

GAHC010199622017



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

WP (CRL.) No.9 OF 2017

1. Smti. Bohagi Chutia,

2. Smti. Hemodi Moran,

.....Petitioners

-Versus-

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Defense, New Delhi.

2. The State of Assam, represented by the Secretary to the Government of Assam, Home and Political Branch Department, Dispur, Guwahati.

3. The State of Arunachal Pradesh, represented by the Secretary to the Government of Arunachal Pradesh, Home Department, Itanagar.

4. The Director General, Assam Rifles, Shillong – 793011, East Khasi Hills, Meghalaya.

5. The Commandant, No.13,

Assam Rifles, Assam.

6. The Deputy Commissioner,
Tinsukia District, Assam.

7. The Deputy Commissioner,
Changlang District, Arunachal Pradesh.

8. The Officer in Charge, Barekuri
Police Station, District: Tinsukia,
Assam.

9. The Officer in Charge, Bordumsa
Police Station, District: Tinsukia,
Assam.

10. The Officer in Charge, Miao Police
Station, District: Changlang, Arunachal
Pradesh.

.....Respondents

- B E F O R E -

**HON'BLE THE CHIEF JUSTICE MR. R.M. CHHAYA
HON'BLE MR. JUSTICE SOUMITRA SAIKIA**

For the Petitioners : Mr. M. Smith, Advocate.

For the Respondents : Mr. R.K.D. Choudhury,
Deputy Solicitor General of India.

: Ms. M. Bhattacharjee, Additional
Sr. Government Advocate, Assam.

: Mr. N.N.B. Choudhury, Additional
Advocate General, Arunachal
Pradesh.

Date of Judgment & Order : **22nd December, 2022.**

JUDGMENT & ORDER

(R.M. Chhaya, CJ.)

By way of this petition under Article 226 of the Constitution of India, the petitioners have prayed for the following main reliefs:-

“In the premises aforesaid, it is most respectfully prayed that Your Lordships may be pleased to admit this petition, call for the records and issue a writ in the nature of Certiorari calling upon the respondents to show cause as to why the impugned inhuman action of the respondents killing the two youths viz. Deep Moran @ Deepjyoti Chutia and Anupam Moran @ Nagamen (a minor) in cold blood by the Indian Army shall not be declared illegal and unconstitutional and without any authority of law and/or as to why a writ in the nature of Mandamus shall not be issued directing the respondents to produce Post Mortem report and Inquest report and for institution of Judicial Enquiry and/or investigation by an agency such as the Central Bureau of Investigation (CBI) Or a judicial enquiry to enquire/ investigate in to the killing of the two deceased viz. Deep Moran @ Deepjyoti Chutia and Anupam Moran @ Nagamen (a minor) by the Assam Rifles along with other relevant issues that may be referred to during such enquiry/investigation and/or and on cause/ causes being shown and upon hearing the parties may be pleased to make Rule absolute and pass appropriate orders for prosecution of the offending personnel of the Assam Rifles vis-à-vis the concerned State Police personnel and further give directions including grant of adequate compensation/exemplary cost to the family members of the deceased and/or pass such order/orders as Your Lordships may deem fit and proper under the facts and circumstances of the case.”

2. It is the case of the petitioners that the petitioner No.1 is the mother of one Deep Moran @ Deepjyoti Chutia and the petitioner No.2 is the mother of one Anupam Moran @ Nagamen. According to the petitioners, both their sons are deceased. It is further the case of the petitioners that both the deceased persons were lastly seen at Makum

Town on 07.12.2016 along with 14/15 boys. It is the case of the petitioners that on 14.12.2017, they came to know through TV news channels that Deep Moran @ Deepjyoti Chutia and Anupam Moran @ Nagamen were shot dead and 6(six) others were apprehended by the police authorities on the allegation that they belong to ULFA cadre. It is the case of the petitioners that one Jintu Gogoi and Lakhi Gogoi from the neighbouring village took the deceased persons and few others on the pretext of sightseeing and kept them in Miao. According to the petitioners, they have learnt that they used to hire innocent youths from the villages to recruit in ULFA.

