

GAHC010075072022



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

PIL (Suo Moto) No.2 of 2022

XXX

..Petitioner

-Versus-

1. The State of Assam, represented by the Principal Secretary to the Government of Assam, Home & Political Department, Janata Bhawan, Dispur, Guwahati – 781006.
2. The Director General of Police, Assam Police Headquarters, Ulubari, Guwahati – 781007.
3. The Commissioner of Police, Guwahati, M.G. Road, Pan Bazaar, Guwahati – 781001.
4. The Joint Commissioner of Police (Traffic), Office of the Traffic Police, Pan Bazaar, Guwahati – 781001.
5. The Officer-in-Charge, Paltan Bazaar Police Station, Paltan Bazaar, Guwahati – 781008.

..Respondents

- B E F O R E -

HON'BLE THE CHIEF JUSTICE MR. R.M. CHHAYA
HON'BLE MR. JUSTICE SOUMITRA SAIKIA

For the Petitioner : Mr. U.K. Nair, Senior Standing Counsel,
Gauhati High Court.
Ms. S.S. Hazarika, Advocate.

For Respondents : Mr. R.K. Borah, Additional Senior Government
Advocate, Assam.

Date of Judgment & Order : **5th September, 2022.**

JUDGMENT & ORDER

(R.M. Chhaya, CJ.)

An alarming letter addressed by Shri Manish Goswami, Advocate, Supreme Court, is the basis of the present suo moto Public Interest Litigation against the police atrocities, which took place at Paltan Bazar, Guwahati City on 17.03.2022.

2. It has been pointed out in the said letter that on the fateful day, a person was riding a two wheeler alongwith his wife and his three year old child at Paltan Bazaar, Guwahati. On an allegation of a minor traffic violation, the Police Constable on duty, namely, Fakhruddin Ahmed, assaulted the person riding the said two wheeler. Such action of the Constable involved in the incident was captured on camera and had also gone viral on social media.

3. There were allegations and counter allegations for which the bike rider, namely, Shri Biki Prasad Gupta, on a minor traffic infraction of driving on wrong side of the road, a heated argument took place which lead to brawl. The report on the contrary shows that the other police personnel also tried to indulge into similar activities.

4. On cognizance being taken by this Court as a suo-moto public interest litigation, an affidavit-in-opposition was filed by the Deputy Commissioner of Police (Crime), Guwahati, Assam, wherein it is pointed out that an FIR was lodged at Paltan Bazaar Police Station, which came to be registered as Paltan Bazaar Police Station Case No.151/2022 against the bike rider for alleged offences under Sections 294/341/353 and 325 of IPC.

He has averred in the said affidavit that investigation was carried out and Final Report has been submitted as insufficient evidence against the alleged accused Shri Biki Prasad Gupta and the Final Report has also been accepted by the trial Court.

5. The affidavit further recites that another FIR was lodged by Smti. Poonam Das, wife of Shri Biki Prasad Gupta, which was registered as Paltan Bazaar Police Station Case No.152/2022 under Sections 341/294/325/34 of IPC, which has also been investigated and further investigation is still pending. The respondent authorities have taken departmental action against Fakhruddin Ahmed, the Police Constable against whom the misconduct is alleged and has been suspended from service pending the enquiry. As per the affidavit, the same is at the stage of first show cause notice. The affidavit also recites that Departmental Proceedings have been drawn up against the other two Police Constables involved in the incident, namely, ABI Motiur Rahman and ABI Leela Kanta Das, who joined Fakhruddin Ahmed when the brawl took place on 17.03.2022.

6. Heard Mr. U.K. Nair, learned senior standing counsel, Gauhati High Court, assisted by Ms. S.S. Hazarika, learned counsel for the petitioner. Also heard Mr. R.K. Borah, learned Additional Senior Government Advocate, Assam, appearing for all the respondents.

7. Mr. U.K. Nair, learned senior standing counsel, Gauhati High Court contended that the purpose and object of initiating this public interest litigation is not just to take action against the erring police personnel but as expressed in the communication, the police personnel are required to be specially trained for the said purpose. Mr. Nair further

contended that the respondent authorities have not indicated any such aspect in their affidavit-in-opposition and, therefore, appropriate directions are required to be given by this Court.

8. Mr. R.K. Borah, learned Additional Senior Government Advocate, Assam has relied upon the affidavit-in-opposition dated 31.08.2022 filed by the Deputy Commissioner of Police (Crime), Guwahati, Assam and has contended that the respondent authorities have seriously taken the complaint and have taken appropriate action against the erring police personnel. Mr. Borah, however, has submitted that the State Government shall carry out any further directions that may be deemed fit in the peculiar facts of this case.

9. It is no doubt true that the authorities have initiated Departmental Proceedings against the erring police personnel and are also investigating the FIR lodged by the wife of the victim. However, as expressed in the body of the petition, for a trivial traffic offence, the police personnel should not and cannot be permitted to take law in their hands. As rightly expressed by the learned Advocate, who has drawn attention of this Court, we stay in a society where rule of law prevails and, therefore, it is eminently necessary for the respondent authorities to impart appropriate training to their police personnel and make them citizen centric while discharging their duties. In fact, the Final Report submitted in relation to FIR No.151/2022 clearly establishes the fact that the allegations levelled against the victim Shri Biki Prasad Gupta are without any foundation.

10. Police may have the authority to control the traffic but the same cannot be handled as a tool to violate the fundamental rights of the citizen.

Steps which are taken by the authorities against the erring police personnel do not end the agony of the citizens at large. It is, however, clarified that if there is any breach of traffic rules, the police personnel could have taken action in accordance with law instead of using force on the innocent citizens.

11. This Court is of the opinion that such an incident occurred because of lack of training in police personnel. Though tolerance is a personal capability, the respondent authorities should periodically apprise their police personnel, more particularly on site, and practical training should be given by higher officers of the respondent authorities. The police personnel, who are handling the traffic at traffic junctions, are required to keep citizen centric approach instead of using their might. The respondent authorities are, therefore, directed as under:-

- (i)** To impart training to all Police Constables, who are handling traffic in cities, more particularly at all district levels, to remain citizen centric;
- (ii)** The respondent authorities are hereby directed to educate their police personnel about their rights and responsibilities as a public servant;
- (iii)** Appropriate basic knowledge of law relating to the same should be imparted by conducting trainings of police personnel. The respondent authorities can take help and guidance of the Assam State Legal Services Authority (ASLSA) for the same;
- (iv)** The State Government should constitute a Committee for the same also consisting of the Member Secretary, Assam State Legal

Services Authority (ASLSA) in order to avoid any such similar incident in future;

The State to carry out these directions scrupulously and the Member Secretary, Assam State Legal Services Authority (ASLSA), is directed to see that the above directions are carried out in its true letter and spirit.

12. With the above observations and directions, the petition is disposed of.

JUDGE

CHIEF JUSTICE

Mukut

Comparing Assistant