

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

NOTIFICATION

Dated Guwahati, the 28th April, 2009

No.HC.XI-01/2008/ 126 /RC # # The Gauhati High Court has been pleased to make the Charter for the Gauhati High Court Mediation Centre and the Mediation Centres of the District Courts under its jurisdiction in the following manner:

CHARTER OF GAUHATI HIGH COURT MEDIATION CENTRE

1. In accordance with the mandate of Section 89 read with Order X Rule 1A of the Code of Civil Procedure, 1908 (CPC) as amended till date, there shall be a mediation centre, at the Principal Seat of the Gauhati High Court, Guwahati housed in the Gauhati High Court building, called the Gauhati High Court Mediation Centre for the purpose of promoting and facilitating quick disposal of pre and post litigation cases as well as for setting up of mediation centres for different outlying Benches and in all Districts under the jurisdiction of the Principal Seat and these Benches of the Gauhati High Court which can be broadly shown as below:-

GAUHATI HIGH COURT						
Districts under the Principal Seat	Districts under the Kohima Bench	Districts under the Shillong Bench	Districts under the Imphal Bench	Districts under the Agartala Bench	Districts under the Aizawl Bench	Districts under the Itanagar Bench

2. **Composition of the Gauhati High Court Mediation Centre(Principal Seat):**
- a. Hon'ble the Chief Justice of the Gauhati High Court shall be the Patron-in-Chief.
 - b. There shall be a committee, to supervise working of the centres, to be known as Supervisory Committee consisting of-
 - (i) Three Hon'ble Judges of the Gauhati High Court;
 - (ii) The President of the Gauhati High Court Bar Association;
 - (iii) The Chairperson of the Bar Council of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram and Arunachal Pradesh (Northeast Bar Council);
 - (iv) The Advocate General;
 - (v) Two lady members to be nominated by Hon'ble the Chief Justice of the Gauhati High Court;
 - (vi) The Member Secretary of the State Legal Services Authority, Assam.
 - c. The senior most Judge of the Committee shall be the Chairperson of the Centre.
3. **Composition of the Mediation Centres at the outlying Benches:**
- a. Hon'ble the Chief Justice shall be the Patron-in-Chief.
 - b. There shall be a Committee to supervise the working of each centre at the outlying Benches to be known as the Supervisory Committee consisting of-
 - (i) Hon'ble Judges stationed at the Bench/ in the State;
 - (ii) The President of the High Court Bar Association of the respective outlying Bench/ State;
 - (iii) One member of the Northeast Bar Council belonging to the respective State;
 - (iv) The Advocate General of the respective State;
 - (v) Two lady members to be nominated by Hon'ble the Chief Justice of the Gauhati High Court;
 - (vi) The Member Secretary of the State Legal Services Authority of the respective State.
 - c. The senior most Judge of the Committee shall be the Chairperson of the Centre.
4. **Administration and organization of the Gauhati High Court Mediation Centres at the Principal Seat and the outlying Benches:**
- The Centres at the Principal Seat and the outlying Benches shall each be administered and organized by the following office bearers to be appointed/ nominated by Hon'ble the Chief Justice at the recommendation of/ in consultation with the respective Supervisory Committee-
- a. The Secretary, who shall be a serving or retired Grade- I officer of the State Judicial Service/ person qualified to be appointed as a Grade- I officer of the State Judicial Service, to be appointed on deputation/ part time basis;
 - b. The Deputy Secretary, who shall be a serving or retired Grade- II officer of the State Judicial Service/ person qualified to be appointed as a Grade- II officer of the State Judicial Service, to be appointed on deputation/ part time basis;

