

GAHC010133182020



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

Case No. : WP(C)(Suo Moto)/3/2020

DESIGNATED COURTS FOR MPs/ MLAs
GUWAHATI, ASSAM

VERSUS

STATE OF ASSAM
REPRESENTED BY THE CHIEF SECRETARY, JANATA BHAWAN, DISPUR,
GUWAHATI - 781006

2:STATE OF NAGALAND
REPRESENTED BY THE CHIEF SECRETARY
NAGALAND CIVIL SECRETARY
KOHIMA - 797004

3:STATE OF MIZORAM
REPRESENTED BY THE CHIEF SECRETARY
MIZORAM SECRETARY
AIZAWL - 796001

4:STATE OF ARUNACHAL PRADESH
REPRESENTED BY THE CHIEF SECRETARY
CIVIL SECRETARIAT
ITANAGAR - 791111

5:THE ADDL. CHIEF SECRETARY TO THE GOVT. OF ASSAM

HOME AND POLITICAL (A) DEPARTMENT
JANATA BHAWAN
DISPUR
GUWAHATI - 781006

6:THE SPECIAL SECRETARY TO THE GOVT. OF NAGALAND

HOME DEPARTMENT
NAGALAND CIVIL SECRETARIAT
KOHIMA - 797004

7:THE CHIEF SECRETARY TO THE GOVT. OF MIZORAM
HOME DEPARTMENT
MIZORAM SECRETARIAT
NEW CAPITAL COMPLEX
AIZAWL - 796001

8:THE COMMISSIONER TO THE GOVT. OF ARUNACHAL PRADESH
HOME DEPARTMENT
CIVIL SECRETARIAT
ITANAGR - 791111

9:THE DIRECTOR GENERAL OF POLICE
ASSAM
POLICE HEADQUARTERS
ULUBARI
GUWAHATI - 781001

10:THE DIRECTOR GENERAL OF POLICE
NAGALAND
POLICE HEADQUARTERS
P. R. HILL
KOHIMA - 797001

11:THE DIRECTOR GENERAL OF POLICE
MIZORAM
POLICE HEADQUARTERS
KHATLA
AIZAWL - 796001

12:THE DIRECTOR GENERAL OF POLICE
ARUNACHAL PRADESH
POLICE HEADQUARTERS
CHANDRANAGAR
ITANAGR

13:THE ADDL. DGP (PROSECUTION)
ASSAM
ASSAM POLICE HEADQUARTERS
ULUBARI
GUWAHATI - 78100

Advocate for the Petitioner : MR. T J MAHANTA(SC, GHC),

Advocate for the Respondent : SC, AG, MS. M KECHII, LEARNED SR. GA ADV.,

NAGALAND,MR. D. MAZUMDAR, ADDITIONAL ADVOCATE GENERAL, ASSAM (Resp. Nos. 1, 5, 9 & 13), ADDITIONAL ADVOCATE GENERAL,MIZORAM. (Resp. Nos. 3, 7 & 10),MR. A. CHANDRAN, ADDITIONAL SENIOR GOVERNMENT ADVOCATE, ARUNACHAL PRADESH. (Resp. Nos. 4, 8 & 12),MS. T. KHRO, GA,NAGALAND(Resp.Nos. 2, 6 & 10)

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 11-03-2025

Suman Shyam, J

Heard Mr. T.J. Mahanta, learned Sr. counsel assisted by Ms. P. Mahanta, learned *amicus curiae* appearing in this case. Mr. D. Mazumder, learned Addl. AG, Assam, Mr. A. Baruah, learned Govt. Advocate, Mizoram, Ms. M. Kechi, learned Addl. A.G. Nagaland and Mr. A. Chandran, learned Sr. Govt. Advocate, Arunachal Pradesh are present on behalf of the respective State Governments.

Pursuant to our order dated 28-01-2025, Registry has prepared and submitted a report dated 10-03-2025 indicating the status of the cases pending in the State of Assam and the State of Arunachal Pradesh involving MPs/ MLAs.

After examining the report we find that since the last listing of this case on 28-01-2025, as many as 07 out of the 15 cases pending in the Principal Seat of the Gauhati High Court have been disposed of. The report further discloses that the remaining 08 cases pending in the Principal Seat are at an advance stage of hearing and therefore, those are also likely to be disposed of soon. From the above, it is apparent that significant progress has been made in the matter of disposal of cases pending in the Principal Seat involving

MPs/ MLAs since this *suo-motu* case was registered. After perusal of the report, we are convinced that if the matters proceed in the manner projected in the report then there is every likelihood that all the pending cases involving MPs/ MLAs in the Principal Seat at Gauhati High Court would be brought to their logical end in the near future.

