

GAHC010003382020



2026:GAU-AS:3481

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

**Case No. : PIL(Suo Moto)/1/2020**

XXXX  
GUWAHATI, ASSAM

VERSUS

IN RE - THE STATE OF NAGALAND AND 7 ORS  
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF  
NAGALAND AND MEMBER SECRETARY OF MINISTERIAL GROUP,  
NAGALAND PETROLEUM AND NATURAL GAS BOARD, GOVERNMENT OF  
NAGALAND, KOHIMA

2:THE HONOURABLE CHIEF MINISTER  
AND CHAIRMAN  
MINISTERIAL GROUP  
NAGALAND PETROLEUM AND NATURAL GAS BOARD  
GOVERNMENT OF NAGALAND  
KOHIMA

3:THE CHAIRMAN  
NAGALAND PETROLEUM AND NATURAL GAS BOARD  
GOVERNMENT OF NAGALAND  
KOHIMA

4:THE MEMBER SECRETARY  
OF NAGALAND PETROLEUM AND NATURAL GAS BOARD  
GOVERNMENT OF NAGALAND  
KOHIMA

5:THE SECRETARY TO THE GOVT. OF NAGALAND  
DEPARTMENT OF GEOLOGY AND MINING  
GOVERNMENT OF NAGALAND  
KOHIMA

6:THE DIRECTOR  
DIRECTORATE OF GEOLOGY AND MINING  
GOVERNMENT OF NAGALAND  
DIMAPUR

7:THE METROPOLITAN OIL AND GAS PVT. LTD.  
1A  
MALL ROAD  
SHANTI KUNJ  
VASANT KUNJ  
NEW DELHI - 110070

8:UNION OF INDIA  
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA  
MINISTRY OF PETROLEUM AND NATURAL GAS

**Advocate for the Petitioner** : MR. C T. JAMIR, MR. W JAMIR,MR. A PONGENER

**Advocate for the Respondent** : MR. T B JAMIR, MS B DAS (R7),MR S DUTTA (R7),MR A DASGUPTA (R7),MR. K KALITA,S N SARMA,MS. V SUOKHRIE,MR. S DUTTA,MR. K A RONGMEI,MR P SURIEN,MR. C SHARMA,MS. A WALLING

**BEFORE**  
**HONOURABLE MR. JUSTICE KALYAN RAI SURANA**  
**HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

Amicus Curiae	Mr. C.T. Jamir, Senior Advocate assisted by Mr. Aliba Ozukum, Advocate
Standing counsel for High Court	Mr. Apok Pongener, Advocate.
For respondent nos.1 to 6	Mr. K.N. Balgopal, Advocate General, assisted by Mrs. T. Khro, Addl. A.G., Ms. M. Kechii, Addl. A.G., Ms. Nitya Nambiar, Mr. Vitso Rio, Mr. Y.B. Aggarwal, Mr. V. Kense, Advocates.
For respondent no.7	Mr. A. Dasgupta and Mr. S. Dutta, Senior Advocates, with Mr. S. Dutta, Advocate.
For respondent no.8	Mr. Vivek Kohli, Senior Advocate, assisted by Mr. K. Kalita, and Mr. S. Baruah, Advocates.
Date of hearing	24.01.2023, 14.02.2023, 18.07.2024, 25.07.2024, 08.08.2024, 19.08.2024, 09.09.2024, 21.11.2024, 25.03.2025, 26.03.2025, 13.05.2025, 14.05.2025,

27.05.2025, 28.05.2025, 29.05.2025, 03.06.2025, 17.06.2025, 24.07.2025, 20.11.2025.
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**Date on which judgment is reserved : 20.11.2025**

**Date of pronouncement of judgment : 10.03.2026**

**Whether the pronouncement is of the operative part of the judgment? : No.**

**Whether the full judgment has been Pronounced? : Yes.**

## **JUDGMENT AND ORDER**

**(CAV)**

(K.R. Surana, J)

Heard Mr. C.T. Jamir, learned senior counsel, appearing as Amicus Curiae in the matter, assisted by Mr. Aliba Ozukum, learned counsel; Mr. Apok Pongener, learned standing counsel for the Kohima Permanent Bench of this Court; Mr. K.N. Balgopal, learned Advocate General for the State of Nagaland, representing respondent nos. 1 to 6, assisted by Mrs. T. Khro, learned Addl. Advocate General; Ms. M. Kechii, learned Senior Government Advocate, Ms. Nitya Nambiar, and Mr. Vitso Rio, Advocates; Mr. A. Dasgupta, learned senior counsel, with Mr. S. Dutta, learned senior counsel, assisted by Mr. S. Dutta, learned counsel for respondent no. 7; and Mr. Vivek Kohli, learned senior counsel, assisted by Mr. K. Kalita, and Mr. S. Baruah, learned senior counsel for the respondent no. 8.

2) Initially this PIL was filed before the Kohima Bench of this Court by Lotha Hoho and two others, *inter alia*, praying for (a) quashing and setting aside of the Nagaland Petroleum and Natural Gas Regulations, 2012; (b) quashing and setting aside of the Nagaland Petroleum and Natural Gas Rules, 2012; (c) to quash and set aside invitation for expression of interest issued by

Chairman, Nagaland Petroleum and Natural Gas Board; (d) to set aside and quash notification dated 18.12.2012 issued by the Chairman, Nagaland Petroleum and Natural Gas Board; (e) to quash and set aside the permit dated 28.02.2014; (f) to declare null and void all actions done in pursuance to the aforesaid 2012 Regulations and 2012 Rules; (g) to direct the respondents to act strictly in accordance with Article 371-A and the relevant Acts and Rules for exploration and extraction of petroleum and natural gas in Nagaland; (h) to direct the respondents to conduct a detailed inquiry/ study regarding environmental damages that may occur due to exploration and extraction of petroleum and natural gas and to take remedial measures for conservation; (i) to direct the respondents to conduct genuine consultation with the petitioner and the aggrieved land owners to protect their interest, ownership, and workout a detailed modality for a comprehensive royalty before any exploration and extraction of petroleum and natural gas; and for any orders as this Court may deem fit and proper. The said PIL was registered as PIL No. 4(K)/ 2015.

3) In the course of proceedings, the original writ petitioners had filed I.A.(C) No. 2(K)/2019 for allowing withdrawal of the said PIL. Accordingly, this Court by an order dated 04.02.2019, while absolving the petitioners from the said PIL, directed the Registry to register a *suo motu* PIL. Accordingly, *Suo Motu* PIL No. 1(K)/2019 was registered. The Hon'ble The Chief Justice, on the administrative side, by order dated 03.01.2020, had directed that this PIL be transferred to the Principal Seat of this Court.

*Submissions by the learned Amicus Curiae:*

4) The learned Amicus Curiae has taken immense pain to meticulously refer to the history of the creation of the State of Nagaland as the

16<sup>th</sup> State of the Union of India by the Constitution (Thirteenth Amendment) Act, 1962 with effect from 01.12.1963. It was submitted that the creation of the State was preceded by a 16 Point agreement, which was a political agreement between the Govt. of India and the leaders of the Naga People's Convention in July, 1960, which was the basis of insertion of the provision of Article 371-A in the Constitution of India. It has been submitted that the Constitution of India already had the provision of Entry 53 in the List-I of the Seventh Schedule, nonetheless, the Constitution of India was amended by Constitution of India (Thirteenth Amendment) Act, 1962 and Article 371-A came to be inserted as a special provision with respect to the State of Nagaland.

