

GAHC010019432020



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

**Case No. : WP(C) 575/2020**

1:HINDUSTAN PAPER CORPORATION LTD. OFFICERS AND SUPERVISORS  
ASSOCIATION AND 2 ORS.

HAVING ITS REGISTERED OFFICE AT KAGAJ NAGAR, JAGIROAD, DIST.  
MORIGAON, ASSAM, REP. BY ITS GENERAL SECRETARY SRI KRISHNA  
KANTA SUTRADHAR

2: HEMANTA KUMAR KAKATI  
S/O LT. KESHOB CHANDRA KAKATI  
R/O HPC TOWNSHIP  
C 18/4  
KAGAJ NAGAR  
ASSAM  
JAGIROAD  
DIST. MORIGAON  
ASSAM  
PIN-782413

3: KRISHNA KANTA SUTRADHAR  
S/O AMULYA SUTRADHAR  
R/O HPC TOWNSHIP B 9/4 KAGAJ NAGAR  
ASSAM  
JAGIROAD  
DIST. MORIGAON  
ASSAM  
PIN-78241

VERSUS

1:THE UNION OF INDIA AND 6 ORS.  
REP BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF HEAVY  
INDUSTRIES ANS PUBLIC ENTERPRISES, GOVT OF INDIA, UDYOG  
BHAWAN, NEW DELHI-110011

2:HINDUSTAN PAPER CORPORATION LTD.  
REP .BY ITS CHAIRMAN CUM MANAGING DIRECTOR  
HAVING ITS CORPORATE HEAD QRTR AT KOLKATA  
75-C  
PARK STREET  
WEST BENGAL AND REGISTERED OFFICE AT NEW DELHI  
4 THE FLOOR  
SOUTH TOWER  
SCOPE MINAR  
LAXMI NAGAR DIST CENTRE  
NEW DELHI-110092

3:HINDUSTAN PAPER CORPORATION LTD.  
EMPLOYEES CONTRIBUTORY PROVIDENT FUND TRUST  
REP. BY CHAIRMAN OF BOARD OF TRUSTEES  
KOLKATA  
75-C  
PARK STREET  
WEST BENGAL

4:THE REGIONAL PROVIDENT FUND COMMISSIONER EPFO  
REGIONAL OFFICE AT PARK STREET  
KOLKATA

5:THE EMPLOYEES PROVIDENT FUND  
REP. BY THE ADDITIONAL CENTRAL PROVIDENT FUND COMMISSIONER  
HAVING ITS OFFICE AT BHAVISHYA NIDHI BHAWAN  
G.S. ROAD  
BHANGAGARH  
GUWAHATI-781005

6:INCOME TAX DEPTT.  
REP.BY THE CHIEF COMMISSIONER OF INCOME TAX  
NORTH EASTERN REGION  
HAVING ITS OFFICE AT AAYKAR BHAWAN  
G.S. ROAD  
CHRISTAN BASTI  
GUWAHATI-781005

7:KULDEEP VERMA  
THE OFFICIAL LIQUIDATOR 46  
B.B. GANGULY STREET  
5TH FLOOR  
ROOM NO. 501  
KOLKATA-70002

**Advocate for the Petitioner** : MR. K N CHOUDHURY

**Advocate for the Respondent** : ASSTT.S.G.I.

**BEFORE**  
**HON'BLE THE CHIEF JUSTICE (ACTING) MR. N. KOTISWAR SINGH**  
**HON'BLE MR. JUSTICE MANISH CHOUDHURY**

**:: ORDER ::**

**30.09.2020**

***[N. Kotiswar Singh, CJ(Acting)]***

The Court proceedings have been conducted through Video-Conference.

Heard Mr. K. N. Choudhury, learned senior counsel assisted by Mr. R. Singha, learned counsel for the petitioners. Also heard Ms. P. Das, learned counsel assisting Mr. S.C. Keyal, learned ASGI for respondent No. 1; Mr. Vivek Sibal, learned counsel appearing for respondent Nos. 2 & 7; Mr. P. K. Roy, learned counsel appearing for respondent Nos. 4 & 5 and Mr. S. Sarma, learned Standing Counsel, Income Tax Department appearing for respondent No. 6.

The relief claimed in this petition, *inter-alia*, is for declaration to the effect that the Insolvency and Bankruptcy Act, 2016 and the provisions of Section 3(8), Section 3(23) and Section 238 and Section 7, 8 and 9 are unconstitutional and ultra vires and not applicable in the case of a Government company and for setting aside the order dated 02.05.2019 (Annexure-20) passed by the National Company Law Tribunal, New Delhi and other related orders issued in that regard.

The contention of the petitioners is primarily based on the submission that the Nagaon Paper Mill under Hindustan Paper Corporation Limited is a Government Company, not covered by the aforesaid Code and as such, not amenable to the jurisdiction of NCLT. Further, learned senior counsel for the petitioners has referred to the observation made by the NCLT in their order dated 02.05.2019 passed in (IB)-418 (ND)/2018 that the NCLT is not vested with the jurisdiction to redress the grievances of the workers claiming their due salaries.

Mr. Vivek Sibal, learned counsel appearing for the respondent Nos. 2 and 7, however, has submitted on the strength of the decision of the Hon'ble Supreme Court in **Hindustan Construction Company Limited and Anr. Vs. Union of India and Ors., reported in 2019 SCC OnLine SC 1520** that the Government Companies would also fall within the ambit of the Insolvency and Bankruptcy Code, 2016 and thus be amenable to the jurisdiction of NCLT.

The matter will be considered further again on 06.10.2020.

Copy of the writ petition may be made available to the respondents by the petitioners in the meantime.

**JUDGE**

**CHIEF JUSTICE (ACTING)**

**Comparing Assistant**