

ITEM NO.3

COURT NO.1

SECTION 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.1045/2018

HARSH MANDER

Petitioner(s)

VERSUS

UNION OF INDIA & ANR.

Respondent(s)

Date : 13-03-2019 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE DEEPAK GUPTA  
HON'BLE MR. JUSTICE SANJIV KHANNA

For Petitioner(s) Mr. Prashant Bhushan, AOR  
Ms. Cheryl D'Souza, Adv.  
Ms. Alice Raj, Adv.  
Mr. Omana Kuttan K.K., Adv.

For Respondent(s) Mr. Tushar Mehta, SG  
Mr. Shuvodeep Roy, AOR  
Mr. Rijuk Sarkar, Adv.  
Mr. Rajat Nair, Adv.  
  
Mr. Tushar Mehta, SG  
Ms. Madhavi Divan, ASG  
Ms. Binu Tamta, Adv.  
Ms. Shraddha Deshmukh, Adv.  
Mr. Rajat Nair, Adv.  
Mr. B. V. Balaram Das, AOR  
  
Ms. Uttara Babbar, Adv.  
Mr. Manan Bansal, Adv.

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

By our order dated 19<sup>th</sup> February, 2019, we had indicated that the following two issues would be gone into by the Court at this stage:-

“(i) the living conditions in detention centers,  
and

(ii) justification of the long detention of persons identified to be foreigners or convicted under the Foreigners Act, 1946, pending deportation.”

Shri Tushar Mehta, learned Solicitor General, who had on the said date suggested that the matter could be ironed out in a meeting between the officials of the Ministry of External Affairs, the Ministry of Home Affairs and the State of Assam, has submitted that the meeting has been held and the result of the said meeting will be placed before the Court by way of an affidavit of the competent authority which shall be filed in the course of the day. The said affidavit may be filed and be kept on record.

There are some other aspects which require attention while the Court is dealing with the issue Nos.1 and 2 as mentioned above. Without going into the details, we would like to be satisfied on the functioning of the Foreigners Tribunal in the State of Assam and the adjudications by the Foreigners Tribunal pursuant to the judgment of this Court in Sarbananda Sonowal vs. Union of India and Another (2005) 5 SCC 665. The State of Assam will inform the Court about the number of persons who have been declared to be foreigners, the number of persons who have been detained in the detention centres and, as already indicated, the number of persons who have been sent back to the country/countries of their origin. The State of Assam shall also inform the Court as to the number of cases pending, whether the number of Foreigners Tribunals presently functioning in the State of Assam are considered to be adequate and the precise number of additional Tribunals if required immediately or in the near future.

The aforesaid information be laid before this Court by means of an affidavit of the Chief Secretary of the State of Assam on or before the next date fixed. We make it clear that at the request of Shri Mehta, learned Solicitor General, we are not insisting on the personal presence of the Chief Secretary at this stage and instead affording him an opportunity to apprise the Court of that is required, as indicated above, by means of an affidavit.

Let the matter be listed on 27<sup>th</sup> March, 2019.

(Chetan Kumar)  
A.R. -cum-P.S.

(Anand Prakash)  
Court Master