

**MINTUES OF THE MEETING OF HON'BLE THE CHIEF JUSTICE WITH THE DIRECTOR GENERAL OF POLICE, ASSAM AND BRIGADIER ADMINISTRATIONS OF HQ 4 CORPS, HQ 3 CORPS AND HQ 101 AREA HELD ON 16.12.2016 AT 04.30 PM IN THE CONFERENCE HALL OF THE GAUHATI HIGH COURT.**

**PRESENT**

**HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE HRISHIKESH ROY  
SHRI MUKESH SAHAI, DGP, ASSAM  
BRIGADIER SURENDRA PRASAD, BRIG (A) 4 CORPS  
BRIGADIER SAMIR SALUNKE, BRIG (A) 3 CORPS  
BRIGADIER SS SANDHU, BRIG (ADM) 101 AREA**

.....

**AGENDA**

**1. Service of process upon military personnel.**

*The Registry shared a statement of cases pending for service upon the military personnel.*

*Brigadier Administration, 4 Corps informed that improper or inadequate address in the summons is one of the major hurdles for non-service or delayed service of summons on the military personnel.*

*Director General of Police, Assam suggested that for the future, if a format of address is provided by the Army Authority, that can be distributed to the police station so that in future, summons can be sent as per the said format of address, which was accepted by the Army Authorities.*

*Director General of Police also suggested that so far the pending summons are concerned, the Judiciary shall forward a compiled statement of such summons to the Director General of Police, who shall share the same with the Army Authorities for service of such summons. He has also suggested that in case of any pending summons, the Army Authority can also share the address of the Army personnel with the police.*

*21/12/16*

**RESOLUTION**

*Army Authority would provide a format of address to be incorporated in the summons to the military personnel and the Director General of Police, Assam shall distribute such format to the police station so that proper address can be mentioned in the charge sheet in future. Such format shall also be sent to judiciary to incorporate in the summons. Judiciary shall send the list of pending summons to the Director General of Police, Assam, who shall share the same with the Army Authorities for effective service of such summons.*

**2. Appointment of Nodal Officer/Agency by the competent authority for service of summon upon military personnel.**

*Hon'ble Justice Hrishikesh Roy suggested that if a Nodal Officer is identified by the Army, all the summons of military officer could be routed through such Nodal Agency.*

*The Director General of Police, Assam stated that the name and designation of such Nodal Officer if intimated to him and judiciary, the same can be disseminated to police station level and all subordinate judicial Court.*

*Brigadier Administrations of 4 Corps and 3 Corps suggested that HQ 51 Sub Area (Guwahati) and HQ 41 Sub Area (Jorhat) can also act as Nodal Agencies if approved by the Eastern Command.*

*O/C, Legal Cell HQ 51 Sub Area submitted that the issue requires further deliberation as all the stakeholders are required to be consulted before a decision is taken.*

**RESOLUTION**

*Army Authority to decide the appointment of Nodal Agency/Officer, who will act as an interface between the Police,*

*21/1/16*

*Judiciary and Army. Name, address, designation of the Nodal Agency/Officer be provided to Director General of Police and the High Court. Director General of Police and Registry would disseminate such information to the police stations and all the Courts under the jurisdiction of Gauhati High Court respectively.*

**3. Appearance of serving persons of Armed Forces in Courts of Law as witnesses.**

*The Army officials pointed out that a reasonable time of minimum 90 days should be given for service of summons and Hon'ble the Chief Justice has assured that necessary instructions would be issued to judicial officers for giving such reasonable time for appearance of Army personnel as witnesses.*

**RESOLUTION**

*Necessary instructions shall be issued to the Judicial Officers for giving 3 (three) months time in the summons for appearance of Military witnesses.*

**4. Appearance of retired persons of Armed Forces in Courts of Law as witnesses.**

*Brigadier Administration, 4 Corps submitted that once a military person retires from service, they are beyond the purview of the Army Act and the Organization ceased to have command over them. It is also difficult to locate their civil address and therefore, it is not possible to serve summons upon the retired persons.*

*Brigadier Administration, 3 Corps has pointed out that last known address of the retired military person is recorded in MP Directorate at Army Head Quarters for Officers and in Record Offices at Regimental Centers for the person below Officers rank.*

*up/21/12/16*

*The concerned unit may inform the Court about the last known civil address as recorded in MP Directorate and Record Offices.*

*Director General of Police suggested that if the last known address of the retired person is shared with the Police and the Judiciary, it could be possible to issue the summons to retired person through civil mechanism.*

