

GAHC010024012015



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

Case No. : WP(C)/6534/2015

JOGESWAR BORAH
S/O LT. LAMBESWAR BORAH, R/O H.NO.32, CHINAKI PATH, BY-LANE 2,
NARIKAL BARI, GHY-24, DIST- KAMRUP METRO, ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMMISSIONER and SECY., DEPTT. OF HOME AND
POLITICAL, DISPUR, GHY-6

2:THE COMMISSIONER AND SECY.
DEPTT.
OF HOME AND POLITICAL
DISPUR
GHY-6

3:THE STATE SECURITY AND REVIEW COMMITTEE
REP. BY ITS CHAIRMAN
SRI M.G.V.K. BHANU
ADDL. CHIEF SECY. TO THE GOVT. OF ASSAM
ASSAM SECRETARIAT
DISPUR
GHY-6

4:THE DIRECTOR GENERAL OF POLICE
ASSAM
POLICE HEAD QUARTERS
ULUBARI
GHY-7

5:THE COMMISSIONER OF POLICE
GUWAHATI

PANBAZAR
GHY-

Advocate for the Petitioner : MR.S BORTHAKUR

Advocate for the Respondent :

Linked Case : WP(C)/1473/2022

DERAJUDDIN AHMED
S/O. MD. AJIMUDDIN AHMED
R/O. GARIGAON (BIDYA NAGAR)
P.S. JALUKBARI
GUWAHATI
DIST. KAMRUP (M)
ASSAM
PIN-781014.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMM. AND SECY.
HOME DEPTT.
GOVT. OF ASSAM
DISPUR
GUWAHATI-06.

2:THE DIRECTOR GENERAL OF POLICE

HEADQUARTER
ULUBARI
GUWAHATI-07
ASSAM.

3:THE ADDL. DIRECTOR GENERAL OF POLICE (SB)

ASSAM
KAHILIPARA
GUWAHATI-19
ASSAM.

4:THE COMMISSIONER OF POLICE

POLICE COMMISSIONERATE

GUWAHATI
KAMRUP (M)
GUWAHATI-01
ASSAM.
5:THE SUBEDER MAJOR

POLICE COMMISSIONERATE
GUWAHATI
KAMRUP (M)
GUWAHATI-01
ASSAM.

Advocate for : MR. P K ROYCHOUDHURY
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 4 ORS

Linked Case : WP(C)/807/2022

ACHYUT SAIKIA
S/O-LATE RATAN SAIKIA
R/O VILLAGE- MUHANIGAON
P.O- MADHABPUR
P.S NARAYANPUR
DIST- LAKHIMPUR
ASSAM
PIN-784164

VERSUS

THE STATE OF ASSAM AND 7 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
HOME AND POLITICAL DEPARTMENT
DISPUR
GUWAHATI-06

2:THE ADDITIONAL CHIEF SECRETARY
TO THE GOVERNMENT OF ASSAM
HOME AND POLITICAL DEPARTMENT
DISPUR
GUWAHATI-06
3:THE COMMISSIONER AND SECRETARY
TO THE GOVERNMENT OF ASSAM
HOME AND POLITICAL DEPARTMENT
DISPUR

GUWAHATI-06
4:THE DIRECTOR GENERAL OF POLICE
ASSAM
ULUBARI
GUWAHATI-36
5:THE INSPECTOR GENERAL OF POLICE
(SPECIAL BRANCH)
KAHILIPARA
GUWAHATI-19
DIST- KAMRUP (M)
ASSAM
6:THE STATE SECURITY REVIEW COMMITTEE
REP. BY ITS CHAIRMAN
COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM
HOME AND POLITICAL DEPARTMENT
DISPUR
GUWAHATI-06
7:THE PROTECTION REVIEW COMMITTEE
REP. BY ITS CHAIRMAN INSPECTOR GENERAL OF POLICE (SPECIAL
BRANCH)
KAHILIPARA
GUWAHATI-19
DIST- KAMRUP (M)
ASSAM
8:THE SUPERINTENDENT OF POLICE
LAKHIMPUR
ASSAM
PIN - 787001

