

ITEM NO.301

COURT NO.4

SECTION X/PIL(W)

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 (CIVIL) NO(S). 562/2012

ASSAM SANMILITA MAHASANGHA & ORS.

PETITIONER(S)

VERSUS

UNION OF INDIA & ORS.

RESPONDENT(S)

(WITH APPLN. (S) FOR DIRECTIONS AND EARLY HEARING AND IMPLEADMENT
AS PARTY RESPONDENT AND PERMISSION AND STAY AND OFFICE REPORT)

WITH

W.P.(C) NO. 274/2009

(WITH OFFICE REPORT)

W.P.(C) NO. 311/2015

(WITH APPLN. (S) FOR IMPLEADMENT AND SEEKING LEAVE TO FILE WRITTEN
ARGUMENTS AND OFFICE REPORT)

W.P.(C) NO. 450/2015

(WITH APPLN. (S) FOR DIRECTIONS)

W.P.(C) NO. 449/2015

(WITH APPLN. (S) FOR DIRECTIONS AND OFFICE REPORT)

W.P.(C) NO. 876/2014

(WITH APPLN. (S) FOR STAY AND OFFICE REPORT)

W.P.(C) NO. 68/2016

(WITH APPLN. (S) FOR INTERVENTION AND OFFICE REPORT)

Date : 08/03/2017 These cases were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

Present:

Mr. P.S. Patwalia, ASG
Mr. R.M. Bajaj, Adv.
Mr. Tushar Bakshi, Adv.
Ms. Rashmi Malhotra, Adv.
Mr. B.K. Prasad, Adv.

Mr. Manish Goswami, Adv.
Mr. Rameshwar Prasad Goyal, Adv.

Gauhati HC

Ms. Sneha Kalita, Adv.
Mr. Satyam Jyoti Saikia, Adv.

Mr. Somiran Sharma, Adv.
Mr. Amit, Adv.
Ms. Seema Sharma, Adv.

State of Assam

Mr. Manoj Goel, Adv.
Mr. Shuvodeep Roy, Adv.
Ms. L.S. Changsan, Commissioner-cum-Sec.,
Assam

AASU

Mr. Prateek Jalan, Adv.
Ms. Malvika Trivedi, Adv.
Mr. Rahul Kriplani, Adv.
Mr. Ankit Yadav, Adv.
Mr. T. Mahipal, Adv.

State of Punjab

Mr. S.K. Pabbi, AAG, Punjab
Ms. Shikha Roy, Adv.
Ms. Disha Singh, Adv.
Mr. Kuldeep Singh, Adv.

State of J & K

Mr. M. Shoeb Alam, Adv.
Ms. Fauzia Shakil, Adv.
Mr. Ujjwal Singh, Adv.
Mr. Mosahid Karim Khan, Adv.

State of Haryana

Mr. Anil Grover, AAG
Ms. Noopur Singhal, Adv.
Mr. Sanjay Kr. Visen, Adv.

And. & Nicobar Admn.

Mr. Bhupesh Narula, Adv.
Mr. K.V. Jagdishvaran, Adv.
Mrs. G. Indira, Adv.

State of M.P. Mr. C.D. Singh, Adv.
 Mr. Udit Arora, Adv.
 Mr. Sandeepan Pathak, Adv.

State of Bihar Mr. Rudreshwar Singh, Adv.
 Mr. Gautam Singh, Adv.

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

We have heard Shri P.S. Patwalia, learned Additional Solicitor General on the status report with regard to border fencing which has been submitted to this Court pursuant to its order dated 7th February, 2017. We have taken note of the contents of the said report and also the additional statements made by Shri Patwalia, on instructions, to the effect that some of the tenders for work(s) mentioned in the status report have been finalized in the meantime and work order has been issued and such work has or is likely to commence soon. Shri Patwalia has also submitted that in respect of certain other stretches of the Indo-Bangladesh Border, re-tender(s) has also been issued. It is also submitted that land proposed to be acquired (as mentioned in the report) has since been made available by the Government of Assam. Without going into any further specific details, we are of the view that the task of border fencing on the 13.38 kms stretch, which is planned to be covered by physical barrier, should

commence/undertaken in the right earnest. The Committee under the Chairmanship of Shri Madhukar Gupta, Ex-Home Secretary which is already in seisin of a related matter is entrusted by the Court to oversee and supervise the construction of the border fencing of this stretch of the Indo-Bangladesh border and submit periodical reports to the Court, the first of which shall be within four months from today.

Insofar as the riverine border is concerned we have taken note of the facts stated in the status report in question. This aspect of the matter, particularly, what has been stated in paragraph 7 of the report, will be considered on the next date of hearing.

Insofar as the availability of finances is concerned, Shri Patwalia has submitted that a meeting of the Expenditure - Finance Committee of the Ministry of Finance is scheduled to be held on 10th March, 2017. It is submitted by Shri Patwalia that the Home Ministry has given full justification to the revised proposal(s) and the Expenditure - Finance Committee will submit its decision including a decision on interim payment which will then have to be considered by the appropriate authority in the Ministry of Home Affairs and the Ministry of Finance. Shri Patwalia submits that he is optimistic that by the

first/second week of April, 2017 a substantial amount would be released.

Shri Prateek Hajela, State Coordinator, NRC, Assam who is present in Court has informed the Court that he has also been asked to participate in the said meeting of the Expenditure Finance Committee. As Shri Hajela, State Coordinator, NRC, Assam will be personally present in the meeting, we leave it to the Expenditure Finance Committee and all other authorities to take a appropriate decision in the matter after hearing Shri Hajela, if so required and thereafter to release necessary funds to enable the work of NRC up-gradation to continue in the right earnest.

Learned counsels for the contesting parties pray for furnishing of a copy of the status report dated 13th February, 2017.

Shri P.S. Patwalia, learned ASG submits that the status report dated 13th February, 2017 filed by him before the Court should not be permitted to be circulated as the contents of the same may involve matters of national security. We disagree and direct the Registry to furnish a copy of the status report dated 13th February, 2017 to all concerned.

I.A. NO.21 OF 2017

We have considered the application filed by Shri Prateek Hajela, State Coordinator, NRC, Assam pursuant to the order of this Court dated 14th February, 2017. Before we consider the statements made therein and the directions sought for we would like to have the views of the Union of India and the State of Assam. For the aforesaid purpose, a copy of the said application shall be furnished to Shri P.S. Patwalia, learned ASG and Shri Manoj Goel, learned Counsel appearing for Union of India and State of Assam respectively. Office is not required to issue any formal notice on the said application.

Insofar as the issue with regard to document No.'xiii' ['Certificate issued by the Secretary of the Village Panchayat countersigned by the local revenue official in respect of females who have migrated to other villages after marriage. In respect of urban areas, such certificates issued by jurisdictional circle officers would be accepted. However, these would be supporting documents only] is concerned we are of the view that the order of the Gauhati High Court dated 28th February, 2017 passed in WP(C) No.2634 of 2016 should not halt the process of up-gradation

of the NRC and the learned Coordinator would continue to undertake the process of scrutiny that is presently going on in respect of all other claims for inclusion in the NRC and thereafter proceed to publish the draft NRC. The claims made on the basis of the aforesaid document i.e. document No.'xiii' of the supporting documents may be kept in abeyance for the present and will be subject to such orders as the Court may pass on a later date.

List the matter on 19th April, 2017 at 2.00 p.m.

We request the Hon'ble the Chief Justice of India to make available this Bench on the said date i.e. 19th April, 2017 at 2.00 p.m.

[VINOD LAKHINA]
COURT MASTER

[ASHA SONI]
COURT MASTER