GAHC010073992023

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

**Case No. : WP(C)/1961/2023**

AUNTYS CREATION
REP. BY ITS PROPRIETOR, SRI NARENDRA JAIN, S/O- SRI SHANKARLAL JAIN, AGED ABOUT- 49 YEARS, OFFICE SITUATED AT-2ND FLOOR, VINAYAK PLAZA, KAMARPATTY, FANCY BAZAAR, GUWAHATI- 781001

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY ITS UNDER SECRETARY, MINISTRY OF TEXTILES, GOVT. OF INDIA, UDYOG BHAWAN, R.NO.- 130, A- WING, RAFI MARG, NEW DELHI- 110011

2:THE SECRETARY TO THE GOVT. OF ASSAM
HANDLOOM TEXTILE AND SERICULTURE DEPTT.
JANATA BHAWAN
DISPUR- 781006
ASSAM

3:THE DIRECTORATE OF HANDLOOM AND TEXTILES
GOVT. OF ASSAM
REP. BY ITS DIRECTOR
VASTRA BHAWAN
GNB ROAD
AMBARI
GUWAHATI- 781001
ASSAM

4:THE ASSTT. DIRECTOR
DEPTT. OF HANDLOOM AND TEXTILE
KAMRUP
GNB ROAD
AMBARI

GUWAHATI- 781001
ASSAM

5:THE DEPUTY COMMISSIONER
KAMRUP (M)
OFFICE OF THE DEPUTY COMMISSIONER
HENGRABARI
GUWAHATI
ASSA

**Advocate for the Petitioner** : MR D K DAS

**Advocate for the Respondent** : GA, ASSAM

Linked Case : WP(C)/2060/2023

SETHI SAREES
(A UNIT OF SANKALP SAAKAR ENTERPRISES PVT. LTD.)
REPRESENTED BY ITS DIRECTOR
SRI ANANYA SETHI
AGED ABOUT 32 YEARS
OFFICE SITUATED AT 1ST FLOOR
TRADE HOUSE
SRCB ROAD
KAMRUP (M)
GUWAHATI-781001

VERSUS

THE UNION OF INDIA AND 4 ORS
REPRESENTED BY ITS UNDER SECRETARY
MINISTRY OF TEXTILES
GOVERNMENT OF INDIA
UDYOG BHAWAN
R. NO. -130
A-WING
RAFI MARG
NEW DELHI-110011

2:THE SECRETARY TO THE GOVERNMENT OF ASSAM
HANDLOOM TEXTILE AND SERICULTURE DEPARTMENT
JANATA BHAWAN

DISPUR-781006
ASSAM
3:THE DIRECTORATE OF HANDICRAFTS AND TEXTILES
GOVT. OF ASSAM
REPRESENTED BY ITS DIRECTOR
VASTRA BHAWAN
GNB ROAD
AMBARI
GUWAHATI-781001
ASSAM
4:THE ASSISTANT DIRECTOR
DEPARTMENT OF HANDLOOM AND TEXTILE
KAMRUP
GNB ROAD
AMBARI
GUWAHATI-781001
ASSAM
5:THE DEPUTY COMMISSIONER
KAMRUP (M)
OFFICE OF THE DEPUTY COMMISSIONER
HENGRABARI
GUWAHATI
ASSAM
---
Advocate for : MR D K DAS
Advocate for : DY.S.G.I. appearing for THE UNION OF INDIA AND 4 ORS

Linked Case : WP(C)/2041/2023

S. VINAYAK TEXTILE
A PROPRIETORSHIP CONCERN

REPRESENTED BY ITS PROPRIETOR

SRI PRAHLAD MUNDHRA

AGED ABOUT 44 YEARS

OFFICE SITUATED AT- SHOP NO. 8
9
10

1ST FLOOR
TALAB MARKET
SRCB ROAD

FANCY BAZAR
GUWAHATI- 781001

ASSAM.

VERSUS

THE UNION OF INDIA AND 4 ORS
REPRESENTED BY ITS UNDER SECRETARY

MINISTRY OF TEXTILES

GOVERNMENT OF INDIA

UDYOG BHAWAN
R.NO.- 130

A-WING
RAFI MARG
NEW DELHI- 110011.

2:THE SECRETARY TO THE GOVT. OF ASSAM
HANDLOOM TEXTILE AND SERICULTURE DEPARTMENTS
JANATA BHAWAN
DISPUR- 781006

ASSAM.
3:THE DIRECTORATE OF HANDLOOM AND TEXTILES
GOVT. OF ASSAM
REPRESENTED BY TS DIRECTOR

VASTRA BHAWAN
GNB ROAD

AMBARI
GUWAHATI- 781001

ASSAM.
4:THE ASSISTANT DIRECTOR
DEPARTMENT OF HANDLOOM AND TEXTILE
KAMRUP
GNB ROAD
AMBARI

GUWAHATI- 781001
ASSAM.
5:THE DEPUTY COMMISSIONER

KAMRUP(METRO)
OFFICE OF THE DEPUTY COMMISSIONER

HENGRABARI
GUWAHATI

ASSAM.
---
Advocate for : MR D K DAS
Advocate for : DY.S.G.I. appearing for THE UNION OF INDIA AND 4 ORS

Linked Case : WP(C)/2547/2023

SINGHAL TEXTILES
REPRESENTED BY ITS PROPRIETOR
SRI BIJENDRA KUMAR AGARWAL
AGED ABOUT 48 YEARS

OFFICE SITUATED AT- GROUND FLOOR
KHAITAN MARKET

A.T. ROAD
TINSUKIA- 786125.

VERSUS

THE UNION OF INDIA AND 5 ORS.
REPRESENTED BY ITS UNDER SECRETARY
MINISTRY OF TEXTILES
GOVERNMENT OF INDIA
UDYOG BHAWAN
R.NO.- 130
A- WING
RAFI MARG
NEW DELHI- 110011.

2:THE SECRETARY TO THE GOVT. OF ASSAM
HANDLOOM TEXTILE AND SERICULTURE DEPARTMENTS
JANATA BHAWAN
DISPUR- 781006
ASSAM.
3:THE DIRECTORATE OF HANDICRAFT AND TEXTILES
GOVT. OF ASSAM
REPRESENTED BY ITS DIRECTOR
VASTRA BHAWAN

GNB ROAD
AMBARI
GUWAHATI- 781001
ASSAM.
4:THE ASSISTANT DIRECTOR
DEPARTMENT OF HANDICRAFTS AND TEXTILES
KAMRUP
GNB ROAD
AMBARI
GUWAHATI- 781001
ASSAM.
5:THE DEPUTY COMMISSIONER
KAMRUP(METRO)
OFFICE OF THE DEPUTY COMMISSIONER
HENGRABARI
GUWAHATI
ASSAM.
6:SUPERINTENDENT
HANDLOOM AND TEXTILES DEPARTMENT
TINSUKIA
PIN- 786125
ASSAM.

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Advocate for : MR D K DAS
Advocate for : DY.S.G.I. appearing for THE UNION OF INDIA AND 5 ORS.

Linked Case : WP(C)/2544/2023

BUWARI SILK HOUSE
REPRESENTED BY ITS PROPRIETOR
SRI SUSHIL BHUYAN
AGED ABOUT 53 YEARS

OFFICE SITUATED AT- 18107
G.H.S.S. ROAD
NORTH LAKHIMPUR

LAKHIMPUR- 787001.

VERSUS

THE UNION OF INDIA AND 5 ORS.
REPRESENTED BY ITS UNDER SECRETARY

MINISTRY OF TEXTILES

GOVERNMENT OF INDIA

UDYOG BHAWAN
R.NO.- 130
A- WING

RAFI MARG
NEW DELHI- 110011.

2:THE SECRETARY TO THE GOVT. OF ASSAM
HANDLOOM TEXTILE AND SERICULTURE DEPARTMENTS
JANATA BHAWAN
DISPUR- 781006

ASSAM.
3:THE DIRECTORATE OF HANDICRAFT AND TEXTILES
GOVT. OF ASSAM
REPRESENTED BY ITS DIRECTOR

VASTRA BHAWAN
GNB ROAD

AMBARI
GUWAHATI- 781001
ASSAM.
4:THE ASSISTANT DIRECTOR
DEPARTMENT OF HANDICRAFTS AND TEXTILES
KAMRUP

GNB ROAD
AMBARI
GUWAHATI- 781001
ASSAM.
5:THE DEPUTY COMMISSIONER
KAMRUP(METRO)
OFFICE OF THE DEPUTY COMMISSIONER
HENGRABARI
GUWAHATI
ASSAM.
6:ASSISTANT DIRECTOR (I/C)
HANDLOOM AND TEXTILES DEPARTMENT
LAKHIMPUR
NORTH LAKHIMPUR
PIN- 787001
ASSAM.
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Advocate for : MR D K DAS

Advocate for : DY.S.G.I. appearing for THE UNION OF INDIA AND 5 ORS.

