

GAHC010114822015



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

Case No. : WP(C)/1754/2015

XXX XXX XXX

VERSUS

IN RE - THE GOVERNMENT OF ASSAM and 3 ANR.
REP. BY THE CHIEF SECY., DISPUR, ASSAM

2:THE SECY. HOME and POLITICAL DEPTT.
GOVT. OF ASSAM
DISPUR
ASSAM

3:THE UNION OF INDIA
REPRESENTED BY I.THE MINISTRY OF HOME AFFAIRS. II. THE MINISTRY
OF EXTERNAL AFFAIRS

4:THE ACCOUNTANT GENERAL
ASSAM

Advocate for the Petitioner : , SC, GHC

Advocate for the Respondent : MR. S C KEYAL (A.S.G.I), GA, ASSAM,MR. C CHOUDHURY,MR. R BORPUJARI (SC, FINANCE DEPTT.),MR H K DAS, SC, GHC,MS. A GAYAN, CGC,MR. D MAZUMDAR (ADDL GA, ASSAM),MR. B K CHTERI (SR. GA, ASSAM),MR. U K NAIR (SR. SC, F.T)

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

19.05.2025

Mr. H. K. Das and Mr. A. Das, learned Amicus Curiae are present in this case. Mr. D. Mazumdar, learned Senior Additional Advocate General, Assam assisted by Ms. M. Bhattacharjee, learned Addl. Senior Govt. Advocate, Assam is present on behalf of the State. Mr. R. K. D. Choudhury, learned Dy. SGI is present on behalf of the Union of India.

Mr. S. Dhar, Registrar Judicial, Gauhati High Court is personally present.

Referring to the four issues identified by this Court by the order dated 07.01.2025

Mr. D. Mazumdar, learned Senior Additional Advocate General for the State of Assam has produced a copy of the written instruction dated 03.05.2025 issued by the Deputy Secretary to the Govt. of Assam, Political (B) Department.

As per the written instruction dated 03.05.2025 the four issues, identified by this Court, have so far been dealt with by the State in the following manner :-

“In this regard, the following actions have been taken :

1. Regarding low rate of disposal in some of the Foreigners’ Tribunals.

IGP (Border), Assam has been requested to take necessary steps to transfer such pending cases in a phased manner within the district in order to improve the rate of disposal of pending cases in Foreigners Tribunals.

2. Regarding library facilities in the Foreigners’ Tribunals.

Communications have been received from Members of 69 Foreigners’ Tribunals. Out of these, 59 Members have expressed willingness to set up library facilities within their respective offices. However, 10 Members have reported non-availability of space in their premises to accommodate such a facility.

3. Regarding training to the Members of Foreigners’ Tribunals.

In compliance of the Hon’ble Court, a One-day Training programme for

the Members of Foreigners' Tribunals was conducted on 26.04.2025 in Assam Administrative Staff College, Khanapara, Ghy, which was inaugurated by Hon'ble Mr. Justice Suman Shyam, Judge, Gauhati High Court. The Hon'ble Mr. Justice K. R. Surana, Judge, Gauhati High Court has also delivered a session as resource person on Procedural laws to be followed by Foreigners' Tribunals during training. Hon'ble Mr. Justice (Retd.) P. K. Deka, Former Judge, Gauhati High Court elaborated the participants on Appreciation of Documentary and Oral evidence in Foreigners' Tribunals and the Hon'ble Mr. Justice (REtd) B. K. Sharma, Former Judge, Gauhati High Court address the Ld. Members of FTs on Foreigners Laws in Assam on the said training programme.

4. Regarding providing law journals to the Members of Foreigners' Tribunals.

The matter is currently under process in this department."

After hearing the submissions of learned counsel for the parties, this Court is of the view that in so far as the steps initiated/ action taken with regard to the Issue Nos.1 and 2, noted herein above, are concerned, the department may require some more time to come out with some define outcome of the process. The matter covered by issue No.3 has already been addressed by holding training programme. However, the stand of the department pertaining to the Issue No.4 appears to be completely unsatisfactory. Therefore, it is hereby directed that at least two local journals viz., GLR and GLT be furnished to each of the Members of Foreigners' Tribunals on regular basis with effect from the month of May, 2025, until further orders, so as to enable them to constantly update their knowledge base on the latest judgments of the Hon'ble Supreme Court and this High Court on the relevant topics.

At that stage, Mr. H. K. Das, learned Amicus Curiae ha also invited the

attention of this Court to the fact that the power of Drawing and Disbursing Officer (DDO) has been withdrawn from the learned Members of Foreigners' Tribunals thus, adversely affecting the functioning of the Foreigners' Tribunals. He has submitted that the learned Members have also been deprived of the power of drawing their salary and allowances thereby causing serious difficulty in the functional sphere. Therefore, appropriate directions is required to be issued by this Court in this regard.

Responding to the above, Mr. Mazumdar submits that since this matter was not within his knowledge, hence, he be granted some time to seek instruction.

Such request of Mr. Mazumdar appears to be reasonable and is hereby allowed. However, it is made clear that the respondents would be at liberty to take appropriate steps in the matter so as to ensure that withdrawal of the power of DDO from the learned Members of the Foreigners' Tribunals, if any, should not come in the way of regular payment/drawal of the salaries by the Members of the Foreigners' Tribunals.

Let this matter be listed again on 24.06.2025.

JUDGE

Comparing Assistant