

MINUTES OF THE 2ND ZONAL ADMINISTRATIVE CONFERENCE OF THE DISTRICT JUDICIARY,
DISTRICT & POLICE ADMINISTRATION OF BARAK VALLEY DIVISION, ASSAM HELD ON
19.11.16 AT CACHAR, SILCHAR

The conference was attended by Hon'ble Chief Justice, Gauhati High Court, Hon'ble Judge-in-charge, Administrative Department, Hon'ble Portfolio Judge of the concerned Districts, Legal Remembrancer & Secretary to the Government of Assam, Judicial Department, Commissioner of the Barak Valley Division, Assam, District Judges, the Deputy Commissioners, Superintendents of Police, Chief Judicial Magistrates of the three (3) Districts of Cachar, Karimganj and Hailakandi and the Presiding Officer, Motor Accident Claims Tribunal, Cachar, Silchar, the Principal Judge, Family Court, Cachar, Silchar, the Presiding Officer, Industrial Tribunal, Cachar, Silchar and the members of the Registry of the Gauhati High Court.

In the first session of the conference, the participants deliberated upon the following agenda.

- 1) Meeting of the Monitoring Committees:
- 2) Appointment of the Public Prosecutor, Assistant Public Prosecutors, Government Pleaders & Assistant Government Pleaders.
- 3) Withdrawal of Cases.
- 4) Custody and Disposal of valuables as well as Narcotic Drugs and Psychotropic Substances.
- 5) Completion of investigation and submission of charge-sheet within statutory period.
- 6) Infrastructure pertaining to District Judiciary.
- 7) General problems faced by the Judicial Administration, General Administration and Police Administration towards each other and suggestion thereof:

At the beginning of the conference, Hon'ble the Chief Justice welcomed all the participants.

AGENDA-1 MONITORING MEETING OF THE VARIOUS COMMITTEES.

The conference discussed the performance of various Monitoring Committees constituted at District Level. In course of discussion, the performance and outcome of Monthly Meeting required to be held by the District Judge and to be attended by the Deputy commissioner and Superintendent of Police as per direction of the Hon'ble High Court as well as High Court Notification No. 24 dated 24.04.20L3 was deliberated upon.

District Judges and Deputy Commissioners from the participating districts pointed out that the meetings are being held regularly. However, the Registrar General pointed out that the minutes of such meetings were not sent to the High court regularly as required and it was pointed out by their lordships that mere holding of the meetings would be meaningless, unless there is sincere and concerted effort to achieve the object and purpose of such meeting.

Justice Suman Shyam, Portfoloi Judge for the districts of Cachar, Hailakandi and Karimganj had suggested that minutes of the meeting may be uploaded in the District judicial websites, so that they can be easily accessed by all concerned.

Justice Hrishikesh Roy, Judge, Administrative Department, pointed that in the 1st Zonal Conference held at Goalpara, it was decided that the minutes of the monthly monitoring meeting shall be uploaded in the websites of the respective district courts and requested the District Judges to upload the minutes immediately after every meeting.

Referring to the concern expressed by the participants in the 1st Zonal Conference, with regard to difficulties in service of process on the official witnesses such as Investigating Officer, Medical Officer and defence personnel, because of insufficient address and non-disclosure of full name of the witnesses, Justice Hrishikesh Roy wanted to know the scenario in the three participating districts in this regard.

The Registrar General apprised the house that pursuant to the decision of the 1st Zonal Conference, the Hon'ble High Court, vide letter dated 26-10-16, requested the D.G.P. Assam, to ensure furnishing full name and address with mobile phone numbers of official witnesses in the charge-sheet, in order to avoid delay in the service of processes on such witnesses.

The S.P. Hailakandi informed the house that instruction has already been received from the DGP, Assam, vide letter dated 09.11.16, directing the S.P.s to comply with the direction of the Hon'ble High Court contained in the letter dated 26-10-16.

S.Ps of Hailakandi and Karimganj districts suggested that they should also be invited in the monthly monitoring meetings of Cachar district, so that they can sort out the issues pertaining to delay in receipt of medical and injury report, as in most of the case the Medical report and Post mortem reports are required to be collected from the Silchar Medical College. Hon'ble the Chief Justice suggested the District Judges to associate the S.Ps of the said two districts in the monthly meeting of Cachar, Silchar.

As regards service of summons on defense personnel, it has been pointed out by the Registry that pursuant to the resolution in the 1st Zonal Conference and as per directions of Hon'ble the Chief Justice, steps have already been taken for holding a high level meeting of Hon'ble the Chief Justice with the top officials of the Army to sort out the issue of non-service of process on the Army and para-military personnel.

The conference also discussed the necessity of proper functioning of the District Level Infrastructure Development Monitoring Committee(DLIDMC). The Registrar General suggested the respective District Judges as to how the plan for infrastructure are to be approved and processed for final approval of the Government.

AGENDA No-2. APPOINTMENT OF PUBLIC PROSECUTORS, ASSISTANT PUBLIC PROSECUTORS,
GOVERNMENT PLEADERS AND ASSISTANT GOVERNMENT PLEADERS.