Linked Case : WP(C)/2044/2023

HEERA COLLECTION
A PARTNERSHIP FIRM
REPRESENTED BY ITS AUTHORISED PARTNER
SRI RAHUL KUMAR PINCHA
AGED ABOUT 35 YEARS
OFFICE SITUATED AT KHUSBOO
GROUND FLOOR
G M TOWER
M.S. ROAD
FANCY BAZAR
GUWAHATI
KAMRUP (M)
GUWAHATI-781001
ASSAM

VERSUS

THE UNION OF INDIA AND 4 ORS
REPRESENTED BY ITS UNDER SECRETARY
MINISTRY OF TEXTILES
GOVERNMENT OF INDIA
UDYOG BHAWAN
R. NO. -130
A-WING
RAFI MARG
NEW DELHI-110011

2:THE SECRETARY TO THE GOVERNMENT OF ASSAM
HANDLOOM TEXTILE AND SERICULTURE DEPARTMENT
JANATA BHAWAN
DISPUR-781006
ASSAM
3:THE DIRECTORATE OF HANDICRAFTS AND TEXTILES
GOVT. OF ASSAM
REPRESENTED BY ITS DIRECTOR
VASTRA BHAWAN
GNB ROAD
AMBARI
GUWAHATI-781001
ASSAM
4:THE ASSISTANT DIRECTOR

DEPARTMENT OF HANDLOOM AND TEXTILE
KAMRUP
GNB ROAD
AMBARI
GUWAAHTI-781001
ASSAM
5:THE DEPUTY COMMISSIONER
KAMRUP (M)
OFFICE OF THE DEPUTY COMMISSIONER
HENGRABARI
GUWAHATI
ASSAM
---
Advocate for : MR D K DAS
Advocate for : DY.S.G.I. appearing for THE UNION OF INDIA AND 4 ORS

Linked Case : WP(C)/2059/2023

GOENKA SYNTHETICS
A PROPRIETORSHIP CONCERN
REPRESENTED BY ITS PROPRIETOR
SRI NARESH KUMAR GOENKA
AGED ABOUT 53 YEARS
OFFICE SITUATED AT SHOP NO. 7A
MANI BAZAR
SRCB ROAD
FANCY BAZAR
GUWAHATI
KAMRUP (M)
GUWAHATI-781001
ASSAM

VERSUS

THE UNION OF INDIA AND 4 ORS.
REPRESENTED BY ITS UNDER SECRETARY
MINISTRY OF TEXTILES
GOVERNMENT OF INDIA
UDYOG BHAWAN
R. NO. -130
A-WING
RAFI MARG
NEW DELHI-110011

2:THE SECRETARY TO THE GOVERNMENT OF ASSAM

HANDLOOM TEXTILE AND SERICULTURE DEPARTMENT
JANATA BHAWAN
DISPUR-781006
ASSAM
3:THE DIRECTORATE OF HANDICRAFTS AND TEXTILES
GOVT. OF ASSAM
REPRESENTED BY ITS DIRECTOR
VASTRA BHAWAN
GNB ROAD
AMBARI
GUWAHATI-781001
ASSAM
4:THE ASSISTANT DIRECTOR
DEPARTMENT OF HANDLOOM AND TEXTILE
KAMRUP
GNB ROAD
AMBARI
GUWAHATI-781001
ASSAM
5:THE DEPUTY COMMISSIONER
KAMRUP (M)
OFFICE OF THE DEPUTY COMMISSIONER
HENGRABARI
GUWAHATI
ASSAM
---
Advocate for : MR D K DAS
Advocate for : DY.S.G.I. appearing for THE UNION OF INDIA AND 4 ORS.

Linked Case : WP(C)/2047/2023

SHRI JAGDAMBA TEXTILE
A PROPRIETORSHIP CONCERN
REPRESENTED BY ITS PROPRIETOR
SRI RAVI BUCHA
AGED ABOUT 38 YEARS OFFICE SITUATED AT BEE GEE MARKET
SRCB ROAD
FANCY BAZAR
GUWAHATI-781001
ASSAM

VERSUS

THE UNION OF INDIA AND 4 ORS
REPRESENTED BY ITS UNDER SECRETARY

MINISTRY OF TEXTILES
GOVERNMENT OF INDIA
UDYOG BHAWAN
R. NO. -130
A-WING
RAFI MARG
NEW DELHI-110011

2:THE SECRETARY TO THE GOVERNMENT OF ASSAM
HANDLOOM TEXTILE AND SERICULTURE DEPARTMENT
JANATA BHAWAN
DISPUR-781006
ASSAM
3:THE DIRECTORATE OF HANDICRAFTS AND TEXTILES
GOVT. OF ASSAM
REPRESENTED BY ITS DIRECTOR
VASTRA BHAWAN
GNB ROAD
AMBARI
GUWAHATI-781001
ASSAM
4:THE ASSISTANT DIRECTOR
DEPARTMENT OF HANDLOOM AND TEXTILE
KAMRUP
GNB ROAD
AMBARI
GUWAAHTI-781001
ASSAM
5:THE DEPUTY COMMISSIONER
KAMRUP (M)
OFFICE OF THE DEPUTY COMMISSIONER
HENGRABARI
GUWAHATI
ASSAM
---
Advocate for : MR D K DAS
Advocate for : GA
ASSAM appearing for THE UNION OF INDIA AND 4 ORS

Linked Case : WP(C)/2538/2023

M/S R CHOUDHARY
REP. BY ITS PROP. RAVI CHOUDHARY
AGED 50 YRS
S/O- LATE PAWAN KUMAR
CHOUDHURY

OFFICE SITUATED AT 3880
GHSS ROAD
NORTH LAKHIMPUR
LAKHIMPUR
ASSAM
787001

VERSUS

THE UNION OF INDIA AND 5 ORS
REPRESENTED BY ITS UNDER SECRETARY
MINISTRY OF TEXTILES
GOVERNMENT OF INDIA
UDYOG BHAWAN
R. NO. -130
A-WING
RAFI MARG
NEW DELHI-110011

2:THE SECRETARY
TO THE GOVERNMENT OF ASSAM
HANDLOOM TEXTILE AND SERICULTURE DEPARTMENT
JANATA BHAWAN
DISPUR-781006
ASSAM
3:THE DIRECTORATE
OF HANDICRAFTS AND TEXTILES
GOVT. OF ASSAM
REPRESENTED BY ITS DIRECTOR
VASTRA BHAWAN
GNB ROAD
AMBARI
GUWAHATI-781001
ASSAM
4:THE ASSISTANT DIRECTOR

DEPARTMENT OF HANDLOOM AND TEXTILE
KAMRUP
GNB ROAD
AMBARI
GUWAHATI-781001
ASSAM
5:THE DEPUTY COMMISSIONER

KAMRUP (M)

OFFICE OF THE DEPUTY COMMISSIONER
HENGRABARI
GUWAHATI
ASSAM
6:I/C ASSISTANT DIRECTOR
HANDLOOM AND TEXTILES DEPARTMENT
LAKHIMPUR
PIN- 787032
ASSAM
---
Advocate for : MR D K DAS
Advocate for : DY.S.G.I. appearing for THE UNION OF INDIA AND 5 ORS

Linked Case : WP(C)/2536/2023

M/S LOKNATH FABRICS
REP. BY ITS PROPRIETOR GOPAL CH. SAHA
AGED-50 YRS

S/O- LATE CHITTARAJAN SAHA

OFFICE SITUATED AT WARD NO-3
BAZAR ROAD
MANGALDAI
DARRANG
ASSAM
PIN-784125

VERSUS

THE UNION OF INDIA AND 5 ORS
REP. BY ITS UNDER SECRETARY
MINISTRY OF TEXTILES
GOVT. OF INDIA
UDYOG BHAWAN
R/NO- 130
A- WING
RAFI MARG
NEW DELHI-11