3. As per the record, an FIR was lodged with Barekuri Police Station on 15.12.2016 by the petitioner No.1 and another FIR was lodged by the husband of the petitioner No.2 at Bordumsa Police Station on 20.12.2016.

4. According to the petitioners, an Executive Magistrate level inquiry was declared by the Government. According to the petitioners, one Muhindra Phukan, who was apprehended with the deceased persons, has declared on oath that Lakhi Gogoi and Palash Moran came to his residence and offered him a job at Rs.7,000/- per month with free food and accommodation at Dibaan, Arunachal Pradesh and that they were kept at Miao at some local person's house. It is the case of the petitioners that as per the version of Muhindra Phukan, on 14.12.2016 at about 11:45 AM, the personnel of Assam Rifles surrounded the

house and started firing without any provocation in which both the deceased were shot dead. It is the case of the petitioners that both the persons were killed without any rhyme and reasons by the Assam Rifles in inhuman manner. It is, therefore, contended that both the youths were killed in an inhuman, unprovoked and cold blooded manner. It is contended that the exercise of powers under Armed Forces Special Powers Act in such a manner is violative of Articles 21 and 22(5) of the Constitution of India and, therefore, the present petition is filed with the prayers, as indicated above.

5. The respondent No.7 has filed an affidavit-in-opposition on oath. It is contended by the respondent No.7 that an operation was launched by 13th Assam Rifles, Miao 'Coy' on 14.12.2016 on specific inputs from their own sources regarding presence of ULFA(I) militants in the general area of Dharmapur-I. It is contended that the suspected houses were put under surveillance and it is further submitted that two cadres of ULFA(I) tried to break the cordon and escape and even though the Assam Rifles party challenged the fleeing cadres, they did not stop and because of which the Assam Rifles party open fired, wherein they were killed. According to the respondent No.7, the group was on their way to Myanmar and it is contended that Shri Munindra Phukan and Ms. Ponki Moran were also apprehended.

6. The respondent Assam Rifles has also filed an affidavit, wherein it is averred thus:-

“3. That before giving reply to the statements and contentions made in the Writ Petition (Crl.) the deponent begs to state the facts and circumstances relevant for the present case in the following paragraphs:-

Facts of the Case:

(i) The petition has filed by Smt. Bohagi Chutia & Anothers stating that her son Late Deep Moran Deepjyoti Chutia and Anupam Moran @ Nagaman @ Noga Moran, son of Monai Moran were shot dead on 14th Dec 2016 by the personnel of Assam Rifles in a local people's house at Miao, District Changlang, Arunachal Pradesh.

(ii) 13 Assam Rifles is deployed at Jairampur and the battalion took over the operational responsibility of area of Jairampur on 11 Apr 2016. The responsibilities of operation and area domination of Miao Circle were given to Post Commander of Miao Post (COB Miao) 13 Assam Rifles and was therefore detailed as the operation Commander. After ambush on army vehicles at Pengri, district Tinsukia, Assam on 19th November, 2016 security forces were on high alert and search operations were carried out in different parts of Tinsukia district. In view of search operations in Tinsukia district movement of militants on Assam Arunachal Pradesh Border was increased as the militants affiliating to various outfits were on the run looking for cover especially in all the vulnerable pockets along the Assam Arunachal Border of Tinsukia and Changlang district. Post Commander of Coy Operating Base (COB) 13 Assam Rifles at Miao was monitoring the situation and move pattern of militants by cultivating sources and corroborating inputs provided by various intelligence agencies regarding move of militants in areas adjoining Ratanpur, Bijoypur, Dharampur-III, Dharampur-II and Dharampur-I, villages. However, on early morning of 14 Dec 2016 a specific intelligence input was received from Assam Rifles Field Intelligence Unit regarding presence of ULFA(I) militants in general area Dharampur-I (MY 4493). The intelligence input was based on the reports and the intelligence gathered from the ground sources of Assam Rifles Field Intelligence Unit. On receipt of the intelligence input a special operation was thus planned along with the police. The other columns of 13 Assam Rifles which were operating in the nearby areas were

also diverted to linkup and join the column of post Commander of Miao post at Dharampur-I. Liaison with neighbouring Army Brigades (82 Mountain Brigade (11 GRENADIERS) and 181 Mountain Brigade) was also carried out to mobilize their columns and to establish link with the column of above operation commander in general area of operation.

