

GAHC010234612019



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

**Case No. : PIL/60/2019**

BACHPAN BACHAO ANDOLAN  
A CHARITABLE SOCIETY HAVING ITS OFFICE AT L-6, KALKAJI, NEW  
DELHI 110019 AND REP. BY ITS GENERAL SECRETARY MR. R.S.  
CHAURAUSIA

2: SAMPURNA BEHURA

VERSUS

THE STATE OF ASSAM AND 4 ORS.  
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM, SOCIAL WELFARE  
DEPTT. BLOCK-D, 1ST. FLOOR, JANATA BHAWAN, DISPUR, GAUHATI-  
781006

2:DIRECTORATE OF SOCIAL WELFARE  
REP. BY THE DIRECTOR  
KACHARI GHAT  
MG ROAD  
UZAN BAZAR  
GAUHATI-781001

3:ASSAM STATE COMMISSION FOR PROTECTION OF CHILD RIGHTS  
REP. BY THE CHAIRPERSON  
BYE LANE NO. 1  
H.NO. 1  
SAMMANOY PATH  
SURVEY  
BELTOLA-BASISTHA ROAD  
GAUHATI-781028

4:THE DIRECTOR GENERAL OF POLICE  
OFFICE DR. BK KAKATI RD. ULUBARI  
GAUHATI  
ASSAM 781007

5:REGISTRAR  
GAUHATI HIGH COURT  
GAUHATI  
ASSA

**Advocate for the Petitioner** : MR. P P SARMA

**Advocate for the Respondent** : GA, ASSAM

Linked Case : PIL(Suo Moto)/1/2018

X-X-X  
X-X-X

VERSUS

IN RE THE GOVT OF ASSAM AND 3 ORS  
REP. BY THE SECRETARY  
DEPTT. OF SOCIAL WELFARE  
BLOCK-D  
1ST FLOOR  
JANATA BHAWAN  
DISPUR  
GUWAHATI- 781006

2:DIRECTORATE OF SOCIAL WELFARE  
REP. BY THE DIRECTOR  
KACHARI GHAT  
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REP. BY THE CHAIRPERSON  
BYE LANE NO.1  
H NO.1  
SAMMANOY PATH

SURVEY  
BELTOLA- BASISTHA ROAD  
GUWAHATI- 781028  
4:UNION OF INDIA  
REP. BY THE SECRETARY MIN OF WOMEN AND CHILD DEVELOPMENT  
SHASTRI BHAWAN  
NEW DELHI- 01

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Advocate for : MR. H K DAS( SC  
GHC)

Advocate for : GA

ASSAM appearing for IN RE THE GOVT OF ASSAM AND 3 ORS

**BEFORE**  
**HONOURABLE MR. JUSTICE KALYAN RAI SURANA**  
**HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

**ORDER**

**22.09.2023**

(K.R. Surana, J)

Heard Mr. P.P. Sarma, learned counsel along with Mr. N. Choudhury, learned counsel for the petitioner. Also heard Mr. D. Nath, learned Senior Govt. Advocate appearing for the State; Mr. H.K. Das, learned standing counsel for this Court; and Mr. P.P. Mazumdar, Secretary to the Govt. of Assam, Women and Child Development Department.

2. Referring to the order dated 19.09.2023, the learned Senior Govt. Advocate has submitted that two affidavits have been filed, (i) to address the points raised in paragraph 6 (a, b, d and e), and (ii) to address point raised in paragraph 6(c) of the said order.

3. The Registry shall tag the said affidavits on record.

4. In terms of paragraph 7(b) of the order dated 19.09.2023, the Court is inclined to issue direction to the State to suggest names of the officials of the

department of Women and Child Development along with alternative names as members of the proposed committee. They shall also provide names of some of the representatives of the NGOs working in this field, out of which the Court shall be appointing 3 (three) persons in the committee. We also request the learned counsel for the petitioner as well as the standing counsel of this Court to suggest names for appointing persons in the Court appointed committee, out of which 1-2 persons shall be appointed as members of the proposed committee.