2:THE SECRETARY
TO THE GOVERNMENT OF ASSAM
HANDLOOM TEXTILE AND SERICULTURE DEPARTMENT
JANATA BHAWAN
DISPUR-781006

ASSAM
3:THE DIRECTORATE
OF HANDICRAFTS AND TEXTILES
GOVT. OF ASSAM
REPRESENTED BY ITS DIRECTOR
VASTRA BHAWAN
GNB ROAD
AMBARI
GUWAHATI-781001
ASSAM
4:THE ASSISTANT DIRECTOR

DEPARTMENT OF HANDLOOM AND TEXTILE
KAMRUP
GNB ROAD
AMBARI
GUWAHATI-781001
ASSAM
5:THE DEPUTY COMMISSIONER

KAMRUP (M)
OFFICE OF THE DEPUTY COMMISSIONER
HENGRABARI
GUWAHATI
ASSAM
6:ASSISTANT DIRECTOR
HANDLOOM AND TEXTILE DEPARTMENT
DARRANG
MANGALDAI-784125
ASSAM
---
Advocate for : MR D K DAS
Advocate for : DY.S.G.I. appearing for THE UNION OF INDIA AND 5 ORS

Linked Case : WP(C)/2525/2023

MEM SAAB
REPRESENTED BY ITS PROPRIETOR
SRI AMAN YADAV

AGED ABOUT 48 YEARS

OFFICE SITUATED AT- SURABHI MARKET

A.T. ROAD
JAKHALABANDHA

NH- 37
NAGAON
ASSAM- 782136.

VERSUS

THE UNION OF INDIA AND 5 ORS
REPRESENTED BY ITS UNDER SECRETARY

MINISTRY OF TEXTILE

GOVERNMENT OF INDIA

UDYOG BHAWAN
R.NO. 130

A-WING
RAFI MARG
NEW DELHI- 110011.

2:THE SECRETARY TO THE GOVT. OF ASSAM
HANDLOOM TEXTILE AND SERICULTURE DEPARTMENTS
JANATA BHAWAN
DISPUR
GUWAHATI- 781006

ASSAM.
3:THE DIRECTORATE OF HANDICRAFTS AND TEXTILES
GOVT. OF ASSAM
REPRESENTED BY ITS DIRECTOR

VASTRA BHAWAN
GNB ROAD

AMBARI
GUWAHATI- 781001

ASSAM.
4:THE ASSISTANT DIRECTOR
DEPARTMENT OF HANDICRAFTS AND TEXTILE
KAMRUP
GNB ROAD
AMBARI
GUWAHATI- 781001

ASSAM.

5:THE DEPUTY COMMISSIONER
KAMRUP(METRO)
OFFICE OF THE DEPUTY COMMISSIONER

HENGRABARI
GUWAHATI
ASSAM.
6:ENFORCEMENT SQUAD
NAGAON DISTRICT
OFFICE OF THE ASSISTANT DIRECTOR

HANDLOOM AND TEXTILE
NAGAON

M.G. ROAD
NEAR POWERHOUSE TINIALI

NAGAON
ASSAM- 782001.
---
Advocate for : MR D K DAS
Advocate for : DY.S.G.I. appearing for THE UNION OF INDIA AND 5 ORS

Linked Case : WP(C)/2055/2023

KESHAV TEXTILE
A PROPRIETORSHIP CONCERN
REPRESENTED BY ITS PROPRIETOR
SRI SURESH KUMAR SHARMA
AGED ABOUT 49 YEARS
OFFICE SITUATED AT GROUND FLOOR
B-16 BEE GEE MARKET
SRCB ROAD
FANCY BAZAR
GUWAHATI-781001

VERSUS

THE UNION OF INDIA AND 4 ORS
REPRESENTED BY ITS UNDER SECRETARY
MINISTRY OF TEXTILES
GOVERNMENT OF INDIA
UDYOG BHAWAN
R. NO. -130
A-WING

RAFI MARG
NEW DELHI-110011

2:THE SECRETARY TO THE GOVERNMENT OF ASSAM
HANDLOOM TEXTILE AND SERICULTURE DEPARTMENT
JANATA BHAWAN
DISPUR-781006
ASSAM
3:THE DIRECTORATE OF HANDICRAFTS AND TEXTILES
GOVT. OF ASSAM
REPRESENTED BY ITS DIRECTOR
VASTRA BHAWAN
GNB ROAD
AMBARI
GUWAHATI-781001
ASSAM
4:THE ASSISTANT DIRECTOR
DEPARTMENT OF HANDLOOM AND TEXTILE
KAMRUP
GNB ROAD
AMBARI
GUWAHATI-781001
ASSAM
5:THE DEPUTY COMMISSIONER
KAMRUP (M)
OFFICE OF THE DEPUTY COMMISSIONER
HENGRABARI
GUWAHATI
ASSAM

---

Advocate for : MR C KUMAR
Advocate for : DY.S.G.I. appearing for THE UNION OF INDIA AND 4 ORS

Linked Case : WP(C)/2057/2023

DIGH BAANI
PROPRIETOR SANJAY GARODIA (HUF)
REPRESENTED BY ITS KARTA/MANAGER
SRI SANJAY KUMAR GARODIA
AGED ABOUT 51 YEARS
OFFICE SITUATED AT- 1ST FLOOR
KESHAV KATRA
S.S. ROAD
FANCY BAZAR
GUWAHATI
KAMRUP (M) GUWAHATI-781001

ASSAM

VERSUS

THE UNUIN OF INDIA AND 4 ORS.
REPRESENTED BY ITS UNDER SECRETARY
MINISTRY OF TEXTILES
GOVERNMENT OF INDIA
UDYOG BHAWAN
R. NO. -130
A-WING
RAFI MARG
NEW DELHI-110011

2:THE SECRETARY TO THE GOVERNMENT OF ASSAM
HANDLOOM TEXTILE AND SERICULTURE DEPARTMENT
JANATA BHAWAN
DISPUR-781006
ASSAM
3:THE DIRECTORATE OF HANDICRAFTS AND TEXTILES
GOVT. OF ASSAM
REPRESENTED BY ITS DIRECTOR
VASTRA BHAWAN
GNB ROAD
AMBARI
GUWAHATI-781001
ASSAM
4:THE ASSISTANT DIRECTOR
DEPARTMENT OF HANDLOOM AND TEXTILE
KAMRUP
GNB ROAD
AMBARI
GUWAAHTI-781001
ASSAM
5:THE DEPUTY COMMISSIONER
KAMRUP (M)
OFFICE OF THE DEPUTY COMMISSIONER
HENGRABARI
GUWAHATI
ASSAM
---

Advocate for : MR D K DAS
Advocate for : DY.S.G.I. appearing for THE UNUIN OF INDIA AND 4 ORS.

Linked Case : WP(C)/2043/2023

NISHANT ENTERPRISE
REPRESENTED BY ITS PARTNER
SRI SUBHAM BOTHRA
S/O SRI PRADIP BOTHRA
AGED ABOUT 29 YEARS
OFFICE SITUATED AT 1ST FLOOR
SRCB
ELAHI COMPLEX
FANCY BAZAR
GUWAHATI-781001

VERSUS

THE UNION OF INDIA AND 4 ORS
REPRESENTED BY ITS UNDER SECRETARY
MINISTRY OF TEXTILES
GOVERNMENT OF INDIA
UDYOG BHAWAN
R. NO. -130
A-WING
RAFI MARG
NEW DELHI-110011

2:THE SECRETARY TO THE GOVERNMENT OF ASSAM
HANDLOOM TEXTILE AND SERICULTURE DEPARTMENT
JANATA BHAWAN
DISPUR-781006
ASSAM
3:THE DIRECTORATE OF HANDICRAFTS AND TEXTILES
GOVT. OF ASSAM
REPRESENTED BY ITS DIRECTOR
VASTRA BHAWAN
GNB ROAD
AMBARI
GUWAHATI-781001
ASSAM
4:THE ASSISTANT DIRECTOR
DEPARTMENT OF HANDLOOM AND TEXTILE
KAMRUP
GNB ROAD
AMBARI
GUWAHATI-781001
ASSAM
5:THE DEPUTY COMMISSIONER
KAMRUP (M)
OFFICE OF THE DEPUTY COMMISSIONER

HENGRABARI
GUWAHATI
ASSAM
---
Advocate for : MR D K DAS
Advocate for : DY.S.G.I. appearing for THE UNION OF INDIA AND 4 ORS

Linked Case : WP(C)/2045/2023

SAMRATH TEXTILE
A PARTNERSHIP FIRM
REPRESENTED BY ITS AUTHORISED PARTNER
SRI TARUN PINCHA
AGED ABOUT 36 YEARS
OFFICE SITUATED AT 2ND FLOOR
ELAHI COMPLEX
SRCB ROAD
GUWAHATI
KAMRUP (M)
GUWAHATI-781001
ASSAM