5) It was submitted that as per the provision of Article 371-A (1) (a) of the Constitution of India, it was provided that notwithstanding anything in the Constitution, no Act of parliament in respect of (i) Religious or Social Practices of the Nagas, (ii) Nagaland Customary Law and Procedure, (iii) Administration of Civil and Criminal Justice involving decisions according to Naga Customary Law, and (iv) Ownership and Transfer of Land and its Resources, shall apply to the State of Nagaland unless the Legislative Assembly of Nagaland by a resolution so decides. Accordingly, it is submitted that the provision of Article 371-A is the absolute right of the State and would have overriding effect over all other Articles of the Constitution of India. Accordingly, it is submitted that the said provision can be construed to enable the Nagaland Legislative Assembly with the power to enact the Nagaland Petroleum and Natural Gas Regulations, 2012 vide analogous resolution taken on 26.07.2010, followed by notification dated 07.12.2012 of the Nagaland Petroleum and Natural Gas Rules, 2012.

6) It has been submitted that from the date when the provision of

Article 371-A was brought into the Constitution of India, Articles 245, 246, 248, 249 and 254 of the Constitution of India and List I, List II, and List III of the Seventh Schedule to the Constitution of India as existed then were already there. Accordingly, it must be presumed that the Parliament was aware of those provisions and took a conscious decision to bring in the Constitution (Thirteenth Amendment) Act, 1962 and inserted Article 371-A in the Constitution of India w.e.f. 01.12.1963.

7) By referring to the provisions of the Nagaland (Ownership and Transfer of Land and its Resources) Act, 1990, which was published in the Nagaland Gazette Extraordinary dated 06.07.1993 as well as the Rules for Administration of Justice and Police in Nagaland, 1937, it is submitted that the land and its resources belonged to the people of Nagaland. It is also submitted that under the provision of the 6<sup>th</sup> Schedule to the Constitution of India, unlike the rest of the Country, the people of Nagaland are the owners of the land and not the government. Moreover, under Article 371-A (1)(a)(iv), it is specifically provided that no Act of Parliament in respect of ownership and transfer of land and its resources shall apply to the State of Nagaland unless, the Legislative Assembly of Nagaland, by a resolution so decides.

8) In the aforesaid context, it has been submitted that if the Union Laws regarding ownership and transfer of land and its resources do not apply to the State of Nagaland, impliedly the State Government would not be powerless to enact the 2012 Regulations and 2012 Rules. It is submitted that if the Union Laws do not apply, it cannot be the intention of the Constitution that there would be an eternal vacuum and therefore, as the land would include resources which are over the land and below the land, impliedly the State would have the power to make laws. In this regard, extensive reference was made to the

statement of the aims and objects of the Constitution Amendment Bill for inserting Article 371-A in the Constitution of India as well as to the Parliamentary Debates on the proposed amendment, specifically by one of the then Members of Parliament from Assam.

9) The learned Amicus Curiae has also referred to the orders passed on 08.02.2019, 15.03.2021, 14.02.2023 and 09.04.2024 wherein the issue regarding maintainability of this PIL was formulated. Accordingly, it is submitted that the PIL be first heard on issue of maintainability. However, having noted that as there has already been a delay in adjudication of this PIL, by order dated 25.07.2024, the Court proposed to hear the matter on merit and maintainability.

10) In order to support his submission that ordinarily, the High Court should not entertain a writ petition by way of PIL questioning the constitutionality or validity of a statute or statutory rules, the learned Amicus Curiae has cited the case of *Guruvayoor Devaswom Managing Committee & Anr. v. C.A. Rajan and Ors., (2003) 7 SCC 546.*

11) The following cases were also cited by the learned Amicus Curiae:

- (i) *South India Corporation (P) Ltd. v. Secretary, Board of Revenue, Trivandrum & Anr., AIR 1964 SC 207 (para-18 & 19),* to stress on the powers under Article 371 of the Constitution of India, which is subject to Articles 277 and 278 of the Constitution of India.
- (ii) *Mineral Area Development Authority & Anr., v. Steel Authority of India & Anr., (2024) 10 SCC 1 (para 181 & 182),* to stress on the point that in a private property, all resources belong to the owner and the

owner alone decides how to use them and others cannot claim right over that property, including rights over the minerals like extraction and selling minerals.

(iii) *Bimolangshu Roy v. State of Assam & Ors., (2018) 14 SCC 408 (para 29 & 30)*, to support the point that the Seventh Schedule entries only mark the subjects legislatures can make laws on, they are not themselves the source of legislative powers and that while interpreting an entry in the Seventh Schedule, the Court must consider the broader Constitutional scheme, relevant to that entry.

(iv) *In Re: Section 6-A of the Citizenship Act, 1955, 2024 SCC OnLine SC 2880 (para 198 to 200)*, to support his submissions that India's federal system allows special agreements between the Union and the individual States to address unique regional needs, Provisions like the Assam Accord, Articles 371-A, 371-G and 332(6) shows this asymmetric federalism, giving States differential treatment because each State has unique historical circumstances.

12) The learned Amicus Curiae has submitted a written note of submissions, which is retained on record.

*Submissions on behalf of respondent no.8:*

13) On the issue of maintainability of this PIL, the learned senior counsel for respondent no.8 has submitted that the cause title of this PIL would reflect that there are several third parties including the Nagaland Petroleum and Natural Gas Board and its officials as well as the Director of Geology and Mining, Govt. of Nagaland are in the array of respondents in the writ petition. Accordingly, it is submitted that this Court would have the competence to decide

the issues raised in the writ petition under Article 226 of the Constitution of India notwithstanding the provision of Clause (a) of Article 131 of the Constitution of India. It has been submitted that in this PIL, the Oil India Limited (respondent no. 8) and the Metropolitan Oil & Gas Pvt. Ltd. (respondent no. 7) are also parties and therefore, the dispute has to be raised before the High Court and not before the Supreme Court of India under Clause (a) of Article 131 of the Constitution of India. It has also been submitted that the question under Clause (a) of Article 131 of the Constitution of India must relate to dispute between the State Governments or the Union and the State Government alone.

14) It has been submitted that in a PIL, the High Court would have jurisdiction to set aside the Nagaland Petroleum and Natural Gas Regulations, 2012 and the Nagaland Petroleum and Natural Gas Rules, 2012, framed thereunder. In other words, it has been submitted that there is no bar in a PIL to examine the *vires* of Act, Regulations and Rules. In support of his submission, reliance has been placed on the decision of the Supreme Court of India in the case of the *State of West Bengal v. Union of India*, (2024) 0 INSC 502: (2024) 0 Supreme (SC) 566 (Original Suit No. 4/ 2021 decided on 10.07.2024). Moreover, reliance is also placed on the case of *Guruvayoor Devaswom Managing Committee & Anr. (supra)*, *Rakesh Vaishnav & Ors. v. Union of India & Ors.*, W.P. (C) 118/2020, decided by Supreme Court of India on 12.01.2021, *Kallu v. Union of India & Anr.*, W.P.(C) 2495/2024, decided by Division Bench of Delhi High Court on 20.02.2024.