Coming to the list of cases pending in the district judiciary in Assam involving MPs/ MLAs, we find that there are a number of such cases where the proceeding has been held up at the stage of appearance of the accused persons. Most of these cases were registered more than a decade back. From the report submitted by the Registry it is not clear as to why, those cases are pending for so long merely for 'appearance'. If it is really the case where the appearance of the accused could not be secured for any reason including the reason of failure on the part of the complainant to take steps for issuance of process, then also, it is not clear as to why consequential orders could not be passed by the Court in those matters. As per the report dated 10-03-2025, the following cases, viz. :- 1. G.R. Case No. 1118/2009, 2. G.R. Case No. 6166/2015, 3. G.R. Case No. 5705/2011, 4. G.R. Case No. 5664/2011, 5. C.R. Case No. 3618/2019, 6. C.R. Case No. 1688/2016, 7. C.R. Case No. 3818/2017, 8. C.R. Case No. 4651/2019, 9. C.R. Case No. 4652/2019, 10. C.R. Case No. 2981/2008, 11. C.R. Case No. 2982/2008 are pending in the district judiciary in Assam for more than 05 years for appearance of the accused persons. Registry is, therefore, directed to call for specific report from the concerned authority indicating the reason as to why, these cases could not progress further and also obtain information regarding the relevant orders that have been passed by the concerned court so as to deal with the situation. The report be placed before this Court on the next

date fixed.

We have also noticed that there are several proceeding pending in Assam where the cases are pending at the stage of evidence. In some of those cases, viz. :- 1. Sessions Case No. 95/2003 (Dibrugarh), 2. Sessions (LG) Case No. 17/2014 (Kamrup), 3. Sessions Case No. 203/2015 (Kamrup), 4. Sessions Case No. 93/2018 (Kamrup), 5. G.R. Case No. 3629/2015, 6. G.R. Case No. 687/2014, 7. G.R. Case No. 7220/2015, 8. G.R. Case No. 12111/2013, 9. G.R. Case No. 1729/2014, 10. C.R. Case No. 3157/2016, 11. C.R. Case No. 3083/2019, 12. C.R. Case No. 1397/2017, 13. Spl. Case No. 81/2004 (Kamrup), 14. Sessions Case No. 59(K)/2010, 15. Spl. Case No. 03/2013, 16. Spl. NIA Case No. 2/2012, the proceeding are still at the stage of recording of evidence. There is no indication in the report dated 10-03-2025 as to why, recording of evidence could not proceed further in those cases even after the lapse of a considerable amount of time.

Registry to, therefore, call for relevant information from the concerned authorities and prepare a report on this behalf also for placing the same before this Court on the next date fixed.

We have further noticed that as per report dated 10-03-2025, proceedings in some of the cases pending before the district courts are held up due to the stay orders passed by the High Court. We direct the Registry to prepare a list of all such cases involving MPs/ MLAs where stay orders passed by the High Court are operating and place the same before the Hon'ble Chief Justice, on the administrative side, seeking approval to constitute a Special Bench or to list these matters before any Designated Bench, for being heard and disposed of expeditiously.

Coming to the pendency of cases involving MPs/ MLAs in the State of Arunachal Pradesh, as per the report of the Registry, we find that as many as 08 cases are pending therein. However, it is significant to note herein that BDS P.S. Case No. 15/1996 is a proceeding registered in the year 1996 but as per the report, the same is still at the stage of recording of evidence. There is no indication in the report as to why, recording of evidence could not be concluded in that case even after nearly 03 decades of registration of the proceeding. Likewise, in DMK Case No. 31/2005, which is a proceeding registered in the year 2005, the matter is still at the stage of recording of evidence. In another proceeding, viz., BJN Case No. 10/2005, the matter is pending for appearance although the proceeding was registered way back in the year 2005.

We, therefore, direct the Registry to call for specific information from the concerned authorities so as to ascertain the reasons as to why, these matters have remained pending for so long without any progress. The report to also indicate as to what steps, if any, have been taken by the concerned Presiding Officers of those courts to expedite the disposal of these cases over the past several years. The report, as called for, be placed on or before the next date fixed.

Let this writ petition be listed again on 29-04-2025.

JUDGE

JUDGE

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Comparing Assistant