

MINUTES OF THE 1ST ZONAL ADMINISTRATIVE CONFERENCE OF THE DISTRICT JUDICIARY, DISTRICT AND POLICE ADMINISTRATION OF THE LOWER ASSAM DIVISION HELD ON 24-9-16 AT GOALPARA.

The conference was attended by Hon'ble the Chief Justice, Gauhati High Court, Hon'ble Judge-in-charge, Administrative Department, Hon'ble Portfolio Judges of the concerned Districts, Legal Remembrancer & Secretary to the Government of Assam, Judicial Department, Commissioner of Lower Assam Division, Commissioner of Police, District Judges, Deputy Commissioners, Superintendents of Police, Chief Judicial Magistrates of the (10) districts of Lower Assam Division comprising of Kamrup (Metro), Kamrup, Barpeta, Nalbari, Dhubri, Chirang, Bongaigaon, Baksa, Kokrajhar and Goalpara, In-charge Member Secretary, Assam State Legal Services Authority and the Registry of the Gauhati High Court.

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

- 1. Meeting of the Monitoring Committees:**
- 2. Appointment of Public Prosecutors, Assistant Public Prosecutors, Government Pleaders and Assistant Government Pleaders:**
- 3. Withdrawal of cases:**
- 4. Custody and Disposal of valuables as well as Narcotic Drugs and Psychotropic Substance:**
- 5. Infrastructure pertaining to District Judiciary:**
- 6. 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 24.04.2013 was deliberated upon. District Judges and Deputy Commissioners from the participating districts pointed out that the meetings were being held regularly. However, it was pointed out that the minutes of such meetings were not being sent to the High Court regularly as mandated under Clause D(VI) of the Notification No.24.

It was pointed out that mere holding of the meetings would not suffice, unless there is sincere effort to achieve the object and purpose of such meeting.

It was highlighted in the conference by the District Judges that non-services of summons/warrants on the accused residing outside the District and State as well as process on Army and Paramilitary personnel is a major cause of concern. Sometimes, non-service of summons and warrants to the persons residing in the remote areas are also a cause of concern. It was pointed out that because of non-furnishing of the full names of the Investigating Officer and the Medical Officer in the charge-sheet, summons could not be served upon them, causing delay in disposal of the cases.

Following suggestions were put forward:

The minutes of the meeting of the Districts should be uploaded in the District Court Websites regularly.

The Superintendents of Police should ensure that full names and addresses of the Official witnesses such as Doctors, Police Officers are given in the charge-sheet along with their respective mobile numbers.

Explore the feasibility of appointment of a Nodal Officer from the Army for service of summons on the Army and other paramilitary forces personnel, who are witness in criminal cases. Hon'ble the Chief Justice suggested that a meeting with GOCs may be convened in the High Court to sort out the issue of non-service of process on the Army and Para-military personnel.

Very High Frequency(VHF) Wireless Communicating Centers should be set up in all the District Courts for expediting service of process of courts on official witnesses, as setting up of such VHF Centres has already been approved by the High Court.

A database of the Investigating Officers and the Medical Officers be prepared district-wise and uploaded in the websites of the district administration and police administration.

After deliberation the conference identified the following broad issues to be addressed:

i. Tracking of Investigating Officers and Medical Officers:

Since insufficient address of the Medical Officers and Investigating Officers in the charge-sheet is a major issue creating difficulty in service of process upon such witnesses, appropriate steps should be taken to ensure furnishing full

names and addresses of the Official witnesses such as Doctors, Police Officers in the charge-sheet along with their respective mobile numbers.

ii. Service of Process:

For effective monitoring of the process of service, District Judges and Chief Judicial Magistrates should furnish real-time data with regard to non-service of process to the Superintendents of Police in the Monthly Meeting as per Notification No.24 so that the Police Authority can take appropriate follow-up action and inform the District Judge in the next Monitoring Meeting for further follow up action.

iii. Service of process on Military and paramilitary personnel:

High Court should take steps to evolve a mechanism for ensuring service of process on Military and Paramilitary personnel and explore feasibility of a Nodal Officer being appointed by the competent authority, for service of such process, after consultation with GOCs.