15) The learned Senior Counsel for the respondent no.8 i.e. the Union of India has submitted that the State does not have the legislative competence to make the Nagaland Petroleum and Natural Gas Regulations,

2012 and the Nagaland Petroleum and Natural Gas Rules, 2012 as the Union law, being the Oilfields (Regulation and Development) Act, 1948 is holding the field. It is submitted that the only effect of Article 371-A of the Constitution of India would be to enable the State Legislature of the State of Nagaland the power either to give its assent that the Union Act would or not apply in the State. It has been submitted that resultantly, the State is not required to obtain the Presidential assent that the Union Act will not apply to the State of Nagaland. It is submitted that the State of Nagaland may not allow a Union law to be made applicable in the State in view of the provisions of Article 371-A (1) (a)(iv) of the Constitution of India, which is a disabling provision, but it would not mean that competence would flow from Article 371-A to the State to make law on exploration and extraction of mineral oil and natural gas for which power to make law is reserved for the Union Government under Entry 53 of List-I of the Seventh Schedule to the Constitution of India.

16) It is also submitted that List II and List III of the Seventh Schedule to the Constitution of India do not have residuary provision like Entry 97 of List I. Similarly by referring to the provision of Articles 245, 246, 248 and 265 of the Constitution of India, it is sought to be projected that the power to impose tax cannot be outside the scope of List II and accordingly, it is submitted that Entries 18 and 23 of List II can be co-related to Entry 54 of List I.

17) By referring to the resolution dated 26.07.2010, adopted in the Nagaland Legislative Assembly, it has been submitted that under Article 371-A of the Constitution of India, the Nagaland Legislative Assembly had the power not to accept an Act of the Parliament but they do not have the power to reject the same. It has been submitted that as Article 371-A of the Constitution of India starts with a non-obstante clause which prescribes that "no Act will apply",

meaning thereby that there is no need to pass any negative resolution by the Assembly. Accordingly, it has been submitted that the legislative power cannot be exercised by the Nagaland Legislative Assembly, as has been done vide resolution dated 26.07.2010. In this regard, the case of *Union of India v. Ganesh Rice Mills & Anr., (1998) 9 SCC 630*, has been cited.

18) It is submitted that the case of the State of Nagaland is based on the statement made by the then Minister of Petroleum & Natural Gas, Govt. of India, bearing D.O. No. O-32011/8/2013-ONG-I/46, dated 21.11.2013, wherein, it was stated that the State would have competence to enact its own laws and therefore, principles of promissory estoppel is sought to be invoked by the State. It has been submitted that subsequently, vide letter issued by the then Minister of State (I/C), Petroleum & Natural Gas, Govt. of India vide D.O. No O-32011/8/2013-ONG.I/3441, dated 06.11.2015, the previous statement by the same authority has been substituted. In this regard, by referring to the decision of the Supreme Court of India in the case of *State of Karnataka v. K.K. Mohandas & Anr., (2007) 6 SCC 484*, it has been submitted that the principles of promissory estoppel would not apply as statement of Minister either by way of a letter or by way of statement made in the Parliament would not operate as estoppel against constitutional provisions and would not confer legislative competence.

19) It has been submitted that "land" and "resources" appear in various entries in the Seventh Schedule to the Constitution of India, and in this regard, reference has been made to Entry nos. 1, 2, 5, 6, 11A, 12, 13, 15, 17A, 20A, 28, 42, etc. of List III. But as per Entry 23 read with Entry 24 of List-I, the power to legislate with regard to "regulation of mines and mineral development" vests exclusive to the Union Government and moreover, by referring to Entry 54

of List-I, it has been submitted that in the exercise of power to regulate and develop mines and minerals including petroleum oil, no proprietorship right over land is sought to be obtained. On the point that no proprietary right is affected by the Oilfields Regulation and Development Act, 1948, the case of *Threesiamma Jacob v. Geologist, Dept. of Mining & Geology, (2013) 9 SCC 725*, has been referred to. It has been submitted that Entry 25 in List-II is only for manufactured gas and gas works and does not infringe exclusive power of the Union Government to legislate in respect of regulation and development of Petroleum oil. Thus, it has been submitted that in respect of items under List-I, the power of the Union Government is paramount. Accordingly, it has been submitted that the State Government of Nagaland is attempting to bypass the Central Act to initiate its action for regulation and development of petroleum oil and mineral oil resources by tendering the work. In the said context, the case of *Calcutta Gas Company v. State of W.B. &Ors., AIR 1962 SC 1044*, has been cited.

20) It has been submitted that in this case the principles of interpretation of "pith and substance" has to be invoked. It has been submitted that while the prescription of Article 371-A of the Constitution of India contains special provisions for the State of Nagaland, the broad intent of the Oilfields (Regulation and Development) Act, 1948, is to deal with the regulation and development of an oilfield, and Section 3(c) thereof provides that "mineral oil" includes "natural gas". Thus, by referring to the said Oilfields (Regulation and Development) Act, 1948, including Section 4 thereof, it has been submitted that none of the provisions thereof infringes the constitutional protection conferred under Article 371-A of the Constitution of India, safeguarding ownership and transfer of land and its resources. On a query of the Court, it has been

submitted that petroleum oil and natural gas have to be extracted from about 2 km below earth's surface and therefore, regulatory laws are required and it cannot be left unregulated, which would invite man-made disaster.

21) It has been further submitted that as per instructions received by him, about 84% of the Country's energy is imported and therefore, there is no reason why such a valuable resources available in the Country should be left unregulated. It was also submitted that the State of Nagaland does not have the technical expertise to regulate the exploration and extraction of petroleum oil and natural gas.

22) Thus, it has been submitted that the Nagaland Petroleum and Natural Gas Regulations, 2012, and the Nagaland Petroleum and Natural Gas Rules, 2012, framed thereunder are liable to be struck down, being *ultra vires* the Constitution of India, as the Nagaland Legislative Assembly does not have the legal and constitutional competence to enact laws relating to the regulation and development of petroleum and natural gas.