Advocate for : MR. A SARMA
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 7 ORS

Linked Case : WP(C)/2513/2017

DULU AHMED
S/O MR. NAZIMUDDIN AHMED R/O HATIGAON
SAHIL COMPLEX
HOUSE NO. 12
GUWAHATI - 781038
DIST. KAMRUP M
ASSAM

VERSUS

THE STATE OF ASSAM and 3 ORS.
REP. BY THE COMMISSIONER and and SECRETARY TO THE GOVT. OF ASSAM
DEPARTMENT OF HOME
DISPUR
GUWAHATI-6.

2:THE DIRECTOR GENERAL OF POLICE

ASSAM
ULUBARI
GUWAHATI -7.
3:THE COMMISSIONER OF POLICE

GUWAHATI
4:THE DEPUTY COMMISSIONER OF THE POLICE S and I

GUWAHATI
ASSAM

Advocate for : MR.P K KALITA
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM and 3 ORS.

Linked Case : WP(C)/4173/2020

RANA SAIDUR ZAMAN
S/O LATE ALHAZ RAHMAN ALI
R/O HOUSE NO. 62
RAHMAN MANSION
SOUTH SARANIA
P.O.-ULUBARI
DIST-KAMRUP(M)
ASSAM
GUWAHATI-781007

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM
HOME DEPARTMENT
DISPUR
GUWAHATI-781006

2:THE DIRECTOR GENERAL OF POLICE

ASSAM
ASSAM POLICE HEADQUARTER
ULUBARI
GUWAHATI-781007
3:THE ADDITIONAL DIRECTOR GENERAL OF POLICE (SECURITY)
SPECIAL BRANCH
ASSAM
KAHILIPARA
GUWAHATI-781019
4:THE ADDITIONAL DIRECTOR GENERAL OF POLICE
SPECIAL BRANCH
ASSAM
KAHILIPARA
GUWAHATI-781019
5:THE DEPUTY INSPECTOR GENERAL OF POLICE
SPECIAL BRANCH (SECURITY)
ASSAM
KAHILIPARA
GUWAHATI-781019
6:THE SUPERINTENDENT OF POLICE
SPECIAL BRANCH (SECURITY)
ASSAM
KAHILIPARA
GUWAHATI-781019

Advocate for : MR. K N CHOUDHURY
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 5 ORS.

Linked Case : WP(C)/1239/2023

AMRIT KUMAR BURAGOHAIN
S/O LT. BHUBAN CHANDA BURAGOHAIN R/O HOUSE NO. 54 BY LANE NO. 3
SASHI PRABHA ENCLAVE SREE NAGAR G S ROAD GUWAHATI 781005
KAMRUP (M) ASSAM

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REP BY THE PRINCIPAL SECRETARY OF THE GOVT. OF ASSAM HOME
DEPTT. DISPUR ASSAM GUWAHATI 6

2:THE STATE SECURITY REVIEW COMMITTEE (SSRC)
REP. BY ITS CHAIRMAN GOVT. OF ASSAM HOME DEPTT. DISPUR ASSAM
GUWAHATI 781006

3:THE DIRECTOR GENERAL OF POLICE
DR. B K KAKATI ROAD ULUBARI GUWAHATI 7 KAMRUP (M) ASSAM
4:THE ADDITIONAL DIRECTOR GENERAL OF POLICE
SB
KAHILIPARA GUWAHATI ASSAM
5:THE INSPECTOR GENERAL OF POLICE (SECURITY)
SB
KAHILIPARA GUWAHATI ASSAM
6:THE COMMISSIONER OF POLICE

ASSAM POLICE COMMISSIONERATE M G ROAD PANBAZAR GUWAHATI 1
KAMRUP (M) ASSAM
7:THE SUPERINTENDENT OF POLICE
GOLAGHAT
KACHUGAON ASSAM 785621

Advocate for : MR. U K NAIR
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 6 ORS.

