

GAHC010200442025



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

Case No. : WP(C)/5419/2025

SANKAR BASFOR
S/O BUDHAN BASFOR, R/O WARD NO. 3, HARIJON COLONY, MONGOLDOI,
DARRANG, ASSAM, PIN-784125

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM, JUDICIAL
DEPARTMENT, DISPUR, GUWAHATI-6

2:THE JOINT L.R. AND JOINT SECRETARY TO THE GOVT. OF ASSAM
JUDICIAL DEPTT.
GUWAHATI

3:THE DISTRICT AND SESSION JUDGE
DARRANG
MONGOLDOI

4:THE HONORABLE GAUHATI HIGH COURT
TO BE REPRESENTED BY ITS REGISTRAR GENERAL
MAHATMA GANDHI ROAD
GUWAHATI-01
ASSA

Advocate for the Petitioner : MR. B K SARMA, MS. S DIHINGIA,MRS. T BARMAN

Advocate for the Respondent : GA, ASSAM, SC, GHC

Linked Case : WP(C)/1185/2026

KHUSBU BASFOR
GRADE IV EMPLOYEE
SDJM(M) OFFICE
GOSSAIGAON

DISTRICT- KOKRAJHAR
ASSAM

VERSUS

THE GAUHATI HIGH COURT AND 4 ORS
REPRESENTED BY THE REGISTRAR GENERAL
GAUHATI HIGH COURT
PIN- 781001

2:THE STATE OF ASSAM
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM
JUDICIAL DEPTT.
DISPUR
GUWAHATI-6

3:THE CHIEF JUDICIAL MAGISTRATE
KOKRAJHAR
ASSAM
NEAR SBI
COURT PARA
KOKRAJHAR
ASSAM
PIN- 783370

4:PRESIDING OFFICER
SUB DIVISIONAL JUDICIAL MAGISTRATE (M)
GOSSAIGAON

B.T.A.D. ASSAM
PIN- 783360

5:COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPTT.
DISPUR
GUWAHATI-6

Advocate for : MR. S K DAS

Advocate for : SC

GHC appearing for THE GAUHATI HIGH COURT AND 4 ORS

Linked Case : WP(C)/5747/2023

KHUSBU BASFOR
W/O- SURESH BASFOR

GRADE IV EMPLOYEE
SDJM(M) OFFICE

GOSSAIGAON
DISTRICT- KOKRAJHAR

ASSAM.

VERSUS

THE GAUHATI HIGH COURT AND 4 ORS
REPRESENTED B THE REGISTRAR GENERAL

GAUHATI HIGH COURT
PIN- 781001.

2:THE STATE OF ASSAM
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM

JUDICIAL DEPTT.
DISPUR
GUWAHATI-06.

3:THE CHIEF JUDICIAL MAGISTRATE
KOKRAJHAR
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ASSAM
PIN- 783370.

4:PRESIDING OFFICER
SUB DIVISIONAL JUDICIAL MAGISTRATE (M)
GOSSAIGAON
B.T.A.D.
ASSAM
PIN- 783360.

5:COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPTT.
DISPUR
GUWAHATI-06.

For the Petitioner(s) : Mr. B. K. Sharma, Advocate
: Mr. S. K. Das, Advocate

For the Respondent(s) : Mr. H. K. Das, Sr. Advocate
: Mr. N. K. Sharma, Advocate
: Mr. B. Gogoi, Addl. AG, Assam
: Ms. S. Sharma, Sr. GA, Assam

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 16.07.2026

In the instant batch of writ petitions, amongst others, there is a challenge to Clause 8 of the Office Memorandum dated 30.03.2012. In Clause 8 of the Office Memorandum dated 30.03.2012, it is mandated that sweeping and cleaning services are to be outsourced and post of sweeper shall not be filled up in any Department on any ground including compassionate grounds except in Government hospitals as per the stand of the Government already submitted before this Court and the judgment issued thereon in WP(C) No.10447/2003 based on the said stand.

2. It is relevant to observe that the Supreme Court in the case

of ***Rajeeb Kalita Vs. Union of India and Others*** reported in **2025 SCC OnLine SC 81** had categorically held that toilets/washrooms/restrooms are not merely a matter of convenience but a basic necessity which is a facet of human rights. Access to proper sanitation is recognized as a fundamental right under Article 21 of the Constitution which guarantees the right to life and personal liberty. The Supreme Court further issued various directions that the High Courts as well as the State Governments/UTs shall ensure that construction and availability of separate toilet facilities for males, females, PwD and transgender persons in all Court premises and Tribunals across the country Further to that, the State Governments/UTs were directed to allocate sufficient funds for construction, maintenance, cleanliness of the toilet facilities within the Court premises which shall be periodically reviewed in consultation with the Committees constituted by the High Courts. Paragraph Nos. 10.1, 10.2 and 11 of the said judgment being relevant are reproduced herein under:

“10.1. *As regards the District Courts, we must also point out our deep concerns that there are instances where even judges, particularly, in rural areas, still lack access to proper washroom facilities. This not only violates the rights of those directly affected but also tarnishes the reputation of the judicial system, which should serve as a model of fairness, dignity, and justice. The failure to provide adequate washroom facilities is not just a logistical issue, but*

it reflects a deeper flaw in the justice system. The sorry state of affairs indicates the harsh reality that the judicial system has not entirely fulfilled its constitutional obligation to provide a safe, dignified, and equal environment for all those seeking justice.

