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ITEM NO.301

COURT NO.6

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(s)(Civil) No(s). 562/2012

ASSAM SANMILITA MAHASANGHA & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With appln.(s) for directions, early hearing, impleadment as party respondent, stay and office report)

WITH

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

(With Office Report)

W.P.(C) No. 311/2015

(With appln.(s) for impleadment, seeking leave to file written arguments and Office Report)

W.P.(C) No. 450/2015

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

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 Office Report)

Date : 26/10/2016 These petitions were called on for hearing today.

CORAM :

HON&#39;BLE MR. JUSTICE RANJAN GOGOI

HON&#39;BLE MR. JUSTICE ROHINTON FALI NARIMAN

For the parties :

Mr. Manish Goswami, Adv.

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Mr. Arvind Kumar Sharma, Adv.

Mr. Somiran Sharma, Adv.

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Mr. Partha Sil, Adv.

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Mr. Manoj Goel, Adv.

Mr. Shuvodeep Roy, Adv.

Mr. Ananga Bhattacharyya, Adv.

Mr. Anjani Kumar Mishra, Adv.

Mr. Avijit Bhattacharjee, Adv.

Ms. Upma shrivastava, Adv.

Mr. Ajoy Ghosh, Adv.

Mr. P.S. Patwalia, ASG

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Mr. Anas, Adv.

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Ms. Varsha Poddar, Adv.

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Mr. Syed Ali Ahmad, Adv.

Mr. S.S. Bandyopadhyay, Adv.

Mr. Mohan Pandey, Adv.

Mr. Mohit D. Ram, Adv.

Mr. Ravi Prakash Mehrotra, Adv.

Mr. Rajeev Dubey, Adv.

Mr. Shadan Farasat, Adv.

Mr. Shakil Ahmed Syed, Adv.

Mr. Shibashish Misra, Adv.

Mr. Shreekant N. Terdal, Adv.

Mr. Somiran Sharma, Adv.

Mr. Syed Mehdi Imam, Adv.

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Mr. Prateek Jalan, Adv.

Ms. Malvika Trivedi, Adv.

Mr. Rahul Kriplani, Adv.

Mr. Ankit Yadav, Adv.

Mr. T. Mahipal, Adv.

M/s Corporate Law Group

Ms. Sneha Kalita, Adv.

Mr. Satyam Jyoti Saikia, Adv.

Ms. Sushma Suri, Adv.

M/s. MAP & Co.

Mr. Anip Sachthey, Adv.

Mr. G.S. Chatterjee, Adv.

Mr. Snehshish Mukherjee, Adv.

Mr. Chandra Bhushan Prasad, Adv.

Mr. Fuzail Ahmad Ayyubi, Adv.

Mr. B. Balaji, Adv.

Ms. Prachi Mishra, Adv.

Ms. Sylona Mohapatra, Adv.

Mr. Sandeepan Pathak, Adv.

Mr. Udit Arora, Adv.

Mr. C.D. Singh, Adv.

Mr. C.K. Sasi, Adv.

Mr. M. Krishnan, Adv.

Mr. D.S. Mahra, Adv.

Mr. Guntur Prabhakra, Adv.

Mr. S.K. Pabbi, AAG

Mr. Shivendu Gaur, Adv.

Ms. Disha Shingh, Adv.

Mr. Ajay K. Singh, Adv.

Mr. Kuldip Singh, Adv.

Mr. Milind Kumar, Adv.

Mr. Nirnimesh Dube, Adv.

Mr. Soumitra G. Chaudhuri, Adv.

Mr. Parijat Sinha, Adv.

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Mr. Somnath Banerjee, Adv.

Mr. Ranjan Mukherjee, Adv.

Mr. Rudreshwar Singh, Adv.

Mr. Gopal Jha, Adv.

Mr. Gautam Singh, Adv.

Mr. Samir Ali Khan, Adv.

Mr. Tapeshe Kumar Singh, Adv.

Mr. V.N. Raghupathy, Adv.

Ms. Aruna Mathur, Adv.

Mr. Yusuf Khan, Adv.

Mr. Avneesh Arputham, Adv.

Ms. Anuradha Arputham, Adv.

For M/s. Arputham Aruna & Co.

Mr. K.V. Jagdishvaran, Adv.

Ms. G. Indira, Adv.

Ms. Hemantika Wahi, Adv.

Ms. Puja Singh, Adv.

Ms. Aagam Kaur, Adv.

Ms. Mamta Singh, Adv.

Mr. Edward Belho, AAG

Ms. K. Enatoli Sema, Adv.