The Superintendents of Police shall raise the issue of service of summons on the Army Personnel in the monthly meetings of the District Administration held with the Superintendents of Police & Army Officials.

iv. Minutes of the Monitoring Meeting should be uploaded in the website of the District Judiciary.

The conference also discussed the purpose and objective of constituting the **District Level Infrastructure Development Monitoring Committee(DLIDMC).**

Following suggestions were put forward:

- i. Any plan and estimate submitted by the PWD relating to Court and residential quarter, should be routed through the District Level Infrastructure Development Monitoring Committee before sending it to the High Court and the proposal sent to the High Court should contain the indication that the proposal was placed, considered and approved by the DLIDMC.
- ii. District Judges should personally monitor all the ongoing projects in their respective Districts, so that, they are completed within the stipulated time.
- iii. Chief Engineer, PWD (Building) should be invited in the next Zonal Conference.
- iv. As there is no separate Judiciary functioning in the District of Baksa and lot of infrastructural works are in progress, Deputy Commissioner, Baksa has been requested to monitor the projects in coordination with District Judge, Nalbari.
- v. District Administration should make an endeavour to identify suitable land in the district, wherever necessary, so that proposals for construction of Court Building and quarters for the Officers and staff of the District Judiciary can be submitted at the earliest.

The conference while discussing the functioning of the **District Sub-Committee for NCMS and SCMS** observed that a meeting of the State Level Committee for NCMS & SCMS may be convened by the High Court so as to lay down guidelines as to the manner in which the District Sub-Committee for NCMS & SCMS shall function.



AGENDA 2: APPOINTMENT OF PUBLIC PROSECUTORS, ASSISTANT PUBLIC PROSECUTORS, GOVERNMENT PLEADERS AND ASSISTANT GOVERNMENT PLEADERS:

District Judge, Kamrup (Metro) and District Judge, Bongaigaon informed the conference about the shortage of prosecutors. The conference discussed in threadbare the procedure for appointment of Public Prosecutor for the District Courts as laid down in the Code of Criminal Procedure and also the direction of the Hon'ble Gauhati High Court in WP(C) No. 4299 of 2006 in this respect. The conference requested the District Judges to initiate the process for appointment and also to prepare panel of Advocates for appointment as Prosecutors, in case of necessity, in consultation with the Deputy Commissioner, so that functioning of the Court does not suffer.

AGENDA 3: WITHDRAWAL OF CASES:

Discussion was initiated by the High Court on this issue by enlightening the participants about the steps taken by the Government of Rajasthan for reduction of pendency of cases of petty nature and the mechanism brought in for this purpose. The participants were informed that certain categories of cases falling under the Motor Vehicles Act, Police Act, Shops and Establishments Act and cases where UTPs have already completed statutory period of punishment prescribed by the statute etc. could be considered for withdrawal by a committee constituted under the scheme for this purpose, subject to final approval of the government.

On being apprised of the scheme of Rajasthan, all the participants welcomed the mechanism for reduction of pendency of cases and were of the unanimous view that similar steps could also be adopted in the State of Assam. High Court shall take the matter with the Government.

AGENDA 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 NDP substances, disposal of drugs in disposed as well as in pending NDPS cases and constitution of the Drug Disposal Committees in the Districts.

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 and storage facility for NDPS as per specification contained in the judgment of Hon'ble the Supreme Court is not available.

The participants were apprised that the Government of Assam vide Notification No. HMA.263/92/288 dated 21.9.2002 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 SSP/SP, 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. Some of the participants pointed out that they were not aware of the Government Notification dated 21.9.2002 and requested that the same be made available to them.

Following suggestions were put forward:

- i. The judgment passed by the Hon'ble Supreme Court in Criminal Appeal No.652 of 2012 (Union of India vs. Mohanlal) as well as Govt. Notifications No.GSR 38(E) dated 16.1.2015 and No. HMA.263/92/288 dated 21.9.2002 be uploaded in the High Court Website and circulated to all the Superintendents of Police.
- ii. District Judges to take up the matter of setting up of separate storage facilities for seized narcotic drugs and psychotropic substances, with the District Administration.

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- iii. The conference urged upon all to comply with the direction of Hon'ble the Supreme Court in respect of storage and disposal of Narcotic Drugs and Psychotropic Substances, without any delay.