The following columns moved towards village Dharampur-I

(a) Column strength of Miao post Commander and ten other ranks from Coy.

(b) Column strength of one JCO and ten other ranks from coy Operating Base (COB) Miao reached Dharampur-I at 0945 hrs on 14 Dec 2016.

(c) Column strength of one officer, one JCO and 20 other ranks from temporary Operation Base, Jagun reached Dharampur-I at 1130 hrs on 14 Dec 2016.

(d) Column strength of one officer ten other ranks from Coy Operating Base (COB) Miao reached Dharampur-I at 1150 hrs on 14 Dec 2016.

(e) Column of 82 Mountain Brigade (11 GRENADIERS) and 181 Mountain Brigade were also launched to establish cordon and reached Dharampur-I at 1130 hrs on 14 Dec 2016.

(f) Police representatives consisting of five constables reached Dharampur-1 at 1130 hrs on 14 Dec 2016.

(iii) Conduct of operations by 13 Assam Rifles: On 14th December, 2016 all the columns linked up with Post Commander of Miao Post and moved cross country through jungle to maintain surprise and stealth under inhospitable terrain and closed before the village Dharampur-I. Stops were placed on all possible ingress/escape routes of village. The outer cordon was established by the troops of 181 Mountain Brigade in south and 82 Mountain Brigade (11 GRENADIERS) in north. Column of Miao Post Commander started to cordon the suspected house which was completed at 1130 hrs. At 1300 hrs the column of post Commander Miao Post was fired upon from the cordoned house and two militants tried to break the cordon and escape by firing indiscriminately, spotting the fleeing militants. Thereafter party of Miao Post Commander challenged the militants and asked them to surrender. After giving adequate warning, the militants did not stop firing. Being fired upon party of Miao post Commander opened retaliatory fire and neutralized both militants. Thereafter occupants of the suspected house were also warned

and announcement was made asking them to move out. After the second warning eight civilians move out. The search party commenced search at 1330 hrs and apprehended two ULFA(I) militants (One male and one female) who were still hiding in the house and recovered one AK series Rifles during search. One 9 mm pistol was also recovered from the eliminated militant. On detailed search of the house, one more pistol was recovered.

(iv) Details of killed and apprehended militants are as under:-

(a) Killed:

- (i) Name - Deep Moran S/O Late Najiram Chutia
Vill - Purani Motapong
P.O. - Borgaon
P.S. - Barchuri
District - Tinsukia (Assam)
Group -ULFA(I)
- (ii) Name - Noga Moran S/O Sri Monai Moran
Vill - Nakathalguri
P.O. - Talpothar
P.S. - Bordumsa
District -Arunachal Pradesh
Group - ULFA(I)

(b) Apprehended:

- (i) Name - Ms. Pankhi Moran D/O Late Jiben Moran
Age - 19 years
Vill - Dimoruhulla
P.O. - Makum Dimahali
District - Tinsukia (Assam)
- (ii) Name - Lakhi Gogoi S/O Sri Torum Gogoi
Age - 26 years
Vill - Dighali Pathar
P.O. - Talpahar
P.S. - Bordumsa
District - Tinsukia (Assam)

(v) Recoveries: following recoveries were made during the operation –

- | | |
|-------------------------|------------|
| (a) Ak Series Wpn | -01 Nos. |
| (b) 9mm Pistol with mag | -02 Nos. |
| (c) Live amn 9mm | -04 Rounds |
| (d) Socks | -04 pairs |
| (e) T-shirt | -16 Nos. |
| (f) Money purse Ladies | -02 Nos. |

(g) Colgate	-04 Nos.
(h) Handkerchief	-01 Nos
(i) Civ bag	-04 Nos.
(j) Bed sheet	-04 Nos.
(k) Mobile Phone	-02 Nos.
(l) Vaseline Body Lotion	-02 Nos.
(m) Towel	-02 Nos.
(n) Hair Oil	-05 Nos.
(o) Mobile Charger	-02 Nos.
(p) Jacket Girl	-05 Nos.
(q) Shawl	-01 Nos.
(r) Hand Gloves	-01 Nos.
(s) Tooth brush	-06 Nos.
(t) Cap combat	-01 Nos.
(u) Shoe girl	-06 pairs
(v) Shoe Jungle	-01 pair
(w) Innerwear	-02 Nos.
(x) Garnier Lotion	-01 Nos.
(y) Duplicate heir	-01 Nos