- c. The Assistant Secretary, who shall be a serving or retired Grade- III officer of the State Judicial Service/ person qualified to be appointed as a Grade- III officer of the State Judicial Service, to be appointed on deputation/ part time basis;
 - d. Stenographer Grade- I;
 - e. U.D. Assistant;
 - f. L.D. Assistants, Accountant, Barkandaz and at least three Office Peons.
5. The Secretaries of the Gauhati High Court Mediation Centres shall take steps for opening mediation centres at the Principal Seat and the outlying Benches and shall prepare a panel of mediators at the direction of the Supervisory Committee for the respective Centres.
 6. The financial power to deal with the funds of the respective Centres shall rest with the Secretaries to be exercised at the advice of the Chairpersons of the respective Supervisory Committees.
 7. Hon'ble the Chief Justice may at his discretion change the composition of the Supervisory Committee.
 8. The members of the Supervisory Committee shall not ordinarily act as mediators unless or otherwise directed by the Court.
 9. **Functions of the Centres at the Principal Seat and the outlying Benches:**
The functions of the Centres shall be-
 - a. To resolve by mediation and conciliation a dispute referred to the Centre in any pending lis;
 - b. To maintain a panel of mediators;
 - c. To train mediators by holding workshops and training programmes from time to time at designated training institutes by trained mediators. Role plays may be undertaken to give the trainees a feel of actual mediation;
 - d. To promote mediation and conciliation as methods of Alternative Dispute Resolution (ADR for short) by holding awareness programmes in the form of seminars and colloquiums to help change the mind set of the litigants, lawyers, judges and the public.

10. Area of operation:

- a. The Centres at the Principal Seat and the outlying Benches shall accept for mediations and conciliations all disputes referred by the Gauhati High Court or any other High Court and the Supreme Court or any other Court or tribunal or by the parties or any organizations- either Governmental or non-Governmental organizations.
- b. The Centres at the Principal Seat and the outlying Benches shall supervise the operation of the District Mediation Centres under their respective jurisdiction.

11. Composition and functioning of Mediation Centres in the Districts:

- a. The members of the District Legal Services Authority of the respective districts shall form the Supervisory Committee of the District Mediation Centres to be headed by the Hon'ble Portfolio Judge of the District upon whose advice the Supervisory Committee shall function.
- b. The District Mediation Centre shall function in the office of the District Legal Services Authority.
- c. The Chairperson of the District Legal Services Authority shall take all necessary steps to implement the methods of mediations immediately for settlement of disputes strictly following the Gauhati High Court Mediation Rules, 2007.
- d. The Secretary shall constitute Mediation, Conciliation and Counselling Centres in every District for amicable settlement of disputes.
- e. The Secretaries of the districts under the jurisdiction of the Gauhati High Court at the Principal Seat shall be free to obtain instruction from the High Court Mediation Centre at the Principal Seat and the Secretaries of the districts under the jurisdiction of the Gauhati High Court in the respective outlying Benches shall be free to obtain instruction from the High Court in the respective outlying Benches.
- f. Role of Secretary-cum-Coordinator of the District Mediation Centre:
 - (i) Receipt of the referred cases.
 - (ii) Allotment of referred cases to the mediator appointed by the Court or by the parties as the case may be as per provision of Civil Procedure Mediation (Gauhati High Court) Rules, 2007.
 - (iii) Return of the cases to the concerned Courts with the result of mediation.
 - (iv) Organizing training programme as per instruction of the Gauhati High Court Mediation Centre.

12. Mediation- What is it?

Mediation is one of the methods of Alternative Dispute Resolution contemplated under Section 89 read with Order X Rule 1A of the Code of Civil Procedure. It is an impartial attempt at resolving disputes through settlement, rather than merely disposing of a case, which nevertheless may still leave one party to the lis dissatisfied resulting into appeals and revisions. It is a voluntary non-adversarial, non-binding process in which an impartial and neutral mediator

assists the parties in understanding their roles as active participants in reaching a solution to their disputes through a flexible process suitable to the needs of the participants. It is a process assisting the parties to cultivate a thought process through a non-binding confidential negotiation to come forth with creative remedies, which will be helpful to both the parties through the ultimate resolved solution. In mediation there is no one complete winner or loser but each party comes away with something beneficial. A mediator does not impose a solution but uses special negotiation skills and communication techniques thus creating an atmosphere under which parties can resolve their disputes, often much beyond the ambit of that particular litigation, by reaching the underlying root cause of disharmony and discontent between the parties. The mediator assists each of the parties to understand the opposite parties' point of view, interest and priorities and leaves the decision making power with the parties thereby giving both sides a sense of satisfaction and vindication.