23) In support of his submissions, the learned Senior counsel for respondent no.8 has also cited the following cases, viz., (i) *Association of Natural Gas & Ors. v. Union of India & Ors.*, (2004) 4 SCC 489 (para 41 & 43), (ii) *Synthetics and Chemicals Ltd. v. State of U.P. & Ors.*, (1990) 1 SCC 109 (para 66 & 67), (iii) *Satheedevi v. Prasanna & Anr.*, (2010) 5 SCC 622 (para 12 & 13), (iv) *Kuldip Nayar & Ors. v. Union of India & Ors.*, (2006) 7 SCC 1 (para 50 – 73), (v) *Union of India v. H.S., Dhillon*, (1971) 2 SCC 779 (pp.812), (vi) *Union of India & Ors. v. Ganesh Rice Mills & Ors.*, (1998) 9 SCC 630 (para-2), (vii) *State of Karnataka and Another v. K.K. Mohandas and Others*, (2007) 6 SCC 484 (para 22, 23, 24, 27 and 28), (viii) *Mineral Area Development Authority v. Steel Authority of India*, (2024) 10 SCC 1, (ix) *Mineral Area Development Authority v.*

*Steel Authority of India, (2024) 10 SCC 1 (para 132, 135, 137), (x) Thresdiamma Jacob v. Deptt. of Mining and Geology, (2013) 9 SCC 725 (para 55 & 57), (xi) Association of Natural Gas and Others v. Union of India, (2004) 4 SCC 489 (para 41 and 43), (xiii) R.C. Poudyal v. Union of India, (1994) Supp (1) SCC 324 (para 102), (xiv) Kesavananda Bharati v. State of Kerala, (1973) 4 SCC 225, (xv) I.R. Coelho v. State of Tamil Nadu, (2007) 2 SCC 1, (xvi) Union of India v. H.S. Dhillon, (1971) 2 SCC 779, (xvii) Satheedevi v. Prasanna, (2010) 5 SCC 622.*

24) The learned senior counsel for respondent no. 8 has submitted a written note of submissions, which is retained on record.

*Submissions by the learned Advocate General for the State of Nagaland:*

25) The learned Advocate General for the State of Nagaland has submitted that a resolution was passed by the Nagaland Legislative Assembly on 26<sup>th</sup> July, 2010 in the context of the provisions of Article 371-A of the Constitution of India. Pursuant thereto, the Government of India had referred the matter to the learned Solicitor General for his opinion on various aspects of the matter. The queries were as follows:-

- a. *Whether the resolution adapted by the Legislative Assembly of the State of Nagaland is in line with the provision of Article 371-A of the Constitution?*
- b. *Whether the Nagaland State Assembly is empowered to make laws or rules in respect of ownership and transfer of land and its resources including mineral oil?*
- c. *Whether in view of the resolution dated 26<sup>th</sup> July, 2010 all the earlier action and decision of the Oil Corporation stand cancelled?*
- d. *Whether the expression 'ownership and transfer of land and its resources used in clause (iv) of Article 371-A of the Constitution includes natural resources including mineral oil?*

26) By elaborately referring to the contents of the opinion of the learned Solicitor General of India, it was submitted that the Act of the

Parliament would not become applicable to the State of Nagaland, unless the Act is made applicable to the State of Nagaland by adopting a resolution to that effect by the State Legislature. In that regard, it has been submitted that by a resolution dated 26<sup>th</sup> July, 2010, passed by the State Legislature, it was proposed that no Act of Parliament in respect of "ownership and transfer of land and its resources" including mineral oil shall apply to the State of Nagaland. It has been reiterated that from the perusal of Article 371-A of the Constitution of India, it is amply clear that the State Legislative Assembly of Nagaland, by a resolution, has the power to decide which Act of the Parliament shall apply to the State of Nagaland in respect of the subjects mentioned in Article 371-A and that in the absence of any positive resolution, no Act of Parliament would apply to the State of Nagaland. Thus, it was submitted that as per the opinion by the then learned Solicitor General of India, the State Legislative Assembly had the power and competence to make laws or rules in respect of "ownership and transfer of land and its resources" including mineral oil. Moreover, the State of Nagaland had the right to determine the terms of usage and for regulating and controlling the matter of exploration and production of minerals within the State, which is valid and in line with Article 371-A of the Constitution of India.

27) In this regard, the learned Advocate General of the State has further relied on the response to an un-starred question No.2423, to be answered on 10<sup>th</sup> March, 2011, raised by Dr. Mahesh Joshi in the Lok Sabha, the Minister of Petroleum and Natural Gas, wherein it was made to the resolution adopted by the Nagaland State Assembly on 26<sup>th</sup> July, 2010 in respect of "ownership and transfer of land and its resources" including mineral oil, providing that no Act of Parliament shall apply to the State of Nagaland, which shall make appropriate Rules to apply and be in force within the State of

Nagaland. Moreover, it was submitted that the Ministry of Law and Justice, Government of India, had expressed the opinion that the term "land and its resources" in Article 371-A would include mineral oil and their resources and the State of Nagaland would have the power to frame its own laws regarding ownership and transfer of such land and resources under Article 371-A. It was submitted that similar separate opinions were also given by Shri H.M. Seervai, Senior Advocate, on 4<sup>th</sup> August, 1980; Shri F.S. Nariman, Senior Advocate, on 14<sup>th</sup> November, 1981; and by Shri R.C. Sarkar, another constitutional expert.

28) The learned Advocate General has painstakingly referred to the historical events which culminated in the enactment of Article 371-A of the Constitution of India. It has been submitted that by incorporating Article 371-A in the Constitution of India, the Government of India has recognized, acknowledged and confirmed the inherent and inalienable rights of the Naga people in matters relating to customary and socio-religious practices and ownership of land and its resources. In this regard, the Statement of Objects and Reasons of the Constitution (Thirteenth Amendment) Bill, 1962 relating to the creation of Statehood and incorporation of Article 371-A in the Constitution of India; and the Parliamentary Debates on the Constitution (Thirteenth Amendment) Bill, 1962 were extensively referred to.

29) In summing up the submissions, it was submitted that there cannot be a legal and constitutional vacuum where the Act of Parliament would not apply to the State of Nagaland and the State of Nagaland would not have right to make enactments for enjoying the "ownership and transfer of land and its resources" including mineral oil. Thus, it has been submitted that the Nagaland Petroleum and Natural Gas Regulations, 2012, and the Nagaland

Petroleum and Natural Gas Rules, 2012, were valid and the State was at liberty to act in accordance with the said Act and Rules.

30) The learned Advocate General has cited the following cases:-

- a. *Kuldip Nayar & Ors., v. Union of India & Ors., (2006) 7 SCC 1 (para 34 - 37).*
- b. *Mineral Area Development Authority v. Steel Authority of India & Anr., 2024 SCC OnLine SC 1796 (para 1, 2, 21, 22, 27, 28, 34-37, 48, 52, 55-61, 132, 172).*
- c. *Calcutta Gas Company (Proprietary) Ltd. v. State of West Bengal & Ors., 1962 SCC OnLine SC 60 (para 7 – 9).*
- d. *State of Nagaland v. Rosemary Dzuvichu & Ors., 2012 SCC OnLine Gau 289 (para 22-32).*
- e. *Abhiram Singh v. C.D. Commachen (Dead) by Legal Representatives & Ors., (2017) 2 SCC 629 (para 134- 137).*
- f. *Jilubhai Nanbhai Khachar v. State of Gujarat, 1994 0 Supreme (SC) 677 (para 12).*
- g. *Anant Mills Co. Ltd. v. State of Gujarat, (1975) 2 SCC 175 (para 44).*
- h. *State of West Bengal v. Union of India AIR 1963 SC 1241 (para 68).*
- i. *Hingir Rompur Coal Co. Ltd. v. The State of Orissa AIR 1961 SC 459 (para 24).*
- j. *State of Orissa v. M.A. Tulloch and Co. AIR 1964 SC 1284 (para 12).*

31) The learned senior counsel for respondent no. 8 has submitted a written note of submissions, which is retained on record.

