

Office of the  
**Co-Ordination Committee of Minority Organizations, Assam**

সংখ্যালঘু সংগঠন সমূহৰ সমন্বয়ৰক্ষী সমিতি, অসম

Office : 4th Floor, T.M. Complex, Near Rajdhani Masjid, Guwahati-06

Ph No - 9854118072

Member Organization  
of Co-Ordination  
Committee of Minority  
Organizations, Assam:

1. All Assam Minorities Students' Union (AAMSU)
2. Assam State Jamiyat Ulema (Anfar)
3. Assam State Jamiyat Ulema (Ajmal)
4. Jamat -E-Islami Hind, Assam Zone.
5. Assam Sankhyaloghu Sangram Samittee.
6. All BTC Minority Students' Union (ABMSU)
7. Assam Miya (Asomiya) Parishad
8. All Assam Madrassa Students' Association (AAMSA)
9. Muslim Students Union, Assam (MSUA)
10. Asomor Pragjyotishpuria Khilonjiya Musalman Unnayan Parishad.
11. Ulema Council Assam
12. Brahmaputra Valley Minority Civil Society
13. Assam Minority Jatiya Parishad
14. Justice Forum, Assam
15. Onogrohor Muslim Jatiya Parishad
16. Citizens Rights Preservation Movement Forum, Assam
17. Sankhyaloghu Unnayan Parishad, Assam
18. Assam Social Justice Forum
19. Nagarik Oikyo Mancha
20. Obodo Suroksha Samittee, BTAD
21. All India Muslim Think Tank Association, Assam Chapter.
22. Popular front of India, Assam State.
23. Bharatiya Musalman Suraksha Committee

Ref No : .....

Date : 28-05-18

To,

The Chief Secretary  
Govt. of Assam,  
Dispur, Guwahati-6

Sub:- Memorandum regarding the arbitrary references of  
Foreigner cases to the Foreigner Tribunals in Assam  
without conducting fair investigation.

Ref:- 1. The para 96 , 97 of Full Bench Judgment and order Dtd.  
03-01-2013 passed in Rev. Petition No- 22 of 2010  
reported as 2013 (i) GLT 809 (State -vs- Moslem Mondal  
and Ors),  
2. The Para -24, 25 of division Bench Judgment reported  
on 2017 (2) GLT 974 (Akhtara Khatun -Vs- State of Assam)

Sir,

With reference to the subject captioned above it is  
most respectfully lay the following few lines for favour of  
your kind consideration and necessary action:

- I. That sir, it is heartening to note that a trend has been  
noticed reflecting the arbitrary act on the part of the  
Border Police in making reference of cases to the

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Foreigners Tribunals doubting any one's status as a citizen of India. There are many instances in referring cases twice or thrice against the same person. This type of incidence has established the fact that the subsequent references could be possible only for want of fair investigation prior to such 2<sup>nd</sup> or 3<sup>rd</sup> reference of the case.

II. That Sir, in many cases it is found that the enquiry reports have been submitted without filling up various columns of the report. The names of the suspected persons, his/her address and the names of father or husband are also found recorded wrongly. In some cases the names of witnesses/informant mentioned in the report are of fictitious in nature and also appears to be non-existing persons in the locality. All these incidences otherwise established the fact of referring the cases without fair investigation.

III. That the Hon'ble Guwhati High Court in Full Bench decision under reference No- 1 has laid down a guideline as to how a reference is to be made. The relevant paragraphs are quoted below.



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"97. Fair investigation and fair trial being the basic fundamentals/human right of a person, which are concomitant to preservation of the fundamental rights of a person under Article 21 of the constitution, there has to be a fair and proper investigation by the investigating agency before making a reference to the Tribunal. In such investigation the attempt has to be made to find out the person against whom the investigation is made, so that the person concerned is given the opportunity to demonstrate at the investigation stage itself that he is not a foreigner. In case the person concerned could not be found out in the village where he is reported to reside or in the place where he ordinarily reside or work for gain, the investigation agency has to record the same in presence of the village elder or the village headman or any respectable person of the locality, which in turn would ensure visit of the investigating officer to the place where such person ordinarily resides or reported to reside or work for gain and making of an effort to find him out for the purpose of giving him the opportunity to

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produce the documents etc. if any, to demonstrate that he is not a foreigner ....."

- IV. That Sir, the Hon'ble Division Bench of Gauhati High Court in a case under reference No-2, has emphasized the enquiry about the status of a person as a citizen of India. Such enquiry naturally should be fair and giving opportunity to demonstrate that the person concern is not a foreigner as laid down by the full Bench decision under reference No- 2.
- V. That Sir, we are in deep sense of apprehension that in the name of enquiry many genuine persons are often deprived of reasonable opportunity of defence by producing relevant documents at the investigation stage itself and thereby right under Article 21 is affected which we humbly urged for stopping by your kind interference.



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Hence the above facts and circumstances narrated above, we humbly pray for looking into issues raised herein above so as to take preventive measures against arbitrary references of foreigners cases without conducting fair investigation and thus obliged.

Yours faithfully

*Arizur Rahman*  
Advisor, AAMSU  
Chief Co-ordinator, CCMO, Assam, Brahmaputra Valley Civil Society

*Abdul Batim Chandakar*  
Working President,  
Brahmaputra Valley Civil Society

*M. Latifur Rahman*  
General Secy,  
Justice Forum, Assam,

*Mahammad Ali Khalifa*  
Gen. Secy,  
Assam Sankhyaloghu Sangram Parishad.

*Shafiqul Islam*  
Organization Secretary  
JIH N.E.(N) Zone.