Mr. Amit Kumar Singh, Adv.

Mr. K. Luikang Michael, Adv.

Mr. Elix Gangmei, Adv.

Ms. Liz Mathew, Adv.

Mr. Ashutosh Kumar Sharma, Adv.

Ms. Rachna Srivastava, Adv.

Mr. S.S. Shamsheery, AAG

Mr. Amit Sharma, Adv.

Mr. Prateek Yadav, Adv.

Mr. Ankit Raj, Adv.

Ms. Ruchi Kohli, Adv.

UPON hearing the counsel the Court made the following

O R D E R

The Bench has assembled today for the purpose of monitoring the progress of the work

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relating to updating of the NRC, Assam.

Shri Prateek Hajela, State Coordinator for National Registration (NRC) has submitted a report indicating the progress achieved in the ground and the difficulties faced by him in the course of the ongoing exercise undertaken.

We have heard him in-person. We have also interacted with Shri P.S. Patwalia, learned Additional Solicitor General.

From the report of the Project Coordinator filed before the Court it appears that a large number of documents which have been sent for verification to other States, response where to have not been received. The details in this regard are enclosed in a compilation annexed as Annexure-A to the report, which is extracted below :

Interstate Verification Progress as on 24-10-2016

Sl.No. Name of State/UT Documents sent Results

Received Percentage

(%) Yes

|   |                   |        |     |         |     |
|---|-------------------|--------|-----|---------|-----|
| 1 | Andhra Pradesh    | 353    | 3   | 0.85%   | -   |
| 2 | Arunachal Pradesh | 37,286 | 378 | 1.01%   | 369 |
| 3 | Bihar             | 36,830 | -   | 0.00%   | -   |
| 4 | Chandigarh (U.T.) | 2      | 2   | 100.00% | 2   |
| 5 | Delhi             | 3,575  | 4   | 0.11%   | 4   |
| 6 | Gujarat           | 207    | 107 | 51.69%  | 105 |
| 7 | Haryana           | 611    | 172 | 28.15%  | 158 |

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|       |                  |          |       |         |       |
|-------|------------------|----------|-------|---------|-------|
| 8     | Himachal Pradesh | 1        | 1     | 100.00% | 1     |
| 9     | Jammu & Kashmir  | 152      | -     | 0.00%   | -     |
| 10    | Jharkhand        | 703      | 50    | 7.11%   | 15    |
| 11    | Karnataka        | 966      | 132   | 13.66%  | 105   |
| 12    | Kerala           | 102      | 2     | 1.96%   | 2     |
| 13    | Madhya Pradesh   | 205      | -     | 0.00%   | -     |
| 14    | Maharashtra      | 1,515    | 295   | 19.47%  | 98    |
| 15    | Manipur          | 6,902    | 103   | 1.49%   | 103   |
| 16    | Meghalaya        | 39,138   | 540   | 1.38%   | 221   |
| 17    | Mizoram          | 2,453    | 345   | 14.06%  | 249   |
| 18    | Nagaland         | 58,842   | 2,600 | 4.42%   | 2,418 |
| 19    | Odisha           | 150      | 47    | 31.33%  | 44    |
| 20    | Punjab           | 552      | 93    | 16.85%  | 86    |
| 21    | Rajasthan        | 7,209    | 1,136 | 15.76%  | 969   |
| 22    | Sikkim           | 51       | 47    | 92.16%  | 43    |
| 23    | Tamil Nadu       | 101      | 1     | 0.99%   | 1     |
| 24    | Telengana        | 5        | -     | 0.00%   | -     |
| 25    | Tripura          | 29,058   | 1,550 | 5.33%   | 588   |
| 26    | Uttarakhand      | 104      | 1     | 0.96%   | 1     |
| 27    | Uttar Pradesh    | 7,925    | 573   | 7.23%   | 308   |
| 28    | West Bengal      | 70,997   | 41    | 0.06%   | 39    |
| Total |                  | 3,05,995 | 8,223 | 2.69%   | 5,929 |

The figures indicated above shows that out of 3,05,995 documents sent to 28 States, only 8,223 documents have been received back after due verification.

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In the above circumstances, we direct the Chief Secretaries of the 28 States, mentioned in

the extract above, to immediately respond in the matter and send to the Project Coordinator the response in respect of the documents pertaining to the respective States after due verification. We would expect the Chief Secretaries of the States to act in the matter with utmost dispatch and we also make it clear that in the event the response of the Chief Secretaries in terms of the order is not satisfactory or adequate, orders may be issued for their personal appearance before this Court.

