

ITEM NO.301

COURT NO.8

SECTION X

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). 562/2012

ASSAM SANMILITA MAHASANGHA & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With application for directions and office report)

WITH

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

(With appln.(s) for stay and Office Report)

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

(With appln.(s) for further directions and appln.(s) for
intervention and appln.(s) for impleadment and Office Report)

WITH

WP(C) NO.867/2015

Date : 13/05/2015 These petitions were called on for hearing
today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

For Petitioner(s)

Mr. Manish Goswami, Adv.

Mr. Rameshwar Prasad Goyal, Adv.

Mr. Somiran Sharma, Adv.

Mr. Arvind Kumar Sharma, Adv.

Ms. Ankita Sharma, Adv.

For Respondent(s)

Mr. N.K. Kaul, ASG

Mr. Raghavendra M. Bajaj, Adv.

Ms. Sushma Suri, Adv.

Mr. Sanyat Lodha, Adv.

Mr. Shiv Mangal Sharma, Adv.

Ms. Rashmi Malhotra, Adv.

Mr. Rakesh Khanna, Sr. Adv.

Mr. Milan Laskar, Adv.
Mohd. Parvez Dabas, Adv.
Mr. Syed Mehdi Imam, Adv.

Mr. Shibashish Misra, Adv.

Mr. Anas Tanwir, Adv.
Mr. Abdul Qadir Abbasi, Adv.
Mr. Abdul Qadir, Adv.
Mr. G. Jawed, Adv.
Mr. Fuzail Ahmad Ayyubi, Adv.

Mr. Mohan Pandey, Adv.
Mr. Shakil Ahmed Syed, Adv.
Mr. Shadan Farasat, Adv.

Mr. Joydeep Gupta, Sr. Adv.
Ms. Krishna S., AAG
Mr. Avijit Roy, Adv.
Ms. Kankana Arandhara, Adv.
For M/s Corporate Law Group

Mr. B. Krishna Prasad, Adv.

Mr. Somiran Sharma, Adv.

Mr. Mohit D. Ram, Adv.

Mr. Rajeev Dubey, Adv.
Mr. Ravi Prakash Mehrotra, Adv.

Mr. Anip Sachthey, Adv.
Mr. Mohit Paul, Adv.
Ms. Shagun Malta, Adv.

Mr. S.N.Terdal, Adv.
Mr. G.S. Chatterjee, Adv.

Mr. Siddharth Bhatnagar, Adv.
Mr. Sidharth Mohan, Adv.
Mr. Nirnimesh Dube, Adv.

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

Mr. Balasubramaniam, Adv.
Mr. K.V. Jagdishvaran, Adv.
Mrs. G. Indira, Adv.

UPON hearing the counsel the Court made the following

O R D E R

I.A. NO.13 OF 2015 IN WP(C) NO.562 OF 2012 [FOR DIRECTIONS]

Having perused the contents of I.A. No.13 for directions, we are of the view that the applicant therein ought to have filed an independent writ petition. However, as the issues arising are of considerable public importance having the potential of affecting the fundamental rights of a large number of citizens we convert I.A. No.13 of 2015 into a writ application under Article 32 of the Constitution of India and issue notice therein returnable on 14th July, 2015. The State of Assam as well as Union of India are directed to file their responses.

W.P. (C) NO.562 OF 2012

We have read and considered the affidavits filed on behalf of the Union of India as well as the State of Assam. Without dilating, all that we would like to say and observe at this stage is that the Court is left with the impression that the Union Government and the State Government of Assam have been dragging their feet in the

matter of implementation of this Court's order particularly with regard to border fencing, construction of border roads, night patrolling, flood-lights, etc. We are, therefore, of the view that the Court should appoint a Commission to visit the Indo-Bangla Border running through the length of the State of Assam and report to this Court his findings as to what he finds on the ground after correlating the same with the statements made in the affidavit filed by the Union of India and the State of Assam. Accordingly, we appoint Shri Upamanyu Hazarika, a learned Senior Advocate of this Court as the Commissioner and request him to do the needful. We direct the Union Government (Ministry of Home Affairs) to make available a fund of Rs.5,00,000/- (Rupees Five lakh) to the Court appointed Commissioner to enable him to perform his task. We would expect an interim report of the Commissioner within three weeks from today and a final report on or before 30th June, 2015.

We have also read and considered the affidavit filed by Shri Prateek Hajela, State Coordinator, NRC, Assam. We have particularly taken into account the statements made in Para 12, 13 and 14 of the counter and the documents referred therein which are in the nature of queries on certain issues raised by the State Coordinator. The said

queries have been addressed to the Ministry of Home Affairs as well as the Registrar General of India. Though the said queries had been made in the month of February, 2015, unfortunately there is no response to the same. We, therefore, direct the aforesaid two authorities to respond to the queries of the learned State Coordinator who will place the replies of the said two authorities before us on 14th July, 2015.

We have also noticed that the Gauhati High Court which had been entrusted with the task of recommending suitable persons for appointment as Chairperson and Members of the Foreigners Tribunal including the 64 Tribunals that are proposed to be created has not been able to perform its task. We, therefore, direct the High Court under Article 142 of the Constitution of India to take prompt steps in the matter and have its list of recommendees ready for consideration by the Government within 45 days from today. Thereafter, we direct the Government of Assam to provide the requisite infrastructure and make the necessary appointments not only of the Chairpersons and Members of the Tribunal but also of the subordinate staff so as to ensure that the Tribunals get operational on or before 10th August, 2015.

Further orders in the matter will be passed on the next date fixed after hearing the learned counsels for all the parties.

I.A. NO.11/2015 IN WP(C) NO.274 OF 2009

No orders in I.A. No.11/2015 is called for at this stage in view of the statement made by the learned State Coordinator that the stage for scrutiny of the applications received for inclusion in the NRC has not yet come and such scrutiny is unlikely to be taken up on or before 14th July, 2015 when the Court is due to consider the matter.

WP(C) NO.867/2015

Taken on board.

Service of notice on the respondents may be served through the Standing Counsel of the respective State.

All these cases be listed on 14th July, 2015. We request the Hon'ble the Chief Justice of India to consider making this Bench available on 14th July, 2015 for the whole day to enable due consideration of the matters.

(MEENAKSHI KOHLI)
COURT MASTER

(VINOD LAKHINA)
COURT MASTER

(ASHA SONI)
COURT MASTER