VERSUS

THE UNION OF INDIA AND 4 ORS.
REPRESENTED BY ITS UNDER SECRETARY
MINISTRY OF TEXTILES
GOVERNMENT OF INDIA
UDYOG BHAWAN
R. NO. -130
A-WING
RAFI MARG
NEW DELHI-110011

2:THE SECRETARY TO THE GOVERNMENT OF ASSAM
HANDLOOM TEXTILE AND SERICULTURE DEPARTMENT
JANATA BHAWAN
DISPUR-781006
ASSAM
3:THE DIRECTORATE OF HANDICRAFTS AND TEXTILES
GOVT. OF ASSAM
REPRESENTED BY ITS DIRECTOR
VASTRA BHAWAN
GNB ROAD
AMBARI

GUWAHATI-781001
ASSAM
4:THE ASSISTANT DIRECTOR
DEPARTMENT OF HANDLOOM AND TEXTILE
KAMRUP
GNB ROAD
AMBARI
GUWAAHTI-781001
ASSAM
5:THE DEPUTY COMMISSIONER
KAMRUP (M)
OFFICE OF THE DEPUTY COMMISSIONER
HENGRABARI
GUWAHATI
ASSAM
---
Advocate for : MR D K DAS
Advocate for : DY.S.G.I. appearing for THE UNION OF INDIA AND 4 ORS.

**BEFORE**
**HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

**JUDGMENT AND ORDER (CAV)**

**Date : 26-06-2023**

Heard Mr. D. K. Das as well as Mr. H. Betala, the learned counsels appearing on behalf of the Petitioners in the instant batch of writ petitions. Mr. D. Saikia, the learned Advocate General of Assam assisted by Ms. P. Baruah, the learned counsel appearing on behalf of the State of Assam and Mr. R. Dhar, the learned Standing counsel appearing on behalf of the Sericulture Department of the Government of Assam. Ms. A. Gayan, represents the Union of India.

2. In view of the factual semblance and the similarity of the legal issues involved, the instant batch of writ petitions are taken up for disposal by this common judgment and order.

3. The Petitioners in the instant batch of writ petitions claim that they trade in products which in common parlance are known as "Mekhela Chadar". The products in question in which the Petitioners' trade comes within the ambit of HS Codes of Heading 5407 : Woven fabrics of synthetic filament yarn, including woven fabrics obtained from materials of heading 5404. Another product which the Petitioners trade in comes within the ambit of HS Code of Heading 5210 : Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed mainly or solely with man-made fibres, weighing not more than 200 g/m2.

4. It is the specific case of the Petitioners that the clothes in which the Petitioners trade do not come within the ambit of the Handlooms (Reservation of Articles for Production) Act, 1985 (for short the "Act of 1985"). However, the Respondent Authorities more particularly, the Assistant Director, Department of Handloom and Textiles, Kamrup vide a notice bearing letter No.ADHT./Work(G)1830/2020-21/72 dated 27.02.2023 had requested all vendors of all textile establishments and commodities in Kamrup district not to sell such Gamochas, Mekhela Chadars, Dakhanas etc. which are produced in powerlooms of other States within the territory of Assam. It was further mentioned in the said notice that the vendors of all textile establishments and commodities in Kamrup district were requested to encourage the indigenous weavers and benefit them financially by arranging the sale of hand woven Gamochas, Mekhela Chadars, Dakhanas etc. manufactured by the indigenous weavers in Assam. To the said effect, on 03.02.2023, another notice was issued by the Superintendent, Department of Handicrafts and Textiles, Biswanath Chariali thereby informing all the vendors of all textile establishments and commodities in the district of Biswanath Chariali. The Secretary to the Government of Assam, Finance, Handloom, Textiles and Sericulture Department

had also issued a communication on 01.03.2023 thereby directing the Deputy Commissioner, Lakhimpur to stop the powerloom made Gamocha, Mekhela Chadar etc. in his district.

5. It is the case of the Petitioners that the said actions of the Respondent Authorities in the State of Assam have infringed upon their rights under Article 19(1)(g) of the Constitution inasmuch as the materials which are traded by the Petitioners do not come within the ambit of the prohibition under the Act of 1985 read with the Order dated 03.09.2008. It is in the said premises, the instant batch of writ petitions have been filed.

6. At this stage, it also relevant herein to mention that the Office of the Development Commissioner for Handlooms, Government of India, Ministry of Textiles in pursuant to an RTI application had stated vide a communication dated 25.08.2022 that the items at article No.11 was open for production on any loom using Man Made Filament yarn (MMF).

7. It appears from the records that this Court had issued notice and in pursuance thereto, the Respondent Nos. 2, 3 and 4 in WP(C) No.1961/2023 had filed an affidavit-in-opposition. From a perusal of the said affidavit-in-opposition, it transpires that the actions resorted by the Respondent Authorities are in terms with the provisions of the Act of 1985. In paragraph No.5 of the said affidavit-in-opposition, it was mentioned that vide notification dated 15.12.2000, the Additional Secretary and Development Commissioner for Handlooms had delegated the powers under Sections 6, 7 and 8 to various authorities which included the Respondents herein employed in the affairs of the State of Assam. It is the categorical stand of the Government of Assam that the Act of 1985 prohibits manufacture and selling of Mekhela Chadar made out of cotton, silk or

art silk or any combination of these fabrics with any other synthetic or man made fibre yarn. In the said affidavit-in-opposition, reference was made to the judgment of the Supreme Court in the case of ***Parvej Aktar and Others Vs. Union of India and Others*** *reported in* ***(1993) 2 SCC 221***.

8. It further appears from the records that the Petitioners in WP(C) No.1961/2023 had filed an affidavit-in-reply. In the said affidavit-in-reply, it was mentioned that the distinct products which are being traded by the Petitioners are made of Man Made Filament yarn i.e. polyester, nylon and viscose and blends thereof. It was stated that the composition used in the manufacturing of article/products traded by the Petitioners is neither 100% silk nor 100% cotton, rather, it is a blend of polyester 70% and cotton 30% and any other allied combination, including Man Made Filament yarn. It was mentioned that the ingredients used by the Petitioners are not cotton or silk, rather those are combination of viscose with nylon, polyester with viscose, polyester with cotton or with Man Made Filaments. It was the categorical stand that there was no use of silk products which is one of the essential ingredients and composition for Mekhela, Chadar and Phanek as per the definition provided in the list of Articles mentioned in order dated 03.09.2008 issued under the Act of 1985. It was further mentioned that the raw materials as well as the finished products are different which cannot be equated with the defined composition of the table mentioned in the order dated 03.09.2008. The word "blend" as per the Petitioners is not mentioned in the table under Serial No.11 pertaining to Chadar, Mekhela or Phanek but the said word "blend" has been used in respect of other products which restricts blending with Man Made Filaments or any other yarn. Reference in that regard was made to the articles Saree, Dhoti, Towel, Gamcha, Angvastram etc.

9. Upon hearing the matter on 16.05.2023, this Court directed the learned counsel appearing on behalf of the Central Government i.e. the Respondent No.1 to obtain instructions as regards Annexure-J to the writ petition which is a communication issued by the Assistant Director of the Office of the Development Commissioner for Handlooms, Ministry of Textiles, Government of India as regards the interpretation of the Central Government to Serial No.11 of the Order dated 03.09.2008. During the course of hearing on 01.06.2023, the learned counsel, Ms. A. Gayan, placed before this Court the instructions issued by the Chief Enforcement Officer of the Government of India, Ministry of the Textiles, Office of the Development Commissioner for Handlooms. The said instructions was kept on record and marked with the letter "X". The interpretation of Serial No.11 of the order dated 03.09.2008, as it appears from the said instructions is reproduced hereinunder:

> "*2. Interpretation:*
>
> *As per Sr. No.11 of the Handlooms Reservation Order S.O.2160(E) dt. 03.09.2008 issued under Handlooms (RAP), 1985, textile articles woven using the fibres, bearing the described characters, weave structure are reserved for Handlooms and their production on powerloom is prohibited. To explain, Chadar, Mekhla, Phaneks and other textile articles known by different names in different parts of the country woven with extra warp and/or extra weft border and/or cross border design using the listed one or more of the fibres i.e. cotton, silk and art silk are reserved for Handlooms. Among the above silk (protein fibre) and cotton (cellulosic fibre) are natural fibres and Artificial) silk is a regenerated cellulosic Man-made Fibre with natural resources (MMF).*
>
> *And it is interpreted as follow:*
>
> *(i) Manufactured from*

*(a) Cotton yarn or*

*(b) Silk yarn or*

*(c) Art Silk yarn (Viscose) or*

*(d) Combination of cotton/silk/Art silk (Viscose)*

*(ii) Woven in plain or twill*

*(iii) Check or stripe design*

*(iv) No limitation on count*

*(v) No limitation on dimension*

*(vi) Border with extra warp and/or*

*(vii) Cross Border with extra weft*

*Items with these characters produced without presence of these fibres are open for production on any loom."*

In the backdrop of the above, let this Court therefore take into consideration the respective submissions made by the learned counsels for the parties.