5. As indicated in the previous order, the said Court appointed committee would be required to visit various children/observation/special homes in the State and also to see and report if there is proper implementation of various direction and/or children right laws so as to ensure that the various directions contained in the case of *Sampurna Behrua v. Union of India, (2018) 4 SCC 433* are complied with.

6. The names should be provided within 2 (two) weeks by way of a list to be filed before the Registry for being tagged with record.

7. On 24.08.2023, the learned counsel for the petitioner had provided a compilation of 11 (eleven) pages. The learned senior Govt. Advocate shall present a compilation of reply or suggestion on the points which are raised by the learned counsel for the petitioner, which may be filed without a requirement of any affidavit.

8. In course of deliberation, the Secretary to the Govt. of Assam, Women and Child Development Department has submitted in response to the submissions made by the learned counsel for the petitioner that the State has

drafted the Juvenile Justice Rules as well as Child Protection Policy. However, same is being circulated to various departments for their suggestion and comments. In this regard, the Court is of the considered opinion that the Juvenile Justice Act, in the present form was enacted in the year 2015 and notified in the year 2016, and therefore, the delay in notifying the Rules and the Child Protection Policy is not at all appreciated.

9. Under such circumstances, the Court is inclined to request the Chief Secretary to the Govt. of Assam to take steps so that various department and agencies, who are required to be consulted before notifying the Juvenile Justice Rules and Child Protection Policy to do the needful, if required by calling for a joint meeting and/or to otherwise monitor that the suggestion and comments of the other concerned Govt. departments are obtained within a specified time frame of not later than 4 (four) weeks from today. The State is put to notice that in the event the suggestions and comments from the other departments are not received within the time frame, the Court would be compelled to implead those departments in this litigation so as to ensure that the directions contained in the case of *Sampurna Behura (supra)* is complied with within the time frame.

10. Accordingly, the learned Senior Govt. Advocate shall transmit a copy of this order to the Chief Secretary to the Govt. of Assam for information and doing the needful for compliance.

11. The Union of India is stated to be funding a part of the expenses for maintaining the children/ observation/ special homes and for implementation of the case of *Sampurna Behura (supra)*. Therefore, the Union of India shall also file an affidavit through its concerned officials to bring on record (1) the policy

in force through which they are funding these homes and other child protection activities; (2) the details of fund which they have already disbursed; and (3) compliance report, if any, collected to ensure that the fund provided have been properly spent.

12. The learned DSGI shall send a downloaded copy of this order to the concerned authorities for compliance and also to obtain names of its officials who can be appointed as representatives to the proposed Court Appointed Monitoring Committee as indicated above. The said affidavit shall be filed within a period of 15 (fifteen) days from today.

13. All the learned counsel appearing in the matter shall exchange their filings, whatever made with each other so that on the next date, all the stakeholders are prepared to make their submissions in the matter.

14. The Court permits the learned counsel and the Govt. officials, if any, to address the Court by way of video conferencing, if so advised.

15. The Secretary to the Govt. of Assam, Women and Child Development Department shall depute one of its Officers to be present in the Court when the matter is listed next.

16. The Secretary to the Govt. of Assam, Women and Child Development Department has submitted that they have taken steps for appointing Angan Trust of Mumbai to do the social audit.

17. At this juncture, the learned counsel for the petitioner has given a suggestion that as per his information, the Tata Institute of Social Sciences (TISS for short) also does similar audit and they can also be explored for doing

the audit. It is for the State to take a call on this suggestion.

18. The Govt. of Assam shall ensure that the audit is commenced as expeditiously as possible and whatever report is prepared for the audit undertaken till then, shall be submitted before the Court prior to the next date of listing.

19. List on 10.10.2023.

**JUDGE**

**JUDGE**

**Comparing Assistant**