

GAHC010039472024



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

Case No. : WP(C) 62/2024

DR ANURADHA CHOUDHARY AND ANR
WIFE OF LATE DOCTOR DIPANDRA NATH CHOUDHURY
RESIDENT OF HOUSE NO. 102
DILIP HUZURI PATH
DISPUR
GUWAHATI- 781006
IN THE DISTRICT OF KAMRUP(M)
ASSAM.

2: ILLUSMITA KONWAR
CENTER ADMINISTRATOR
W/O- SANJIB BARPHUKAN
SAKHI ONE STOP CENTRE
KAMRUP(M)
(181 WOMEN HELPLINE ASSAM).

VERSUS

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

2:THE COMMISSIONER AND SECRETARY
GOVERNMENT OF ASSAM
SOCIAL WELFARE DEPARTMENT
DISPUR
GUWAHATI-781006.

3:THE COMMISSIONER OF POLICE
GUWAHATI CITY
PANBAZAR

GUWAHATI- 781001.

4:THE DIRECTORATE OF SOCIAL JUSTICE AND EMPOWERMENT
GOVT. OF ASSAM
REPRESENTED BY ITS DIRECTOR
HAVING ITS OFFICE SITUATED AT LAKHI MANDIR
BELTOLA
GUWAHATI- 781028
IN THE DISTRICT OF KAMRUP(METRO)
ASSAM.

5:MANISH CHOUDHURY
SON OF LATE DIPANDRA NATH CHOUDHURY
RESIDENT OF HOUSE NO. 102
DILIP HUZURI PATH
DISPUR GUWAHATI- 781006
IN THE DISTRICT OF KAMRUP(METRO)
ASSAM.

6:PRAMILA CHOUDHURY
WIFE OF SRI MANISH CHOUDHURY
RESIDENT OF HOUSE NO. 102
DILIP HUZURI PATH
DISPUR
GUWAHATI- 781006
IN THE DISTRICT OF KAMRUP(METRO)

ASSAM.

Advocate for : MRS A SAIKIA
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 5 ORS

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 28-03-2024

1. Heard Mrs. A Saikia, learned counsel for the petitioners.
Also heard Mrs. S Baruah, learned counsel for respondent Nos.1 to 3,
Mr. C Sharma, learned counsel appearing on behalf of respondent
No.4 and Ms. S Chakravarty, learned counsel for the respondent Nos.5

and 6.

2. Mr. P.N. Goswami learned Additional Advocate General, Assam has appeared on the request made by this court and obtained certain vital informations.

3. The present writ petition is filed with the following prayer:

I. To issue a writ in the nature of mandamus against the respondent Nos.1 to 4 i.e., **1. The State of Assam**, represented by the Commissioner and Secretary to the Government of Assam, Home and Political Department, Dispur, Guwahati – 781006, **2. The Commissioner & Secretary**, Government of Assam, Social Welfare Department, Dispur, Guwahati – 781006, **3. The Commissioner of Police**, Guwahati, City, Panbazar, Guwahati – 781001, and **4. The Directorate of Social Justice & Empowerment**, Govt. of Assam

II. To check the mental health of the respondent No.5 who is an addict of alcohol and respondent No.6 who is the merciless daughter in law under the supervision of the Social Welfare Department and provide appropriate treatments

4. Thus, the basic grievance of the petitioners relates to protection from her son and daughter in law with allegation of misbehavior by the said son and daughter in law.

5. Mr. PN Goswami, learned Additional Advocate General submits that in terms of section 7(1) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (Act' 2007) and in terms of

section 15(1) of the said Act, the Governor of Assam was pleased to issue two separate notifications dated 02.08.2008 constituting Maintenance Tribunal and Appellate Tribunal. It is also submitted that the District Social Welfare Officers have been notified as Maintenance Officers.

6. It is seen that the Act' 2007 is enacted to provide effective provisions for Maintenance and Welfare of Parents and Senior Citizens guaranteed and recognized under the constitution and for matters connected therewith and incidental thereto.

7. A perusal of the said Act' 2007 shows that it is a complete code in itself with a power to the state to frame rules. The Act' 2007 empowers the Tribunals/authorities to pass protection and maintenance order.

8. That being the position and in view of such specialized Tribunal already being constituted, the petitioner's grievance can be adjudicated by the Tribunal.

9. Accordingly, the present writ petition stands disposed of permitting the petitioner to file appropriate application before the jurisdictional Tribunal and in the event, such application is filed, the same may be decided as expeditiously as possible and the Tribunal/ Maintenance Officer shall also consider the prayer of the petitioner for any maintenance/protection order as permissible under the Act' 2007.

10. Accordingly this writ petition stands disposed of.

JUDGE

Comparing Assistant