

THE GAUHATI HIGH COURT

(HIGH COURT OF ASSAM: NAGALAND: MEGHALAYA: MANIPUR: TRIPURA:
MIZORAM AND ARUNACHAL PRADESH)

No. HC.III - 4/2007/ 3006 /G

From: Shri D. Ullah,
Joint Registrar (Vig. & Estt.),
Gauhati High Court, Guwahati.

To

THE DISTRICT & SESSIONS JUDGE,
BARPETA / BONGAIGAON / CACHAR, SILCHAR / DARRANG,
MANGALDOI / DHEMAJI / DHUBRI / DIBRUGARH / GOALPARA /
GOLAGHAT / HAILAKANDI / JORHAT / KAMRUP, GUWAHATI /
KARIMGANJ / KOKRAJHAR / LAKHIMPUR, NORTH LAKHIMPUR /
MORIGAON / NAGAON / NALBARI / SIVASAGAR / SONITPUR,
TEZPUR / TINSUKIA / UDALGURI, ASSAM

Dated Guwahati, the 7th August, 2012

Sub: **Order dated 15.02.2012 passed in WP(C) (Taken up) 4299/2006
and implementation thereof.**

Ref: **Notification No. 44 dated 05.05.2012**

Sir / Madam,

With reference to the subject cited above, I am directed to inform you to compile and monitor the reports as mentioned in the order dated 15.02.2012 passed in WP(C) (Taken Up) 4299 of 2006 as well as in the notification under reference and thereafter, submit complied report with your own report thereon month wise upto July, 2012 to this Registry within **25.08.2012** and thereafter month-wise report within the 7th day of the succeeding month for consideration on the administrative sides by Hon'ble the Chief Justice.

Further the Chief Judicial Magistrates as well as Sub-Divisional Judicial Magistrates in the State of Assam, Tripura and Manipur are required to hold court within the premises of the District/Sub-Divisional Jails at least once a month preferably on the 2nd/4th Saturday or on a Sunday and shall pass order with regard to the under Trial Prisoners who are entitled to be released under Section 167 and 436 A and shall submit compiled monthly report upto July, 2012 to this Registry within **25.08.2012** and thereafter month-wise report within the 7th day of the succeeding month.

Kindly treat the matter as **Most Urgent**.

Encl:

- i) The copy of order dated 15.02.2010
passed in WP(C) (Taken up) 4299/2006
- ii) Copy of Notification No.44, dtd. 05.05.2012

Yours faithfully,


JT. REGISTRAR (VIG. & ESTT.)

N.B. This Notification can be downloaded from
the website of the Gauhati High Court.

Memo No. HC III – 4/2007/

/G Dated: 7th August, 2012

Copy to:

1. The Registrar (Vig. / Admn./Judl.), Gauhati High Court, Guwahati.
2. The Jt. Registrar-cum Principal Secretary to Hon'ble the Chief Justice, Gauhati High Court, Guwahati.
3. C.A. to the Registrar General, Gauhati High Court, Guwahati.
- ✓ 4. The System Analyst, Computer Section, Gauhati High Court, Guwahati. He is requested to upload the letter alongwith its enclosures in the website of the Gauhati High Court


JT. REGISTRAR (VIG. & ESTT.)

Noting by officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4

W.P.(C) (Taken-up) No.4299 of 2006

B E F O R E

**HON'BLE THE CHIEF JUSTICE MR. A.K. GOEL
THE HON'BLE MR. JUSTICE P.K. MUSAHARY**

For the petitioners : Mr. D.K. Mishra, Amicus Curiae

For the respondents Mr. Arup Sarma,
Additional Advocate General,
Mizoram.

Mr S.K. Deka, Advocate
appearing on behalf of S.C. Manipur

Mr. M.R. Pathak,
Standing Counsel, Tripura.

Ms. M. Borah,
Govt. Advocate, Arunachal Pradesh

Mr. T. Ao,
Govt. Advocate, Nagaland.

Dr. B.P. Todi,
Addl. Advocate General, Meghalaya

Mrs. B. Goel Sarmah,
Addl. Senior Govt. Advocate,
Assam.

