

GAHC010114822015



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

Case No. : WP(C) 1754/2015

1:XXX XXX XXX

VERSUS

1:IN RE - THE GOVERNMENT OF ASSAM and 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 AFFAIR

Advocate for the Petitioner : AMICUS CURIAE

Advocate for the Respondent : MR.S C KEYAL

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 26-11-2019

Heard Mr. S.S. Dey, learned Sr. counsel appearing as *amicus curiae* in this case. I have also heard Mr. D. Mazumder, learned Addl. Advocate General, Assam appearing for the State, Mr. U.K. Nair, learned Sr. standing counsel, Foreigners Tribunal, Mr. S.C. Keyal, learned ASGI

representing the Union of India, Mr. R. Borpujari, learned standing counsel, Finance Department as well as Ms. A. Verma, learned standing counsel, NRC authority. Mr. J. Payeng, learned standing counsel, Foreigners Tribunal is also present.

Responding to the issues highlighted in the order dated 29-10-2019 passed by this Court, Mr. Mazumder submits that the necessary approval from the Finance Department for releasing the salary of the newly appointed 221 Members of the Foreigners Tribunal is in the final stage of processing but due to some technical reasons *viz.* attachment of several newly appointed Members under one Foreigners Tribunal, there has been some delay in transferring the amount to their respective accounts.

In the order dated 29-10-2019, this Court had categorically noted the assurance given by the departmental Secretary who had stated that the salary of the newly appointed Members of the Foreigners Tribunal would be released within a period of 02 weeks. Notwithstanding the same, salary of such newly appointed Members has not released till today.

This Court, while expressing displeasure on the aforesaid omission on the part of the Department, hereby directs that the salary of all the newly appointed Members of the Foreigners Tribunal shall be released within 07 days from today and thereafter, the Secretary to the Govt. of Assam, Home & Political(A) Department, shall furnish necessary compliance report before 04-12-2019, through the Registrar (Judicial).

The attention of this Court has also been invited to the fact that the professional fees of the Assistant Government Pleaders (AGP) in the existing Tribunals have also not been paid since several months, as a result of which, functioning of the Tribunals have been affected.

After hearing the explanation offered by Mr. N. Baruah, Secretary to the Govt. of Assam, Home & Political Department, I am inclined to issue similar direction to the State respondents to release the professional fees of the AGP in the existing Tribunal within 02 weeks from today.

Coming to issue No. 7, Mr. Nair, learned Sr. standing counsel, Foreigners Tribunal submits that the widow of Late Bijay Kumar Das has been accommodated against a Grade-III post, in which post she has already joined. It is also submitted that the offer made to Smti. Monica Mahanta Das is without prejudice to the right to her claim for better employment.

In view of the above, issue No. 7 needs no further consideration for the time being.

Ordered accordingly.

As regards issue No. 9, Mr. Keyal submits that the Government of India in the Ministry of Home Affairs is still examining the proposal for amendment of the Foreigners (Tribunal) Order 1964 and therefore, 08 weeks further time is required to obtain instruction in the matter.

Considering the nature of questions that would arise within the purview of issue No. 9, I am inclined to grant further 08 weeks time, as prayed for, by Mr. Keyal.

As regard the other issues involved in the proceeding, this Court had noted in the order dated 29-10-2019 that a mechanism to deal with the complaints received against the Members of the Foreigners Tribunal is required to be drawn up for future purpose. Indicating the modalities for dealing with such complaint, the committee comprising of Mr. N. Baruah, Secretary to the Govt. of Assam, Home & Political(A) Department and Mr. D.K. Das, Registrar (Judicial) has submitted a proposal indicating the guidelines that needs to be adopted in this

regard. Copies of the proposal be furnished to the learned counsel appearing for the respective parties.

Consideration of this matter is deferred till the next date so as to enable the learned counsel for the parties to examine the proposal and make further submissions in the matter.

At this stage, Mr. Das has invited the attention of this Court to the letter dated 21-11-2019 submitted by a vendor who is supplying vehicles to the existing Foreigners Tribunal on rent, wherein it has been mentioned that his outstanding dues have not been cleared by the Department for several months causing hardship to the operator.

A copy of the letter be furnished to the Secretary, Home & Political Department for verification and doing the needful as per law.

In view of the directions passed hereinabove, Registry to list this case again on 06-12-2019 for further order(s).

JUDGE

GS

Comparing Assistant