(vi) Conduct of Operation by the column of 11 GRENADIERS (82 MOUNTAIN BRIGADE):

Cordon was established and search parties of 11 GRENADIERS (82 MOUNTAIN BRIGADE) were launched inside the village. Source accompanying the search party confirmed the presence of the militants in two different houses. Target house was addressed by search party of 11 GRENADIERS and party of Miao Post Commander 13 Assam Rifles. While party 11 GRENADIERS closed in, fire fight broke out with the party of Miao post Commander 13 Assam Rifles at adjacent target house. Officer of 11 GRENADIERS sensing danger and reacting as per the dynamic situation immediately re-adjusted the cordon party. Four suspicious individual tried escaping from target house. Officer of 11 GRENADIERS sensing possibility of collateral damage due to presence of civilian population around challenged these individuals. Two militants surrendered immediately and two militants tried to break out of the cordon. These militants were chased and pinned down by the column of 11 GRENADIERS.

(vii) Details of apprehended militants and recoveries are as under:

(a) Apprehended:

(i) Name - Palash Jyoti Moran S/O Sri Dipen Moran
Age - 28 years
Vill - Talpathar
P.O. - Talpathar

P.S. - Bordumsa
District - Tinsukia (Assam)
Group - ULFA()

(ii) Name - Jintu Gogoi, S/O Sri Dhan Gogoi
Age - 27 years
Vill - Innao Pathar
P.O. - Innao
P.S. - Diyun
District - Changlang
State - Arunachal Pradesh
Group - ULFA(I)

(iii) Name - Majid Moran S/O Late Biche Moran
Age - 31 years
Vill - Koduguri
P.O. - Koduguri
P.S. - Doom Dooma
District - Tinsukia
State - Assam
Group - ULFA(I)

(iv) Name - Pusheswar Pallav Jyoti Mahanta
S/O Sri Jagat Mahanta
Age - 18 years
Vill - Diguli Pathar
P.O. - Talpahar
P.S. - Bordumsa
District - Tinsukia
State - Assam
Group - ULFA(I)

(b) Recoveries

(i) Pistol 7.65 mm (Country made) -01 No.
(ii) Rounds 7.65 mm -05 rounds
(iii) Mobile Phone -02 Phones
(iv) Empty bag -01 bag
(v) Wallets -03 Nos.
(vi) Cash -Rs.3500/-
(vii) Voter ID card -02 Nos
(vii) Pan Card -02 Nos.
(ix) Driving License -01 No.
(x) Birth Certificate -01 certificate.
(xi) Adhar Card -01 No.
(xi) Wrist watch -01 No.

(vii) Apprehended militants, dead bodies and seized items were handed over to the OC Miao Police Station on 14 December, 2016 and a case was registered vide FIR case No.38/16 US 121/122/123/IPC R/W Sec. 25(1b)/27 Arms Act. R/W Sec. 10/13 UA(P) Act.

(ix) Inquest over the dead bodies of Late Noga Moran

and Late Deep Moran was conducted by the Investigating Officer of the Case Sri Jano Aran in presence of Sri A.J. Lungphi, Judicial magistrate, First Class, Miao Dist. Changlang. Arunachal Pradesh.

(x) Post mortem of dead bodies of both Late Noga Moran and Late Deep Moran were conducted at community health centre, Miao by a board of doctors in presence of Sri A.J. Lungphi, Judicial magistrate, First Class, Miao. Thereafter the dead bodies were handed over to their relatives for last rites.

(xi) There were 11 ULFA(I) militants on 14 Dec 2016 at Dharampur-I village. Two were killed and 6 were apprehended by the Security Forces. Following two militant were arrested by P.S. Bordumsa, District Changlang, Arunachal Pradesh and handed over to P.S. Miao on 16 Jan 2017 at 1730 hrs.