10. Mr. D. K. Das as well as Mr. H. Betala, the learned counsels appearing on behalf of the Petitioners submitted as follows:

(I) A perusal of Section 3 of the Act of 1985 read with the notification dated 15.12.2000 would show that the power has been exclusively reserved to the Central Government to direct from time to time that any Article or class of Articles shall on and from such date as may specified in the Order be reserved for exclusive production by handlooms. It was submitted that though at the time

of enactment of the Act of 1985, there were 22 articles but subsequently, vide the Order dated 03.09.2008 only 11 articles were reserved for exclusive production by handlooms. The learned counsels submitted that a perusal of the order dated 03.09.2008 would clearly show that the Article or class of Articles specified in Column-2 of the Table shall with immediate effect be reserved for exclusive production by handlooms up to the range specified in Column-3 meaning thereby the reservation is limited to all Articles or class of Articles specified in Column-2 are subject to the range and specifications mentioned in Column-3. The learned counsels further submitted that at Serial No.11 of Column-1, the articles so mentioned are Chadar, Mekhela or Phanek. However all Chadar, Mekhela or Phanek are not exclusively reserved for handlooms. It is only those Chadar, Mekhela or Phanek used for covering lower and/or upper part of the body and are manufactured from cotton yarn or silk yarn or art silk yarn or in any combination thereof, woven in plain or twill weave with check or stripe design irrespective of count and dimensions and characterized by a border and/or cross border with extra warp and/or extra weft design and including the various articles so mentioned in Clauses (i) to (vi) at Column-3 of Article 11, are exclusively reserved for handlooms. The learned counsels therefore submitted that if the Chadar, Mekhela or Phanek including those which have been mentioned in Clauses (i) to (vi) are not manufactured from cotton yarn or silk yarn or art silk yarn or in any combination thereof, would not come within the ambit of the prohibition or restriction as imposed by the Act of 1985 read with the Order dated 03.09.2008. It is therefore the specific submission of the learned counsels for the Petitioners that as the Petitioners' trade in Man Made Filament yarn i.e. in polyester, nylon and viscose and blends, the composition used in the manufacturing of article/products traded by the Petitioners is neither

100% silk nor 100% cotton or 100% art silk or blend thereof. The articles and products traded by the Petitioners are made out of 70% polyester and 30% cotton. There are certain products which are made out of viscose with nylon, polyester with viscose, polyester with cotton or with Man Made Filaments. Therefore, it is the case of the Petitioners that the imposition/restriction so made vide the impugned communications are without any authority as the same would not come within the ambit of the Act of 1985 read with the Order dated 03.09.2008.

(II) The learned counsel for the Petitioners further submitted that a perusal of the Order dated 03.09.2008 would show that when the Central Government intended to prohibit Articles made with Man Made Filaments Yarn, it was expressly so done as could be seen from the Articles or class of Articles mentioned at Serial Nos. 2 and 3 of Column No.1 and the Central Government specifically did not include Man Made fibre or synthetic yarn within the ambit of articles mentioned at Serial No.11 of Column 1 of the Order dated 03.09.2008. Therefore, Chadar, Mekhela or Phanek manufactured from cotton yarn/silk yarn/art silk yarn blended with Man Made Filaments Yarn or purely with Man Made Filaments Yarn would not come within the mischief of Articles or class of Articles mentioned in Serial No.11 of Column No.1 of the Order dated 03.09.2008.

(III) The learned counsels further had drawn the attention of this Court to the fact that cotton yarn comes within the ambit of cellulosic fibres which are natural plant fibres made from cellulose substance that forms the cell walls of plants for example, linen and cotton. As regards silk, it was submitted that silk comes into existence from protein fibres which are natural fibres that are

sourced from animals, for example, silk secretion from silk worms. He further submitted that art silk also known as artificial silk are made out of regenerated cellulosic fibres. Therefore, it was the submission of the learned counsels for the Petitioners that to come within the ambit of Articles mentioned at Serial No.11 of Column 1 of the Order dated 03.09.2008, the yarn should be made out of cellulosic fibre or protein fibre or regenerated cellulosic fibre or any combination of them. On the other hand, the learned counsel further submitted that synthetic fibres like polyester are made from a type of plastic called Polyethylene Terephthalate (PET) which are derived from petrochemicals. The learned counsels further submitted that other types of synthetic fibres like polypropylene, modacrylic, nylon are man made synthetic yarns by melting plastic based materials derived from petrochemicals. These melted materials are then extruded through spinnerets where they solidify into threads when exposed to air or water. It was therefore submitted that synthetic yarns like polyester, polypropylene, modacrylic, nylon being synthetic yarns would not come within the ambit of Articles mentioned in Serial No.11 of Column 1 of the Order dated 03.09.2008. The learned counsels further added to their submissions that even a blend of synthetic yarn with cellulosic fibres or protein fibres or regenerated cellulosic fibres would not come within the mischief of the Articles mentioned at Serial No.11 of Column 1 of the Order dated 03.09.2008. On the basis of the above, the learned counsel therefore submitted that the impugned notices so issued by the concerned Respondents of the State of Assam thereby debarring the Petitioners to trade in Mekhela Chadar on the ground that they violate the Order dated 03.09.2008 as well as the Act of 1985 amounts to violation of the rights under Article 19(1)(g) of the Constitution as well as contrary to the Order dated 03.09.2008 and the Act of 1985.

11. On the other hand, Mr. D. Saikia, the learned Advocate General appearing for the State submitted that the Act of 1985 was enacted for prohibition of manufacture of such Articles or class of Articles by powerlooms in order to protect the handloom weavers mostly concentrated in rural areas. This protection so given by the Act of 1985 is to protect the livelihood of the handloom weavers whose existence are at peril due to the production of all types of items and varieties by the powerloom industry. Referring to the Article 46 of the Constitution, the learned Advocate General, Assam submitted that it is also the duty of the State to promote with special care the educational and economic interests of the weaker sections of the people. Further, referring to Article 43 of the Constitution, the learned Advocate General, Assam submitted that it is also a Directive Principle that the State shall endeavor to promote cottage industries on an individual or cooperative basis in rural areas. The learned Advocate General further referred to paragraph Nos. 61 and 62 of the judgment of the Supreme Court in the case of ***Parvej Aktar and Others (supra),*** and submitted that the handloom sector forms a distinguishable class separated from powerloom sector or mills sector. Therefore, the reservation of certain articles for exclusive production in the handloom sector has the objective of protecting the handloom sector against unequal and powerful competition by the mechanized powerloom/mills sector. Referring to various policies of the Government, the learned Advocate General, Assam submitted that it is also necessary to ensure continued production coupled with sustained employment to the handloom weavers, largely concentrated in the rural areas. The learned Advocate General, Assam further submitted that the Act of 1985 read with the Order dated 03.09.2008 prohibits manufacture and selling of Mekhela Chadar made out of cotton, silk or art silk or any combination of these fabric with any

other synthetic or man made fibre yarn. The learned Advocate General, Assam also submitted that from time to time, the authorities concerned had been requesting the traders association wherein the Petitioners are also members and it had been unanimously accepted by the business organizations such as the Assam Textile Merchant Association, Chamber of Commerce, Assam, not to purchase powerloom made Gamocha, Mekhela Chadar etc. from outside Assam and fully cooperate in enforcement of the Act of 1985 in the State of Assam. In that regard, the learned Advocate General, Assam has placed before this Court the Minutes of the Meeting on the Act of 1985 held on 06.06.2018 as well as the Meeting held on 15.03.2019. During the course of hearing, reference was made to a book ”Elements of Fibre Science” written by William S. Murphy and more particularly to Chapter-III i.e. “Silk” and what constitutes artificial silk.

