

GAHC010062382024



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

Case No. : PIL(Suo Moto)/1/2024

IN RE- XX
XXXX

VERSUS

STATE OF ASSAM AND 8 ORS.
REPRESENTED BY THE CHIEF SECRETARY, DISPUR, GUWAHATI-781006

2:ENVIRONMENT AND FOREST DEPARTMENT
REPRESENTED BY THE SECRETARY
GOVERNMENT OF ASSAM
DISPUR
GUWAHATI-781006

3:DISTRICT COMMISSIONER
KAMRUP (M)
LICHUBAGAN
HENGRABARI
GUWAHATI-781036

4:GUWAHATI DEVELOPMENT DEPARTMENT
REPRESENTED BY THE PRINCIPAL SECRETARY GOVERNMENT OF
ASSAM
DISPUR
GUWAHATI-781006

5:GUWAHATI METROPOLITAN DEVELOPMENT AUTHORITY
REPRESENTED BY THE CHIEF EXECUTIVE OFFICER
BHANGAGARH
GUWAHATI-781005

6:GUWAHATI MUNICIPAL CORPORATION

REPRESENTED BY THE COMMISSIONER
GANESH MANDIR
GUWAHATI-781006

7:REVENUE AND DISASTER MANAGEMENT DEPARTMENT
REPRESENTED BY THE PRINCIPAL SECRETARY
GOVERNMENT OF ASSAM
DISPUR
GUWAHATI-781006

8:WATER RESOURCES DEPARTMENT (FLOOD CONTROL)
REPRESENTED BY THE SECRETARY
GOVERNMENT OF ASSAM
DISPUR
GUWAHATI-781006

9:GUWAHATI SMART CITY LTD
REPRESENTED BY THE MANAGING DIRECTOR
4TH FLOOR
ADITYA TOWER
OPPOSITE DOWNTOWN HOSPITAL
DOWNTOWN
GUWAHATI-78100

For petitioner(s)/appellant(s) : Mr. T.J. Mahanta, Sr. Advocate, SC, GHC
Assisted by Ms. P.P. Das, Advocate

For respondent(s) : Ms. D. Saikia, AG, Assam
Mr. S. Bora, SC, GDD, GMDA & GMC

– **BEFORE** –

HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI
HON'BLE MR. JUSTICE KARDAK ETE

24.07.2024

(Vijay Bishnoi, CJ)

This PIL petition is registered taking into consideration the issue regarding the encroachments over the "Borsola Beel" situated in the midst of the city of Guwahati, which has already been declared as a reserve wetland in the year 2001.

It is to be noticed that this Court, in a PIL filed in the year 1997 (PIL No. 23/1997) passed an order on 04.01.2000 directing the respondents for preservation of the Borsola Beel.

In the instant PIL, pursuant to the direction given by this Court, an affidavit has been filed on behalf of the respondent Guwahati Metropolitan Development Authority (GMDA), wherein it is stated that the concerned Beel is surrounded by the localities of Paltan Bazar on North, Rehabari on East, Chatribari on West and Chabipool on South. It is further stated that the untreated inflow of sewage water through various drains fall into the water body and due to dumping of solid waste from the surrounding area in the Beel, the water body has been degraded. It is also stated that the Borsola Beel is a part of the Bharalu drainage basin and the outflow of the Beel is through the sluice gates located at Southern side of the Beel and thus the storm water is discharged in the Bharalu channel. It is further stated that as per the report of the Pollution Control Board, Assam, the water of the Borsola Beel is contaminated with organic and non-organic substances and the Sewage Treatment Plant (STP) on the upstream side of the water body has become defunct as the bed level as well as the water level have gone down below the intake point of STP resulting in no flow with gravitation.

It is further stated that the said STP is non-functional since the year 2014. It is further mentioned in the affidavit that as per the NGT Case No. OA 673/2018, the Borsola Beel is considered as a polluted water body. In such circumstances, it was considered in Priority-I of polluted river stretches in India and as per the NGT's direction, an action plan is prepared by the Pollution Control Board, Assam, and a pilot project for construction of 2 MLD Sewage Treatment Plant on the upstream side of the Borsola Beel with interception and diversion arrangement was initiated. The details regarding the same are given in paragraph 6 of the affidavit filed by the GMDA, which is reproduced hereunder:

“6. That as regard to statement made in paragraph 4 of the PIL, answering deponent begs to state that a scheme viz. Reclamation and Restoration of Borsola Beel (A traditional water body) was taken up by Guwahati Metropolitan Development Authority (GMDA) amounting to Rs. 538.48 Lakhs during FY 2003-04. The work was awarded to a Aireff Detox Incineration Ltd. on Turnkey mode. The amount earmarked for construction of STP was Rs. 98.00 Lakhs. Whereas, after dredging operation of inlet channels carried out by Guwahati Metropolitan Development Authority (GMDA), the bed level as well as the water level have gone down below the intake point of STP resulting in no flow with gravitation and hence the STP was non-functional since 2014. Further, it may be stated herein that as per NGT case No. OA 673/2018, the Borsola Beel is considered as polluted water body and it was considered in Priority-I of polluted river stretches in India. As per NGT direction and action plan prepared by the Pollution Control Board (PCB), Assam, a pilot project for construction of 2 MLD Sewage Treatment Plant (STP) on the upstream side of the Borsola Beel with interception and diversion arrangement was initiated by Guwahati Metropolitan Development Authority (GMDA) for rejuvenation of Borsola Beel. Accordingly, the project was approved by Govt. vide No. AA/72-2022-23 (i)-613 dated 04.02.23 and the physical progress of the work as on 15.05.2024 is 65% pursuant to Action Plan prepared by 4 (four) member committee.”

Mr. D. Saikia, learned Advocate General, Assam, has submitted that 65% of the work of construction of 2 MLD Sewage Treatment Plant was completed on 15.05.2024, and as on today the said work has been completed up to 70%.

Mr. T.J. Mahanta, learned Standing Counsel, Gauhati High Court has submitted that the affidavit filed on behalf of the GMDA is silent about the encroachments made into the concerned Beel area.

At this stage, the learned Advocate General has submitted that almost all of the encroachments from the concerned Beel area have already been removed except one garbage dumping site and the process for acquisition of land is also going on for shifting of the said garbage dumping area and as soon as suitable land is acquired, the said garbage dumping site will be removed from the Borsola Beel area.

Taking into consideration the contentions made in paragraph 6 of the affidavit filed by the GMDA as well as the statements given by the learned Advocate General, Assam, we are of the view that the respondents have taken sufficient steps for

preservation of the Borsola Beel as a reserve wetland.

We hope and trust that the construction of the 2 MLD Sewage Treatment Plant would be completed within the time limit, i.e. October, 2024 and the State Government shall make every endeavour to keep the Borsola Beel encroachment free area in future also.

This PIL petition is disposed of with the above observations.

JUDGE

CHIEF JUSTICE

Comparing Assistant