

GAHC010120162015



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

**Case No. : WP(C)/5124/2015**

INDIAN TEA ASSOCIATION and ANR  
AN ASSOCIATION REGISTERED UNDER THE PROVISIONS OF THE  
SOCIETIES REGISTRATION ACT, 1860, HAVING ITS HEAD OFFICE  
SITUATED AT AT 6, NETAJI SUBHAS ROAD, KOLKATA- 700001 AND  
HAVING VAROUD BRANCHES INCLUDING A BRANCH FOR THE STATE OF  
ASSAM, WHICH HAS ITS OFFICE AT 295, MOTHER TERESA ROAD,  
GUWAHATI- 781024, IN THE DIST. OF KAMRUP METRO, ASSAM,  
REGISTERED BY ITS SECRETARY, SHRI ARIJIT RAHA.

2: JALANNAGAR DEVELOPMENT PVT. LTD.

A COMPANY INCORPORATED UNDER THE PROVISIONS OF THE  
COMPANIES ACT  
1956 AND HAVING ITS REGISTERED OFFICE AT JALANNAGAR  
DIBRUGARH-786005. REP. BY ITS AUTHORIZED SIGNATORY  
SHRI RUPAM PAUL  
RESIDENT OF DIBRUGARH  
ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS  
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,  
LABOUR AND EMPLOYMENT DEPARTMENT LABOUR RC BRANCH,  
ASSAM SACHIBALAYA, DISPUR, GUWAHATI - 781006, ASSAM.

2: THE LABOUR COMMISSIONER

ASSAM  
HAVING ITS OFFICE AT GOPINATH NAGAR  
GUWAHATI- 781016  
IN THE DIST. OF KAMRUP METRO  
ASSAM.

3:THE ASSAM CHAH MAZDOOR SANGHA  
A REGISTERED BODY OF TRADE UNION HAVING ITS CENTRAL OFFICE  
AT JIBON PHUKAN NAGAR  
P.O. CENTRAL REVENUE BUILDING  
IN THE DISTRICT OF DIBUGARH  
ASSAM  
PIN - 786003  
REP. BY ITS GENERAL SECRETARY  
SHRI DILESWAR TANTI

**Advocate for the Petitioner : MS.N UPADHYAY**

**Advocate for the Respondent : MR. K.GOGOI**

Linked Case : WP(C)/5357/2015

NORTH EASTERN TEA ASSOCIATION and ANR  
AN ASSOCIATION REGISTERED UNDER THE PROVISIONS OF THE  
SOCIETIES REGISTRATION ACT  
1860 AND HAVING ITS PRINCIPAL PLACE OF BUSINESS AT G.F. ROAD  
BENGENAKHOWA  
GOLAGHAT- 785621  
IN THE DIST. OF GOLAGHAT  
ASSAM  
REP. BY ITS SECRETARY I/C SMTI. MANISHA SHARMA  
R/O NEW AMOLAPATTY  
WARD NO. 8  
GOLAGHAT- 785621  
IN THE DIST. OF GOLAGHAT  
ASSAM.

2: ASSAM TE PLANTERS' ASSOCIATION  
AN ASSOCIATION REGISTERED UNDER THE PROVISIONS OF THE  
SOCIETIES REGISTRATION ACT  
1860 AND HAVING ITS PRINCIPAL PLACE OF BUSINESS AT A.T. ROAD  
TARAJAN IN THE DIST. OF JORHAT  
ASSAM PIN - 785001. REP. BY ITS SECRETARY  
SHRI DEBESWAR BORA  
R/O TARAJAN KAKATI GAON ROAD  
IN THE DIST. OF JORHAT  
ASSAM.  
VERSUS

THE STATE OF ASSAM AND 2 ORS  
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM  
LABOUR AND EMPLOYMENT DEPARTMENT  
LABOUR RC BRANCH  
ASSAM SACHIVALAYA  
DISPUR  
GUWAHATI - 781006  
ASSAM.

2:THE LABOUR COMMISSIONER

ASSAM HAVING ITS OFFICE AT GOPINATH NAGAR  
GUWAHATI - 781016  
IN THE DIST.OF KAMRUP METRO  
ASSAM.

3:THE ASSAM CHAH MAZDOOR SANGHA  
A REGISTERED BODY OF TRADE UNION HAVING ITS CENTRAL OFFICE AT  
JIBON PHUKAN NAGAR  
P.O. CENTRAL REVENUE BUILDING  
IN THE IDS.T OF DIBRUGARH  
ASSAM  
PIN - 786003  
REP. BY ITS GENERAL SECRETARY  
SHRI DILESWAR TANTI.

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Advocate for : MR.D BARUAH

Advocate for : appearing for THE STATE OF ASSAM AND 2 ORS

**BEFORE**

**THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY**  
**O R D E R**

**09.05.2024**

1. Heard Mr. D Das, learned Senior counsel assisted by Ms. N Upadhyay, learned counsel for the petitioners.
2. The present applications under Article 226 of the Constitution of India are filed assailing a notification dated 09.06.2015 which was issued in exercise of power under Section 27 of the Minimum Wages Act, 1948, the State of Assam incorporating the occupation "pertaining to the workers relating to plucking, pruning, cheel hoeing, spraying of insecticide, pesticides, chemicals, toxic

substances and application of fertilizers in the Tea Plantation of Assam" as semi-skilled workers.

3. The basic ground of such challenge is that such notification is without jurisdiction and authority under law inasmuch as the Section 27 of the Act, 1948 does not empower the State Government to categorise or determine as to whether an occupation falls within a particular class or not.
4. This court while issuing notice of motion under its order dated 28.08.2015 stayed the impugned notification dated 09.06.2015. In the meantime, the Minimum Wages Act, 1948 has been repealed and Code on Wages, 2019 has been enacted which also covers certain subjects under repealed Minimum Wages Act, 1948. In fact, the provision of Section 27 of the repeal Act is also not incorporated in the new Code.
5. Be that as it may, it is submitted that as the new Code has been notified, the earlier order cannot be given effect to at this stage, reviving the earlier impugned notification, which has not been given effect to for the operation of the interim order.
6. That being the position, the present writ petitions stand closed. The petitioners shall be at liberty to approach once again, if any action is taken on the basis of the earlier notification.

**JUDGE**

**Comparing Assistant**