Linked Case : WP(C)/5733/2017

RANA SAIDUR ZAMAN
S/O- ALHAZ RAHMAN ALI
R/O- H NO. 62
RAHMAN MANSION
SOUTH SARANIA
P.O- ULUBARI
DIST- KAMRUPM
ASSAM
GUWAHATI- 07

VERSUS

THE STATE OF ASSAM and 6 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM
HOME DEPARTMENT
DISPUR
GHY- 06

2:THE DIRECTOR GENERAL OF POLICE
ASSAM POLICE HQ
ULUBARI
GHY- 07
3:THE ADDITIONAL DIRECTOR GENERAL OF POLICE SECURITY

SPECIAL BRANCH

ASSAM

KAHILIPARA

GHY- 19

4:THE STATE SECURITY REVIEW COMMITTEE

REP. BY THE COMMISSIONER

HOME AND POLITICAL DEPARTMENT TO THE GOVT OF ASSAM

DISPUR

GUWAHATI- 781006

5:THE ADDITIONAL DIRECTOR GENERAL OF POLICE

SPECIAL BRANCH

ASSAM

KAHILIPARA

GUWAHATI- 19

6:THE DEPUTY INSPECTOR GENERAL OF POLICE

SPECIAL BRANCH SECURITY

ASSAM

KAHILIPARA

GHY- 19

7:THE SUPERINTENDENT OF POLICE

SPECIAL BRANCH SECURITY ASSAM

KAHILIPARA

GUWAHATI- 19

Advocate for : MR.K N CHOUDHURY

Advocate for : appearing for THE STATE OF ASSAM and 6 ORS.

Linked Case : WP(C)/4962/2021

MD. ANOWAR HUSSAIN

S/O LT. JABBAR ALI

R/O SANIADI

P.O. SANIADI

P.S. HAJO

DIST. KAMRUP

ASSAM.

VERSUS

THE STATE OF ASSAM AND 5 ORS

REPRESENTED BY THE COMMISSIONER AND SECY. TO THE GOVT. OF
ASSAM

HOME DEPTT.

DISPUR

GUWAHATI 6

2:THE DIRECTOR GENERAL OF POLICE

ASSAM ULUBARI

GUWAHATI 7

3:THE ADDITIONAL DIRECTOR GENERAL OF POLICE (SECURITY)

ASSAM

GUWAHATI.

4:THE DEPUTY COMMISSIONER

KAMRUP (R)

ASSAM

AMINGAON.

5:THE SUPERINTENDENT OF POLICE

KAMRUP (R)

ASSAM.

6:THE OFFICER IN CHARGE

HAJO POLICE STATION

KAMRUP ()

ASSAM.

Advocate for : MR. J I BORBHUIYA

Advocate for : GA

ASSAM appearing for THE STATE OF ASSAM AND 5 ORS

Linked Case : WP(C)/3267/2017

UTPAL BHUYAN

S/O BINAY BHUYAN

PROPRIETOR OF JAI BHAWANI VINAYAK TRADING AND R/O HOUSE NO. 30

2ND FLOOR

2 NO. BASISTHAPUR

WIRELESS

RASARAJ PATH

GUWAHATI-781028

DIST. KAMRUP METRO

ASSAM

VERSUS

THE STATE OF ASSAM and 3 ORS.

REP. BY THE COMMISSIONER AND SECRETARY

HOME DEPTT.

GOVT. OF ASSAM
DISPUR
GUWAHATI-6

2:THE DIRECTOR GENERAL OF POLICE

ASSAM POLICE HEADQUARTER
ULUBARI
GUWAHATI-781007

3:THE ADDITIONAL DIRECTOR GENERAL
SPECIAL BRANCH

KAHILIPARA
GUWAHATI-19

4:THE SUPERINTENDENT OF POLICE
SPECIAL BRANCH SECURITY

KAHILIPARA
GUWAHATI-19

Advocate for : MR.A MITRA

Advocate for : appearing for THE STATE OF ASSAM and 3 ORS.