15.02.2012

(A.K. Goel, CJ)

The issue taken up for consideration by way of public interest litigation initially related to under trial prisoners who are in jails on account of their inability to furnish bail bonds. During the course of proceedings, the issue of prisoners who are mentally ill was also considered. Shri D.K. Mishra, learned senior advocate was appointed as Amicus Curiae and on his suggestion, information was sought from all the jails in prescribed

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			<p>formats. Thereafter, the data was classified into categories of prisoners who had been custody beyond the statutory limit of permissible period of imprisonment, mentally ill persons who could not be kept in jails but was required to be dealt with under the Mental Health Act, 1987 by being shifted to Mental Asylum, prisoners who are entitled to bail under Section 167 of the Code of Criminal Procedure on account of delay in completing the investigation and those who are entitled to be released on personal bond under Section 436(A) of the Code of Criminal Procedure, 1973. Apart from these issues, certain allied issues also came up for consideration from time to time.</p> <p>Vide order dated 9.4.2009, it was noticed that in some cases the prisoners were continuing in jails for more than 24 years, which did not appear to be justified. Further issue considered was the failure of the persons, released for temporary period, to surrender after expiry of the period for which they were released.</p> <p>Shri D.K. Mishra, learned senior advocate, who has been assisting the Court as Amicus Curiae, has painstakingly referred us to the record and pointed out that as per order dated 24.4.2008, the information was required to be classified in ten(10) categories as follows :-</p> <p>"1) List of Under-Trial Prisoners (in short UTP) who are in jail for more than 6(six) months in connection with summon cases.</p>

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			<p>2) List of Under-Trial Prisoners who are in jail for a period of more than 1 (one) year with the following details-</p> <ul style="list-style-type: none"> (i) P.S. Case No. (ii) G.R. Case No. (iii) Date of arrest/date of first remand ordered by the Court. (iv) Offences alleged. (v) Whether charge-sheet is filed in the Court or not. <p>2) List of Under-Trial Prisoners in jail for more than 3(three) months and charge-sheet against them has not been filed.</p> <p>3) List of Under-Trial Prisoners in jail against whom charge-sheets/Police Reports have not been filed by the Police within the period of limitation as provided in Sub section 2 of Section 468.</p> <p>4) List of Persons committed to prison by the Court under Section 122 Cr.P.C.</p> <p>5) List of non-criminal Lunatic incarcerated in jail.</p> <p>6) List of criminal Lunatic incarcerated in jail. Whether UTP or convict.</p> <p>7) List of women and children under protective custody.</p> <p>8) List of convicts who are in jail for the last 15 years.</p> <p>9) List of convicts (male and female separately) undergoing sentences in connection with offences punishable with less than 10 years imprisonment</p> <p>10) List of children staying in jail along-with their convict mothers."</p>

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			<p>Learned amicus suggested that the process of compiling information in above forms should be institutionalized for monitoring so that it can be ensured that a person does not continue in custody in violation of law.</p> <p>Finding merit in the suggestion, we direct that such information may be compiled and monitored by every District and Sessions Judge in the jurisdiction of this Court on monthly basis and wherever it appears that a person in custody was entitled to be released with or without condition, the District and Sessions Judges, may take appropriate steps in the matter. A report in this regard be sent to this Court and considered on the administrative side.</p> <p>Further suggestion given by learned Amicus Curiae is in respect of mentally ill persons. He points out that from the materials on record, it is clear that at-least eight persons who are mentally ill are still being kept in jails. The said eight persons are :-</p> <ol style="list-style-type: none"> 1) Saikhom Ramo Singh (70) S/O (L) Kalachand Singh of Khurai Sajor Leikai, P.S. Lamphel. 2) Sinam Indramani Singh (25) s/o (L) S. Tombinou Singh of Nongpok Sekmai Mkha Leiki, P.S. YPK. 3) Sambhal Paite (28) S/O (L) Chinkhup of Zamlong village Lamka, P.S. Churachandpur. 4) Thiyam Kanta Singh (3) S/O Yumjao of Khabi Maning mayai Leikai

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			<p>5) Naorem Dorendro Singh (40) s/o (L) Tompishak of Naorem Chakprou, P.S. Wangoi.</p> <p>6) Nongmaithem Babocha Singh (20) S/O (L) Maniton of Kakching Laithagol Leikai</p> <p>7) Lalshram Jugindro meitei @ Chingkhei @ Rajesh @ Wangkhei (20) S/o L. Kokil Meitei of Chairen Khonghang Leikai.</p> <p>8) Yengkhom Ranjan Singh (20) S/o (L) Y. Koireng of Lairenjam Awang Leikai, P.S. NBL.</p>
			<p>If the above persons are still in custody, the concerned District and Sessions Judges, on verification may direct their shifting to Kanaklata Mental Hospital at Tezpur. The Superintendent of the said Hospital will receive them and keep them in the said hospital in accordance with law. The Registrar of the Imphal Bench of this Court may monitor this aspect and send a report to the Registrar General of the Principal Bench.</p>
			<p>It is pointed out that there are forty-eight persons who have not still surrendered after their period for which they were released expired. This court directed, by order dated 1.11.2010, that steps taken by the State in the matter about securing their custody be indicated. Let the same be now done.</p>
			<p>Vide order dated 25.3.2010, the Chief Judicial Magistrates and Sub-Divisional Judicial Magistrates, Assam, Tripura and Manipur were directed to hold Courts in Jails once in a month to take up cases of</p>

