respondent authorities to set aside and quash the extension of the jurisdiction of the Guwahati Metropolitan Development Authority and the Guwahati Municipal Corporation, to the tribal belts and blocks of Kamrup (M) and its surrounding districts, by enacting the Assam State Capital Region Development Authority Act, 2017 impugned notification issued vide No.LGL.234/2017/5 dated 25.10.2017, as illegal, null and void for being in contravention of the object and provisions of Chapter X of the ALRR, 1886;

II. Certiorari not be issued an authorities to set aside and quash the acquisition of 144 Bighas 19 Lechas of land in Damara Pathar Village Panbari Mouza, Sonapur Circle, Sub-Division Guwahati Kamrup (Metro) district by the Government of Assam vide impugned Gazette Notification No. 278 dated 29.05.2018, pertaining to L.A. Case No. 9/2011 vide impugned notification No. RLA.215/2014/89, as arbitrary and unjustified for invoking the 'urgency clause' under Section 40 of the Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, without any real emergency, in defiance of the object, intent and spirit of the Act;

III. Mandamus shall not be issued directing the respondent authorities to implementation of the protective provisions of Chapter X of the Assam Land Revenue and Regulation, 1886 pertaining to the notified Tribal Belts and Blocks within the state of Assam;

IV. Mandamus shall not be issued directing the respondent authorities to conduct a survey and mapping for correcting the land records and for returning the tribal lands to the original owners; and/or after return of the Rule and hearing of the parties, being further pleased to make the Rule Absolute giving full and complete relief to the Petitioners and/or pass such other order or orders as this Hon'ble Court may deem fit in the facts and circumstances of the case."

3. The facts requisite for adjudication of the issue as arising in the present PIL petition, is noticed as under:

The petitioner No. 1 viz. Amri Karbi Development Society, by projecting itself to be a registered Society working to protect and uplift the Amri Karbi Community residing in the State of Assam, excluding the scheduled Districts of the State, have instituted the present PIL petition, purportedly, ventilating the cause of the common people as they cannot approach the Court in their individual capacity due to financial incapacity. It is also contended in the PIL petition that the petitioners No. 2 & 3 are also the President and Secretary, respectively, of Amri Karbi National Council, which organization is projected to be involved in ventilating the grievances of the common people.

The petitioners in the present PIL petition, have, inter alia, raised grievances with regard to the formation of the "Assam State Capital Region" vide enactment of the "Assam State Capital Region Development Authority Act, 2017". Such grievance of the petitioners is premised on the ground that the tribal belts and blocks existing in the Kamrup(Metro) District, on being included within the "Assam State Capital Region"; the

protected classes of persons residing in such belts and blocks, would be denied the protections extended to them under the provisions of Chapter X of the Assam Land & Revenue Regulation, 1886.

The further grievance raised in the present PIL petition pertaining to the enactment of the said Act of 2017, is the provision made in Section 33, thereof, which empowers the authorities to levy "betterment charges" on the land owners of land situated within the "Assam State Capital Region" proportionate to the increase of the value of such land on account of execution of development projects/schemes. It is contended that the tribal population residing in the belts and blocks created under Chapter X of the Assam Land & Revenue Regulation, 1886, and included within the "Assam State Capital Region", being marginal farmers, would not be in a position to bear such betterment charges, which would result in a situation where they would be forced to part with the plots of land under their occupation.

The other grievance raised in the present PIL petition pertains to the acquisition of 144 Bighas and 19 Lechas of land in Damara Pathar village, Panbari Mouza, Sub-Division Guwahati, Kamrup(Metro) District, by the Government vide Gazette Notification, dated 29.05.2018, relating to Land Acquisition Case No. 09/2011, for the purpose of handing-over the same to the Assam Rifles. It was also projected that the said land was acquired within the tribal belt situated under Sonapur Revenue Circle and the same had resulted in displacement of the tribal people occupying the said land. It was further projected that the said acquisition was so made by invoking the provisions of Section 40 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act,

2013, in clear defiance of the object, intent and spirit of the said Act.

The further contention raised in the PIL petition pertains to the inaction on the part of the respondent authorities in evicting the non-tribal people occupying the lands in the belts and blocks covered by the provisions of Chapter X of the Assam Land & Revenue Regulation, 1886.

Basing on the above premises; the petitioners, herein, have instituted the present PIL petition.

