



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

**1. WRIT APPEAL NO.233 OF 2018**

1. The State of Assam, represented by the Principal Secretary to the Government of Assam, Revenue & Disaster Management Department, Dispur, Guwahati – 6.
2. The Joint Secretary to the Government of Assam, Revenue & Disaster Management Department (Relief & Rehabilitation Branch), Dispur, Guwahati – 6.
3. The Deputy Commissioner, Kokrajhar (BTC), District: Kokrajhar, Assam.
4. The Sub-Divisional Officer (C), Gossaigaon Sub-Division, District: Kokrajhar, Assam.
5. The Circle Officer (C), Gossaigaon Revenue Circle, District: Kokrajhar (BTC), Assam.
6. The Divisional Forest Officer, Kachugaon Forest Division, Gossaigaon, District: Kokrajhar, Assam.
7. The Commissioner & Secretary to the Government of Assam, Finance Department, Dispur, Guwahati.

**.....Appellants**

**-Versus-**

1. Relief Families Welfare Service Society, Office at Village: Kochugaon, PO & PS: Kochugaon, District: Kokrajhar (BTC), Assam.

2. Rajendra Basumatary  
(President of the Society),  
Son of Late Pujaru Basumatary, resident of Alokjhar, PO & PS: Gossaigaon, District: Kokrajhar (BTC), Assam.

3. Nabiram Basumatary,  
(Secretary of the Society),  
Son of Late Sawn Basumatary, Village: Raikunbari, PO & PS: Kachugaon, District: Kokrajhar (BTC), Assam.

**.....Respondents**

## **2. WRIT APPEAL NO.320 OF 2018**

1. The State of Assam, represented by the Principal Secretary to the Government of Assam, Panchayat & Rural Development Department, Dispur, Guwahati – 6.

2. The Commissioner & Secretary to the Government of Assam, Relief & Rehabilitation Department, Dispur, Guwahati – 6.

3. The Principal Secretary, Revenue and Disaster Management Department, Dispur, Guwahati – 6.

4. The Commissioner & Secretary to the Government of Assam, Finance Department, Dispur, Guwahati – 6.

5. The Deputy Commissioner, Kokrajhar (BTC), District: Kokrajhar (BTC), Assam, PIN – 783370.

6. The Deputy Commissioner, Chirang, District: Chirang, Assam, PIN – 783385.

**.....Appellants**

**-Versus-**

1. Kokrajhar, Gossaigaon and Chirang District Relief Co-Ordination Committee, represented by its President, Head Office: Village: Bkrampr, PO: Bengtal, PS: Basugaon, District: Chirang (BTC), Assam.

2. Anthony J. Mushahary, President of Kokrajhar, Gossaigaon and Chirang District Relief Co-Ordination Committee, Son of Late Raman Mushahary, Village & PO: Ouguri, PS: Basugaon, District: Chirang (BTC), Assam.

3. Kabil Ch. Basumatary, Son of Late Gola Ram Basumatary, Village: Romendrapur, PO: Jaleswari, PS: Kachugaon, District: Kokrajhar (BTC), Assam, PIN – 783370.

4. Ukil Basumatary, Secretary of Kokrajhar, Gossaigaon and Chirang District Relief Co-Ordination Committee, Son of Sri Jotindra Mushahary, Village: Lakriguri, PO: Saraibail, PS: Gossaigaon, District: Kokrajhar (BTC), Assam, PIN – 783370.

5. Poltan Mardi, Son of Late Dhano Mardi, Village: Bsapkata, PO: Sapkata, PS: Gossaigaon, Kokrajhar (BTC), Assam, PIN – 783370.

6. Jotindra Basumatary, Son of Late Monia Basumatary, Village: Lakriguri, PO: Saraibil, PS: Gossaigaon, District: Kokrajhar (BTC), Assam, PIN – 783370.

7. Francis Mushahary, Son of Isahat Mushahary, Village No.4 Katribari, PO: Jambuguri, PS: Gossaigaon, District: Kokrajhar (BTC), Assam, PIN – 783370.

8. Mahan Basumatary, Son of Late Mongal Basumatary,

Village: Jordanpur, PO: Bishmuri, PS: Kokrajhar, District: Kokrajhar (BTC), Assam, PIN – 783370.

9. Samiran Basumatary,  
Son of Late Dhiren Basumatary,  
Village: Jordanpur, PO: Bishmuri, PS: Kokrajhar, District: Kokrajhar (BTC), Assam, PIN – 783370.

10. Robin Hembram,  
Son of Sri Ishar Hembram,  
Village: Jordanpur, PO & PS: Kachugaon, District: Kokrajhar (BTC), Assam, PIN – 783370.

11. Mohendra Mushahary,  
Son of Sri Dhaposing Mushahary,  
Village: Jordanpur, PO: Bishmuri, PS: Kokrajhar, District: Kokrajhar (BTC), Assam, PIN – 783370.

