

ITEM NO.2

COURT NO.3

SECTION PIL-W/X/XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

WRIT PETITION(S) (CIVIL) NO(S). 274/2009

ASSAM PUBLIC WORKS

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IA No.107482/2017-REPORT DTD 12/10/17 OF SH. PRATEEK HAJELA,
PROJECT COORDINATOR, IA No.110873/2017-impleading party and IA
No.121402/2017-CLARIFICATION/DIRECTION)

WITH

W.P. (C) No. 562/2012 (X)

IA No.114708/2017-EARLY HEARING APPLICATION)

W.P. (C) No. 916/2014 (PIL-W)

(IA 1/2014 FOR STAY APPLICATION

IA 2/2015 FOR PERMISSION TO FILE ANNEXURES

IA 3/2015 FOR EXEMPTION FROM FILING O.T. and

IA No.119677/2017-impleading party)

W.P. (C) No. 876/2014 (X)

(IA 1/2014 FOR STAY APPLICATION)

W.P. (C) No. 311/2015 (X)

(IA 1/2015 FOR SEEKING LEAVE TO FILE WRITTEN ARGUMENTS & IA 2/2015)

W.P. (C) No. 449/2015 (X)

(WITH IA 1/2015)

W.P. (C) No. 450/2015 (X)

(WITH IA 1/2015)

W.P. (C) No. 68/2016 (PIL-W)

(IA 1/2017 FOR INTERVENTION APPLICATION)

DIARY NO(S). 13544/2017 (XIV)

(IA No.43274/2017-CONDONATION OF DELAY IN FILING

IA No.43277/2017-EXEMPTION FROM FILING O.T.

IA No.43276/2017-PERMISSION TO FILE ADDITIONAL DOCUMENTS)

Date : 30-11-2017 These matters were called on for hearing today.

CORAM :

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HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

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UPON hearing the counsel the Court made the following
O R D E R

I.A. NO.121402 OF 2017 IN WRIT PETITION (CIVIL) NO.274
OF 2009

We have heard Shri K.K. Venugopal, learned Attorney General for India in support of the application for extension of time for publication of the draft National Register of Citizens (NRC) for Assam.

We have also considered the statements made in support of the aforesaid prayer.

At the very outset, we would like to mention that to a pointed query made by a Member of the Bench (Hon'ble Mr. Justice Rohinton Fali Nariman) as to whether, if extension prayed for is to be granted, there could be a request for further extension in the future the learned Attorney General has submitted that such a possibility cannot be ruled out and, if required, further time will be sought.

The exercise of preparation of the upgradation of the draft NRC has been presently going on for the last three years. Time schedule was first laid by this

Court by its order dated 17.12.2014. The final time frame laid down by order of this Court dated 13.07.2017 contemplates publication of the draft NRC latest by 31st December, 2017.

To another query made by the Bench, Shri Prateek Hajela, learned State Coordinator, NRC, Assam has submitted that by 31st December, 2017 scrutiny of about 2 crore cases/claims are likely to be completed. In the application for extension filed by the Registrar General of Citizen Registration, India, the remaining claims to be verified have been placed in three categories which are as follows:

- a) 38 lakh persons where the doubts have arisen in respect of some documents and particulars,
- b) 47 lakh persons where doubts have arisen in respect of their parental linkage after undertaking matching of family tree of an applicant, and
- c) 29 lakh persons cases kept in abeyance belonging to the category of married women who have submitted Gram Panchayat Secretary Certificate.

On being asked, Shri Hajela has submitted that so far as the claims of 38 lakh persons in respect of whom doubts have arisen qua documents and particulars, instructions have already been issued to complete the process by 15th January, 2018. This time frame has also been indicated in the affidavit of the Registrar General of Citizen Registration, India. We accordingly direct Shri Hajela to complete the said process relating to the above 38 lakh claims on or before 31st December, 2017 by deployment of additional man-power and resources. Thereafter, on the expiry of the midnight of 31st December, 2017, draft NRC pertaining to the 2 crore claims which have been verified or likely to be verified by the said date and the additional 38 lakh claims, mentioned above, will be published. The prayer for extension, accordingly, stands rejected.

The matter will be listed on 20th February, 2018 for further orders.

After the aforesaid order had been dictated, Shri K.K. Venugopal, learned Attorney General for India has submitted that fixing a date for publication of the draft NRC is really an executive function and an order to the aforesaid effect by the Court would be an encroachment on the executive domain and violation of

doctrine of separation of powers.

The aforesaid contention advanced before the Court for the first time overlooks the fact that over a period of three years the Court has been monitoring the matter and fixing appropriate time-lines for the completion of different phases of the exercise of updating the NRC. Even on the last date i.e. 13th July, 2017, when 31st December, 2017 was fixed for publication of the draft NRC the contentions now advanced were not made before the Court. That apart, it is the sheer inaction on the part of the executive in dragging the matter for a period of over three years and the absence of any justifiable cause to hold back even a partial publication that has led the Court to direct publication of the draft NRC on or before 31st December, 2017.

Learned Attorney General has further submitted that part publication of the draft NRC could result in a law and order situation inasmuch as a large segment of the people would understand that their names have been excluded from the draft NRC. We do not see how the aforesaid situation can even remotely arise as we have already indicated in the earlier part of the present order that claims of 47 lakh persons and 29

lakh persons are still pending and would be subject to verification and covered by publication of another draft NRC at a subsequent point of time.

In view of the above, the additional contentions advanced by the learned Attorney General do not commend for acceptance.

Re: Border Fencing

A copy of the report submitted by the Court Constituted Committee be furnished to Shri Tushar Mehta, learned Additional Solicitor General who will interact with the concerned authority in the Central Government and revert to this Court on the next date fixed i.e. 20th February, 2018 along with the report of the concerned authority indicating the action taken and proposed to be taken and also indicating a time schedule for the remaining action required to be taken.

List the matters on 20th February, 2018.

[VINOD LAKHINA]

AR-cum-PS

[ASHA SONI]

BRANCH OFFICER