*Submissions by the learned senior counsel for respondent no.7:*

32) On 18.12.2012, the Nagaland Petroleum and Natural Gas Board, Government of Nagaland, issued a notification indicating the available oil and gas zones in Nagaland for pre-production, production and post-production operations. Thereafter, the said Board invited Expressions of Interest (EOI) from companies for exploration, production/extraction, and refining/bottling of petroleum and natural gas in 11 (eleven) oil and gas zones of Nagaland. The Expression of Interest was required to be submitted in a sealed cover on or before 07.01.2013. Subsequently, on 28.02.2014, a permit was issued to

Metropolitan Oil and Gas Private Limited (respondent no. 7) in respect of Zone: Wokha, with the nature of the zone being "mixed operations". The permit so issued to respondent no.7 was for 10 (ten) years, where it is provided that the pre-production period shall not exceed 5 (five) years. The learned senior counsel for respondent no.7, has submitted similar to the submissions advanced by the learned Advocate General for the State of Nagaland. He had laid emphasis upon the right of the State of Nagaland to enact the laws under challenge in this PIL.

33) The learned senior counsel for respondent no. 7 has submitted a written note of submissions, which is retained on record. In the said written note of submissions, the following cases have been cited:-

- a. *P.H. Paul Manoj Pandian v. P. Velduraj, (2011) 5 SCC 214 (para 46 to 48),*
- b. *State of West Bengal v. Kesoram Industries Ltd., (2004) 10 SCC 201 (para 39).*
- c. *Synthetics and Chemicals Ltd. & Ors. v. State of U.P. &Ors., (1990) 1 SCC 109 (para 67). [overruled in 2024 INSC 812].*
- d. *Union of India & Anr. v. G.M. Kokil & Ors., 1984 (Supp) SCC 196 (para 11).*
- e. *Chandravarkar Sita Ratna Rao v. Ashalata S. Guram, (1986) 4 SCC 447 (para 67).*
- f. *Association of Natural Gas &Ors. v. Union of India &Ors., (2004) 4 SCC 489 (para 38).*
- g. *The Anant Mills Co. Ltd. v. State of Gujarat & Ors., (1975) 2 SCC 175 (para 44, 47 and 48).*
- h. *Mineral Area Development Authority v. Steel Authority of India &Anr., 2024 SCC OnLine SC 1796 (para 45-48).*
- i. *Bimolangshu Roy (Dead) through Legal Representatives v. State of Assam &Anr., (2018) 14 SCC 408 (para 23).*

34) On the basis of the submissions made by the learned senior counsel for all contesting sides, three major issues arise for consideration in this case. They are:-

- i. Whether any of the issues raised in this PIL is covered within the scope of Article 131(a) of the Constitution of India?
- ii. Whether PIL would be maintainable under the facts and circumstances of this case?
- iii. To what extent reliefs can be granted in this PIL?

Point No. (i) - Whether any of the issues raised in this PIL is covered within the scope of Article 131(a) of the Constitution of India?

35) Under the facts of this case, there is a strong dispute between the Union Government and the State of Nagaland relating to enactment of the Nagaland Petroleum and Natural Gas Regulations, 2012, and the Nagaland Petroleum and Natural Gas Rules, 2012 framed thereunder. In the considered opinion of the Court, that part of the dispute between the Union of India and the State of Nagaland is squarely covered within the meaning and scope of Clause (a) of Article 131 of the Constitution of India.

36) It was submitted by the learned amicus curiae, as well as by the learned Advocate General for respondent nos. 1 to 6, the learned senior counsel for respondent no. 7, and the learned senior counsel for respondent no. 8 that the rights of respondent no. 7 Company are also involved in this case. Therefore, the dispute of this nature cannot be made before the Supreme Court of India under Clause (a) of Article 131 of the Constitution of India. Accordingly, it has been submitted that this Court would have the power and jurisdiction to adjudicate the issues raised in this PIL, regarding the validity of the Nagaland Petroleum and Natural Gas Regulations, 2012 and the Nagaland Petroleum and Natural Gas Rules, 2012, framed thereunder.

37) The Court has carefully considered the pleadings and submissions made at the Bar. In the considered opinion of the Court the real

issue of law involved in this case is whether the Nagaland State Legislative Assembly had the legislative competence and mandate under Article 371-A of the Constitution of India to enact the Nagaland Petroleum and Natural Gas Regulations, 2012, as the power to enact the said Act was reserved under the Union List under Entry 53 of Part-I to the Seventh Schedule.

38) The other action on part of the State of Nagaland, which relates to the selection of a successful bidder by way of competitive bidding/ tender process, in the considered opinion of the Court, appears to be an ancillary issue, which is solely dependent on the power of the Nagaland State Legislative Assembly to enact the Nagaland Petroleum and Natural Gas Regulations, 2012 and the Nagaland Petroleum and Natural Gas Rules, 2012. Thus, if the first part of the action of the State of Nagaland, which relates to legislative competence of the Nagaland Legislative Assembly to pass, adopt and notify the said 2012 Regulations and 2012 Rules is answered, the second part relating to the selection of a successful bidder through the tendering process can also be decided.

39) As special stress was given to Article 371-A of the Constitution of India, the said provision is extracted below:

*“Article 371-A.- Special provision with respect to the State of Nagaland: (1) Notwithstanding anything in this Constitution,—*

- (a) no Act of Parliament in respect of -*
  - (i) religious or social practices of the Nagas,*
  - (ii) Naga customary law and procedure,*
  - (iii) administration of civil and criminal justice involving decisions according to Naga customary law,*
  - (iv) ownership and transfer of land and its resources, shall apply to the State of Nagaland unless the Legislative Assembly of Nagaland by a resolution so decides;*
- (b) the Governor of Nagaland shall have special responsibility with respect to law and order in the State of Nagaland for so long as in his*

*opinion internal disturbances occurring in the Naga Hills-Tuensang Area immediately before the formation of that State continue therein or in any part thereof and in the discharge of his functions in relation thereto the Governor shall, after consulting the Council of Ministers, exercise his individual judgment as to the action to be taken:*

*Provided that if any question arises whether any matter is or is not a matter as respects which the Governor is under this sub-clause required to act in the exercise of his individual judgment, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in the exercise of his individual judgment.*

*Provided further that if the President on receipt of a report from the Governor or otherwise is satisfied that it is no longer necessary for the Governor to have special responsibility with respect to law and order in the State of Nagaland, he may by order direct that the Governor shall cease to have such responsibility with effect from such date as may be specified in the order;*

*(c) in making his recommendation with respect to any demand for a grant, the Governor of Nagaland shall ensure that any money provided by the Government of India out of the Consolidated Fund of India for any specific service or purpose is included in the demand for a grant relating to that service or purpose and not in any other demand;*