12. I have heard the learned counsels for the parties and have perused the materials on record. The Act of 1985 was enacted to augment the policy of reservations of certain items for exclusive production by handlooms as was adopted since 1950 under the Cotton Textiles (Control) Order, 1948 and the Essential Commodities Act, 1955. This can be seen from the Statement of Object and Reasons of the Act of 1985 which is quoted hereinbelow.

> “*Statement of Objects and Reasons.— The handloom industry is characterised by sizeable unemployment and under-employment which are due to factors like lack of organisation of weavers, inadequate availability of inputs, including working capital and absence of a regular and reliable marketing system, which can observe the entire production. Of all these the lack of adequate marketing system is one single factor which comes in the way of proper development of handlooms. Although a number of developmental measures have been undertaken towards improvement of the industry yet due to marketing difficulties production*

*in the handloom sector continues to suffer. The inherent technological constraints suffered by the handloom sector put a disadvantage when the sector is forced to compete with mill and powerloom sectors in the open market. It is in this context that reservation of certain items for exclusive production by handloom acquires importance. The policy of reservation of certain items for exclusive production by handloom has been adopted since 1950. First under the Cotton Textiles (Control) Order, 1948 and later under the provisions of the Essential Commodities Act, 1955. This policy has helped the handloom sector to a considerable extent. However, during the last few years, these reservation orders issued under the Essential Commodities Act had been challenged in various courts of law. Though their validity had been upheld it is considered desirable to have a separate legislation so as to obviate the possibility of further litigation which may seriously affect the implementation of the reservation orders. A study group appointed by the Government to go into this question has also suggested that it would be desirable to have a separate legislation. It has been decided to accept this recommendation, this question has also suggested that it would be desirable to have a separate legislation. It has been decided to accept this recommendation.*

*The Bill apart from enabling the Central Government to reserve by notified order certain articles or class of articles for exclusive production by handlooms after taking into consideration the recommendations of an Advisory Committee constituted under the provisions of the Bill, provides for prohibition of manufacture of such articles or class of articles by powerloom or the other sectorism penalties for the contravention of the provisions of the order and other matters necessary for implementing the provisions of the Bill also provides for giving an exemption to certain articles covered by the order if the Central Government considers it necessary so to do for the purposes of the Handloom industry.*

— *V.P. Singh*

*New Delhi*

*The 22nd August, 1984."*

13. The above quoted Statement of Objects and Reasons reveals that the Act of 1985 was aimed at protecting the livelihood of handloom weavers and protecting the cultural heritage of handloom industry from encroachment by the powerlooms. Initially, there were 22 textile articles which were reserved for exclusive production through handlooms. The said Act of 1985 came into force on 31.03.1986 and on 01.04.1986 notification was issued notifying Reservation Order. The Act of 1985 thereupon was put to challenge by the powerloom association from various States before the Supreme Court. The challenge to the said Act of 1985 was brought to rest by dismissing the writ petitions by the Supreme Court in its judgment and order dated 05.02.1993 as reported in ***Parvej Aktar (supra)***. By a notification bearing No. SO No.557E dated 26.07.1996, 22 items which were reserved in the earlier notification were reduced to 11 items but there was no change in the reserved items. Thereafter, from time to time, there were various Reservation Orders issued in exercise of Section 3(1) of Act of 1985 and last of such Reservation Order is dated 03.09.2008.

14. Before analyzing the provisions of the Act of 1985, it is relevant to take note of that the reservations of the Articles under the Act of 1985 does not create any monopoly in favour of handloom industry. It is pertinent to mention that when the Act of 1985 was enacted the handloom industry was the biggest cottage industry in the country and was next only to the agricultural sector in providing rural employment. Therefore, the Act of 1985 was enacted for the

protection of the interest of the handloom weavers, mostly concentrated in rural India. These handlooms weavers were pitted against a powerful sector, namely mills and the powerloom, which resulted in unfair and unequal competition. It was under such circumstances, the National Textile Policy, 1985 which was the most comprehensive policy then on textiles was formulated and the Act of 1985 was also enacted. In the backdrop of the above, let this Court analyse the provisions of the Act of 1985.

15. Section 2 of the Act of 1985 contains the definition Clauses. Section 2(c) defines "manufacturer" to include the producer and processor and the expression "manufacture" had to be construed accordingly. Section 2(e) defines "processor" to mean a person engaged in any ancillary process subsequent to the production of cloth, such as dyeing, bleaching, mercerising, calendaring, embroidering, printing, raising, cloth embossing or any other finishing process but does not include a producer; and the expression "process" had to be construed accordingly. Section 2(f) on the other hand defines "producer" to mean a person engaged in the production of cloth on any loom, other than handloom and shall include a person who owns, works or operates on a loom for the production of cloth, and the expression "produce" had to be construed accordingly. Therefore, a conjoint reading of Sections 2(c), 2(e) and 2(f) of the Act of 1985 would show that a manufacturer includes a producer as well as processor whereas a processor would not come within the ambit of a producer.

16. Section 3 of the Act of 1985 empowers only the Central Government, upon its satisfaction after considering the recommendation made by the Advisory Committee to issue an Order which has to be published in the Official Gazette from time to time that any Article or class of Articles shall on and from such date as may be specified in the Order be reserved for exclusive production by

handlooms. Sub-Section (2) of Section 3 further stipulates that the said Order has to be laid as soon as may be after it is made before the House of Parliament while it is in session, for a total period of thirty days which may comprise of one session or in two or more successive sessions. It may be relevant at this stage to note that the exclusive powers reserved in favour of the Central Government by the Legislature vide Section 3 of the Act of 1985 is of great significance, inasmuch as, the reservation for the exclusive production of handlooms has to be done keeping in mind the national interest, and that aspect of the matter can also be seen in Section 18 of the Act of 1985 which empowers the Central Government only to exempt in the circumstances mentioned in the said Section.

17. Section 4 stipulates the Constitution of the Advisory Board and what matters are required to be considered while making the recommendation.

18. Section 5 stipulates that when an Order is made under Section 3 of the Act of 1985 thereby reserving any Article or class of Articles for exclusive production by handlooms, such Article or class of Articles shall not on and from the date of reservation be produced by any loom, other than handloom. The proviso to Section 5 grants exemption for a period of 3 (three) months to those persons who were engaged in the production of such Articles or class of Articles in any loom other than handloom before the date of reservation of any Article or class of Articles in the Order made under Section 3 of the Act of 1985. Section 6 empowers the Central Government to call for information or to furnish samples. Section 7 empowers an officer authorized by the Central Government to enter and inspect. The power to search and seize is given in Section 8. Section 10 is a penal provision applicable only against a producer as defined in Section 2(f) of the Act of 1985. This Section is relevant inasmuch as the prosecution under

Section 10 of the Act of 1985 can only be launched against a person who produces i.e. a producer within the meaning of Section 2(f) of the Act of 1985. Section 11 of the Act empowers launching of prosecution upon **any person** who fails to comply with any order under Section 6 of the Act of 1985 or fails to comply when required under Section 7 of the Act of 1985.

19. Section 15 empowers the Central Government to delegate the powers to be exercised under the Act of 1985. It is relevant to note that the powers under Sections 3, 18 and 19 cannot be delegated. This Section 15 is very relevant for the purpose of the instant adjudication inasmuch as the power to specify Articles or class of Articles for exclusive production by the handlooms; the power to exempt any Article or class of Articles reserved by an order under Section 3 and the power to make Rules for carrying out the purpose of the Act have been exclusively reserved to the Central Government. The interpretation therefore given in the Document marked with the letter "X" assumes relevance in view of the exclusive reservation of the powers under Section 3 of the Act of 1985 upon the Central Government. At this stage, if this Court takes note of the Annexure-1 enclosed to the affidavit-in-opposition filed by the Respondent - Government of Assam, it would be seen that the powers which have been delegated vide the notification dated 15.12.2000 to the Office of the State/UT, Director/Commissioner In-charge of Handlooms or by whatever name called, are only the powers reserved under Section 6, 7 and 8 i.e. the power to call for information or to furnish sample – Section 6; the power to enter and inspect – Section 7 and the power to search and seize – Section 8. Therefore, the Government of Assam as well as its officials cannot exercise any other power other than powers conferred under Sections 6, 7 and 8 of the Act of 1985. There is nothing brought on record that the Central Government in exercise of

powers under Section 16 of the Act of 1985 issued any direction to the Government of Assam.