13. Panel of Mediators:

- a. At the recommendation of the Supervisory Committee, Hon'ble the Chief Justice of the Gauhati High Court may finalize the panel of Mediators of the Gauhati High Court Mediation Centre and for the Mediation Centres at the outlying Benches.
- b. The panel of mediators prepared by the District Legal Services Authorities of the respective States shall obtain approval from the Chairpersons of the Gauhati High Court Mediation Centre and the Mediation Centres at the outlying Benches as the case may be.

14. Mediator- Who can be empanelled?

The panel of the mediators shall be prepared as per Rules 3 and 4 of the Civil Procedure Mediation (Gauhati High Court) Rules, 2007 and shall be subject to the provisions of Rule 5 of the said Rules.

Initially the Chairperson of the Northeast Bar Council and the President of the Gauhati High Court Bar Association may be requested to provide the names of lawyers with the qualifications prescribed in Rule 4 of the said Rules. Apart from this, names of persons having the aforesaid qualifications and interested in becoming mediators may be invited through public advertisement. A separate cadre of officers from the Judiciary and from among the lawyers and from other professionals to be trained as "Active Mediators" may be formed both at the level of the High Court and the District Courts.

The panel of Mediators may be reviewed periodically by the Chairperson of the Supervisory Committee.

15. Honorarium/ Remuneration to be paid to the Mediators:

With a view to encouraging mediation, the Mediator is to be paid honorarium/ fee as per provisions laid down in Rule 26 of the Civil Procedure Mediation (Gauhati High Court) Rules, 2007. To ensure sustained interest of Mediators, payment of honorarium/ fee shall commence after the Mediator has completed four successful mediations and has taken part in eight mediations in all.

16. Reference of Disputes to Mediation Centres:

The keys to the success of Mediation are the Referral Judge and the appropriate selection of cases made on party characteristics, case characteristics, types of cases and objective assessment of a fit case for referral and holding of a hearing by the Referral Judge with the participants briefly explaining to them about mediation and its process.

Whenever a matter is referred to the Centre of Mediation, the Secretary, depending on the nature of the dispute shall choose an appropriate Mediator from the panel.

The Mediator shall strictly follow the Civil Procedure Mediation (Gauhati High Court) Rules, 2007.

17. Infrastructure:

- a. Suitable place for accommodation of the Gauhati High Court Mediation Centres at the Principal Seat and the outlying Benches may be provided by the Hon'ble Gauhati High Court at the Principal Seat and the respective Benches as the case may be.
- b. Accommodation of the Mediation Centres in the Districts may be provided by the concerned District Legal Services Authorities.
- c. Necessary staff may be provided to the Mediation Centres at the High Court level by the concerned Registry with the approval of Hon'ble the Chief Justice at the Principal Seat and with the approval of the Chairpersons in the outlying Benches and in respect of the Mediation Centres at the District level by the Chairpersons of the District Legal Services Authorities with the approval of the Hon'ble Portfolio Judges.
- d. The process will continue till alternative arrangements of accommodation and creation of posts are made by the respective State Governments.

18. Other aspects of Mediation:

- a. There should be proper interaction and coordination among the different Mediation Centres being run in different States either at the High Court level or at the District level so that there is uniform application of mediation throughout the country.
- b. Mediation should be implemented in such a manner which is suitable to the Indian context. It should be established with the spirit to render public service.
- c. The Mediators shall conduct themselves in accordance with the provisions laid down in Rule 20 of the Civil Procedure Mediation (Gauhati High Court) Rules, 2007.