(a) Sri Mohindra Phukan, 18 Years

(b) Miss Pomi Moran, 18 years

Sri Nitul Moran 25 years arrested and brought from Tinsukia District Jail, Assam on production of warrant and handed over to P.S. Miao, District Changlang on 02 Feb 2017.”

7. It is further contended that in the Magisterial Inquiry, which was carried out by Judicial Magistrate, First Class, Miao, District Changlang, Arunachal Pradesh, who by his final report dated 25.05.2017, has recorded that nothing adverse was found against the security forces. The said report is also placed on record, wherein it is stated thus:-

“IV. Conclusion:-

i) It transpires from the case records and the inquiry that the alleged above 11(Eleven) ULFA(I) cadres were proceeding on their way to Myanmar to undergo training and to join the ULFA. Sri Jintu Goqoi belonged to Innao pathar of PO/PS Diyun, District Changlang, Arunachal Pradesh and the other 10 cadres whose addresses are given above came from Tinsukia District of Assam on 12/12/2016 and 13/12/2016 in two different groups. They gathered at the residence of Sri

Jintu Gogoi at Innao pathar and marched in the evening of 13/12/2016 and reached Village Dharmapur-I in the night and stayed in the house of Sri Babul Chakma on their own without his consent. They were supposed to go to Myanmar through Injan Village of Kharsang Circle, District Changlang. A.P from where they were to be led by some agent. On getting information of their movement from own sources, the 13 Assam Rifles, Miao 'Coy' District Changlang, Arunachal Pradesh, under the command of Major A.V. Singh, launched an operation on 14/12/2016 at 0830 hrs. And at about 1230 to 1330 hrs approximately, on being challenged, the AR personnel opened fire on retaliation and in this gun firing the two deceased persons Lt. Noga Moran and Lt. Deep Moran sustained bullet injuries and died on the spot. The other cadres fled from the scene to escape but were caught and apprehended by the armed forces from different locations and arrested consequently as follows:-

<i>Sl. No.</i>	<i>Date & time of handing over of apprehended cadres to PS Miao</i>	<i>Name of the apprehended cadres</i>	<i>Apprehended by</i>
<i>1)</i>	<i>14/12/16, 2300 hrs.</i>	<i>1) Sri Lakhi Gogoi - 26 yrs. 2) Miss Pankhi Moran - 19 yrs.</i>	<i>13 Assam Rifles, Miao 'Coy', Dist Changlang, A.P.</i>
<i>2)</i>	<i>15/12/16, 1700 hrs.</i>	<i>1) Sri Jintu Gogoi - 28 yrs. 2) Sri Majid Moran - 28 yrs. 3) Sri Palak Jyoti Moran - 28 yrs. 4) Sri Puheswar @ Pallav Jyoti Mahanta - 18 yrs</i>	<i>11 Greenadiers, Dumba, Innao, Dist Changlang, A.P.</i>
<i>3)</i>	<i>16/01/17, 1730 hrs.</i>	<i>1) Sri Mahindra Phukan - 18 yrs. 2) Miss Pomi Moran - 18 yrs.</i>	<i>Shown arrested and brought from PS Bordumsa, Dist. Changlang, A.P. on production warrant</i>
<i>4)</i>	<i>02/02/17, 1900 hrs.</i>	<i>1) Sri Nitul Moran - 25 yrs.</i>	<i>Shown arrested and brought from Tinsukia District Jail, Assam, on production warrant.</i>

ii) The dead bodies of the two deceased persons 1) Lt. Noga Moran and 2) Lt. Deep Moran were brought by

the 13 Assam Rifles, Miao 'Coy' and handed over to the Police Station Miao along with recovered arms and ammunitions as referred in Para III(2) above. An FIR was also submitted by Major A.V. Singh, 13 AR, Miao and case registered Miao PS Case No.38/16 u/s 121/122/123/ IPC R/W Sec 25 1(b)/27 Arms Act, R/W Sec 10/13 UA(P) Act.

iii) It is found that all legal formalities have been observed in the investigation of the case and every care has been taken for fair investigation.

iv) Inquest and Post Mortem of the said two dead bodies has been done. Forensic and expert examination and opinion has been taken of the exhibits.

v) Going through the above facts and circumstances revealed from the findings, am of the considered opinion that there is no foul play found in the case and the death of the two deceased persons namely 1) Lt. Noga Moran and 2) Lt. Deep Moran were caused due to firearm bullet injuries sustained in the vital organs as referred above in the course of firing that took place on 14/12/2017 at about 1230 to 1330 hrs approximately. The 13 Assam Rifles, Miao 'Coy' under the command of Major A.V. Singh, conducted an operation at Dharmapur-I village on receipt of sources inputs about presence of UUFA(I) cadres and when they were challenged by them, they (AR) fired and the above two deceased got hit by the bullets and succumbed to their injuries on the spot."

