

GAHC010020332015



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

Case No. : WP(C)/5228/2015

SRI SRI HAYAGRIBA MADHAV TEMPLE and ANR.
PANCHATIRTHA HAJO KAMRUP, ASSAM THROUGH SRI SHIVA PRASAD
SARMA

2: SRI SHIVA PRASAD SARMA
DOLOI
SRI SRI HAYAGRIBA MADHAV TEMPLE
PANCHATIRTHA HAJO
KAMRUP
ASSAM S/O LT. SARAT CHANDRA SARMA
R/O ULUBARI
GUWAHATI - 781007
ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS
THROUGH THE PRINCIPAL SECRETARY, HOME, POLITICAL INFORMATION
AND PUBLIC RELATIONS, GOVT. OF ASSAM, DISPUR, GUWAHATI- 781006,
ASSAM.

2:THE DEPUTY COMMISSIONER

HAJO REVENUE CIRCLE
HAJO- 781102
KAMRUP
ASSAM.

3:THE ADDITIONAL DISTRICT MAGISTRATE

HAJO REVENUE CIRCLE
HAJO- 781102
KAMRUP
ASSAM.

4:THE CIRCLE OFFICER

HAJO REVENUE CIRCLE
HAJO- 781102
KAMRUP
ASSAM

For the Petitioner(s) : Ms. B. Choudhury, Advocate

For the Respondent(s) : Mr. S. Baruah, Standing Counsel

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : **08.01.2024**

Heard Ms. B. Choudhury, the learned counsel appearing on behalf of the Petitioners and Mr. S. Baruah, the learned Standing counsel appearing on behalf of the Respondent Nos. 1, 2, 3 and 4.

2. The instant writ petition has been filed by the Petitioners challenging the order dated 13.01.2015 whereby the Circle Officer, Hajo Revenue Circle, Hajo had informed the Doloi of the Petitioner No.1 about the prohibition of animal races and fights in view of the judgment of the Supreme Court in the case of ***Animal Welfare Board of India Vs. A. Nagaraja and Others reported in (2014) 7 SCC 547.***

3. This writ petition was filed on 07.08.2015 and the Co-ordinate Bench of this Court vide an detailed order dated 22.12.2015 had stayed the ban order dated 13.01.2015 addressed by the Hajo Circle Officer to the Doloi of the Petitioner No.1 until further orders.

4. It is relevant to take note of that during the time of Magh Bihu at Sri Sri

Hayagriba Madhav Temple red vented bulbuls play a game (fight). This auspicious fervour of the game (fight) as per the Petitioners has been continuing for the last 400 years or so and is associated with the worshipping of Lord Hayagriba and associated with the custom of satisfying the deity with Lord Hayagriba, Hajo. It is also mentioned that it is only at the sanctum of Sri Sri Hayagriba Madhav Mandir that the Bulbul fight take place that too only on the auspicious first day of Makar Sankranti celebrated as Magh Bihu in Assam.

5. This Court has also taken note of the order dated 22.12.2015 passed by the Co-ordinate Bench of this Court wherein the Co-ordinate Bench had observed that the judgment of the Supreme Court in the case of ***Animal Welfare Board of India (supra)*** was rendered on the facts of the said case taking into account that there were materials available as regards cruel treatment to the bulls which however was not there in the case of bulbul birds during the ritualistic fight in the Hayagriba Madhav Mandir.

6. This Court also finds it very pertinent to take note of that on 27.12.2023, an SOP/guideline has been framed to ensure that buffalo and other traditional bird fights are allowed to be organized in all places where it has been traditionally organized with specific provisions for regulation by the District Administrations to ensure that cruelty to animals is not allowed to be inflicted. In the said notification dated 27.12.2023, the background of the Bulbuli fights have also been taken note of as well as also the pendency of the present writ petition. This Court finds it very pertinent to take note of the Standard Operating Procedure (SOP) for Bulbuli Bird Fights which have been mandated in terms with the notification dated 27.12.2023. The relevant parts of the said SOP as it is pertinent for the purpose of the instant writ petition are quoted hereinunder:

"Standard Operating Procedure SOP for Bulbuli birds fight:

1. *Bulbuli birds should be kept completely sale.*
2. *Food items and water to be fed to the Bulbuli birds at the venue. Safety and security shall be closely monitored by the organizing committee.*
3. *The game of Bulbuli birds fight must be conducted in a well-disciplined manner.*
4. *In the game of Bulbuli birds fight, the management committee shall set up barricades and conduct the games in a completely safe manner.*
5. *No persons other than 2 marchers and 2 judges will be allowed to enter the stage.*
6. *Owner of the Birds must sit in specially reserved seats in disciplined manner.*
7. *The game management committee will make proper seating arrangement for the audience to enjoy the game.*
8. *The organizers shall ensure after the game is over, the Bulbuli birds must be released in the open air in perfect condition.*

If any organizing committee is found violating the stipulations as mandated above, the event shall be banned for next five years. These shall be applicable to both buffalo fight and bulbuli fight. Both Buffalo and Bulbuli fights shall be permitted only at the places where both the fights have been traditionally conducted for the last 25 years."

5. Taking into account the notification dated 27.12.2023, it therefore transpires that the Government of Assam would no longer be insisting on the impugned order dated 13.01.2015. The Government of Assam further having already mandated an SOP which the Petitioners have agreed to follow, nothing therefore requires to be done except setting aside the impugned notice. Accordingly, this Court therefore disposes of the instant writ petition by setting

aside the impugned notice dated 13.01.2015 with a further direction upon the Petitioners to take appropriate steps for compliance in terms with the SOP for bulbul bird fights as mandated in the notification dated 27.12.2023.

6. The said notification dated 27.12.2023 which has been placed before this Court is kept on record and marked with the letter "X".

JUDGE

Comparing Assistant