



**May 5, 2021**

To,

1. Dr MS Lakshmi Priya, IAS  
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2. Niraj Verma, IAS  
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**Respected Madam/Sir,**

We, at Citizens for Justice Peace (CJP), are writing this memorandum to bring to your notice some blatant violations of legal provisions that have occurred in the recent past as Foreigners Tribunal (FT) notices are not being duly served upon the noticee/proceedee causing much chaos and panic amongst the public. In the course of the on ground work done by our team, they have come across quite a few FT notices pasted on electricity poles in Bongaigaon city's Ward no-11 (Babupara) and also in North Bongaigaon (Boubazar). While some of these notices bear names such as Mira Rani Das, Parbati Singha, Sankari Ghosh, Prativa Dey, some of these were found without names and addresses and some were not even legible as the rain water had obscured them.

CJP and its team in Assam have relentlessly provided legal aid to the people of Assam who have had to face the FT procedures. CJP has also been actively involved in securing release of detention camp inmates who are eligible for being released as per Supreme Court directives



issued from time to time. We conduct workshops to train paralegals to assist people at FTs so that lawyers and paralegals are able to go ahead and assist those in need of assistance to file their documents before FTs. Our team in Assam also provided ration kits to several families in remote areas during the 2020 lockdown when economic activities were suspended leaving daily wagers and people from marginalized section in a lurch with no source of income or food.

### **Background of incident**

It was brought to our notice by our team working in Assam that in Bongaigaon FT notices, were found pasted on several electricity poles. The instances of these FT notices first came to light on April 9, 2021 in Bongaigaon city's Ward no-11 (Babupara) and also in North Bongaigaon (Boubazar). These notices mention names of people who are suspected foreigners and direct them to present themselves before a specific FT on the specific date mentioned in the notice. There were some notices that were found without any name or addresses.

Some notices carry remarks in Assamese, written with a pen, that translate as, **"N.B:- In the presence of two witnesses, the notice will be hung at the last address of the other party and the report will be issued."**

On April 10, Team CJP visited these places and spoke to the general public and people from marginalised sections of society to ensure that those who are socio-economically weak, or educationally backward should not start panicking over this issue. Our team visited different parts of Bongaigaon city, including Babupara, Boubajar, Ghoshpara, North Bongaigaon etc. Most of the notices that were posted on various electricity posts were in the name of women. For example: Mira Rani Das, Parbati Singha, Sankari Ghosh, Prativa Dey etc. In some places, the writings on the notices were erased or became obscure and unreadable due to rain.

*[The pictures of these notices stuck on electricity poles are attached herewith as Annexure A](#)*

The notices have generated panic among people in a state where citizenship remains a contentious subject. There is also fear, as while off-camera people expressed disappointment,



they were reluctant to comment on the subject on-camera. Many fear that they will get a notice in their own name, if they speak up.

### **NRC and notices**

When the National Register of Citizens (NRC) final draft was published on August 31, 2019 over 19 lakh (1.9 million) people were excluded from the list which meant that they would have to defend their citizenship before FTs. This process of defending one's citizenship begins after one receives a rejection notice and that individual has only 120 days after receiving such notice, to appear before the concerned FT, get legal help to understand what documents will be required, gather such documents, get witnesses to corroborate the contents of such documents and complete the legal proceedings so that the FT declares the individual to be a citizen of India. One needs to employ substantial resources, both legal and monetary, to even reach the FT for proceedings to begin. If the onset of this process that is meant to be fair and just, following due process of law, itself gets de-railed at its inception due to the employment of improper and unlawful means by the serving authority, it is bound to cause panic among people. Apart from being manifestly unlawful and unjust.

### **Violation of due procedure**

The Foreigners (Tribunal) Order, 1964 which has been amended a few times, includes procedures to be followed when serving a notice and pasting such notices in public places is certainly not a legal method of serving notices and needs to be looked into an enquired into on an urgent basis. There also needs to be a communication from the Home department of the state of Assam to calm people's nerves that such notices if even found in any person's name will not amount to valid service and that the 120 day period will not get triggered unless and until due process is followed as per the Foreigners (Tribunal) Order, 1964.

A large majority among the 19,06,657 NRC excluded persons are yet to receive these NRC rejection slips and notices from the FTs. The process to defend one's citizenship gets triggered once this notice is 'duly' served and the 120 days period stipulated for appearing before the FT also kick starts with this very notice. Thus, it is absolutely essential that these notices are given 'dasti' or in hand to the person in whose name the notice has been issued or at least



an adult member of his family. The exact procedure to followed in case of many situations arising while serving such notice has been outlined in much detail in the Foreigners (Tribunal) Order of 1964.