10.2. *Courts should not be places, where basic needs, such as sanitation, are overlooked and neglected. The absence of adequate washroom facilities undermines equality and poses a barrier to the fair administration of justice. Therefore, all High Courts must take swift and effective action to address this issue. Immediate steps are needed to ensure that all judicial premises, especially those lacking proper facilities, are equipped with accessible washroom facilities for the judges, litigants, advocates, and staff. It is re-emphasized that this is not just a matter of convenience, but is about basic rights and human dignity. Failing to act promptly would compromise the very purpose and essence of the judiciary's role in our society.*

11. *In view of the above, we hold and issue the following directions, in the larger public interest:*

- (i) The High Courts and the State Governments/UTs shall ensure the construction and availability of separate toilet facilities for males, females, PwD, and transgender persons in all Court premises and Tribunals across the Country.*
- (ii) The High Courts shall oversee and ensure that these facilities are clearly identifiable and accessible to Judges, advocates, litigants, and court staff.*
- (iii) For the aforesaid purpose, a committee shall be constituted in each of the High Courts under the chairmanship of a Judge nominated by the Chief Justice and members comprising the Registrar General/Registrar of the High Court, the Chief Secretary, the PWD Secretary and the Finance Secretary of the State, a representative of the Bar Association and any other officers as they deem it fit, within a period of six weeks.*

- (iv) *The committee shall formulate a comprehensive plan, carry out the following tasks, and ensure its implementation.*
- (a) *have a statistic of number of persons visiting the courts every day on an average and ensure that sufficient separate washrooms are built and maintained.*
 - (b) *conduct a survey regarding the availability of toilet facilities, lacunae in the infrastructure and maintenance of the same.*
demarcate existing washrooms and assess the need to convert existing washrooms to meet the requirement of above categories.
 - (c) *provide alternate facilities like mobile toilets, during construction of new ones, environment friendly toilets (bio-toilets) across the courts as done in Railways.*
 - (d) *Qua women, transgender persons, PwD, provide clear signage and indications along with functional amenities, such as, water, electricity, operational flushes, provision of hand soap, napkins, toilet paper and up to date plumbing systems. Specifically, for PwD washrooms, ensure the installation of ramps and that washrooms are designed to accommodate them.*
 - (e) *conduct a study about maintaining architectural integrity in respect of Heritage Court buildings such as Mumbai, Calcutta, Chennai, etc. To work with the existing facilities by using underutilised spaces to build washrooms, modular solutions to work around the old plumbing systems, engaging professionals to assess the solutions to modernise sanitation facilities.*
 - (f) *effectuate a mandatory cleaning schedule and ensure staffing for maintenance and upkeeping dry bathroom floors along with sensitising users on clean washroom practices.*

- (g) *ensure regular maintenance of the toilets by outsourcing professional agencies on contract basis, by employing modern cleaning methods and machinery to ensure better hygiene and usability.*
- (h) *put in place a mechanism that mandates the periodic inspection of the functionality of these washrooms and specific compliance reports to be filed to a person in-charge.*
- (i) *frame a complaint/redressal system for speedy reporting of defective washrooms and instant repair of the same.*
- (j) *ensure that there are working and stocked sanitary pad dispensers in women, PwD, and transgender washrooms.*
- (k) *nominate or appoint a person specifically in each premises of the High Court/District Court/Civil Court/Tribunal as nodal officer to monitor the maintenance, address the complaints and communicate with the presiding officer or the appropriate committee; such authority should address the complaints and give standing instructions in writing regarding maintenance and working of the said toilets; and the responsibilities should be fixed.*
- (l) *have a transparent and separate monetary fund for the construction and maintenance of toilets in court complexes.*
- (m) *have child safe washrooms in Family court complexes with trained staff equipped to provide children with a safe and hygienic space.*
- (n) *Provide separate rooms (interconnected with the women's washroom) to cater to nursing mothers' or mothers with infants with feeding stations and changing napkins available. To consider incorporating breastfeeding facilities to support nursing mothers, along with dedicated platforms for changing napkins within toilet*

areas, similar to the amenities available in airports.

- (o) High Courts to develop and sustain the quality of maintenance can create a grading system for the District Courts and other courts/forums under its supervision, provide certifications and motivate the appropriate officials and staff, which can form part of their service records.*
- (iv) The State Governments/UTs shall allocate sufficient funds for construction, maintenance and cleanliness of the toilet facilities within the court premises, which shall be periodically reviewed in consultation with the committee constituted by the High Courts.*
- (v) A status report shall be filed by all the High Courts and the States/UTs within a period of four months."*

3. In the backdrop of the above directions, the question arises as to whether Clause 8 of the Office Memorandum dated 30.03.2012 can continue to remain qua the Courts in view of the specific directions passed by the Supreme Court to the effect that there is not only requirement of providing facilities for toilets but also for maintenance. It is the prima facie opinion of this Court that if posts are not created for the sweepers for maintaining the toilets within the Court premises, the same would be contrary to the directions passed by the Supreme Court in the case of ***Rajeeb Kalita (supra)***.

4. This Court also seeks instructions from the Respondent State as to whether Clause 8 of the impugned Office

Memorandum could at all apply insofar as the functioning of the Courts are concerned inasmuch as the said Clause only refers to Departments which essentially would mean Departments of the Government of Assam.

5. Mr. B. Gogoi, the learned Additional Advocate General who appears on behalf of the Finance Department shall obtain necessary instructions and file an affidavit in that regard.

6. List this matter again on 20.08.2026.

7. The said affidavit be filed on or before 17.08.2026.

JUDGE

Comparing Assistant