

THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM; NAGALAND; MEGHALAYA; MANIPUR;
TRIPURA; MIZORAM AND ARUNACHAL PRADESH)

NOTIFICATION

Dated Guwahati, the 27th January, 2011

No.HC.XI 01/10(Pt)/ 51 /RC # # In exercise of powers, conferred by Article 225 of the Constitution of India and all other powers enabling it and in accordance with the order dated 18.1.2010 of the Supreme Court in Civil Appeal No. 1134 1135/2002 titled "State of Uttaranchal Vs Shri Balwant Singh Chaufla", the Gauhati High Court hereby makes the following Rules, with respect to practice and procedure for the exercise of Jurisdiction under Article 226 of the Constitution of India pertaining to Public Interest Litigation.

Part - 1

Preliminary

1. Short Title: These Rules may be called the Gauhati High Court (Public Interest Litigation) Rules, 2011
2. Commencement: These Rules shall come into force from the date of its publication in the Official Gazette.
3. Definition: In these rules, unless the context otherwise requires:

(a) "High Court" means the Gauhati High Court,

(b) "Letter Petition" means an informal written communication, addressed to the High Court or Hon'ble the Chief Justice or any Hon'ble Judge of the High Court.

(c) "Public Interest Litigation" means a writ petition under Article 226 of the Constitution of India, instituted *pro bona publico* for enforcement of public interest or general interest as distinguished from individual interest, in which the public or a class of a community have some interest by which their legal rights or liabilities are affected and also includes a legal action initiated by the Court for the purpose aforesaid or a Letter Petition which may be entertained as Public Interest Litigation under these Rules.

(d) "Public Interest Litigation Cell" means a cell created by the Chief Justice for processing Letter Petitions to be placed before the Public Interest Litigation Committee.

(e) "Public Interest Litigation Committee" means the Committee consisting of two sitting judges nominated by the Chief Justice.

(f) "State" means the State as defined under Article 12 of the Constitution of India.

(g) "Deputy Registrar" means an officer appointed by the Chief Justice to the post of Deputy Registrar under the Gauhati High Court Services (Appointment, Conditions of Service and Conduct) Rules, 1967.

Part II

Letter Petition

4. Public Interest Litigation Cell: The Chief Justice shall by an order constitute a Public Interest Litigation Cell for the Principal Seat and for all the Outlying Benches of the High Court which will be headed by an officer not below the rank of Deputy Registrar.

5. Duty of the Public Interest Litigation Cell: Letter Petition shall be processed by the Public Interest Litigation Cell for being placed before the Public Interest Litigation Committee.

6. Public Interest Litigation Committee: The Chief Justice shall by an order constitute a Committee for the Principal Seat and all the Outlying Benches of the High Court, consisting of two Sitting Judges of the High Court as Members.

7. Public Interest Litigation Bench: Without prejudice to the powers of the Chief Justice to mark any matter to any Bench for hearing, the Chief Justice shall constitute a Public Interest Litigation Bench which, subject to any directions to the contrary, shall hear all matters of Public Interest Litigation.

8. Guidelines for screening Letter Petitions: Letter Petitions raising or alluding to matters of Public Interest shall be entertained as Letter Petitions and unless directed by the Public Interest Litigation Committee, Letter Petitions under the following categories shall not be entertained as Public Interest Litigation.

- (i) Landlord Tenant disputes,
- (ii) Service matters and those pertaining to pension and gratuity,
- (iii) Personal disputes between individuals,
- (iv) Disputes relating to contractual or statutory liabilities,
- (v) Matrimonial disputes.

9. Processing, screening and listing of Letter Petitions as Public Interest Litigations before the Public Interest Litigation Committee:

(a) All Letter Petitions received in the Public Interest Litigations Cell, shall first be processed in the Public Interest Litigation Cell.

However, neither any anonymous Letter Petition nor any such petition from which the identity of the Letter Petitioner cannot be established or ascertained shall be entertained.

(b) Public Interest Litigation Committee shall take such action, it may consider necessary, on the letter Petitions presented before it.

(c) Once a Letter petition is approved by the Public Interest Litigation Committee to be entertained as a Public Interest Litigation Petition, the same shall be placed before the Public Interest Litigation Bench unless otherwise directed by the Chief Justice.