4. At the outset, on perusal of the materials brought on record in the PIL petition, we had required the petitioners, herein, to satisfy the Court with regard to its *bona fide* in filing the present PIL petition. Such a course of action was adopted by us on perusal of the present PIL petition and finding that the petitioners, herein, had not set-out any legal or factual context to support the grievance raised by it, in the matter.

5. The petitioners, in the present PIL petition, have only made wide ranging statements expressing apprehension of suffering of the people in general. However, such statements were not supported by any cogent material. The petitioners, herein, have not *prima facie* exposed any legal infirmity in the actions of the Governmental authorities which would mandate invocation of the jurisdiction of this Court by way of institution of a PIL application.

6. The Hon'ble Supreme Court in the case of **Balco Employees' Union**

(Regd) Vs. Union of India & Ors, reported in **(2002) 2 SCC 333**, notching the rising trend of the public interest jurisdiction being converted into a "publicity interest litigation", or, "private interest litigation", had drawn the following conclusions:

"80. PIL is not a pill or a panacea for all wrongs. It was essentially meant to protect basic human rights of the weak and the disadvantaged and was a procedure which was innovated where a public-spirited person files a petition in effect on behalf of such persons who on account of poverty, helplessness or economic and social disabilities could not approach the court for relief. There have been, in recent times, increasingly instances of abuse of PIL. Therefore, there is a need to re-emphasize the parameters within which PIL can be resorted to by a petitioner and entertained by the court. This aspect has come up for consideration before this Court and all we need to do is to recapitulate and re-emphasize the same.

81. What public interest litigation is meant to be has been explained at length in S.P. Gupta v. Union of India²⁴. Public interest litigation in that case was filed relating to the appointment and transfer of Judges and it is in this connection that the question arose with regard to the locus standi of the petitioner to file the writ petition. While deciding this aspect, this Court examined as to what is the nature of the public interest litigation and who can initiate the same. At p. 215, Bhagwati, J. observed as follows: (SCC para 20)

"It is for this reason that in public interest litigation- litigation undertaken for the purpose of redressing public injury, enforcing public duty, protecting social, collective, 'diffused' rights and interests or vindicating public interest, any citizen who is acting bona fide and who has sufficient interest has to be accorded standing."

82. The limitation within which the Court must act, and the caution against the abuse of the same is referred to by Bhagwati, J. at p. 219-20 as follows: (SCC para 24)

"24. But we must be careful to see that the member of the public, who approaches the court in cases of this kind, is acting bona fide and not for personal gain or private profit or political motivation or other oblique consideration. The court must not allow its process to be abused by politicians and others to delay legitimate administrative action or to gain a political objective. Andre Rabie has warned that 'political pressure groups who could not achieve their aims through the administrative process' and we might add, through the political process, 'may try to use the courts to further their aims'. These are some of the dangers in public Interest litigation which the court has to be careful to avoid. It is also necessary for the court to bear in mind that there is a vital distinction between locus standi and justiciability and it is not every default on the part of the State or a public authority that is justiciable. The court must take care to see that it does not overstep the limits of its judicial function and trespass into areas which are reserved to the executive and the legislature by the Constitution. It is a fascinating exercise for the court to deal with public interest litigation because it is a new jurisprudence which the court is evolving, a jurisprudence which demands judicial statesmanship and high creative ability. The frontiers of public law are expanding far and wide and new concepts and doctrines which will change the complexion of the

law and which were so far as embedded in the womb of the future, are beginning to be born.

25. Before we part with this general discussion in regard to locus standi, there is one point we would like to emphasise and it is, that cases may arise where there is undoubtedly public injury by the act or omission of the State or a public authority but such act or omission also causes a specific legal injury to an individual or to a specific class or group of individuals. In such cases, a member of the public having sufficient interest can certainly maintain an action challenging the legality of such act or omission, but if the person or specific class or group of persons who are primarily injured as a result of such act or omission, do not wish to claim any relief and accept such act or omission willingly and without protest, the member of the public who complains of a secondary public injury cannot maintain the action, for the effect of entertaining the action at the instance of such member of the public would be to foist a relief on the person or specific class or group of persons primarily injured, which they do not want."