The L.R & Secretary, Judicial Department, Government of Assam informed that Hon'ble the Chief Minister has taken a policy decision to discontinue the Prosecutors and Government Pleader who have completed three years and Government has already sought for new panel of lawyers for appointment as P.Ps, A.P.Ps and G.Ps from the District Magistrate.

The Deputy Commissioner, Cachar sought for a clarification from the house as to the criteria for computing the 3 years of service as Prosecutors in view of the fact that appointment letters have been issued year to year.

Hon'ble the Chief Justice clarified that the relevant period should be considered from the date of first appointment and the subsequent appointment is to be considered as extension or renewal of the initial appointment.

The conference was also apprised about the decision of the 1st Zonal conference that in case of necessity, the District Judge should initiate the process of sending the panel to the government in consultation with the DM.

AGENDA No-3. WITHDRAWAL OF CASES.

Discussion was initiated by Justice. Hrishikesh Roy on this issue by enlightening the participants about the mechanism evolved by Government of Rajasthan and Chattisgarh for reducing the pendency of cases by withdrawal of certain category of cases in public interest.

The house was also apprised about the consensus arrived at the 1st Zonal conference for evolving a mechanism for withdrawal of cases in the public interest in the line of the steps taken by the Government of Rajasthan and Chattisgarh, and were of unanimous view that High Court should take up the matter with the Government of Assam.

Registry of the High Court apprised the participants of the conference that pursuant to the decision of the 1st zonal conference, High Court has already taken up the matter with the Government of Assam vide letter dated 14-10-16. The L.R & Secretary, Judicial Department informed the conference that Hon'ble the Chief Minister has highly appreciated the initiative taken by the High Court and Department of Home, Govt. of Assam is already working on the matter.

All participants in the conference highly appreciated the steps taken by the High Court for reducing the pendency in the district courts in order to give speedy relief to the litigants.

AGENDA No-4. CUSTODY AND DISPOSAL OF VALUABLES AS WELL AS NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCE.

The meeting discussed the judgment of Hon'ble Supreme Court in Criminal Appeal No.652 of 2012 (Union of India vs. Mohanlal) as well as Govt. Notification No.GSR 38(E) dated 16.1.2015 in respect of seizure, sampling and storage of seized Narcotic Drugs and Psychotropic substances, disposal of drugs in disposed as well as in pending NDPS cases and constitution of the Drug Disposal Committees in the District level.

It was highlighted in the meeting that there is acute shortage of space in the existing Malkhana in the districts for storage of the seized drugs as per specification contained in the

judgment of Hon'ble the Supreme Court. The participants were apprised, that the Government of Assam vide Notification No. HMA.263/92|288 dated 2t.9.2002 had constituted a Drug Disposal Committee in respect of each Administrative police Range with DIG (Range) as the Chairman and SP of the concerned District and S.S.P/S.P, CID (Assam) as its members. Record of existence of such committees at the district level, as per direction of the Hon,ble Supreme Court, however was not available.

Registry apprised the house that pursuant to the decision taken in the 1st Zonal conference, the judgment of the Hon'ble Supreme Court and the Government Notifications pertaining to storage and disposal of NDPS are already uploaded in the High Court website.

It was suggested that the District Judges have to take up the matter of setting up of separate storage facilities for seized narcotic drugs and psychotropic substances, with the District Administration. Hon'ble the Chief Justice impressed upon all the stakeholders to comply with the directions of Hon'ble Supreme Court in the judgment of Mohan Lal's case reported in Criminal Appeal No.652/2012, in letter and spirit.

AGENDA NO-5, COMPLETION OF INVESTIGATION AND SUBMISSION OFF CHARGE-
SHEET WITH THE STATUTORY TIME.

Hon'ble the Chief Justice and Justice Hrishikesh Roy expressed concern about the non-submission of charge sheets within the statutory time. It has been pointed out that charge-sheets are not generally submitted by police within the statutory time and therefore, the accused persons, even in serious cases who were denied bail on merit, get the benefit of bail subsequently on technical ground of non-submission of charge-sheet within statutory time.

S.P. Cachar stated that shortage of manpower and lack of adequate skills and knowledge of the I.O. are the reasons for delay in submission of the charge sheet.

S.P. Karimganj apprised that due to non-receipt or delayed receipt of the Medical Reports, Post Mortem reports, FSL reports etc. filing of charge-sheet is delayed.

Hon'ble the Chief Justice suggested that the I.O.s should make all endeavour to submit charge-sheet within the statutory time and even in case where investigation is required to be continued beyond the statutory period, the IO should submit initial charge-sheet to be followed by supplementary/final charge-sheet, if necessary, so that the accused persons cannot take the undue advantage of securing bail on technical grounds.

Hon'ble the Chief Justice also reminded that the I.O should not forget the plight of the victims and the unhealthy effect on the society caused by enlargement of accused persons on technical ground, particularly in serious offences.