For easy reference we are mentioning these provisions mentioned under sub clause 5 of Clause 3 of the Foreigners (Tribunal) Order, 1964:

(5) (a) The notice shall be served at the address where the proceedee last resided or reportedly resides or works for gain, and in case of change of place of residence, which has been duly intimated in writing to the investigating agency by the alleged person, it shall be served at such changed address by the Foreigners Tribunal;

(b) if the proceedee is not found at the address at the time of service of notice, the notice may be served on any adult member of the family of the proceedee and it shall be deemed to be served on the proceedee;

(c) where the notice is served on the adult member of the family of the proceedee, the process server shall obtain the signature or thumb impression of the adult member on the duplicate of the notice as a token of proof of the service;

(d) if the adult member of the family of the proceedee refuses to put a signature or the thumb impression, as the case may be, the process server shall report the same to the Foreigners Tribunal;

(e) if the proceedee or any available adult member of his or her family refuses to accept the notice, the process server shall give a report to the Foreigners Tribunal in that regard along with the name and address of a person of the locality, who was present at the time of making such an effort to get the notices served, provided such person is available and willing to be a witness to such service and the process server shall obtain the signature or thumb impression of such witness, if he or she is present and willing to sign or put his or her thumb impression, as the case may be;

(f) if the proceedee has changed the place of residence or place of work, without intimation to the investigating agency, the process server shall affix a copy of the



notice on the outer door or some other conspicuous part of the house in which the proceedee ordinarily resides or last resided or reportedly resided or personally worked for gain or carries on business, and shall return the original to the Foreigners Tribunal from which it was issued with a report endorsed thereon or annexed thereto stating that he has so affixed the copy, the circumstances under which he did do, and the name and address of the person (if any) by whom the house was identified and in whose presence the copy was affixed;

(g) where the proceedee or any adult member of his or her family is not found at the residence, a copy of the notice shall be pasted in a conspicuous place of his or her residence, witnessed by one respectable person of the locality, subject to his or her availability and willingness to be a witness in that regard and the process server shall obtain the signature or the thumb impression of that person in the manner in which such service is affected;

(h) where the proceedee resides outside the jurisdiction of the Foreigners Tribunal, the notice shall be sent for service to the officer-in-charge of the police station within whose jurisdiction the proceedee resides or last resided or is last known to have resided or worked for gain and the process server shall then cause the service of notice in the manner as provided herein above;

(i) if no person is available or willing to be the witness of service of notice or refuses to put his or her signature or thumb impression the process server shall file a signed certificate or verification to that effect, which shall be sufficient proof of such non-availability, unwillingness and refusal;

Assuming that the proceedee or an adult member of their family refused to accept the notice, “the process server shall give a report to the Foreigners Tribunal in that regard along with the name and address of a person of the locality, who was present at the time of making such an effort to get the notices served, provided such person is available and willing to be a witness to such service and the process server shall obtain the signature or thumb



impression of such witness". There is no provision for pasting of the notice anywhere. Such a course is not permitted in any nature of judicial proceedings

Assuming that the authorities discovered that the proceedee was not present at the address where they attempted to serve notice, they should have as per procedure detailed in point (f), stuck the notice "on the outer door or some other conspicuous part of the house in which the proceedee ordinarily resides or last resided or reportedly resided or personally worked for gain or carries on business". But the notices were neither stuck on the outer door or any conspicuous part of the house, but on electricity poles that are public property and stand alongside roadways.

In the instance that the proceedee or any adult member of their family was not found at the address, they should have as per provisions of point (g) ensured that "a copy of the notice shall be pasted in a conspicuous place of his or her residence, witnessed by one respectable person of the locality, subject to his or her availability and willingness to be a witness in that regard and the process server shall obtain the signature or the thumb-impression of that person". However, once again, the notice was not pasted on any part of anyone's house, but on public property alongside a road.

It is amply clear that due procedure has not been followed in serving these notices and there is a high probability that there are more such notices being pasted out in the open, in other areas which has not come to our knowledge thus making this a situation needing emergent action. There may be areas where locals may have found such notices in public places or they may not even come to anyone's attention and are showed as notices being served while causing the proceedee to lose an opportunity to present his case before the FT and having to probably to employ more financial resources to contend his claim before the High Court. Many of these proceedees belong to low income group and do not have the kind of resources needed to hire legal help and lawyers. To put them in such a precarious situation violates their right to life under Article 21 of the Constitution as well as their right to equality under Article 14.



defending human rights in the courts and beyond

Hence, CJP earnestly urges that necessary action be taken against the serving authority and an enquiry be initiated into this matter to find out how many such notices were served without following due procedure under the Foreigners (Tribunal) Order, 1964. We also urge that a public declaration made that any notice served under the Foreigners (Tribunal) Order, 1964 without following due procedure laid down therein, shall not be considered valid and will not trigger the 120-day period for the proceedee to appear before the FT to prove his/her citizenship or for that matter any proceedings under the Foreigners Act, 1946.

**Yours sincerely,**

Citizens for Justice and Peace

Nandan Maluste, Vice-President

Teesta Setalvad, Secretary

#### **References**

**Pasting FT notices on electricity poles a violation of set law, procedure** Assam Border Police's actions are in contravention of provisions of FT Order 1964

<https://cjp.org.in/pasting-ft-notices-on-electricity-poles-a-violation-of-set-procedure/>

**EXCLUSIVE: Foreigners' Tribunal notices pasted on electricity poles in Assam!** CJP finds several such notices across Bongaigaon; widespread panic among people

<https://cjp.org.in/exclusive-foreigners-tribunal-notices-pasted-on-electricity-poles-in-assam/>