20. In the backdrop of the above, let this Court therefore take into account the Reservation Order dated 03.09.2008. A perusal of the said Order reveals that it was issued for the protection and development of handloom industry thereby directing that Articles or class of Articles specified in Column (2) of the Table, shall with the date of coming into effect of the said Order be reserved for exclusive production by the handlooms "upto the range specified in Column (3)". The wordings of the said Order therefore makes it clear that all the Articles or class of Articles specified in Column (2) are not reserved for exclusive production by the handlooms but only those Articles or class of Articles specified in Column (2) up to the range specified in Column (3) are exclusively reserved for handlooms. As the impugned notifications challenged in the batch of writ petitions relate to Gamocha (also called Gamcha) and Mekhela Chadar, this Court finds it relevant to quote Serial No.3(a) and Serial No.11 of the Order which are reproduced herein under:

| SL. No. | Article or class of Articles | Range reserved for exclusive production by handlooms |
|---|---|---|
| (1) | (2) | (3) |
| 3. | (a) Towel and Gamcha | A towel is a fabric woven in plain, mat, twill, honey-comb, huckaback or a combination of these weaves with border and heading and includes-<br>(A) a towel-<br>(i) made of cotton or blends of cotton with any other fibre;<br>(ii) made in different dimensions;<br>(iii) which may be white or coloured; |

| | | |
|---|---|---|
| | | (iv) which may contain decorative design when produced on jacquard; and<br><br>(v) with mat weave, commonly known as Erazha Thorthu in Kerala and Erazha Thundu in Tamil Nadu;<br><br>(B) Gamcha |
| 11 | Chaddar, Mekhela or Phanek | Chaddar, Mekhela or Phanek is used for covering lower and/or upper part of the body and is manufactured from cotton yarn or silk yarn or art silk yarn or in any combination thereof, woven in plain or twill weave with check or stripe design irrespective of count and dimensions and is characterized by a border and/or cross border with extra warp and/or extra weft design and includes-<br><br>(i) Puan of Mizoram;<br><br>(ii) Dhara, Jainsem, Dakmanda, Daksari of Meghalaya;<br><br>(iii) Skirts and Odhana fabrics of Nagaland and Arunachal Pradesh;<br><br>(iv) Riha and Pachara of Tripura;<br><br>(v) Pawade (set) or Dhawani of Andhra Pradesh, Karnataka, Kerala, Tamil Nadu and Pondicherry; and<br><br>(vi) Dakhona, Danka, Khamlet, Phanek of Assam. |

21. From a perusal of Article 3(a), it would reveal from the range specified in Column 3, that a towel is a fabric woven in plain, mat, twill, honey-comb, huckaback or a combination of these weaves with border and heading and includes (A) a towel (i) made of cotton or blends of cotton with any other fibre. The word "any other fibre" appearing in A (i) makes it clear that a towel can be made of cotton or blends of cotton with any other fiber including man made fibre; (ii) made of different dimensions; (iii) may be white or coloured; (iv) which may contain decorative design when produced on Jacquard machine; (v) with mat weave, commonly known as Erazha Thorthu in Kerala and Erazha Thundu in Tamil Nadu. It further reveals that Gamcha is exclusively reserved for

production in handlooms. As the impugned communications not only are restricted to Mekhela Chadar but also Gamocha, this Court finds it relevant to deal with the Article "Gamcha" as mentioned at Serial No.3(a)(B) of the Order dated 03.09.2008.

22. This Court finds it relevant to note that the Article "Gamcha" is a rectangular piece of traditional cloth mostly prevalent in eastern India. The word "Gamcha" comprises of two words "Ga" means body and "Musa" means to wipe. Literally translated, it means "something to wipe the body with". It is however relevant to mention that in Assam "Gamcha" or "Gamocha" or "Gamusa" means the same however phonetically changing depending on the area of use. For example in some of the Lower Assam Districts of Assam, it is commonly referred to as "Gamcha" whereas the said cloth in some of the Upper Assam Districts is commonly referred to as "Gamocha". This Court finds it further relevant to note that although literally "Gamocha" or "Gamcha" means "a cloth to wipe the body" but the said cloth has multifunctional use in Assam. The said cloth is an item held in high esteem and an important marker of cultural identity in Assam. The Gamocha of Assam is mostly woven out of white threads with colourful and intricate inlays in red and therefore meets the range specified at Serial No.3(a) as it is a fabric woven in plain, mat etc. with border and heading. The varieties of Gamochas differ depending on its use. For example, the "Gamocha" used for religious purpose would differ from the "Gamocha" used for other purposes. It is also pertinent at this stage to mention that though traditionally Gamocha is made of cotton in white colour with red borders with artistic embroidery, but for special occasions "Gamocha" is also woven out of traditional Assamese silk. Recently, the Gamocha of Assam had received the GI Tag under the Geographical Indications of Goods (Registration and Protection) Act, 1999. The

GI Tag is registered in favour of Directorate of Handloom and Textiles of Assam.

23. Now coming to Serial No.11 wherein the specified Articles are Chadar, Mekhela or Phanek. The range specified in Column (3) in respect to the Articles mentioned at Serial No.11 are those Chadar, Mekhela or Phanek which are used for covering the lower and/or upper part of the body and is manufactured from cotton yarn or silk yarn or art silk yarn or in any combination thereof. The words "in any combination thereof" are relevant to take note of taking into account the contesting claims of the parties herein. The word "thereof" or other prepositional combinations like "thereto", "therewith" are used in formal writing and means "of it", "of them", "of that", "of those". So the term "in any combination thereof" added after the words "cotton yarn or silk yarn or art silk yarn" would mean cotton yarn or silk yarn or art silk yarn or any combination of them i.e. any combination of cotton yarn, silk yarn and art silk yarn.

24. Therefore, the Articles Chadar, Mekhela or Phanek to come within the ambit of the Reservation Order has to be either manufactured from cotton yarn or silk yarn or art silk yarn or in combination of cotton yarn/silk yarn/art silk yarn. The interpretation so given to Serial No.11 of the Order dated 03.09.2008 vide the document marked with letter "X" as quoted hereinabove also show that to come within the ambit of the Articles at Serial No.11, it has to be either manufactured from cotton yarn or silk yarn or art silk yarn (viscose) or combination of cotton/silk/art silk (viscose). It was also mentioned in the Document marked as "X" that when Chadar, Mekhela or Phanek is manufactured with any other fabric other than cotton/silk/art silk or in combination thereof would be outside the purview of the Reservation Order. It was also clarified that if the Articles at Serial No.11 are manufactured with a fabric or combining/blending a fabric

other than cotton yarn/silk yarn/art silk yarn with cotton yarn/silk yarn/art silk yarn, the same would be outside the purview of the Reservation Order.

25. A question arose during the course of hearing as regards what constitutes art silk yarn. Under such circumstances, this Court finds it relevant to note that cotton yarn is made out of cellulosic fibre whereas silk yarn is manufactured from protein fibre. Art Silk yarn as stated in the document marked with the letter "X" mentions that Art Silk yarn is manufactured from regenerated cellulosic man made fibre with natural resources. In view of the clarity as regards silk yarn and cotton yarn, there is no problem in understanding. The learned counsel for the Respondent State had placed before this Court a book namely "Elements of Fibre Science" written by William S. Murphy. In Chapter-3, artificial silk, wood-pulp silk and the various artificial silk have been explained. The relevant portion are quoted hereinunder:

> *"**Artificial Silks**.— Having acquired the knowledge that silk is composed mainly of a fibrinous substance, in which organic action plays a small part, chemists have been encouraged to attempt artificial production of the fibre. Many of the productive processes are too elaborate and technical to be followed intelligently by persons who are not learned in chemistry, but it is important that we should know the nature of the more successful of those compounds. Though for a long time regarded as mere laboratory exercises, the production of artificial silks has become industrially and commercially successful.*
>
> ***Wood-pulp Silk**.— The manufacturer of wood-pulp silk treats a cotton or wood pulp with nitric and sulphuric acid to convert it into nitro-cellulose. This is dissolved in ether and alcohol. The solution is driven through minute apertures and solidified in the shape of fine fibres. When spun, the substance is a silky, lustrous fibre which serves very well as weft for some silk fabrics.*

> ***Various Artificial Silks***.— *Many inventors have devised special processes for making artificial silks, but the majority may be grouped in some one of the following four divisions: 1, Pyroxylin silks; solutions of gun-cotton in alcohol and ether, variously treated; 2, fibres made from solution of cellulose, dissolved in ammoniacal solution of copper oxide or chloride of zinc; 3, viscose silk, made of the solution of thiocarbonate of cellulose; 4, gelatin silks, usually filaments of gelatin treated with formaldehyde."*

26. From the above, it would therefore be seen that to come within the ambit of artificial silk, there has to be an element of cellulose which is plant fibre and the same is treated with various forms of chemicals which leads to manufacture of the artificial silk. It would also be seen that while manufacturing artificial silk, the methods may differ to some extent in regard to the raw materials used and also in the chemical treatment employed and in that regard, the respective products vary from each other in regard to the strength, fineness, luster, permeability, moisture, etc. However, the essential feature of their manufacture consist of succession of chemical process applied to cellulose, derived generally from wood or cotton. For example, while manufacturing viscose; the method used is sulphite wood-pulp, obtained from pine or spruce logs, form the raw materials. The cellulose is first converted into viscous-pulp, which is then squeezed through small nozzles and emerges in the form of continuous filaments, which after further chemical treatment can be converted into yarn by "doubling process".