S.P. Hailakandi stated that in Assam there is no practice of filing additional charge sheet and assured, that they would start adopting such procedure of filing initial charge-sheet within statutory time, so that the accused persons cannot take the advantage of delay in submission of charge-sheet.

AGENDA NO.6. INFRASTRUCTURE

The Executive Engineer, Cachar, Barak Valley Division, who is in charge of all the three districts submitted a detailed report as regards the pending infrastructure works related to the Judiciary in the Barak Valley.

It was reported that the District Court Building of Cachar, Karimganj and Hailakandi districts are likely to be completed by the March, 2017 and the building will be handed over to the district judiciary.

Justice Hrishikesh Roy expressed concern regarding the inability to construct the ADR centers at Karimganj and Hailakandi due to non-availability of land and requested the district administration to identify suitable plot of lands for the purpose. Justice Suman Shyam suggested that ADR centers cannot be established in far-flung area and it has to be within the vicinity of the city so as to encourage the litigants to avail the benefits.

In Karimganj, the administrative approval is awaited for the court building estimate. For quarters and ADR, land has not been made available.

Deputy Commissioner, Karimganj while conceding to the fact that the present District Judges' Courts are functioning from a dilapidated Assam type building suggested that the land wherein the present jail is located may be made available for the Judiciary as the Jail is proposed to be shifted out of the said premises very soon. The District Judge, Karimganj was requested to coordinate with the district administration in this regard.

The Deputy Commissioner, Hailakandi informed that the existing Jail is in a poor condition and needs to be shifted immediately and requested Hon'ble the Chief Justice to take up the matter with the DIG prisons and the Govt of Assam, so that the land wherein the Jail is presently situated can be made available for the court infrastructure and even for construction of an ADR center.

Deputy Commissioner, Cachar informed that the land used as bus stand was taken back by the Government with the proposal for allotting a part of the land to the Judicial Department for constructing Family Courts and MACT, but the Transport Association has filed a case before the Hon'ble High Court, and the matter is sub-judice in WP(C)-2668/15.

The Registrar General requested the LR & Secretary, Judicial Department, Government of Assam to expedite the process for granting the administrative approval of the estimates sent till now and L.R has assured that he would look into the same.

7. AGENDA . GENERAL PROBLEM FACED BY THE JUDICIAL ADMINISTRATION, GENERAL ADMINISTRATION AND POLICE ADMINISTRATION TOWARDS EACH OTHER AND SUGGESTIONS THEREOF.

It was pointed that the administrative approval of the government has not been accorded for the ancillary works done for establishment of the Lakhipur Courts. The L.R. & Secretary, Judicial Department, Government of Assam has assured that administrative approval would be given at the earliest.

The Deputy Commissioner, Hailakandi requested that once the new Judicial Court building which is under construction is completed, the space occupied by the Judicial courts in the Office of the Deputy Commissioner may be vacated as they are also facing acute space constraints. Hon'ble the Chief Justice has assured to look into the matter.

Deputy Commissioner, Cachar suggested to examine the feasibility of establishing a Forensic Science Laboratory unit at Barak Valley, as delay in receipt of the FSL reports is one of the prime cause for non-submission of charge-sheet within statutory period.

It was informed that a PIL is pending before the High Court regarding improvement in the functioning of the FSL.

The Commissioner of Barak Valley has suggested that considering the acute shortage of land in the Barak Valley within the vicinity of the city, focus should be on vertical extension of court buildings.

VOTE OF THANKS.

At the end of this session, Hon'ble Mr. Justice Suman Shyam offered vote of thanks to all the participants.

SESSION-IITHIS SESSION WAS EXCLUSIVELY FOR THE DISTRICT JUDICIARY.

- i) The Principal Judge, Family Court, Cachar apprised the conference that the Family Court is functioning in a rented house and there is acute shortage of space.

The District Judge, Cachar assured for taking steps to identify a suitable premises for shifting the Family Court. Hon'ble the Chief Justice instructed the District Judge, Cachar to intimate the High Court as to the steps taken in this regard.

- ii) The Presiding Officer, Industrial Tribunal, Silchar also spoke about the shortage of space in the premises of the Industrial Tribunal which is functioning in a rented premises as well as vacancy of the post of Registrar and other supporting staffs.

The Registrar General suggested that upon shifting of the District Judges Courts to the newly constructed building, the Industrial Tribunal can be shifted to the old court building. It was also pointed that the post of Registrar being created by the Government, the Presiding Officer can directly take up the matter with the Government and in respect of the other supporting staff also it was suggested to take up the matter with the L.R. & Secretary, Judicial Department, Govt. of Assam. It has also been pointed out by the Registrar General that the Presiding Officer, Industrial Tribunal, Silchar may move the government for permission to appoint any contingency staff, particularly stenographer, till regular appointment is made.

- iii) The District Judge, Karimganj apprised the conference that the land identified for construction of courts is a low lying land.

The Registrar General suggested that the cost of earth filling be included in the estimate for construction of the court building.