12. Pittar Kama (Kach),  
Son of Late Sikiram Kach,  
Village: Jaleswari, PS: Kachugaon, District: Kokrajhar (BTC), Assam, PIN – 783370.

13. Lebo Narzary,  
Son of Late Debor Narzary,  
Village: Oxiguri, PS: Amguri, District: Kokrajhar (BTC), Assam, PIN – 783370.

14. Najor Sing Basumatary,  
Son of Pittar Basumatary,  
Village: Sundrihar, PO & PS: Saraibil, District: Kokrajhar (BTC), Assam, PIN – 783370.

15. Montri Narzary,  
Son of Sri Gaidang Narzary,  
Village: Jhaigirguri, PO & PS: Gurubasha, District: Chirang (BTC), Assam, PIN – 783385.

16. Charan Brahma,  
Son of Sri Biren Brahma,  
Village: Thaigirguri, PO & PS: Serfanguri, District: Kokrajhar (BTC), Assam, PIN – 783370.

17. Saben Narzary,  
Son of Sri Suleman Narzary,  
Village: Jordanpur, PO: Bishmari, PS:  
Kokrajhar, District: Kokrajhar (BTC),  
Assam, PIN – 783370.

18. Manaj Mushashary,  
Son of Sri Romoni Kanta Mushahary,  
Village: Jordanpur, PO: Bishmari, PS:  
Kokrajhar, District: Kokrajhar (BTC),  
Assam, PIN – 783370.

19. Mono Mushahary,  
Son of Late Bircharan Mushahary,  
Village: Genduguri, PS: Kokrajhar,  
District: Kokrajhar (BTC), Assam, PIN –  
783370.

**.....Respondents**

20. Bodoland Territorial Council  
represented by the Principal/Secretary,  
Kokrajhar, District: Kokrajhar, Assam,  
PIN – 783370.

**.....Proforma Respondent**

**- B E F O R E -**

**HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI**  
**HON'BLE MR. JUSTICE SUMAN SHYAM**

For the Appellants : Mr. R. Borpujari, Standing Counsel,  
Revenue & Disaster Management  
Department.

For the Respondents : Mr. M. Sarania, Advocate and Mr. P.P.  
Gogoi, Advocate for respondent Nos.1  
to 3 in Writ Appeal No.233/2018.

: Mr. A.K. Hussain, Advocate and Mr.  
B. Hussain, Advocate for respondent  
Nos.1 to 19 in Writ Appeal  
No.320/2018.

Date of Hearing : 12.03.2024.

Date of Judgment : 14.03.2024.

## **JUDGMENT & ORDER (CAV)**

**(Vijay Bishnoi, CJ)**

Heard Mr. R. Borpujari, learned standing counsel, Revenue & Disaster Management Department, appearing for the appellants in both the writ appeals. Also heard Mr. M. Sarania, learned counsel appearing on behalf of the respondent Nos.1 to 3 in Writ Appeal No.233/2018 and Mr. A.K. Hussain, learned counsel appearing on behalf of the respondent Nos.1 to 19 in Writ Appeal No.320/2018.

**2.** These intra-Court appeals are filed by the State of Assam being aggrieved with the judgment & order dated 16.07.2015 passed by the learned Single Judge in WP(C) No.5324/2012 as well as the order dated 27.03.2017 passed by the learned Single Judge in WP(C) No.4337/2016, respectively. The learned Single Judge has allowed the WP(C) No.5324/2012 filed by the respondent Nos.1, 2 & 3 in Writ Appeal No.233/2018 and has directed the State respondents to make payment of compensation for the damage caused to the movable and immovable properties of the members of the respondent Society on the basis of the assessment report prepared by the Forest & Revenue Officials with certain other observations. By order dated 27.03.2017, the other writ petition filed by the respondent Nos.1 to 19 in Writ Appeal No.320/2018, i.e. WP(C) No.4337/2016, was also disposed of by the learned Single Judge in line with the judgment & order dated 16.07.2015 passed in WP(C) No.5324/2012.

**3.** Brief facts, which are not in dispute, are that the families of the members of the respondent Society are the victims of the 1998 ethnic violence which took place between *Bodos* and *Adibasis*. During the riots, the families of the members of the respondent Society (petitioner Society in the writ petitions) rendered homeless without no food and shelter and they resided in different Relief and Rehabilitation Camps. The Government of Assam, as an immediate measure, has announced rehabilitation grant @ ₹ 10,000/- (Rupees Ten Thousand) to each affected families. When the said rehabilitation grant was not paid, the writ petitions came to be filed by some members of the respondent Society claiming payment of the same and pursuant to the direction given by this Court for causing an enquiry and doing the needful, the Government of Assam sanctioned and paid rehabilitation grant @ ₹ 10,000/- to each of the riot affected families, including the families of the members of the respondent Society.