AGENDA 5: General Problem faced by the Judicial Administration, General Administration and Police Administration towards each other and suggestions thereof:-

It was pointed that at times, that the Injury reports and post mortem reports were not being submitted along with the charge sheet causing delay in disposal of cases. The Police administration was requested to look into the matter.

It was deliberated that the Superintendents of Police of the concerned districts should ensure sending of the Accident Information Report to the Tribunal having jurisdiction within the time specified in the statute and also in the direction issued by Hon'ble Supreme Court of India in *Jai Prakash- vs- M/S. National Insurance Co. & Ors* reported in Special Leave Petition (Civil) No. 11801-11804 of 2005.

The status of the Crime and Criminal Tracking Network & Systems (CCTNS) which proposes for availability of FIR, CD etc. in digital format with access to all the police stations and courts was discussed. The Commissioner of Police, Kamrup (Metro) stated that the entire process is under consideration and the preparation of the FIR, charge sheet, CD in digitized format is in pipeline.

The District Judges informed in the conference that non-submission of FSL reports causes delay in trial of the case. It was informed that a PIL is pending before the High Court in this regard.

Lastly, the ***Reach-Out and Respond*** Programme undertaken by the Assam State Legal Services Authority in providing artificial limbs and other related equipments to the disabled people in the State of Assam in collaboration with Mahabir Viklang Sahayata Samity, Jaipur Foots was highlighted and it was

informed that various camps for distribution of prosthetic limbs etc. to the disabled persons in the State of Assam will be held in various districts and cooperation of the District Judges and District Administration was sought for, in making the programme a success.

Vote of thanks:

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

Post- Lunch Session:

This session was exclusively for the District Judiciary.

- I) District Judge, Kamrup(M) apprised the conference that encroachment of land allotted to the District Judiciary Kamrup (Metro) at Pachim Boragaon have been cleared. And the approach road leading to the plot of land earmarked for construction of residential quarters for Judicial Officers at Ulubari has been widened and requested for construction of the boundary wall to avoid further encroachment. He also pointed out that there is shortage of quarters for Judicial Officers.

The Registry informed that Government has already accorded administrative approval for earth filling and construction of boundary walls in the land at Pachim Boragaon amounting to Rs.3,82,06,000/. The PWD has already floated tender for execution of the work.

It was pointed out that no proposal for constructing boundary walls for the approach road leading to the plot of land for construction of residential quarters for Judicial Officers at Ulubari has been received by the High Court from the District Judge, Kamrup (Metro).

District Judge, Kamrup (Metro) was requested to take up the matter in the District Infrastructure Monitoring Committee for early submission of estimate for the boundary walls for the approach road at Ulubari.

- II) The District Judge, Dhubri informed that case diaries of the disposed of cases are kept in the Court and is causing inconvenience as most of the case diaries are piled up in the corridors in the court building consuming lot of space.

District Judge, Dhubri has been advised to take up the matter with the Police Administration and to issue necessary instruction to the Public Prosecutor to arrange for appropriate custody of such case Diaries.

- III) Member, MACT, Dhubri pointed out that huge number of MAC cases are pending in his Tribunal for long where claimants are absent without any steps and even attempt to settle such cases through Alternate Dispute Redressal mechanism failed due to non-response by the claimants. There was deliberations on this issue and it was pointed out to him that there cannot be an order for dismissal of claim for default in appearance of parties. However, such cases may be disposed of with a 'No Claim Award'.

- IV) The Presiding Officer of the Industrial Tribunal, Kamrup (Metro) and Presiding Officer In-charge of Labour Court has informed that both the establishment together have 28 staff with only 33 cases pending in both the establishments and in the last 9 months, no fresh case has been referred by the Government to the Tribunal for trial. He has also stated that as per the Government letter dated 1-22006, issued by the Labour and Employment department the Labour Court and Industrial Tribunal falls under the subordinate judiciary. This letter is however is in response to a letter of the Presiding Officer seeking approval for

appointment of staff. The matter will be looked into by the High Court in the administrative side.