8. The Additional Secretary to the Government of Assam, Home & Political Department, has also filed an affidavit-in-opposition on behalf of the respondent No.2 and has almost reiterated the same thing. The petitioners have filed their affidavit-in-reply denying the contentions raised by the respondent No.5 in his affidavit-in-opposition.

9. The respondent No.10 has also filed a separate affidavit-in-opposition on the same ground and has relied upon the inquiry report of the Magistrate, which is referred to hereinabove.

10. Heard Mr. M. Smith, learned counsel appearing for the petitioners. Also heard Mr. R.K.D. Choudhury, learned Deputy Solicitor General of India, appearing for the respondent Nos.1, 4 & 5; Ms. M. Bhattacharjee, learned Additional Senior Government Advocate, Assam, appearing for the respondent Nos.2, 6, 8 & 9 and Mr. N.N.B. Choudhury, learned Additional Advocate General, Arunachal Pradesh, appearing for the respondent Nos.3, 7 & 10. The learned counsels appearing for the parties have relied upon the pleadings, which are noted hereinabove.

11. At this juncture, it would be appropriate to note that a co-ordinate Bench of this Court passed the following order on 23.03.2021:-

“Heard Mr. M. Smith, learned counsel for the petitioners. Also heard Mr. R. K. D. Choudhury, learned Assistant Solicitor General of India for the respondent nos.1, 4 and 5 as well as Mr. N.N.B. Choudhury, learned Additional Advocate General of Arunachal Pradesh for the respondent nos.3, 7 and 10.

Both the petitioners before this Court are mothers and in each case their child has been allegedly killed by the paramilitary forces. The names of the deceased are Deep Moran @ Deepjyoti Chutia and Anupam Moran @ Nagaman, aged 23 years and 26 years respectively. They were allegedly killed by the Jawans of Assam Rifles on 14.12.2016, around 11.45 AM, in a village of Arunachal Pradesh.

The petitioners being mothers of the deceased sons have filed this writ petition before this Court inter-alia seeking action against the alleged culprits as well as compensation.

During the pendency of the writ petition, when the FIR was called for from the respondents it was stated that already an enquiry had been done in the matter in Magistrate level. Several anomalies are being pointed by Mr. M. Smith, learned counsel for the petitioners. Mr. M. Smith, learned counsel for the petitioners would argue that at this stage it is absolutely

necessary that an enquiry by a sitting District Judge may be constituted, as has been done in other similar cases.

Having heard the learned counsel for the petitioners as well as the learned counsel for the respondents, we are of the opinion that the prayer of the petitioners at this stage must be granted. We hereby direct that in order to reach to the truth of the matter, enquiry must be conducted by a sitting District Judge.

Considering the entire facts and circumstances of the case, we direct the present District Judge, Dibrugarh to conduct an enquiry into the incident which took place in the morning of 14.12.2016 at Dharmapur-I village, under Changlang District village of Arunachal Pradesh and the facts and circumstances which led to the death of Deep Moran @ Deepjyoti Chutia and Anupam Moran @ Nagaman and the cause of their death and the persons responsible for their death. The District Judge will now be the Enquiry Officer who shall have all the powers of an Enquiry Officer under the law, and all possible assistance shall be given by the authorities of Assam Rifles as well as District Administration and other authorities. The petitioners would be at liberty to place all relevant facts before the Enquiry Officer.

Let the enquiry be constituted and completed within a period of three months from today and be placed before this Court.”