(emphasis added)

83. In Sachidanand Pandey v. State of W.B.25 V. Khalid, J. observed as follows: (SCC pp. 334-35, para 61)

"61. It is only when courts are apprised of gross violation of fundamental rights by a group or a class action or when basic human rights are invaded or when there are complaints of such acts as shock the judicial conscience that the courts, especially this Court, should leave aside procedural shackles and hear such petitions and extend its jurisdiction under all available provisions for remedying the hardships and miseries of the needy, the underdog and the neglected. I will be second to none in extending help when such help is required. But this does not mean that the doors of this Court are always open for anyone to walk in. It is necessary to have some self-imposed restraint on public interest litigants."

84. After referring to the decision in Subhash Kumar v. State of Bihar and other cases on the point, in Janata Dal v. H.S. Chowdhary it was observed at p. 348 as follows: (SCC para 109)

109. It is thus clear that only a person acting bona fide and having sufficient interest in the proceeding of PIL will alone have a locus standi and can approach the court to wipe out the tears of the poor and needy, suffering from violation of their fundamental rights, but not a person for personal gain or private profit or political motive or any oblique consideration. Similarly, a vexatious petition under the colour of PIL brought before the court for vindicating any personal grievance, deserves rejection at the threshold."

85. Referring to the litigants standing in queues waiting for the cases to be listed in courts at p. 349, Pandian, J. had observed as follows: (SCC para 110)

"[T]he busybodies, meddlesome interlopers, wayfarers or officious interveners having absolutely no public interest except for personal gain or private profit either for themselves or as proxy of others or for any other extraneous motivation or for glare of publicity break the queue muffling their faces by wearing the mask of public interest litigation, and get into the courts by filing vexatious and frivolous petitions and thus criminally waste the valuable time of the courts and as a result of which the queue standing outside the doors of the court never moves which piquant situation creates a frustration in the

minds of the genuine litigants and resultantly they lose faith in the administration of our judicial system."

.....

88. It will be seen that whenever the Court has interfered and given directions while entertaining PIL it has mainly been where there has been an element of violation of Article 21 or of human rights or where the litigation has been initiated for the benefit of the poor and the underprivileged who are unable to come to court due to some disadvantage. In those cases also it is the legal rights which are secured by the courts. We may, however, add that public interest litigation was not meant to be a weapon to challenge the financial or economic decisions which are taken by the Government in exercise of their administrative power. No doubt a person personally aggrieved by any such decision, which he regards as illegal, can impugn the same in a court of law, but, a public interest litigation at the behest of a stranger ought not to be entertained. Such a litigation cannot per se be on behalf of the poor and the downtrodden, unless the court is satisfied that there has been violation of Article 21 and the persons adversely affected are unable to approach the court."

7. In the case of ***Dattaraj Nathuji Thaware v. State of Maharashtra & Ors.***, reported in **(2005) 1 SCC 590**, it was held by the Hon'ble Supreme Court that PIL is a weapon which is to be used with great care and circumspection and the Court must not allow its process to be abused for oblique considerations. It was further held that PIL, which is now an important field of administrative law, should not be 'publicity interest litigation', 'private interest litigation', 'politics interest litigation' or 'paise income litigation'. The Hon'ble Supreme Court further proceeded to hold that the Court has to be satisfied about:- (a). the credentials of the applicant; (b) the prima facie correctness or nature of information given by him; and (c) the information not being vague and indefinite. It was cautioned that Court has to be extremely careful to see that under the guise of redressing a public grievance, it does not encroach upon the sphere reserved by the constitution to the executive and the legislature and is required to act ruthlessly while dealing with imposters and busy bodies or meddlesome interlopers impersonating as public spirited holy men.

8. Similar view was taken in ***Holicow Pictures (P) Ltd. v. Prem Chandra***

Mishra reported in **(2007) 14 SCC 281** wherein, it was held that the Court has to be satisfied with the credentials of the applicant and it should avoid mischievous petitions which are filed with oblique motive. It was further held that Court has to act ruthlessly while dealing with imposter, busy bodies and meddlesome interlopers impersonating as public spirited holy-men.