*(d) as from such date as the Governor of Nagaland may by public notification in this behalf specify, there shall be established a regional council for the Tuensang district consisting of thirty-five members and the Governor shall in his discretion make rules providing for—*

*(i) the composition of the regional council and the manner in which the members of the regional council shall be chosen:*

*Provided that the Deputy Commissioner of the Tuensang district shall be the Chairman ex officio of the regional council and the Vice-Chairman of the regional council shall be elected by the members thereof from amongst themselves;*

*(ii) the qualifications for being chosen as, and for being, members of the regional council;*

*(iii) the term of office of, and the salaries and allowances, if any, to be paid to members of, the regional council;*

*(iv) the procedure and conduct of business of the regional council;*

- (v) *the appointment of officers and staff of the regional council and their conditions of services; and*
- vi) *any other matter in respect of which it is necessary to make rules for the constitution and proper functioning of the regional council.*

(2) *Notwithstanding anything in this Constitution, for a period of ten years from the date of the formation of the State of Nagaland or for such further period as the Governor may, on the recommendation of the regional council, by public notification specify in this behalf,—*

(a) *the administration of the Tuensang district shall be carried on by the Governor;*

(b) *where any money is provided by the Government of India to the Government of Nagaland to meet the requirements of the State of Nagaland as a whole, the Governor shall in his discretion arrange for an equitable allocation of that money between the Tuensang district and the rest of the State;*

(c) *no Act of the Legislature of Nagaland shall apply to the Tuensang district unless the Governor, on the recommendation of the regional council, by public notification so directs and the Governor in giving such direction with respect to any such Act may direct that the Act shall in its application to the Tuensang district or any part thereof have effect subject to such exceptions or modifications as the Governor may specify on the recommendation of the regional council:*

*Provided that any direction given under this sub-clause may be given so as to have retrospective effect;*

(d) *the Governor may make regulations for the peace, progress and good government of the Tuensang district and any regulations so made may repeal or amend with retrospective effect, if necessary, any Act of Parliament or any other law which is for the time being applicable to that district;*

(e) (i) *one of the members representing the Tuensang district in the Legislative Assembly of Nagaland shall be appointed Minister for Tuensang affairs by the Governor on the advice of the Chief Minister and the Chief Minister in tendering his advice shall act on the recommendation of the majority of the members as aforesaid;*

(ii) *the Minister for Tuensang affairs shall deal with, and have direct access to the Governor on, all matters relating to the Tuensang district but he shall keep the Chief Minister informed about the same;*

(f) *notwithstanding anything in the foregoing provisions of this clause, the final decision on all matters relating to the Tuensang district shall be made by the Governor in his discretion;*

*(g) in articles 54 and 55 and clause (4) of article 80, references to the elected members of the Legislative Assembly of a State or to each such member shall include references to the members or member of the Legislative Assembly of Nagaland elected by the regional council established under this article;*

*(h) in article 170 -*

*(i) clause (1) shall, in relation to the Legislative Assembly of Nagaland, have effect as if for the word "sixty", the words "forty-six" had been substituted;*

*(ii) in the said clause, the reference to direct election from territorial constituencies in the State shall include election by the members of the regional council established under this article;*

*(iii) in clauses (2) and (3), references to territorial constituencies shall mean references to territorial constituencies in the Kohima and Mokokchung districts.*

*(3) If any difficulty arises in giving effect to any of the foregoing provisions of this article, the President may by order do anything (including any adaptation or modification of any other article) which appears to him to be necessary for the purpose of removing that difficulty:*

*Provided that no such order shall be made after the expiration of three years from the date of the formation of the State of Nagaland.*

*Explanation.—In this article, the Kohima, Mokokchung and Tuensang districts shall have the same meanings as in the State of Nagaland Act, 1962."*

40) There is no difficulty in appreciating the scope of Article 371-A of the Constitution of India, which starts with a non-obstante clause. However, whether the provision of Article 371-A of the Constitution of India gives legislative competence to the State of Nagaland to enact the Nagaland Petroleum and Natural Gas Regulations, 2012 in light of the provisions of Entry 53 of Part -I of the Union List or in light of the provisions of Entry 23 of Part-II of the Concurrent List of the Seventh Schedule is a point that is highly contested by the Union Government. In this regard, it is the considered opinion of the Court that no party other than the Union of India and the State of Nagaland would be the proper and necessary parties to a dispute of such nature. It would

definitely not be open for respondent no.7 to contest the said issue before any forum. Therefore, there can be no other view other than one that the Supreme Court of India alone would have the exclusive jurisdiction under Clause (a) of Article 131 of the Constitution to adjudicate the said issue.

41) Even if concession is given by all appearing sides that they have no objection if this Court answers the question relating to legislative competence of the State of Nagaland to enact the Nagaland Petroleum and Natural Gas Regulations, 2012 and the Nagaland Petroleum and Natural Gas Rules, 2012, yet, in order to answer the said point, there must exist a dispute between the State of Nagaland and the Union of India, otherwise this Court, in exercise of writ jurisdiction, would not answer a point without a dispute being raised. In this case, the Union of India is questioning the legislative competence and power of the Nagaland Legislative Assembly to enact and adopt the said 2012 Regulations and the 2012 Rules, that part of the dispute would fall within the exclusive domain of the Supreme Court of India under Clause (a) of Article 131 of the Constitution of India.

42) Thus, the point no. 1 is answered accordingly.

*Point No. (ii) - Whether PIL would be maintainable under the facts and circumstances of this case?*

43) In the case of *Guruvayoor Devaswom Committee (supra)*, which has been relied upon by the learned senior counsel for respondent no. 8 and by the learned Advocate General for the State of Nagaland, it is seen that the Supreme Court of India has summarised some of the principles to be considered while entertaining Public Interest Litigations. Paragraphs 50 and 52 thereof are quoted below:-

**50.** *The principles evolved by this Court in this behalf may be suitably summarized*

as under:

(i) *The Court in exercise of powers under Article 32 and Article 226 of the Constitution of India can entertain a petition filed by any interested person in the welfare of the people who is in a disadvantaged position and, thus, not in a position to knock the doors of the Court.*

*The Court is constitutionally bound to protect the fundamental rights of such disadvantaged people so as to direct the State to fulfill its constitutional promises. {See S.P. Gupta v. Union of India, (1981) Supp. (1) SCC 87: AIR 1982 SC 149 [overruled in Supreme Court of India Advocates on Record Association & Anr. V. Union of India, (1993) 4 SCC 441], People's Union for Democratic Rights v. Union of India, (1985) 2 SCC 494, Bandhua Mukti Morcha v. Union of India, AIR 1963 SC 1638, and Janata Dal v. H.S. Chowdhary, (1992) 4 SCC 305.}*

(ii) *Issues of public importance, enforcement of fundamental rights of a large number of the public vis-à-vis the constitutional duties and functions of the State, if raised, the Court treats a letter or a telegram as a public interest litigation upon relaxing procedural laws as also the law relating to pleadings. [See Charles Sobhraj v. Supdt., Central Jail, (1978) 4 SCC 104, and Hussainara Khatoon (I) v. Home Secy., State of Bihar, (1980) 1 SCC 81.]*