12. As per the said order, the learned District & Sessions Judge, Dibrugarh made a detailed inquiry and has submitted her report dated 26.08.2021. It appears that the learned District & Sessions Judge, Dibrugarh has examined as many as 23(twenty-three) witnesses and has taken into consideration the post-mortem report of the deceased Deep Moran @ Deepjyoti Chutia as well as Anupam Moran @ Nagamen and has also considered the FSL report of the Central Forensic Science Laboratory, Kolkata and has opined thus:-

“(i) Eleven boys and girls assembled and proceeded towards the border area of Arunachal Pradesh to cross over to Myanmar to join ULFA.

(ii) Assam Rifles, on tip off, cordoned the house where the eleven boys and girls had taken shelter en route and fired in the air.

(iii) On hearing the sounds of gun shots, all eleven boys and girls started to flee.

(iv) Two of them were apprehended on the spot, few at a distance and one fled but later surrendered in one police station.

(v) Two of them (Deep Moran and Nagaman) were spotted by the armed forces and asked to stop. Neither of them stopped; they continued to try to flee. Personnel of Assam Rifles in a bid to prevent their escape, fired at them.

(vi) The bullets fired by the personnel of Assam Rifles entered the body of the said Deep Moran and Nagaman from the back and exit was caused from the side/front.

(vii) The pistol found near the dead body of Deep Moran was opined to be a replica and not capable of firing. Hence, the theory of retaliatory firing by Assam Rifles is not believable.

(viii) Death in the firing, by Assam Rifles during the operation on 14.12.2016, for the purpose of preventing Deep Moran @ Deep Jyoti Chutia and Nupam Moran Nagaman from escaping, found to be probable and believable.

This concludes the Report of Inquiry.”

13. The report submitted by the learned District & Sessions Judge, Dibrugarh is based on cogent material. As opined by the learned District & Sessions Judge, Dibrugarh, about 11(eleven) boys and girls were assembled and were to cross over to Myanmar to join ULFA and the learned Inquiry Officer has come to the conclusion that Assam Rifles open fired during the operation on 14.12.2016 for the purpose of preventing the deceased from escaping. Thus, in totality of the facts, as per the pleadings on record, it clearly transpires that both the deceased were

asked by the Assam Rifles to stop. However, they tried to flee because of which the Assam Rifles open fired.

14. As per the affidavit on record, the investigation of the two FIRs is yet pending and the same shall be dealt with by the competent Court in accordance with law. Considering the inquiry report submitted by the learned District & Sessions Judge, Dibrugarh pursuant to the order passed by this Court on 23.03.2021, we deem it fit to direct the competent authorities who are investigating the FIRs filed by the petitioner No.1 and the husband of the petitioner No.2 to investigate the same in accordance with law and as expeditiously as possible.

15. In totality of facts and in facts of this case, investigation by Central Bureau of Investigation (CBI) or any other Agency is not required as mentioned hereinabove. The learned District & Sessions Judge, Dibrugarh has threadbare inquired the matter.

16. However, the fact remains that two young youths have lost their lives in firing and the petitioners as their kith and kin would be entitled to appropriate compensation. At this juncture, it would be appropriate to note that the Government of Assam vide Notification dated 18.03.2012 issued under Section 357 of the Code of Criminal Procedure have provided compensation of Rs.2,00,000/- (Rupees Two Lakhs) in case of death. Following the ratio laid down by the Apex Court in the cases of ***People's Union for Civil Liberties & Anr. -Vs- State of Maharashtra & Ors.,***

reported in *(2014) 10 SCC 635; Naga People's Movement of Human Rights -Vs- Union of India*, reported in *(1998) 2 SCC 109* and this Court in *Robindra Nath Chetia -Vs- Union of India & Ors.*, reported in *1994 (2) GLR 359; Lileswar Moran -Vs- Union of India*, reported in *2014 (4) GLT 1044*, we deem it fit to quantify such compensation at Rs.4,00,000/- (Rupees Four Lakhs) to each of the petitioners.

17. The Union of India shall pay the aforesaid amount, i.e. Rs.4,00,000/- (Rupees Four Lakhs), as compensation to each of the petitioners, within a period of 1(one) month from the date of receipt of copy of this judgment & order in the names of the petitioners, after due verification.

18. With the above observations and directions, the writ petition stands disposed of.

JUDGE

CHIEF JUSTICE

Comparing Assistant