

GAHC010114822015



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

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

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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 : MR. S S DEY (AMICUS CURIAE)

Advocate for the Respondent : MR. S C KEYAL (A.S.G.I)

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 30/09/2021

Heard Mr. H.K. Das, learned Amicus Curiae, appearing in this case. Also heard Mr. D. Saikia, learned Advocate General, Assam, assisted by Mr. S.C. Keyal, learned Standing Counsel, FT and Mr. R.K. Deb Choudhury, learned Assistant Solicitor General of India, appearing for the Union of India and Mr. R. Borpujari, learned Standing Counsel, Finance Department, Assam.

Mr. R.A. Tapadar, learned Registrar (Judicial), Gauhati High Court is also present in person.

In terms of the order dated 31/08/2021 of this Court, Mr. S.C. Keyal, learned Standing Counsel, FT, Assam, has produced a copy of the written instruction dated 28/09/2021 issued by the Home Secretary, Govt. of Assam, a perusal of which inter-alia goes to show that necessary notification regarding constitution of the 3 (three) Members Committee as well as the guidelines and procedures to be followed for entertaining and deciding the complaints received against the members of the FTs, have already been issued by the Government on 24/09/2021. However, the approval of the Government of India, in the Ministry of Home Affairs, regarding extension of service of 200 additional FT Members is still awaited, as a result of which, there is some uncertainty in the functioning of those Tribunals.

Mr. Das, learned Amicus Curiae submits that the Members of the FTs have received their salary for the month of July. However, the working condition and the atmosphere in the respective Tribunals still remains a matter of concern, inasmuch as, many Members are required to hear cases and pass orders by sitting on a Sofa, since even the basic amenities such as a Chair and a Table is not available in those Tribunals.

Mr. R.K. Deb Choudhury, learned ASGI submits that as per instruction received by him, the Ministry of Home Affairs, Govt. of India is processing the file for extension of service of 200 additional members of FTs, whose terms in office had expired on 20/09/2021 and the necessary approval is expected within a short time.

It transpires from the written instruction dated 28/09/2021 that due to non-finalisation of the NRC and consequent non-issuance of the NRC rejection slips, the purpose for which the additional 200 Members of the FTs were recruited, has remained unfulfilled, as a result of which, they were not assigned any regular work for a long period of time. It is submitted by the learned State Counsel that there is still some uncertainty as to their continuance in office as the State Government would not be in a position to extend their service in the absence of approval from the Government of India. This Monitoring Bench appreciates the difficulties expressed by the learned AG, Assam. Upgrading the infrastructure in the existing Tribunals may take some more time due to operational reasons. However, the report regarding the fact that the Tribunal Members are presently being made to function even without a proper sitting arrangement is wholly unacceptable to this Court.

If the learned Members of the FTs are discharging their duties on regular basis, then it would be the responsibility of the State Government to make available to them, the minimum infrastructural facilities so as to ensure that they can function in a manner that is befitting the office held by them. Under the circumstances, while adjourning this proceeding to 28/10/2021, this Court hereby directs the Deputy Commissioners of all the districts to take immediate steps to ensure that the minimum infrastructural facilities, so as to ensure a decent working condition in the Foreigner's Tribunal across the State wherever necessary, is put in place without further delay.

The Secretary to the Govt. of Assam, Home and Political Department, to take necessary follow up steps for ensuring compliance of this order.

A compliance report be placed before this Court by the State on the next date fixed.

A copy of this order be furnished to the learned State Counsel.

List this case again on 28/10/2021.

JUDGE

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Comparing Assistant