(iii) *Whenever injustice is meted out to a large number of people, the Court will not hesitate in stepping in. Articles 14 and 21 of the Constitution of India as well as the International Conventions on Human Rights provide for reasonable and fair trial.*

*In Maneka Sanjay Gandhi v. Rani Jethmalani, (1979) 4 SCC 167, it was held: (SCC p. 169, para 2)*

*“2. Assurance of a fair trial is the first imperative of the dispensation of justice and the central criterion for the court to consider when a motion for transfer is made is not the hypersensitivity or relative convenience of a party or easy availability of legal services or like mini-grievances. Something more substantial, more compelling, more imperiling, from the point of view of public justice and its attendant environment, is necessitous if the court is to exercise its power of transfer. This is the cardinal principle although the circumstances may be myriad and vary from case to case. We have to test the petitioner's grounds on this touchstone bearing in mind the rule that normally the complainant has the right to choose any court having jurisdiction and the accused cannot dictate where the case against him should be tried. Even so, the process of justice should not harass the parties and from that angle the court may weigh the circumstances.”*

*(See also Dwarka Prasad Agarwal v. B.D. Agarwal, (2003) 6 SCC 230).*

(iv) *The common rule of locus standi is relaxed so as to enable the Court to look into the grievances complained on behalf of the poor, the deprived (sic), the illiterate and the disabled who cannot vindicate the legal wrong or legal injury caused to them for any violation of any constitutional or legal right. [See Fertilizer Corpn. Kamgar Union (Regd.) v. Union of India, (1981) 1 SCC 568, S.P. Gupta, 1981 Supp. SCC 87, People's Union for Democratic Rights, (1982) 2 SCC 494, D.C. Wadhwa (Dr) v. State of Bihar, (1987) 1 SCC 378 and BALCO Employees' Union (Regd.) v. Union of India, (2002) 2 SCC 333.]*

(v) *When the Court is prima facie satisfied about violation of any constitutional right of a group of people belonging to the disadvantaged category, it may not allow the State or the Government from raising the question as to the maintainability of the petition. (See Bandhua Mukti Morcha, (1984) 3 SCC 161).*

(vi) *Although procedural laws apply to PIL cases but the question as to whether the principles of res judicata or principles analogous thereto would apply depends on the nature of the petition as also facts and circumstances of the case. [See Rural Litigation and Entitlement Kendra v. State of U.P., 1989 Supp (1) SCC 504 and Forward Construction Co. v. Prabhat Mandal (Regd.), (1986) 1 SCC 100.]*

(vii) *The dispute between two warring groups purely in the realm of private law would not be allowed to be agitated as a public interest litigation. (See Ramsharan Autyanuprasi v. Union of India, 1989 Supp (1) SCC 251).*

(viii) *However, in an appropriate case, although the petitioner might have moved a court in his private interest and for redressal of personal grievances, the Court in furtherance of the public interest may treat it necessary to enquire into the state of affairs of the subject of litigation in the interest of justice. [See Shivajirao Nilangekar Patil v. Dr. Mahesh Madhav Gosavi, (1987) 1 SCC 227].*

(ix) *The Court in special situations may appoint a Commission, or other bodies for the purpose of investigating into the allegations and finding out facts. It may also direct management of a public institution taken over by such Committee. [See Bandhua Mukti Morcha, (1984) 3 SCC 161, Rakesh Chandra Narayan v. State of Bihar, 1989 Supp (1) SCC 644 and A.P. Pollution Control Board v. Prof. M.V. Nayudu, (1999) 2 SCC 718].*

*In Sachidanand Pandey v. State of W.B., (1987) 2 SCC 295 this Court held: (SCC pp. 334-35, para 61)*

*“61. It is only when courts are apprised of gross violation of fundamental rights by a group or a class action on when basic human rights are invaded or when there are complaints of such acts as shock the judicial conscience that the courts, especially this Court, should*

*leave aside procedural shackles and hear such petitions and extend its jurisdiction under all available provisions for remedying the hardships and miseries of the needy, the underdog and the neglected. I will be second to none in extending help when such help is required. But this does not mean that the doors of this Court are always open for anyone to walk in. It is necessary to have some self-imposed restraint on public interest litigants."*

*In Janata Dal v. H.S. Chowdhary, (1992) 4 SCC 305, this Court opined: (SCC p. 348, para 109)*

*"109. It is thus clear that only a person acting bona fide and having sufficient interest in the proceeding of PIL will alone have a locus standi and can approach the court to wipe out the tears of the poor and needy, suffering from violation of their fundamental rights, but not a person for personal gain or private profit or political motive or any oblique consideration. Similarly, a vexatious petition under the colour of PIL brought before the court for vindicating any personal grievance, deserves rejection at the threshold."*

*The Court will not ordinarily transgress into a policy. It shall also take utmost care not to transgress its jurisdiction while purporting to protect the rights of the people from being violated.*

*In Narmada Bachao Andolan v. Union of India, (2000) 10 SCC 664 it was held: (SCC pp. 762-63, paras 229 & 232)*

*"229. It is now well settled that the courts, in the exercise of their jurisdiction, will not transgress into the field of policy decision. Whether to have an infrastructural project or not and what is the type of project to be undertaken and how it has to be executed, are part of policy-making process and the courts are ill-equipped to adjudicate on a policy decision so undertaken. The court, no doubt, has a duty to see that in the undertaking of a decision, no law is violated and people's fundamental rights are not transgressed upon except to the extent permissible under the Constitution. Even then any challenge to such a policy decision must be before the execution of the project is undertaken. Any delay in the execution of the project means overrun in costs and the decision to undertake a project, if challenged after its execution has commenced, should be thrown out at the very threshold on the ground of laches if the petitioner had the knowledge of such a decision and could have approached the court at that time. Just because a petition is termed as a PIL does not mean that ordinary principles applicable to litigation will not apply. Laches is one of them.*

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*232. While protecting the rights of the people from being violated in any manner utmost care has to be taken that the court does not transgress its jurisdiction. There is, in our constitutional framework a fairly clear demarcation of powers. The court has come down heavily whenever the executive has sought to impinge upon the court's jurisdiction."*

*(x) The Court would ordinarily not step out of the known areas of judicial review. The High Courts although may pass an order for doing complete justice to the parties, they do not have a power akin to Article 142 of the Constitution of India.*

*(xi) Ordinarily, the High Court should not entertain a writ petition by way of public interest litigation questioning the constitutionality or validity of a statute or a statutory rule.*

*M.C. Mehta v. Kamal Nath, (2020) 6 SCC 213, it was held: (SCC p. 223, para 20)*

*"20. The scope of Article 142 was considered in several decisions and recently in Supreme Court Bar Assn. v. Union of India, (1998) 4 SCC 409 by which the decision of this Court in Vinay Chandra Mishra, Re, (1995) 2 SCC 584 was partly overruled, it was held that the plenary powers of this Court under Article 142 of the Constitution are inherent in the Court and are 'COMPLEMENTARY' to those powers which are specifically conferred on the Court by various statutes. This power exists as a separate and independent basis of jurisdiction apart from the statutes. The Court further observed that though the powers conferred on the Court by Article 142 are curative in nature, they cannot be construed as powers which authorise the Court to ignore the substantive rights of a litigant. The Court further observed that this power cannot be used to 'supplant' substantive law applicable to the case or cause under consideration of the Court. Article 142, even with the width of its amplitude, cannot be used to build a new edifice where none existed earlier, by ignoring express statutory provisions dealing with a subject and thereby achieve something indirectly which cannot be achieved directly."*