9. In the case of **Tehseen Poonawala v. Union of India & anr.** reported in **(2018) 6 SCC 72**, in paragraph 98, it has been held by the Hon'ble Supreme Court as under:

“98. The misuse of public interest litigation is a serious matter of concern for the judicial process. Both this Court and the High Courts are flooded with litigations and are burdened by arrears. Frivolous or motivated petitions, ostensibly invoking the public interest detract from the time and attention which courts must devote to genuine causes. This Court has a long list of pending cases where the personal liberty of citizens is involved. Those who await trial or the resolution of appeals against orders of conviction have a legitimate expectation of early justice. It is a travesty of justice for the resources of the legal system to be consumed by an avalanche of misdirected petitions purportedly filed in the public interest which, upon due scrutiny, are found to promote a personal, business or political agenda. This has spawned an industry of vested interests in litigation. There is a grave danger that if this state of affairs is allowed to continue, it would seriously denude the efficacy of the judicial system by detracting from the ability of the court to devote its time and resources to cases which legitimately require attention. Worse still, such petitions pose a grave danger to the credibility of the judicial process. This has the propensity of endangering the credibility of other institutions and undermining public faith in democracy and the rule of law. This will happen when the agency of the court is utilised to settle extra-judicial scores. Business rivalries have to be resolved in a competitive market for goods and services. Political rivalries have to be resolved in the great hall of democracy when the electorate votes its representatives in and out of office. Courts resolve disputes about legal rights and entitlements. Courts protect the rule of law. There is a danger that the judicial process will be reduced to a charade, if disputes beyond the ken of legal parameters occupy the judicial space.”

10. The Supreme Court in the case of **State of Uttaranchal v. Balwant Singh Chaufal**, reported in **(2010) 3 SCC 402**, thought it imperative to streamline the PIL and with a view to preserve the purity and sanctity of the PIL, issued following directions in paragraph 181 of the judgment:

"181. We have carefully considered the facts of the present case. We have also examined the law declared by this Court and other courts in a number of judgments. In order to pre-serve the purity and sanctity of the PIL, it has become imperative to issue the following directions:

- (1) The Courts must encourage genuine and bona fide PIL and effectively discourage and curb the PIL filed for extraneous considerations.**
- (2) Instead of every individual Judge devising his own procedure for dealing with the public interest litigation, it would be appropriate for each High Court to properly formulate rules for encouraging the genuine PIL and discouraging the PIL filed with oblique motives. Consequently, we request that the High Courts who have not yet framed the rules, should frame the rules within three months. The Registrar General of each High Court is directed to ensure that a copy of the rules prepared by the High Court is sent to the Secretary General of this Court immediately thereafter.**
- (3) The Courts should prima facie verify the credentials of the petitioner before entertaining a PIL.**
- (4) The Courts should be prima facie satisfied regarding the correctness of the contents of the petition before entertaining a PIL.**
- (5) The Courts should be fully satisfied that substantial public interest is involved before entertaining the petition.**
- (6) The Courts should ensure that the petition which involves larger public interest, gravity and urgency must be given priority over other petitions.**
- (7) The Courts before entertaining the PIL should ensure that the PIL is aimed at redressal of genuine public harm or public injury. The Court should also ensure that there is no personal gain, private motive or oblique motive behind filing the public interest litigation.**
- (8) The Courts should also ensure that the petitions filed by busybodies for extraneous and ulterior motives must be discouraged by imposing exemplary costs or by adopting similar novel methods to curb frivolous petitions and the petitions filed for extraneous considerations."**

11. Having noticed the above decisions and the principles emanating therefrom, we would now proceed to examine the *bona fides* of the petitioners, herein, in the instant PIL petition, in instituting the same.

12. While the petitioners in the PIL petition, have projected that the petitioner No. 1 i.e. Amri Karbi Development Society is a registered Society working to protect and uplift the Amri Karbi Community residing in the State of Assam; no material has been placed on record in support of such contention. Further, it is seen that the petitioners had not taken any steps with regard to raising the grievances raised in the present PIL petition with

the respondent authorities. The petitioners, herein, have projected that they have filed objections with regard to the publication of the draft delimitation of the New Guwahati Metropolitan Region and the Review of the Master Plan for Greater Guwahati covering Dimoria Tribal Development Block, Guwahati Tribal Development Block and Rani Tribal Development Block. While such categorical submission has been made; a perusal of the representations annexed to the PIL petition would reveal that the name of the petitioner No. 1 does not figure as a representationist in any of the said representations.

13. The petitioners in the PIL petition while presenting a challenge to the provisions of the Assam State Capital Region Development Authority Act, 2017, have not disclosed in the petition, as to how the extension of the said Act of 2017, to the area involved in the present PIL petition, had affected the general public residing in the area. Only a vague statement has been made that the extension of the said Act of 2017 would have the effect of negating the benefits flowing to the residents of the area, more particularly, the tribal people residing therein, under the provisions of Chapter X of the Assam Land & Revenue Regulation, 1886. This aspect of the matter would be dealt with later in this judgment.