- d. The State Government should provide sufficient funds to develop basic and minimum infrastructure necessary to conduct mediation.
- e. Should there arise any controversy regarding the interpretation of the provisions above the matter is to be referred to the Supervisory Committee of the Gauhati High Court for its interpretation subject to approval of the Patron-in-Chief.

19. Role of Assam State Legal Services Authority:

- a. The Assam State Legal Services Authority may also provide fund to develop basic and minimum infrastructure necessary for establishing mediation centre at district level and also at the mediation centre of the High Court.
- b. Without causing prejudice to the power of Supervisory Committee of the mediation centres and in addition thereto, the State Authority may supervise the functioning of mediation centre of the district.
- c. Without contrary to the provisions made under Civil Procedure Mediation (Gauhati High Court) Rules, 2007, the State Authority may issue necessary instruction for effective functioning of the Mediation Centre as per instruction and direction received from National Legal Services Authority and also to impart training to the mediators from time to time in accordance with the direction of the Gauhati High Court or Executive Chairman, Assam State Legal Services Authority as the case may be.

By Order,
Sd/- P.K. Saikia
REGISTRAR GENERAL

Memo No.HC.XI-01/2008/ 127-266 /RC dated 28.04.2009

Copy to: -

1. The L.R. & Secretary to the Govt. of Assam, Judicial Department, Dispur, Guwahati.
 2. The Secretary to the Govt. of Nagaland, Justice and Law Department, Kohima.
 3. The Secretary to the Govt. of Meghalaya, Law Department, Shillong.
 4. The Secretary to the Govt. of Manipur, Law Department, Imphal.
 5. The L.R. & Secretary to the Govt. of Tripura, Law Department, Agartala.
 6. The L.R.-cum-Secretary to the Govt. of Mizoram, Law and Judicial Department, Aizawl.
 7. The Secretary to the Govt. of Arunachal Pradesh, Law Department, Itanagar.
 8. The Registrar (Vigilance)-cum-Secretary, Gauhati High Court Legal Services Committee, Gauhati High Court, Guwahati.
 9. The Registrar (Admn.), Gauhati High Court, Guwahati.
 10. The Registrar, Gauhati High Court, _____ Bench, _____.
- They are requested to circulate the notification among the District & Sessions Judges of their respective States.
11. The Chairperson, Bar Council of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram and Arunachal Pradesh.
 12. The President, Gauhati High Court Bar Association, Guwahati.
 13. The President, High Court Bar Association, _____.
 14. The Advocate General, _____.
 15. The District & Sessions Judge, _____.
 16. The Member Secretary, State Legal Services Authority, _____.
 17. The Secretary, High Court Legal Services Committee, Gauhati High Court, _____ Bench, _____.
 18. The Deputy Director, Assam Govt. Press, Bamunimaidam, Guwahati.
- He is requested to publish the notification in the next issue of the Assam Gazette and send to this Registry at least 10 copies of the same after publication.
19. The Publisher, Nagaland Gazette, Kohima/ Meghalaya Gazette, Shillong/ Manipur Gazette, Imphal/ Tripura Gazette, Agartala/ Mizoram Gazette, Aizawl/ Arunachal Pradesh Gazette, Itanagar.
- They are requested to publish the notification in their respective Official Gazettes and send to this Registry at least 5 copies of the same after publication.
20. The Joint Registrar-cum-Secretary to Hon'ble the Chief Justice, Gauhati High Court, Guwahati.
 21. The Deputy Registrar (Judl.)/ (Bench)/ (G&C)/ (A/Cs), Gauhati High Court, Guwahati.
 22. The Deputy Registrar, Gauhati High Court, Itanagar Bench, Naharlagun.
 23. The Chief Judicial Magistrate, _____.
 24. The Librarian-cum-Research Officer, Gauhati High Court, Guwahati.
 25. The P.S. to Hon'ble Mr. Justice _____.
 26. The Assistant Registrar, _____, Gauhati High Court, Guwahati.
 27. The Superintendent, _____ Section, Gauhati High Court, Guwahati.

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REGISTRAR GENERAL

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28/4/09