

GAHC010031752021



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : PIL/12/2021

CITIZEN FOR JUSTICE AND PEACE
REP. BY ITS SECRETARY TEESTA SETALVAD, HAVING ITS REGD. OFFICE
AT (NORANT) BUNGALOW JUHU TARA ROAD, MUMBAI-400049.

VERSUS

THE UNION OF INDIA AND 5 ORS
REP. BY THE SECRETARY TO THE DEPTT. OF HOME AFFAIRS, NEW DELHI.

2:THE STATE OF ASSAM
REP. BY THE COMM. AND SECY.
GOVT. OF ASSAM
HOME DEPTT.
DISPUR
GUWAHATI-06.

3:THE COMMISSIONER AND SECY.
GOVT. OF ASSAM
LEGISLATIVE DEPTT.
LEGISLATIVE BRANCH
DISPUR
GUWAHATI-06.

4:THE NATIONAL LEGAL SERVICES AUTHORITY
12/11 JAM NAGAR HOUSE
REP. BY ITS MEMBER SECRETARY
NEW DELHI-11.

5:THE ASSAM STATE LEGAL SERVICES AUTHORITY
GAUHATI HIGH COURT CAMPUS
REP. BY ITS MEMBER SECRETARY
GUWAHATI-01.

6:THE STATE CO-ORDINATOR
NATIONAL REGISTRAR OF CITIZENS
ASSAM
BHANGAGARH
GUWAHATI-781005

Advocate for the Petitioner : MR. M DUTTA

Advocate for the Respondent : ASSTT.S.G.I.

BEFORE
HON'BLE MR. JUSTICE N. KOTISWAR SINGH
HON'BLE MRS. JUSTICE MALASRI NANDI

23.11.2021

(N. Kostiswar Singh, J.)

Heard Mr. M. Desai, learned counsel assisted by Mr. M. Dutta, learned counsel for the petitioner. Also heard Mr. R.K.D. Choudhury, learned ASGI as well as Ms. M. Bhattacharjee, learned Additional Senior Government Advocate, Assam.

2. This PIL essentially relates to providing free and competent legal aid to those persons who have been left out from the NRC registration, who may require legal aid to register themselves in NRC by filing appeals before the Foreigners Tribunals. Certainly, legal aid cannot be denied to any deserving person who may seek such aid as it is not only a constitutional obligation of the State under Article 39A of the Constitution, but also a statutory obligation under the Legal Services Authorities Act, 1987.

3. Further, it may be noted that the Hon'ble Supreme Court as far as in 1980 in the case of ***Khatri and Ors.(II) Vs. State of Bihar and Ors., [(1981) 1 SCC 627]*** had held that the State cannot avoid this obligation to provide legal aid by pleading financial or administrative inability.

Though the said observation was made in the context of providing free legal aid to the accused persons, it will be of universal application where legal aid is to be provided to the

deserving poorer sections of the society.

4. It has been submitted by Mr. Desai, learned counsel for the petitioner that there are estimated 19 lakh such persons who may require legal aid.

This is being an enormous exercise, obviously, would require additional funds from the competent authorities so that the concerned legal services authorities may pay legal aid counsel who may be engaged, unless they offer their services *pro bono*.

5. Accordingly, Mr. R.K.D. Choudhury, learned ASGI will indicate as regards providing sufficient funds to the concerned legal services authorities to enable the legal services authorities to provide free and competent legal services to the deserving persons.

It may be mentioned that it is the Assam State Legal Services Authority in coordination with the concerned District Legal Services Authorities, which has been statutorily tasked to render free legal aid services in the State of Assam, apart from other organisations/NGOs which may also render such free legal aid.

6. Mr. R.K.D. Choudhury, learned ASGI prays for a weeks time to do so.

Let the matter accordingly, be listed again on 06.12.2021, on which date, Mr. R.K. D. Choudhury, learned ASGI will apprise this Court of the funds that may be made available for this exercise of providing free and competent legal aid to the deserving persons.

Ms. Bhattacharjee, learned Additional Senior Government Advocate, Assam will also indicate as to the financial assistance that can be rendered by the State Government for this exercise.

Copy of this order may be furnished to Mr. Choudhury, learned ASGI as well as Ms. Bhattacharjee, learned Additional Senior Government Advocate.

JUDGE

JUDGE

Comparing Assistant