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : **06.03.2024**

Heard Mr. V. Rajkhowa, learned counsel for the petitioner in WP(C)/6534/2015; Mr. S. Mitra, learned counsel for the petitioner in WP(C)/3267/2017; Mr. R.M. Deka, learned counsel for the petitioner in WP(C)/5733/2017 and WP(C)/4173/2020; Mr. J.I. Borbhuuya, learned counsel for the petitioner in WP(C)/4962/2021; Mr. A. Sarma, learned counsel for the petitioner in WP(C)/807/2022 and Mr. H.K. Das, learned counsel for the petitioner in WP(C)/1239/2023.

2. The petitioners are before this Court is aggrieved by the withdrawal of Personnel Security Officers and House Guards as the case may be by the State Respondents notwithstanding the threat faced by the petitioners and their

family members as stated in the individual writ petitions.

3. Several affidavits have been exchanged. As per the State the periodical threat assessment was carried out by the competent authority and on the basis of those assessments wherever it is found that there is no threat perception, the Security covers are accordingly withdrawn. On the contrary, the writ petitions are of the view that the threat which are faced by the petitioners individually are not taking into account by the respondent authorities while making the threat perception. Most of the writ petitioners are prominent businessman as well as the persons, who are political leaders or workers. It is submitted by the learned counsels appearing for the petitioners that this threat which are issued to the petitioners and their family members are continuous and notwithstanding the respective incidents which had took place some years back, they continued to face threats

4. Mr.J.I.Borbhuiya, learned counsel appearing for WP(C)/4962/2021 submits that during the pendency of the writ petition the petitioners have faced threats.

5. Under such circumstances, the decision of the respondent authority to withdraw the security cover is contrary to law and the same needs to be interfered with and set aside.

6. Mr. D.Saikia, learned senior counsel, Advocate General assisted by Mr.D.Nath, learned senior Government Advocate has appeared before the Court and submits on instructions that notwithstanding the pleadings which have exchanged by way of affidavits filed by the respondents, the department will conduct a fresh review of the threat assessment as per the existing norms in respect of the each of the writ petitioners and thereafter necessary orders will

be issued for continuation of the security cover or withdrawal thereof.

7. Considering the submissions made at the bar, this Court is of the view that most of the writ petitions were filed at the time when the incidents had occurred in the past which the petitioners perceived as threat to their life and limb. Although periodic threat assessments were carried out by the respondent authorities in view of the submissions made by the learned Advocate General, this Court is of the considered view that this writ petition can be disposed of giving liberty to the respondent authorities to go for a review threat assessment as per the existing norms and thereafter pass necessary orders extending or withdrawing the security covers and house guards as the case may be given to the writ petitioners. While making the individual threat assessments, the competent authority will also take into consideration the ratio of the Judgment of the Apex court rendered in *State of West Bengal and Ors. Vs Biswanath Mitra* reported in (2015) 14 SCC 599.

8. It is made clear that the petitioners are at liberty to submit their grievances or apprehensions with regard to any of such threats perceptions within a period of 10 (ten) days from today before the concerned Superintendent of Police. If any such grievances are submitted before the concerned Superintendent of Police, the committee which will conduct the review threat assessment will take all these grievances into account and thereafter pass necessary orders as directed.

9. Till the such orders by the State Security Review Committee is passed reviewing the threat assessment, the present security cover granted to the writ petitioners either by way of Personnel Security Officers or House Guards or both will continue.

10. The petitioners will also clear whatever outstanding dues, they required to pay to the Government, if any, in respect of the security provided by the State as per the norms.

11. With the above observation, writ petition stands disposed of.

JUDGE

Comparing Assistant