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			<p>under-trials who are entitled to be released under Section 167 and 436A of the Code of Criminal Procedures. The Registrar General of this Court may monitor compliance of the order dated 25.3.2010 on the administrative side.</p> <p>List for further consideration on 23rd March, 2012. <i>~</i></p> <p>Copies of this order be given to learned Amicus Curiae and also to learned Government Advocates.</p> <p><i>Sd/- P.K. Musahary</i> JUDGE</p> <p><i>Sd/- Mr. A K Goel</i> CHIEF JUSTICE</p> <p>True Copy <i>H/2116</i> 3/5/2012 Superintendent, Civil Rule (Pend) Section, Gauhati High Court</p> <p><i>SMV</i> 3/5/12</p>

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

NOTIFICATION No. 44

Dated Guwahati, the 5th May, 2012

In compliance with the Order dated 15.02.2012 passed in WP(C) (Taken Up) No.4299 of 2006 at the Gauhati High Court, Guwahati, all the Chief Judicial Magistrates/ Sub-Divisional Judicial Magistrates under the jurisdiction of the Gauhati High Court are hereby directed to furnish the following information alongwith the regular monthly jail inspection reports :-

- “1) *List of Under-Trial Prisoners (in short UTP) who are in jail for more than 6(six) months in connection with summon cases.*
- 2) *List of Under-Trial Prisoners who are in jail for a period of more than 1(one) year with the following details-*
 - (i) *P.S. Case No.*
 - (ii) *G.R. Case No.*
 - (iii) *Date of arrest/ date of first remand ordered by the Court.*
 - (iv) *Offences alleged.*
 - (v) *Whether charge-sheet is filed in the Court or not.*
- 3) *List of Under-Trial Prisoners in jail for more than 3(three) months and charge-sheet against them has not been filed.*
- 4) *List of Under-Trial Prisoners in jail against whom charge-sheets/ Police Reports have not been filed by the Police within the period of limitation as provided in Sub Section 2 of Section 468.*
- 5) *List of Persons committed to prison by the Court under Section 122 Cr.P.C.*
- 6) *List of non-criminal Lunatic incarcerated in jail.*
- 7) *List of criminal Lunatic incarcerated in jail. Whether UTP or Convict.*
- 8) *List of women and children under protective custody.*
- 9) *List of convicts who are in jail for the last 15 years.*
- 10) *List of convicts (male and female separately) undergoing sentences in connection with offences punishable with less than 10 years imprisonment.*
- 11) *List of children staying in jail alongwith their convict mothers.”*

Contd....

Further, the respective District & Sessions Judge under the jurisdiction of the Gauhati High Court is directed to compile and monitor the aforesaid reports on monthly basis and wherever it appears that a person in custody was entitled to be released with or without condition, ~~shall~~ take appropriate steps in the matter. A report in this regard be sent to the respective Registry of this High Court for consideration on the administrative side.

By Order,


REGISTRAR GENERAL

Memo No. HC III -4/2007/ 1902-07 IG, Dated: 5th May, 2012

Copy to:

- 1) The Registrar (Vigilance /Admn./Judl.), Gauhati High Court, Guwahati.
- 2) The Registrar, Gauhati High Court, Kohima Bench, Kohima/ Shillong Bench, Shillong/ Imphal Bench, Imphal/ Agartala Bench, Agartala/ Aizawl Bench, Aizawl. They are requested to circulate the notification amongst the Dist. & Sessions Judges, Chief Judicial Magistrates, Sub-Divisional Judicial Magistrates under their jurisdiction for necessary action.
- 3) The Dist. & Sessions Judge, Kamrup, Guwahati/ Morigaon/ Nagaon/ Golaghat/ Jorhat/ Sivasagar/ Dibrugarh/ Tinsukia/ Dhemaji/ Lakhimpur, N. Lakhimpur/ Darrang, Mangaldoi/ Udalguri/ Sonitpur. Tezpur/ Nalbari/ Barpeta/ Bongaigaon/ Kokrajhar/ Dhubri/ Cachar, Silchar/ Karimganj/ Hailakandi. They are requested to circulate the notification amongst the Chief Judicial Magistrates/ Sub-Divisional Judicial Magistrates under their Administrative Control for necessary action.
- 4) The Joint Registrar (_____), Gauhati High Court, Guwahati.
- 5) The Joint Registrar-cum-Principal Secy. to Hon'ble the Chief Justice, Gauhati High Court, Guwahati.
- 6) The Deputy Registrar, Gauhati High Court, Itanagar Bench, Naharlagun. He is requested to circulate the notification amongst the concerned Judicial Officers under the jurisdiction of his Bench.


REGISTRAR GENERAL