ITEM NO.301 COURT NO.11 SECTION PIL
(Part-heard)

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. 274 OF 2009

ASSAM PUBLIC WORKS Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)

(With appln(s) for directions, intervention and office report)

WITH

W.P(C) NO. 562 of 2012
(With application for stay and office report)

Date:25/10/2013 These Petitions were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE H.L. GOKHALE
HON'BLE MR. JUSTICE RANJAN GOGOI

For Petitioner(s) Mr. Arvind Kumar Sharma,Adv.
(in WP 274/09) Mr. Harvinder Singh Besoya,Adv.

(in WP 562/12) Mr. Manish Goswami,Adv.
For M/S. Map & Co.,Advs.

For Respondent(s) Mr. Jaideep Gupta,Sr.Adv.
For R-2 Ms. Krishna Sarma,Adv.
Mr. Avijit Roy,Adv.
Mr. Navnit Kumar,Adv.
For M/S. Corporate Law Group,Advs.

For Union of India Mr. Rakesh Khanna,ASG
(in WP(C) 274/09) Mr. Jitendra Mohapatra,Adv.
Mr. S. Nand Kumar,Adv.
Mr. Shiv Mangal Sharma,Adv.
Mr. Shreekant N. Terdal,Adv.

For ECI Ms. Meenakshi Arora,Sr.Adv.
Mr. Mohit D. Ram,Adv.
Mr. Vasav Anantharaman,Adv.

I.A. No.6 in WP(C) 274/09 & I.A. No.5 in WP(C) 562/12	Mr. Fakhruddin,Sr.Adv. Mr. Gulfeshan Javed,Adv. Mr. Abdul Qadir,Adv. Mr. Raj Kishore Choudhary,Adv. Mr. Mustafa Khaddam Hussain,Adv. Mr. Azizur Rahman,Adv. Mr. Fuzail Ahmad Ayyubi,Adv.
In WP(C) 274/09	Mr. Syed Ali Ahmad,Adv. Mr. Syed Tanweer Ahmad,Adv. Mr. S.S. Bandyopadhyay,Adv. Mr. Pravin Kumar,Adv. Mr. Mohd. Shah Nawaz Hasan,Adv. Mr. Mohan Pandey,Adv.
For R-6 in WP(C) 274/09	Mr. Prateek Jalan,Adv. Ms. Malvika Trivedi,Adv. Mr. Anurag Misra,Adv. Mr. T. Mahipal,Adv.
State of Orissa (in WP(C) 274/09)	Mr. Shibashish Misra,Adv. Mr. Sovinay Dash,Adv.
In I.A. No.5 in WP(C) 274/09	Mr. Syed Mehdi Imam,Adv. Mr. Mohd. Parvez Dabas,Adv. Mr. Milan Laskar,Adv. Mr. Shakeer Ahmed Syed,Adv. Mr. Arna Das,Adv. Mr. M.U. Mahmud,Adv. Mr. Somran Sharma,Adv.

UPON hearing counsel the Court made the following

O R D E R

1. Apropos to the order we passed on 18th October, 2013, the Joint Secretary (North-East), Ministry of Home Mr. Shambhu Singh is present in Court and he has also filed an affidavit on behalf of the Union of India in compliance of that order. Over and above this affidavit and apart from the statement made therein, he states that Mr. Prateek Hazela, IAS, Commissioner and Secretary (NRC) will be nominated as the nodal officer by the Registrar

General of India and that order will be issued by 31st October, 2013. He further states that an amount of Rs.25 crores as stated in paragraph 9 of his affidavit, will be released in favour of that Office by 31st October, 2013.

2. Mr. Rakesh Khanna, learned Additional Solicitor General states on instructions of Mr. Shambhu Singh that in the next six weeks, the amount required for this entire project will be tentatively arrived at and a gazette notification will be issued initiating the process of updating the National Register of Citizens for Assam.

3. Mr. Fakhrudding, leaned senior counsel appearing for the All Assam Minority Students Union has raised certain objections concerning the changes, which according to him have come up in the revised modalities submitted by the Union of India. The first objection herein is that the initial representation was that necessary forms will be distributed and collected from various households. As against that now it is provided that although the forms will be submitted to all the heads of the families, returning of the forms to the concerned offices is up to the Head of the family and the family members. Mr. Jaideep Gupta, learned senior counsel appearing for the State of Assam points out that ultimately all the persons concerned will be informed that this is the form to be filled up and it is up to the persons concerned, in their own interest, to fill up the same and submit to the office concerned. We do not find any illegality or irregularity with the modification.

4. The second submission is that now under the modalities, after some decision is taken by the

Registering Officer, an appeal will be available before the Local Registrar and thereafter an appeal will lie to the Foreigners' Tribunal. Mr. Jaideep Gupta points out that this is as per the provision contained in clause 6 & 8 of the Schedule to the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003. That being so, we cannot accept this objection as well.

5. The third grievance is that the genuine Indian citizens in the State of Assam will also have to apply for the updation of NRC. With respect to this objection Mr. Gupta points out that for the persons whose names figure in the Electoral Rolls as on 24th March, 1971, this process will be simpler and in any case, all those who are concerned will have to fill up the forms and for this facilitators will also be available to the persons concerned. That takes care of the grievance of Mr. Fakhruddin.

6. The last grievance of Mr. Fakhruddin is with respect to the voters in D List. As far as these persons are concerned, undoubtedly they are doubtful voters, and therefore their names cannot be included unless the NRC is updated and unless the Foreigners' Tribunal declares them to be the Indian citizens.

7. Since the Central Government requires six weeks time to issue necessary Gazette Notification, the matter be notified on 9th December, 2013 at 2.00 p.m.

W.P.(C) No. 562/2012:

Heard Mr. Manish Goswami in support of this petition and Mr. Khanna, learned Additional Solicitor

General appearing for the Union of India and Mr. Jaideep Gupta, learned senior counsel for the State of Assam. This petition seeks the determination of the issue of foreign nationals on the basis of National Register of Citizens of 1951 and not on the basis of the Electoral Roll of 1971. It also seeks to challenge the vires of Section 6A of the Citizenship Act, 1955. This writ petition will be heard along with Writ Petition (Civil) No.274/2009.

(A.S. BISHT)
COURT MASTER

(SNEH LATA SHARMA)
COURT MASTER