27. In the backdrop of the above, let this Court therefore take into consideration as to how synthetic yarns are produced inasmuch as it is the specific case of the Petitioners that they trade in synthetic yarn or blends of synthetic yarn with cotton and artificial silk yarn. As regard polyester which is a

synthetic yarn used in the goods traded by the Petitioners, it is made from a type of plastic called Polyethylene Terephthalate (PET) which is derived from petrochemicals. The process involves melting the PET and extruding it through spinnerets. Thereupon, the molten PET comes into contact with cool air or water and it solidifies into long, fine threads and these threads are then twisted together to form polyester yarn. Another synthetic yarn is polypropylene which is made from a type of plastic called polypropylene which is also derived from petrochemicals. Another type of synthetic yarn is Nylon which is also a combination of petrochemicals and chemical reactions.

28. This Court further finds it relevant at this stage to take note of the Encyclopaedia Britannica wherein "man made fibre" was explained. Relevant portion of the same is reproduced herein below:

> "***Man-made fibre -*** *fibre whose chemical composition, structure, and properties are significantly modified during the manufacturing process. Man-made fibres are spun and woven into a huge number of consumer and industrial products, including garments such as shirts, scarves, and hosiery; home furnishings such as upholstery, carpets, and drapes; and industrial parts such as tire cord, flame-proof linings, and drive belts. The chemical compounds from which man-made fibres are produced are known as polymers, a class of compounds characterized by long, chainlike molecules of great size and molecular weight. Many of the polymers that constitute man-made fibres are the same as or similar to compounds that make up plastics, rubbers, adhesives, and surface coatings. Indeed, polymers such as regenerated cellulose, polycaprolactam, and polyethylene terephthalate, which have become familiar household materials under the trade names rayon, nylon, and Dacron (trademark), respectively, are also made into numerous nonfibre*

*products, ranging from cellophane envelope windows to clear plastic soft-drink bottles. As fibres, these materials are prized for their strength, toughness, resistance to heat and mildew, and ability to hold a pressed form.*

*Man-made fibres are to be distinguished from natural fibres such as silk, cotton, and wool. Natural fibres also consist of polymers (in this case, biologically produced compounds such as cellulose and protein), but they emerge from the textile manufacturing process in a relatively unaltered state. Some man-made fibres, too, are derived from naturally occurring polymers. For instance, rayon and acetate, two of the first man-made fibres ever to be produced, are made of the same cellulose polymers that make up cotton, hemp, flax, and the structural fibres of wood. In the case of rayon and acetate, however, the cellulose is acquired in a radically altered state (usually from wood-pulp operations) and is further modified in order to be regenerated into practical cellulose-based fibres. Rayon and acetate therefore belong to a group of man-made fibres known as regenerated fibres.*

*Another group of man-made fibres (and by far the larger group) is the synthetic fibres. Synthetic fibres are made of polymers that do not occur naturally but instead are produced entirely in the chemical plant or laboratory, almost always from by-products of petroleum or natural gas. These polymers include nylon and polyethylene terephthalate, mentioned above, but they also include many other compounds such as the acrylics, the polyurethanes, and polypropylene. Synthetic fibres can be mass-produced to almost any set of required properties. Millions of tons are produced every year.*

29. From the above, therefore it would be seen that artificial silk is a product

which is manufactured by applying chemical process to the cellulose whereas the synthetic yarns such as Polyester, Polypropylene, Modacrylic, Nylon are created by melting plastic based materials derived from petrochemicals. Therefore, the Articles at Serial No.11 i.e. Chadar, Mekhela or Phanek manufactured with cotton yarn/silk yarn/artificial silk yarn or in any combination thereof are only reserved for exclusive production by handlooms. However, if the Articles at Serial No.11 of Column 1 of the Order dated 03.09.2008 are manufactured with synthetic yarn or a combination of synthetic yarn with cotton yarn/silk yarn/art silk yarn, the said Articles in the opinion of this Court would not come within the purview of the Reservation Order dated 03.09.2008. The stand of the State of Assam that selling of Mekhela Chadar made out of cotton/silk or art silk or any combination of these yarns with any other synthetic or man made fibre yarn would come within the purview of the Reservation Order in the opinion of this Court runs counter to the Reservation Order dated 03.09.2008. This Court is further of the opinion on the basis of the above analysis that the Act of 1985 do not empower the State of Assam or its authorities to take steps beyond the Reservation Order dated 03.09.2008 as by virtue of Section 3, it is only the Central Government who is empowered to do so. Therefore the Articles at Serial No.11 viz. Chadar, Mekhela, Dakhana etc. which do not come within the range of Column (3) cannot be prohibited by the Respondent Authorities of the State of Assam under the provisions of the Act of 1985.

30. At this stage, this Court finds it relevant to clarify that Gamocha of Assam so manufactured would come within the ambit of the Reservation Order at Serial No.3(a) and therefore the Respondent Authorities of the State of Assam would be justified in initiating actions under the Act of 1985 to the extent the powers

have been delegated by the Central Government vide the Notification dated 15.12.2000. Furthermore, as the Gamocha of Assam had received the GI Tag under the provisions of the Geographical Indications of Goods (Registration and Protection) Act, 1999 and is registered in favour of the Directorate of Handlooms and Textiles of Assam, the provisions comprised in Chapter VIII of the said Act would apply. Relevant herein is Section 39 and 40 of the said Act whereby penal provisions are stipulated for applying false Geographical Indications as well as for selling goods to which false Geographical Indications is/are applied.

31. In that view of the matter, the instant batch of writ petitions stands disposed of with the following observations and directions:

(i) The Articles at Serial No.11 of Column (1) of the Order dated 03.09.2008 i.e. Chadar, Mekhela and Phanek are reserved for exclusive production by handlooms up to the range specified in Column (3). The said Articles i.e. Chadar, Mekhela or Phanek if manufactured with cotton yarn or silk yarn or art silk yarn or in any combination of cotton yarn/silk yarn/art silk yarn would come within the ambit of the Reservation Order dated 03.09.2008. However, if the said Articles i.e. Chadar, Mekhela or Phanek are manufactured with synthetic yarn or blend of cotton yarn/silk yarn/art silk yarn with any synthetic yarn, the said Articles would be outside the Reservation Order dated 03.09.2008 and the State of Assam and its officials cannot restrict the manufacture or sale of such Articles in exercise of the powers conferred under the Act of 1985 as well as the Reservation Order dated 03.09.2008.

(ii) The Article "Gamcha" is an Article reserved in Serial No.3(a) for exclusive production of the handlooms. Under such circumstances, the impugned

notices/notifications whereby there is a ban upon sale of Gamchas/Gamochas/Gamusa manufactured in powerlooms is not interfered with.

(iii) It is further held that all Chadar, Mekhela or Phanek are not exclusively reserved for handloom production save and except those which are manufactured from cotton yarn or silk yarn or art silk yarn or in any combination thereof. Therefore, those Chadar, Mekhela or Phanek manufactured with synthetic yarn such as Polyester, Polypropylene, Modacrylic, Nylon or blends of cotton yarn/silk yarn/artificial silk yarn with synthetic yarns are outside the purview of the Reservation Order dated 03.09.2008. The impugned notices/notifications so issued banning sale of Mekhela Chadar which do not come with the range mentioned in Column (3) of the Reservation Order dated 03.09.2008 as indicated and explained above are interfered with to that extent.

32. The instant batch of writ petitions are allowed to the extent indicated hereinabove. The records so submitted by Mr. R. Dhar, the learned counsel for the Sericulture Department be returned through the Court Master of this Court.

**JUDGE**

**Comparing Assistant**