**4.** In the meantime, the Revenue and Forest Officials have assessed the actual loss suffered by the families in the riots and the loss was estimated between the range of ₹ 50,000/- (Rupees Fifty Thousand) to ₹ 2,00,000/- (Rupees Two Lakhs) per family. The Government of Assam, vide Notification dated 02.04.2007, had constituted a 8(eight) Member Committee with the Departmental Minister as Chairman to examine and recommend the matter for finding a permanent solution

and the said Committee recommended ₹ 50,000/- (Rupees Fifty Thousand) to each of the families dwelling in the Relief Camps and the Government of Assam has also sanctioned necessary funds to cover 7951 families.

**5.** When the affected families of the members of the respondent Society have not received the balance amount of ₹ 40,000/- (Rupees Forty Thousand), they preferred WP(C) No.4172/2010 and in the said writ petition, this Court issued direction to the State of Assam to ascertain whether rehabilitation grant had been enhanced from ₹ 10,000/- to ₹ 50,000/- and whether the members of the respondent Society are entitled for the same. Pursuant to the said direction, the Department of Revenue & Disaster Management, Government of Assam has passed an order dated 31.03.2011 declining the relief of enhanced compensation to the families of the members of the respondent Society only for the reason that at the relevant time, they were not staying in the Relief Camps and were found living in their villages.

**6.** The decision taken by the State Government vide order dated 31.03.2011 was questioned by the respondent Society by way of filing WP(C) No.5324/2012 and their writ petition came to be allowed by the impugned judgment & order dated 16.07.2015. WP(C) No.4337/2016 was disposed of in terms of the judgment & order dated 16.07.2015 passed in WP(C) No.5324/2015. Hence, these appeals.



**7.** The learned Single Judge, while taking into consideration the arguments advanced on behalf of the parties in WP(C) No.5324/2012, has rejected the stand of the State Government and vide judgment & order dated 16.07.2015 has observed thus:-

*“28. In the instant case and as indicated above, due assessment with regard to loss and damage suffered by the members of the petitioner-society had been made by both the forest and revenue officials. The said assessments were made on account of damage to houses, cattle, etc. quantified well above Rs.50,000/- per family. The loss suffered on account of destruction of property and/or damage to house etc. arising from man made causes has to be duly compensated, which is recognized under the provisions of the Disaster Management Act, 2005. In that view of the matter the order under challenge dated 31.3.2011, rejecting the claim of the petitioner society solely on the ground that the members of the petitioner-society had returned to their own villages and have been leading normal lives, do not find the support of law. The members of the petitioner-society are legitimately entitled to be compensated on account of damage to houses and for restoration of means of livelihood on the basis of the loss and damage assessment reports.*

*29. The order under challenge dated 31.3.2011 stands interfered with to the extent as indicated above, in that, deprivation of relief towards damage caused to movable/immovable properties of the members of the petitioner-society is an arbitrary action on the part of the State Respondents.”*

**8.** The learned counsel for the appellants has submitted that the State Government, as a matter of policy, has decided to award the enhanced compensation to those families who were residing in the Relief Camps at that relevant time. It is submitted that the said policy decision of the State of Assam is not liable to be interfered with. He placed reliance on the decision of the Hon'ble

Supreme Court rendered in ***Reepak Kansal -Vs- Union of India & Ors.***, reported in ***(2021) 9 SCC 251***, particularly, Paragraphs 45 & 46 and has submitted that the learned Single Judge has erred in allowing the writ petitions filed by the respondent Society and, therefore, the impugned judgment/order are liable to be set aside.

**9.** Per contra, learned counsel appearing for the respondents have vehemently opposed the intra-Court appeals and have argued that the impugned judgment/order passed by the learned Single Judge are not liable to be interfered with.

**10.** We have heard the learned counsel for the parties, perused the impugned judgment/order and have carefully scrutinized the records.

**11.** There is no quarrel to the proposition laid down by the Hon'ble Supreme Court in ***Reepak Kansal*** (supra). However, the above referred decision is of no help to the appellants because vide the impugned judgment & order dated 16.07.2015 passed in WP(C) No.5324/2012, the learned Single Judge has not interfered with the policy decision of the State Government but has disapproved the arbitrary action of the State Government of not granting the relief of enhanced compensation to the members of the respondent Society solely on the ground that at that relevant time, they were not residing in the Relief Camps. It is to be noticed that as per the recommendation of the

8(eight) Member Committee, the State Government had taken a decision to pay a compensation of ₹ 50,000/- to each of the riot affected families in lieu of loss of property. It is not the case of the State that the properties that belonged to the members of the respondent Society have not been destroyed in the riots or they have not suffered any loss of property in the riots.

**12.** In our view, in both these intra-Court writ appeals the learned Single Judges have rightly rejected the stand of the State Government and, therefore, we do not find any reason for interference in these appeals. Resultantly, the intra-Court appeals are dismissed as being devoid of any merit.

**JUDGE**

**CHIEF JUSTICE**

**Comparing Assistant**