14. Further, it is seen that the grievance was raised by the petitioners in the present PIL petition pertaining to acquisition of 144 Bighas and 19 Lechas of land in Damara Pathar village, Panbari Mouza, Sub-Division Guwahati, Kamrup(Metro) District, by the Government vide the Gazette Notification, dated 29.05.2018, by projecting that the same would require displacement or ejection of the tribal people, however, no particulars of

the persons who would be so displaced and/or ejected, were brought on record. The respondent authorities, in the affidavits filed by them in the matter, have made categorical assertions to the effect that the pattadars/land owners from whom the land was so acquired for establishment of the Assam Rifles Battalion, had not made any objection in the matter and further, that the said land owners were duly compensated by the Government; the petitioners have not disputed such contentions by filing any rejoinder in the matter.

15. Mr. Sarania, learned counsel for the petitioners, during the course of hearing of the present PIL petition, had made a submission to the effect that the land owners who were compensated for the acquisition so made, were, in fact, not the land owners of the concerned land and further, that they were also not tribal people. However, while making such submission, the learned counsel for the petitioners, has failed to explain as to why the persons from whom the land was so acquired and who were projected to be not tribal people but residing in a protected area; were not made party respondents. In the event, this Court is required to adjudicate upon the said issue, the rights of the persons from whom the land was so acquired, would be adversely affected. Such a position would further go to reveal that the present petition although instituted in the form of a PIL, was actually not instituted in public interest but has been so instituted for an oblique purpose. Such a course of action adopted by the petitioners would go to demonstrate that the PIL petition is actually a “publicity interested petition” and has not been so instituted to advance the interest of the people purportedly projected to be represented by the petitioners.

16. At this stage, the *bona fides* of the petitioners can further be ascertained from the fact that the categorical statements made in the affidavits filed by the respondent authorities in the matter including the statements to the effect that the respondents were committed towards protection of the rights of the notified sections in the tribal belts and blocks in the District as per the land policy in vogue, was also not countered by the petitioners, herein, by way of filing a rejoinder affidavit, thereto, which clearly demonstrates that the present PIL petition although is projected to have been so instituted for protection of the tribal people living in the area concerned, actually, is not instituted for the professed purpose but for some other oblique purpose.

17. Applying the decisions of the Hon'ble Supreme Court noticed hereinabove; we are of the considered view that the present PIL petition has not been filed bona fide by the petitioners, herein, and the same is a frivolous one. The information as set-out in the petition by the petitioners, is vague to the core of it. While the petitioners have required this Court to interfere with the provisions of the Assam State Capital Region Development Authority Act, 2017, no foundation for the same has been laid in the petition. Accordingly, we are of the considered view that the present PIL petition which has clearly been filed without a clean objective, would be called to be dismissed.

18. Having drawn the above conclusions with regard to the *bona fides* of the petitioners, herein, we would now like to deal with the reliefs sought for in the present PIL petition for the purpose of understanding the casualness apparent on the part of the petitioners in instituting this PIL petition.

19. The reliefs as sought for in the present PIL petition, has already been extracted hereinabove.

20. The first relief pertains to the challenge made with regard to the extension of the jurisdiction of the Guwahati Metropolitan Development Authority(GMDA) and the Guwahati Municipal Corporation(GMC) to the tribal belts and blocks of Kamrup(Metro) District and in its surrounding Districts by enacting the provisions of the "Assam State Capital Region Development Authority Act, 2017".

21. The petitioners, herein, in the present PIL petition, have, in this connection, raised a grievance that the extension of the provisions of the Assam State Capital Region Development Authority Act, 2017, to the tribal belts and blocks of Kamrup(Metro) District, would have the effect of diluting the rights of the tribal people residing in the area, flowing from the provisions of Chapter X of the Assam Land & Revenue Regulation, 1886. While the petitioners have made the above contention, as noticed hereinabove; no materials have been brought on record to substantiate such contention of the petitioners.