- V) Regarding the disposal of cases which are more than 5 years old, it was suggested that such case records should be tied with RED RIBBON or RED MARKING should be done so as to indicate that urgent attention is required and priority be given for early disposal of such cases. It was also suggested that the concerned District Judges should have the figures of such cases in their hand and Junior Officers should be guided in the Weekly Meetings how such old pending cases can be disposed of. It was also suggested that the progress of each such old pending cases should be monitored by the District Judges.

Attention was also drawn to 60 nos. of 5 years old pending cases in the Court of Special Judges, CBI, Kamrup (Metro). It was informed by the Special Judge, CBI No.1, Kamrup (Metro) that the Public Prosecutor has been recently appointed. He also stated that large number of formal witnesses are cited and the prosecution is reluctant to restrict the examination of such insignificant witnesses. Examination of large number of insignificant witnesses causes delay in disposal of cases.

VI) Court inspection:

District Judges and Chief Judicial Magistrates were advised to inspect the Courts under their respective jurisdiction regularly to guide the Junior Officers in all respects including proper maintenance of Registers as provided in the Civil Court and Criminal Court Rules and Orders.

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VII) Administration of the District:

The Registrar General pointed out various issues pertaining to Administration in the establishment of the District Judges and the Chief Judicial Magistrates and requested the participants to look into the following matters.

- District Judges were requested not to forward applications for appointment of staff on contingent basis, as being Heads of Department as per SR 4(4) of the Fundamental Rules and Subsidiary Rules and Appendix-5 of the said Rules, they could make direct correspondence with the Government for engagement of contingent workers, subject to the approval of the Govt. of Assam. Registrar General pointed out that the High Court has no authority to grant such permissions/approval for such engagement in view of Government Notification banning such engagement without prior approval of the Government, the power to engage is with the Government only. It was also indicated that some of the District Judges have obtained approval of the Government for engagement of contingent workers by direct correspondence with the Govt. of Assam.
- District Judges were requested to exercise powers under the relevant Notification dated 25.6.2014 regarding grant of leave to Judicial Officers under their administrative control instead of forwarding the same to the High Court for approval.
- It was pointed that there are instances where an Officer entitled to a Bungalow Peon were not getting the same, as the application for engagement of such Bungalow Peon were not being disposed of by the District Judges in spite of the Govt. Notification No. FFC-10/97/ Pt/69 dated 20.9.2001. District Judges were requested to dispose of such pending applications in accordance with the Government Notification.
- District Judges were requested to send Budget proposal to the High Court in the proper format along with filled up Form B-I

(Annexure-I) and L-Form in the month of September itself, as per the Budget Manual.

- It was pointed out that the Budget proposal for procurement of furniture and IT equipments ought to be accompanied by the approval letter of the PM& P Section of the High Court.
- The applications for reimbursement of medical bills should be accompanied by Bank Account Number and the Branch Name. Most of the applications received by the High Court are without such information.
- Some of the District Judges and Chief Judicial Magistrates have not responded to the letters issued by the High Court and also reminders for meeting the Audit Objections. The Registrar General requested them to meet the Audit Objection with the office of the Accounts General, Assam and submit a compliance report to the Registrar General.
- It was pointed out that most of the applications for Leave Encashment Benefit from the districts are forwarded to the High Court without the Leave Admissibility Report from the office of the Accountant General, Assam and without mentioning for which Block Period the last encashment benefit was availed. District Judges were requested not to forward such applications without furnishing of such information/report.
- It was informed that the High Court has been receiving proposals from the Districts seeking approval for procurement of items even for value of Rs.3000/-. District Judges were requested to take decisions at their own level in the various committees constituted for the purpose and procure the same and the expenses shall borne by the respective establishments from the appropriate head, as per relevant Financial Rules.
- The High Court has been receiving letters from the District Judges as well as Chief Judicial Magistrates for creation of some posts without indicating the justification, pay scales, financial



involvements etc. which are required to be filled up as per Office Memorandum No.AAP.200/94/4 dated 30.11.1994. District Judges and Chief Judicial Magistrates were requested to follow the procedure laid down in the Office Memorandum at the time of forwarding proposals to the High Court for creation of posts.

- The Registrar General requested the District Judges to ensure that all correspondences and communications to the High Court from the officers under the control of the District Judge be routed through the District Judge only to the High Court and must be addressed to Registrar General, unless there is a specific direction to the contrary.
