

GAHC010252172025



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

Case No. : Cont.Cas(C)/602/2025

PINUEL BASUMATARY
SON OF LATE KRISTODAS BASUMATARY, RESIDENT OF NO. 1, SAPKHAITI,
UDALGURI, BTR, ASSAM -784509

VERSUS

SHANTANU GOTMARE, IAS AND 3 ORS
COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM,
ADMINISTRATIVE REFORMS AND TRAINING DEPARTMENT, DISPUR,
GUWAHATI - 781006.

2:SHANTANU GOTMARE
IAS
THE SECRETARY
THE PENSION AND PUBLIC GRIEVANCE DEPARTMENT
DISPUR
ASSAM
GUWAHATI - 781006

3:GAURAV KUMAR
IAS
THE ACCOUNTANT GENERAL (A AND E)
ASSAM
MAIDAMGAON
BELTOLA
GUWAHATI- 781029.

4:JAYANT NARLIKAR
IAS
THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM
FINANCE (EC-III) DEPARTMENT
DISPUR

ASSAM
GUWAHATI - 781006

Advocate for the Petitioner : MR B D DAS, MR J LOTHAN,MR H K SARMA

Advocate for the Respondent : MR. B GOGOI (R-4), MR. MR. D NATH SR. GA, ASSAM,GA,
ASSAM,MS. U SARMA,R M BAROOAH(R-4),MR P NAYAK(R-4),MR A CHALIHA(R-4)

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

12.03.2026

In deference to the earlier order dated 10.03.2026, Mr. D. Nath, learned Senior Government Advocate who was entered appearance in the matter on the request of the Court earlier, submits that on the last date because of wrong communication he submitted before the Court that a curative petition was filed by the learned State before the Apex Court, However, it stands corrected and it is the SLP which has been filed by the learned State on 12.03.2026, where it is shown as Diary No. 15107/2026. The matter is yet to be called up, list it before the appropriate court.

2. He, therefore submits that the Contempt Petition be deferred till after any order is passed in the SLP preferred by the State. Mr. D. Nath, learned Senior Government Advocate submits that there are several judgments to that effect that when the matters are pending in the Court, the Contempt Petition ought to be deferred.

3. In view of such submissions made, Mr. D. Nath, learned Senior Government Advocate was given an opportunity to place such judgments before the Court and the matter was posted in the post-lunch sessions.

4. In the Post-lunch session, when the matter was called up, Mr. D.

Nath, learned Senior Government Advocate submits that he has no access to any such judgments as on date. However, he has referred to judgments of the Apex Court rendered in 2014 16 SCC 204, 2003 SCC 705 and 1994 6 SCC 332. He submits that in contempt proceedings, it is only on deliberate and wilful violations of the Court's order that proceeding ought to be initiated. Where the violations are not wilful or deliberate, no contempt is made after.

5. In order to decide, whether the alleged non-compliance of the directions of the Court as brought out before the Court in the present Contempt Proceedings are wilful and deliberate, it is necessary to have the Respondent No. 1 and 2 be served a proper copy of the proceedings and opportunity for filing their counter. Although notices were issued in the matter as far back as 19.11.2025 office note dated 05.01.2025 reflected that unserved notices were returned back from Respondent No 1 and 2 with postal note addressee left, RTS and AD Card or unserved notice were also not received from the Respondent No.3.

6. Prior to that on 10.12.2025 also in respect of Respondent No. 1,2 &3, AD Card or unserved notices were not received as per the office note. However, Respondent No. 4 was shown to be represented by a counsel.

7. The petitioner upon being permitted by the Court has undertaken service by way of dasti, routed through the Registry of the Court. An affidavit of compliance has been filed by the learned counsel for the petitioner on 10.12.2025 which encloses the notices stated to have been served on the learned Respondent No. 1, 2 and 3. The notices are seen to have been received in the office of the Secretary ARTPPG Department, Dispur-6 on 29.11.2025 in respect of Respondent No. 1 and 2. Notice on Respondent No. 3 was received on 1st December, 2025.

8. Pursuant to service of notice by dasti Mr. R. K. Talukdar, learned counsel has entered appearance on behalf of Respondent No. 3. Mr. A. Chaliha, learned counsel appears for Respondent No. 4. However, none represents Respondents No. 1 and 2.

9. As per the averments made in the contempt petition, it appears that the direction was required to be complied with by respondent No. 1 and 2 and which have been deliberately or wilfully not been complied with.

10. Mr. D. Nath, learned counsel upon obtaining instructions from the office of the Respondents No. 1 and 2, has been informed by written instructions that the Respondents No. 1 and 2 have since demitted office and the same is currently being held by a new officer, who however is not arrayed as a party respondents in the present proceeding. Under such circumstances, this Court considers it appropriate to permit Mr. D. Nath, learned counsel to apprise the Court about the status from the office of Respondents No. 1 and 2, which is currently being held by the successor officer regarding the date on which the predecessor officer namely, Shri Shantanu Gotmare, IAS, who was holding office as the Commissioner Secretary to the Government of Assam, Administrative Reforms Training Pension, and Public Grievances (ARTPPG) Department, demitted office, and, if available, the present address of the said officer.

11. The learned counsel will also apprise the Court as to whether any steps have been taken by the successor officer towards compliance of the directions contained in the order dated 28.06.2024 passed in WP(C) No. 5578 of 2023, for non-compliance of which the present Contempt Petition has been filed.

12. This Court permits Mr. D. Nath, learned counsel to complete his

instructions within a period of 2 weeks.

13. Mr. B. D. Das, learned Senior Counsel for the petitioner on the contrary submits that pendency of an appeal or review etc. before higher appellate forum cannot be a ground for non-compliance or wilful disobedience of the directions passed in a order of this Court. He has referred to the order passed by the Apex Court in *Dr. H. Phunindre Singh and Ors vs. K. K. Sethi and another* reported in (1998) 8 SCC 640. The learned senior counsel has also referred to the judgment of 2022 Supreme (AP) 1238 and 2026 SCC Online SC 322.

14. Mr. B. D. Das, learned senior counsel for the petitioner has relied on these judgments to submit that pendency of an appeal before the higher Appellate Forum cannot be a ground for non-compliance of the directions contained in the order, and that, in appropriate cases contempt proceedings are required to be initiated.

15. List accordingly on 01.04.2026.

JUDGE

Comparing Assistant