22. It appears that the submissions of the petitioners are clearly presumptive and without any basis. Sub-section 4(b) of Section 17 of the Assam State Capital Region Development Authority Act, 2017, provides that the tribal belts, blocks, areas and autonomous council areas within the State Capital Region, shall be developed keeping in view the existing laws while preserving the tradition and culture of the tribal blocks and the prior consent of these authorities is mandatory before finalizing the regional plan

covering the respective area. The petitioners, herein, have not demonstrated in the present PIL petition, as regards any violation committed by the respondent authorities in implementation of the provisions of Sub-section 4(b) of Section 17 of the Assam State Capital Region Development Authority Act, 2017. The provisions of Sub-section 4(b) of Section 17, having mandated that the development of the tribal belts and blocks under the plans prepared in terms of the provisions of the Act of 2017, would be so done by keeping in view the existing laws while preserving the tradition and culture of the tribal blocks; the petitioners, herein, without demonstrating as to in what manner deviation was made by the respondent authorities with regard to the specification made in Sub-section 4(b) of Section 17 of the Assam State Capital Region Development Authority Act, 2017, it would not be permissible to entertain a challenge to the provisions of the said Act of 2017, at the behest of the present petitioners.

23. Mr. Sarania, learned counsel, has, during his submissions, emphasized on the point that in terms of Section 33 of the Assam State Capital Region Development Authority Act, 2017; the respondent authorities upon implementation of development projects and/or schemes in any area, which would result in the value of the land in that area to increase, would be entitled to levy upon the owner of the land or any other person having interest therein a betterment charge proportionate to the increase in value of the land. It was projected that the persons residing in the tribal belts and blocks being poor marginal farmers, would not be able to bear the betterment charges which would be levied by the authorities in terms of the provisions of Section 33 of the Assam State Capital Region Development Authority Act, 2017. While the petitioners have made the above projection,

they have not dealt with the provisions of Section 34 of the said Act of 2017, which provides the procedure to be followed for levy of the betterment charges as well as the provisions of Section 35 of the Act of 2017, which provides for a dispute redressal mechanism, in the event, a land owner dissents from the assessments so made. It is for the said purpose that we had, hereinabove, held that the present PIL petition was so instituted by the petitioners, herein, in a casual manner and the same is bereft of any material particulars. Accordingly, the first relief as sought for by the petitioners, herein, would not be mandated to be granted by this Court.

24. The second relief sought for by the petitioners in the present PIL petition pertains to acquisition of 144 Bighas and 19 Lechas of land in Damara Pathar village, Panbari Mouza, Sub-Division Guwahati, Kamrup(Metro) District, vide the Gazette Notification, dated 29.05.2018.

25. The petitioners in the present PIL petition as well as the learned counsel for the petitioners during the course of hearing, have emphasized that the said acquisition if allowed to be taken to its logical conclusion, would result in displacement or ejection of tribal people residing therein. However, particulars of the persons who would be so displaced/ejected, have not been set-out in the present PIL petition. The said contention of the petitioners was dealt with by the respondent authorities in their counter affidavits and it was categorically stated therein, that the said land was so acquired from the land owners by following the due process of law and the compensation involved, was also released to the land owners from whom the land was so acquired. It was further projected that there was no bar on

the Government in acquiring the land from the tribal belts and blocks. The learned counsel for the petitioners, during the hearing of the present PIL petition, has further contended that the compensation awarded for the acquisition involved, was so awarded not to the original land owners of the land, in question, but, to persons not entitled to occupy lands in the areas covered by the provisions of Chapter X of the Assam Land & Revenue Regulation, 1886. While such contentions were made; the persons who were so awarded compensation for the acquisition involved, were, neither, made party respondents, nor, any particulars of such persons were brought on record in the present PIL petition. This further goes to project the casualness with which the present PIL petition, was so instituted. Accordingly, the second relief prayed for by the petitioners, would not mandate acceptance.

26. The third relief sought for by the petitioners pertains to the implementation of the protective provisions of Chapter X of the Assam Land & Revenue Regulation, 1886, pertaining to notified tribal belts and blocks within the State of Assam. While wide ranging statements expressing apprehension of the suffering of the people in general was made by the petitioners, herein, in the present PIL petition which was reiterated by Mr. Sarania, learned counsel for the petitioners, during the course of hearing of this PIL petition; the petitioners could not demonstrate and/or substantiate any genuine reason for such apprehension. Further, the petitioners could not *prima facie* expose any legal infirmity in the actions alleged against the Government in the matter.

27. It is to be noted that the respondent authorities in their respective

counter affidavits have made categorical assertion to the effect that the respondents are committed for protection of the rights of notified sections in the tribal belts and blocks in the Districts involved as per the land policy in vogue. Such statements made by the respondents in the counter affidavits filed in the matter, have not been disputed by the petitioners, herein, by way of filing a rejoinder affidavit, thereto. Accordingly, the said relief sought for by the petitioners in the present PIL petition, would not mandate an acceptance.

