

GAHC010214032022



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

Case No. : WP(C)/7023/2022

FAZLUZZAMAN MAZUMDER

VERSUS

THE UNION OF INDIA AND 2 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA,
MINISTRY OF LAW AND JUSTICE,
NEW DELHI-1.

2:THE STATE OF ASSAM
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM

JUDICIAL DEPARTMENT
DISPUR

GUWAHATI-6.

3:THE REGISTRAR GENERAL
GAUHATI HIGH COURT

PANBAZAR GUWAHATI

Advocate for the Petitioner : MR F Z MAZUMDER

Advocate for the Respondent : DY.S.G.I.

**BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

Date : 14-11-2022

R.M. Chhaya, C.J.

Heard Mr. F.Z. Mazumder, petitioner-in-person, who is a respected member of this Bar. Also heard Mr. R.K.D. Choudhury, learned Deputy Solicitor General of India, for the respondent No.1, Mr. R.K. Bora, learned Additional Senior Government Advocate, Assam for the respondent No.2 and Mr. U.K. Nair, learned senior counsel assisted by Mr. A. Chakraborty, learned counsel for the respondent No.3.

By way of this petition under Article 226 of the Constitution of India, the petitioner has prayed for the following relief;

*“In the premises aforesaid, the petitioners pray that this Hon’ble Court may be pleased to call for the records of the case and issue a Rule calling up the respondents to show cause as to why a Writ in the nature of Mandamus or any other appropriate writ shall not be issued directing the Section 6 form 1 of the Oath Act 1969 and Rule 30 chapter IV of the Gauhati High Court Rule 2015 unconstitutional and set aside the Section 6 form 1 of the Oath Act 1969 and Rule 30 chapter IV of the Gauhati High Court Rule 2015 **And/or** Call for the records and on perusal thereof and hearing the parties be pleased to make the Rule absolute and/or to pass such further or other orders as Your Lordships may deem fit and proper.”*

Even according to the petitioner, it is not a public interest litigation but it is a personal matter. In paragraph 2 of the petition, the petitioner averred that being a secular, liberal and scientific minded citizen, he is not at all believer in supernatural power or entity. As the petitioner believe that there is no religion greater than brotherhood and humanity, the petitioner does not observe any

religious rituals in his personal life. Consequently, he has no belief in existence of God and on that basis, it is averred in the petition that Form No.1 as prescribed under Section 6 of the Oaths Act, 1969 read with Rule 30 (chapter IV) of the Gauhati High Court Rule is ultra vires of Articles 25 and 26 of the Constitution of India. The petitioner in his petition has relied upon the decisions of the Apex Court in the cases of *Sri Sri Sri Lakshamana Yatendrulu and others vs. State of Andhra Pradesh and another*, reported in (1996) 8 SCC 705; *Shri A.S. Narayana Deekshitulu vs. State of Andhra Pradesh and others*, reported in AIR 1996 SC 1765 and *Ranjeet Suryakant Mohite vs. The Union of India*, reported in (2015) 146 AIC 678 to buttress his argument.

At the outset, it deserves to be noted that in the whole petition there is not a whisper about the fact as to how the petitioner is affected and hence no cause has arisen as tried to be ventilated in this petition. There is no averment or factual basis with regard to the fact that the petitioner has been deprived of any right which is enshrined under Article 25 and 26 of the Constitution of India. At this stage, it would be appropriate to note that even in this petition, the affidavit is permitted without adhering to Form No.1 as provided under the Oaths Act, 1969, more particularly section 6 thereof. Considering the proviso to Section 6 of the 1969 Act and in absence of any factual basis of the contentions raised in this petition, the petition is found to be without any basis which is filed for the purposes known only to the petitioner, who is otherwise a sound Advocate. The petition does not require any consideration and the same stands dismissed. However, the question raised in this petition being general in nature is kept open. There shall be no order as to cost.

JUDGE

CHIEF JUSTICE

Comparing Assistant