Similarly some documents have been sent to certain foreign countries for due verification. Response thereto have not been received. The details in this regard are stated in a compilation annexed to the report as Annexure-B, which is extracted below:

Intercountry Verification Status as on 24-10-2016

Sl.

No. Country Name Documents

sent for

verification Results

Received % of docs

verified

1 USA 109 0.00%

2 Nepal 62 0.00%

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3 UAE 50 0.00%

4 Saudi Arabia 32 0.00%

5 UK 31 0.00%

6 Kuwait 15 15 100.00%

7 Singapore 15 1 6.67%

8 Canada 11 0.00%

9 Myanmar 10 0.00%

10 Bangladesh 6 0.00%

11 Malaysia 5 0.00%

12 Qatar 5 0.00%

13 Bahrain 5 0.00%

14 Oman 5 0.00%

15 Thailand 4 0.00%

16 Japan 4 0.00%

17 Pakistan 3 0.00%

18 South Africa 3 3 100.00%

19 Hong Kong 2 0.00%

20 Indonesia 2 0.00%

21 Vietnam 2 0.00%

22 Sri Lanka 2 0.00%

23 Tanzania 2 0.00%

24 Australia 2 0.00%

25 Netherlands 2 0.00%

26 South Korea 2 0.00%

27 China 1 0.00%

28 Ghana 1 0.00%

29 Taiwan 1 0.00%

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30 Mozambique 1 0.00%

31 Trinidad & Tobago 1 0.00%

32 Germany 1 0.00%

33 Cyprus 1 0.00%

34 Norway 1 0.00%

35 Mauritius 1 0.00%

36 Sweden 1 0.00%

37 Bhutan 1 0.00%

Total 402 19 4.73%

We direct the Ministry of External Affairs to take up the matter with the concerned Governments of the Countries, mentioned in the

extract above, through the Indian Missions located in the said Countries and ensure that the necessary response is made available to the Project Coordinator as expeditiously as possible.

In paragraph 3 of the report of the State Coordinator, it has been stated that 10,83,919 numbers of documents have been sent to the Election Commission of India and despite several visits of the Project Coordinator to the office of the Election Commission in New Delhi and notwithstanding the several reminders issued, not a single response has been received from the Election

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Commission.

Paragraph 3 of the report is extracted below to indicate the extent of what appears to be a lack of concern on the part of the Election Commission in the matter:-

It is humbly submitted that the response received from the Election Commission of India (ECI) has been abysmally poor. Whereas 10,83,919 lakhs of records were sent for verification, an response is yet to be received. In this regards, it is humbly submitted that the undersigned had personally visited the office of ECI at New Delhi on 29 th

January

2016 to discuss on the issue and had also sent officers on 2 nd

February 2016. Letters

have also been written for following up but no response has yet been received. As Electoral Rolls constitute a substantial percentage of documents submitted by NRC applicants, non receipt of results from ECI is a matter of concern and also threatens to cause delays in completion of the verification process. It is humbly requested to consider issuing of a directive to ECI in this regards.

We direct the Secretary, Election Commission of India to forthwith respond in the matter and make available the requisite information to the Project Coordinator so that no impediment is caused in the work of updation of the NRC, Assam.

In paragraphs 4 and 5 of the report, it has been stated that as against 14.87 lakhs numbers of PAN Cards sent for verification, results in respect

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of 6.5 lakhs PAN Cards have been received from the Ministry of Finance and the response as regards the rest of PAN Cards are awaited.

We direct the Secretary in the Ministry of Finance, Government of India to look into the matter and the response in respect of the remaining PAN Cards be made available to the Project Coordinator without any delay.

In paragraph 10 of the report of the Project Coordinator, it has been submitted that an amount of Rs.337.73 crores released by the Government of India has already been utilized and that required approvals for the remaining amount out of a total of 908.87 crores may be expedited.

Shri Patwalia, learned Additional Solicitor General has assured the Court that he will take up the matter with the concerned authority of the

Ministry of Home and Ministry of Finance.

We direct the Secretaries of both the Ministries of Home and Finance to ensure that requisite funds are made available so that no impediment is caused in the work of updation of the NRC, Assam. The concerned Ministries may release necessary funds from time to time. Such release may

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also be in the nature of interim payments.

We hope and trust that the directions above will be implemented by all concerned authorities without any delay.

The Bench will assemble again on 15 th December, 2016 at 3.00 p.m. to, once again, monitor the progress made in the updation of the NRC, Assam.

Registry is directed to list the case accordingly.

(Neetu Khajuria)

Court Master (Asha Soni)

Court Master