28. The last relief sought for by the petitioners in this PIL petition, requires this Court to issue a direction upon the respondent authorities to conduct a survey and mapping for correcting the land records and for returning the tribal lands to the original owners. While the said relief has been so prayed for, the petitioners, herein, have miserably failed to bring on record any material to substantiate such a relief sought for in the present PIL petition. The respondents in their counter affidavits, have referred to the directions passed by a co-ordinate Bench of this Court, vide order, dated 09.12.2019, in PIL No. 78/2012, which had required the jurisdictional Deputy Commissioners to take appropriate steps for implementation of the provisions of Chapter X of the Assam Land & Revenue Regulation, 1886. The said order was assailed before the Hon'ble Supreme Court in Special Leave to Appeal(C) D.Nos. 2121/2020, and the same was disposed of by the Hon'ble Supreme Court vide order, dated 03.02.2020, by clarifying the directions passed by the co-ordinate Bench of this Court in PIL No. 78/2012. The petitioners, herein, have not brought on record any material to demonstrate that the directions passed by the co-ordinate Bench of this Court in PIL No. 78/2012, as clarified by the Hon'ble Supreme Court, has not been implemented in the manner required. The

petitioners have also not highlighted that the tribal belts and blocks for which the present PIL petition is being filed, the respondent authorities have not taken any steps in terms of the directions passed by the co-ordinate Bench of this Court in PIL No. 78/2012. Accordingly, the said relief would also not be mandated to be granted to the petitioners, herein.

29. Another aspect which requires to be noted although no specific relief with regard to the same has been prayed for by the petitioners in the present PIL petition, is with regard to the allegations pertaining to the apprehension that the Amchang Wild Life Sanctuary situated within the Kamrup(Metro) District, would be adversely affected on account of the developmental activities which would now be implemented in terms of the provisions of the Assam State Capital Region Development Authority Act, 2017. The said aspect of the matter was also dealt with by the respondents in their respective counter affidavits, wherein, it was categorically contended that the district administration was bound to maintain the restrictions framed for the protection of the eco-sensitive zones and for the Amchang Wild Life Sanctuary and the same would be continued to be followed. Such assertion made by the respondent authorities in their respective affidavits filed in the matter, have also not been disputed by the petitioners by way of filing any rejoinder affidavit, thereto. Accordingly, no direction on this aspect of the matter is called upon to be issued in the present proceeding.

30. A conjoint reading of the statements made in the present PIL petition as well as the counter affidavits filed by the respondent authorities in the matter, would go to reveal that the petitioners, herein, have miserably

failed to authenticate as to why the actions projected against the respondent authorities, was against the public interest to attract the jurisdiction of this Court to interfere in such matters.

31. In view of the above position; we are *prima facie* not satisfied with the *bona fides* of the petitioners, herein, and accordingly, we are of the considered view that the present PIL petition has not been so instituted for advancing the public interest but has been so instituted by the petitioners for oblique purpose and seeking publicity. We further find that the petitioners have miserably failed to demonstrate any genuine public harm or public injury caused to the public at large on account of the actions of the respondent authorities assailed in the present PIL petition.

32. The present PIL petition, in our considered view, has been instituted by a busy body for extraneous and ulterior motive and such PIL must necessarily in terms of the decision of the Hon'ble Supreme Court, noticed hereinabove, including its decision in the case of **Balwant Singh Chauhal** (supra), must be discouraged and accordingly, we are of the considered view that the present PIL petition mandates to be dismissed which, we, accordingly, do.

33. Further, in view of the fact that the present PIL petition having already held by us to be frivolous one and to be an abuse of the process of the Court, we, hereby, impose a cost of Rs. 20,000/-(Rupees Twenty Thousand) only, upon the petitioners of this PIL petition for instituting such frivolous petition.

34. The said cost imposed upon the petitioners, herein, be deposited by them before the Registry of this Court within a period of 1(one) month from today and the Registry on receipt of such cost from the petitioners, shall deposit the same in the account of the "Assam State Legal Services Authority".

35. In view of the foregoing discussions; we are of the considered view that this PIL petition is devoid of any merit and accordingly, the same stands dismissed.

JUDGE

CHIEF JUSTICE

Comparing Assistant