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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
RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL) NO(S). 562/2012

ASSAM SANMILITA MAHASANGHA & ORS.

PETITIONER(S)

VERSUS

UNION OF INDIA & ORS.

RESPONDENT(S)

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

WITH

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

(WITH APPLN.(S) FOR DIRECTIONS AND 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)

[ALONG WITH REPORT]

Date : 07/02/2017 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)

WP(C) 562/12 Mr. Manish Goswami, Adv.

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WP(C) 876/14, 311/15,

68/16 & rr

in WP(C) 562/12 Mr. Somiran Sharma, AOR

Mr. Amit, Adv.

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WP(C) 274/09 Mr. Arvind Kumar Sharma, AOR

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Ms. Preeti Shukla, Adv.

For Respondent(s)

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Mr. Amit Arora, Adv.
For M/s Arputham Aruna & Co., AOR
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Ms. Noopur Singhal, Adv.
Mr. Sanjay Kr. Visen, Adv.
Mr. Ranjan Kumar Pandey, Adv.
Ms. Varsha Poddar, Adv.

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UPON hearing the counsel the Court made the following

O R D E R

We have heard the learned counsels for the parties. We have also heard Shri Prateek Hajela, State Coordinator, NRC, Assam, who is present in Court. We have perused the reports filed by the Project Coordinator including the report in sealed cover. We have also perused the additional affidavit filed on behalf of the Ministry of Home Affairs. At this stage we are of the view that a Chamber sitting to ascertain certain issues of vital importance is required. We, accordingly, fix next Tuesday i.e. 14 th

February, 2017 at 2.00 p.m.

onwards for the Chamber hearing, in which hearing, we would expect the learned Additional Solicitor General, Shri P.S. Patwalia and the learned counsel for the State of Assam to be present. We also direct the presence of the Project Coordinator; The Registrar General of India and the Chief Secretary of the State of Assam in the said Chamber hearing. In the Chamber hearing the Project Coordinator will lay details of the process of upgradation of NRC conducted till date and shall explain to the Court the details of the various steps taken from time to time to ensure the

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authenticity/accuracy of the roll under preparation.

Registry is directed to list the case in Chambers at 2.00 p.m. on 14.02.2017.

Insofar as border fencing is concerned, as already observed, we have perused the additional affidavit dated 06.02.2017 filed on behalf of the Ministry of Home Affairs.

Shri Somiran Sharma, learned counsel, has taken us through the contents of the paragraphs 9 and 10 of the said affidavit. Having perused the same, we find that the statements made therein can be construed as an exercise in vagueness with no specific details forthcoming in spite of repeated orders of this Court highlighting the urgency of the matter i.e. border fencing and despite the long period of time that has since elapsed. Specifically in paragraph 9, the reasons why 18 months would be required for construction of border fencing on a stretch of 13.38 km. has not been explained in any manner. So far as the statements made in paragraph 10 are concerned what is conceived of to enable a physical infrastructure on the riverine border is nowhere indicated. What hydrological data is

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required to be collected considering the geological features and terrain is also not indicated. The only area on which the Union seems to be certain and confident is that the construction work would need more than three years and is likely to spill

over beyond the year 2020. This is regrettable and wholly unacceptable.

The Court expresses its displeasure in the strongest terms on the aforesaid stand taken by the Government of India in the affidavit dated 06.02.2017 filed before this Court.

We direct the competent authority in the Ministry of Home Affairs to furnish to this Court all the details giving adequate justifications and reasons for the stand taken in paragraphs 9 and 10 of the affidavit dated 06.02.2017. The aforesaid details will be placed before the Court at the next hearing which is scheduled on 14 th February, 2017.

As the hearing on 14.02.2017 is a Chamber sitting, the counsels for the contesting parties, except the learned Additional Solicitor General Shri Patwalia, need not appear and assistance from the said counsels as and when required will be received by the Court on a date to be specified later. For the

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present, the details as aforementioned be placed before the Court for its consideration on 14 th February, 2017.

(Neetu Khajuria)
Court Master (Asha Soni)
Court Master