*O/C, Legal Cell, HQ 51 Sub-Area pointed out that the retired persons are sometime reluctant to come from far-flung areas for deposing before the Court as they find difficult to get their travel expenses reimbursed. He also mentioned that in the Certificate issued from the Court, it is simply mentioned as "re-imbusement nil". Director General of Police suggested that Court Certificate issued to retired Army personnel should specify that they are entitled to travel expenses as per Rule applicable to them. Registrar (Vigilance) submitted that instead of writing "re-imbusement nil", it can be written that "the witness concerned is entitled to travel expenses as per the Rule admissible to such witnesses."*

## **RESOLUTION**

*Army units/formation would provide the last known correct address of the retired Army personnel to Police and Judiciary in an expeditious manner so that summons can be sent through civil mechanism. The Registry shall issue instructions to the Courts for writing "the witness is entitled to travel expenses as per the Rule admissible to such witnesses" instead of "re-imbusement nil" in the Court Certificate.*

### **5. Long delay in finalization of Court cases.**

*It has been pointed out by O/C, Legal Cell, HQ 51 Sub-Area that due to long delay, sometimes witnesses are not available and even some times witnesses are unable to remember the facts of the case. The Director General of Police pointed out*

4/21/24

*that the cause for delay in disposal of cases varies from case to case. Sometimes because of non-availability of the accused and sometimes because of non-availability of the witnesses, the cases are delayed and therefore, no straight forward measures can be resorted to for cutting the delay in finalization of the Court cases. However, Director General of Police, Assam has suggested that once the recording of evidence starts, Court can go for day to day hearing.*

*Hon'ble the Chief Justice also emphasized that once the evidence starts, particularly in the cases where Army personnel are witness, it should continue on fast track basis.*

#### **6. Acceptance of attested copies of documents by Hon'ble Courts.**

*Brigadier Administration, 3 Corps pointed out that production of original documents is not possible sometimes due to turnover of units or loss or destruction of documents etc. and in such cases certified true copies or attested copies may be accepted by the Court.*

*Hon'ble the Chief Justice pointed out that secondary evidence of any original document is permissible only as per the procedure laid down by the Evidence Act.*

*Director General of Police suggested that Army may formulate a Standard Operating Procedures for preservation of documents which would be required by the Courts in connection with cases pending relating to such documents.*

#### **7. Attendance of incumbent appointment holders in official capacity as custodian of documents (Formal Witnesses).**

*O/C, Legal Cell, HQ 51 Sub-Area stated that in certain cases, where documentary evidence are required to be produced,*

*Un  
23/12/16*

*the same can be done by official incumbent. However, Courts insist the appearance of the persons, named in the summons to produce the documents.*

*It was apprised that only in cases, where summon has been issued for mere production of documents, anyone in custody of such documents can produce. But, when summon is issued for appearance of any person for purpose of proving any document, only the person concerned having personal knowledge or the maker of the concerned document can depose with regard to such document.*

#### **8. Examining of witnesses by video conferencing.**

*Hon'ble the Chief Justice has informed that there is video conferencing facility almost in all District Courts and examination of witnesses is permissible through video conferencing except where physical attendance of the witness is necessary for proving any document. For purpose of examining witness through Video Conferencing, the facility has to be available on the other end.*

*Director General of Police suggested that the Video Conferencing facility available in the District or in any Court within whose jurisdiction the witness resides or is serving can avail the facility of adducing evidence through Video Conferencing.*

#### **OPEN HOUSE DISCUSSION**

Brigadier Administration, 4 Corps submitted that the weapons and arms seized by police for Forensic Examination remains in their custody or in the custody of the Court/Police for long time till the case is disposed. The Director General of Police suggested that once the FSL Examination is over, the Army Authority can take "Zimma" of such weapons by filing appropriate application before the Court and can be produced as and when required by the Court. Unless Forensic Examination is done, the weapons cannot be returned for re-use in as

*22/11/16*

much as, FSL reports are mandatory as per guidelines and direction of the judiciary as well as, the National Human Rights Commission.

The Director General of Police has suggested that if the e-mail address and mobile numbers of the witnesses can be shared, delay in service of process can be avoided to a great extent. Brigadier Administration, 4 Corps has stated that the process of issuing e-mail addresses to officers has already started. But such facility is not available to persons below the rank of Officer. It will be futile to share mobile numbers as Army personnel get posted out from a particular area in short duration and mobile numbers are frequently changed.

The Director General of Police, Assam has raised a question, whether there can be state Amendment in the Cr.P.C. for facilitating online F.I.R. relaxing the requirement of physical signature of the informant. Hon'ble the Chief Justice has informed that such suggestion may be made before the appropriate authority relaxing the present requirement as per Cr.P.C..

Members of the Registry and O/C Legal Cell HQ 51 Sub-Area also attended the meeting.

  
REGISTRAR (VIGILANCE)