*[See also Supreme Court Bar Assn. v. Union of India, (1998) 4 SCC 409].*

**52.** *This Court in BALCO Employees' Union (Regd.), (2002) 2 SCC 333 succinctly opined: (SCC pp. 376-77, paras 77-80)*

*"77. Public interest litigation, or PIL as it is more commonly known, entered the Indian judicial process in 1970. It will not be incorrect to say that it is primarily the judges who have innovated this type of litigation as there was a dire need for it. At that stage, it was intended to vindicate public interest*

*where fundamental and other rights of the people who were poor, ignorant or in socially or economically disadvantageous position and were unable to seek legal redress were required to be espoused. PIL was not meant to be adversarial in nature and was to be a cooperative and collaborative effort of the parties and the court so as to secure justice for the poor and the weaker sections of the community who were not in a position to protect their own interests. Public interest litigation was intended to mean nothing more than what words themselves said viz. 'litigation in the interest of the public'.*

*78. While PIL initially was invoked mostly in cases connected with the relief to the people and the weaker sections of the society and in areas where there was violation of human rights under Article 21, but with the passage of time, petitions have been entertained in other spheres. Prof. S.B. Sathe has summarised the extent of the jurisdiction which has now been exercised in the following words:*

*'PIL may, therefore, be described as satisfying one or more of the following parameters. These are not exclusive but merely descriptive:*

*— Where the concerns underlying a petition are not individualist but are shared widely by a large number of people (bonded labour, undertrial prisoners, prison inmates).*

*— Where the affected persons belong to the disadvantaged sections of society (women, children, bonded labour, unorganised labour. etc.).*

*— Where judicial law-making is necessary to avoid exploitation (inter-country adoption, the education of the children of the prostitutes).*

*— Where judicial intervention is necessary for the protection of the sanctity of democratic institutions (independence of the judiciary, existence of grievance redressal forums).*

*— Where administrative decisions related to development are harmful to the environment and jeopardize people's right to natural resources such as air or water.'*

*79. There is, in recent years, a feeling which is not without any foundation that public interest litigation is now tending to become publicity interest litigation or private interest litigation and has a tendency to be counterproductive.*

*80. PIL is not a pill or a panacea for all wrongs. It was essentially meant to protect basic human rights of the weak and the disadvantaged and was a procedure which was innovated where a public-spirited person files a petition in effect on behalf of such persons who on account of poverty, helplessness or economic and social disabilities could not approach the court for relief. There have been, in recent times, increasingly instances of abuse of PIL. Therefore, there is a need to re-emphasize the parameters within which PIL*

*can be resorted to by a petitioner and entertained by the court. This aspect has come up for consideration before this Court and all we need to do is to recapitulate and re-emphasize the same."*

44) Thus, as per the law laid down by the Supreme Court of India in the case of *Guruvayoor Devaswom Committee (supra)*, PIL jurisdiction under Article 226 of the Constitution of India can be invoked by the High Court if someone is facing poverty, helplessness, or economic or social disabilities and therefore, cannot approach the Court for relief. Persons facing social disabilities would include bonded labour, unorganized labour, under-trial prisoners, prison inmates, women, children, Persons with Disabilities, etc. Moreover, public spirited persons can also approach the Court to raise the issue of human rights violations, environmental issues, etc.

45) In this case, the Union of India is vehemently objecting to the power of the Legislature of the State of Nagaland to enact the Nagaland Petroleum and Natural Gas Regulations, 2012 and the Nagaland Petroleum and Natural Gas Rules, 2012 framed thereunder, *inter alia*, on account of lack of legislative power. However, the Government of India or its concerned Ministry has not taken any steps to have the said legislature annulled in accordance with law. By no stretch of imagination, the Government of India can be said to be facing any disability to approach the Court against the said 2012 Regulations and the 2012 Rules enacted and adopted by the Nagaland Legislative Assembly.

46) The issue as to whether or not the Nagaland Legislative Assembly of the State of Nagaland has any legislative power under Article 371-A of the Constitution of India, though an important question, but in the opinion of the Court, this is not the issue to be taken up by the Court as a Public Interest Litigation. The issue raised relates to legislative competence and does not

involve curtailment and/or deprivation of any fundamental right of a citizen.

47) Therefore, the Court is of the considered opinion that the Union of India is not powerless to question the legislative competence of the State of Nagaland so as to empower it to enact the Nagaland Petroleum and Natural Gas Regulations, 2012 and the Nagaland Petroleum and Natural Gas Rules, 2012 framed thereunder.

48) Therefore, the Court does not deem it fit and proper to decide the constitutional issue of competence of the Central Government to make laws relating to Mineral Oil and Petroleum stated to be covered by the Union List under Seventh Schedule to the Constitution of India and/or lack of competence of the Nagaland Legislative Assembly of the State of Nagaland to enact such laws under Entry 23 of State List contained in Part-III of the Seventh Schedule to the Constitution of India, which is raised in this PIL.

49) The Court may hasten to add that the Court has not decided the issue due to exercise of self-restraint, in view of the law laid down by the Supreme Court of India in the case of *Guruvayoor Devaswom Committee (supra)*, where parameters for entertaining PILs have been laid down by observing that PIL is not a pill of panacea for curing all wrongs. Moreover, in light of the provisions of Clause (a) of Article 131 of the Constitution of India, this Court would not have jurisdiction to decide a dispute between the Union of India and the Government of the State of Nagaland.

50) Therefore, by keeping it open for the Union of India to assail (i) the Nagaland Petroleum and Natural Gas Regulations, 2012, and (ii) the Nagaland Petroleum and Natural Gas Rules, 2012, framed thereunder; and/or (iii) the act of the Government of Nagaland to call for the tender and/or

“Expression of Interest for taking up Pre-Production, Production and Post Production Activities in the State of Nagaland” in an appropriate manner as they may be so advised, the Court is inclined to close this PIL without entering into the merit of any of the issues raised in this PIL.

51) Before parting with the records, it would be relevant to mention that it was submitted at the Bar that the agreement/MoU between the Government of Nagaland and the Metropolitan Oil & Gas Pvt. Ltd. (respondent no. 7) would lapse soon. The same must have been lapsed by now. We make no further comment thereon.

52) Thus, this PIL is closed with liberty to the Government of India as indicated in the foregoing paragraphs.

53) The parties are left to bear their own cost.

54) Before parting with the records, we would like to put on record our appreciation for the very able and erudite submissions by the learned Amicus Curiae, learned Advocate General for the State of Nagaland and by the learned senior counsel for the respondent no. 7 and respondent no. 8.

**JUDGE**

**JUDGE**

**Comparing Assistant**

**Private Secretary**