(d) The Public Interest Litigation Cell, then shall prepare a gist of the Letter Petition and the points of public concern, raised in the Letter Petition, the replies, if any, r the Government Departments/ officials, who may be considered as the necessary or appropriate /proper parties for the decision of the petition and send it for listing.

Part III

Filing of Public Interest Litigations

10. Instruction for filing Public Interest Litigations:

(i) A writ petition intended to be a Public Interest Litigation shall contain:

(a) An inscription immediately below the number of the writ petition in the title, namely "In The Matter of A Public Interest Litigation".

(b) A specific averment, in para 1 of the writ petition ,to the effect that the writ petitioner has no personal interest in the litigation and that the petition is not guided by self-gain or for gain of any other person/institution/body and that there is no motive other than of public interest in filing the writ petition.

(c) A specific averment, in para 2 of the writ petition, as to the source of knowledge of the facts alleged in the writ petition and the further inquiries/investigation made to determine the veracity of the same.

(d) A specific averment, in para 3 of the writ petition, specifying the class of persons for whose benefit the petition has been filed and as to how such persons are incapable of accessing the Court themselves.

(e) A specific averment, in para 4 of the writ petition, of the persons/bodies/institutions likely to be affected by the order(s), sought in the writ petition and which/ who shall be impleaded as respondents and a further averment that to the knowledge of the petitioner, no other

persons/bodies/institutions are likely to be affected by the orders sought in the writ petition.

(f) A specific averment, in para 5 of the writ petition, of the background of the petitioner with qualifications so far as it may be material to show the competence of the petitioner to espouse the cause. If the petitioner is an organization, the names and address of its office bearers and the nature of its activities shall also be stated. An averment shall also be made that the petitioner has the means to pay the costs, if any, imposed by the Court and on the undertaking to the Court in that respect.

(g) In para 6 of the writ petition, details of the representation(s) made to the authorities concerned for remedial actions and replies, if any, received thereto shall be set out precisely.

(h) If the petitioner has previously filed public interest litigation or preferred Letter Petitions, the details thereof would be set out in a tabular form giving the number of the writ petition, the status and outcome thereof.

(i) Pleadings in brief divided into paragraphs setting forth the cause which has given rise to the filing of the writ petition shall be pleaded followed by the grounds in support of the prayer, followed by the prayer clause in the last paragraph giving the precise prayer which the petitioner wants to be granted by the court.

Provided that if the petitioner is unable to provide information for any of the matters above, there shall be a specific averment as to the reason why said information is not being provided.

(j) Averments made in the petition shall be supported by an affidavit, verifying by solemn affirmation, by the petitioner, disclosing the statements which are true to his knowledge or true to his knowledge derived from information disclosing the source of information and true to his knowledge derived from record.

ii) Every Public Interest Litigation shall be accompanied by an affidavit as per Proforma 'A' annexed to these Rules.

11. Notwithstanding anything contained in these rules, relating to the procedure for filing and entertaining any petition in the nature of Public Interest Litigation, the High Court may *suo moto* decide to treat any matter or issue as Public Interest Litigation, without insisting on adherence to the said procedure.

Part IV

12. **Inherent Power of the Court not affected:** Nothing in these Rules shall be deemed to limit or otherwise affect the inherent power of the

Court to make such order (s) as may be necessary for the ends of justice or to prevent abuse of the process of the Court, including the power to impose exemplary costs and/or to debar a petitioner or an Advocate from filing Public Interest Litigation if found to be indulging in frivolous or motivated litigation.

PROFORMA A

AFFIDAVIT

Iagedyears,S/o r/oby profession do hereby solemnly affirm and declare as under.

1. That I am the petitioner above named OR I am..... of the petitioner above named. The petitioner is a society/company having its registered office at..... and I have wide resolution passed in the Meeting of the Board of Directors General Body/ Executive Committee of the petitioner been authorised to institute and sign this petition.

2. I have filed the present petition as a Public Interest Litigation.

3. I have gone through the Gauhati High Court (Public Interest Litigation) Rules, 2011 and do hereby affirm that the present Public Interest Litigation is in conformity thereof.

4. I/ Petitioner have/ has no personal interest in the litigation and neither myself nor anybody in whom I am/ petitioner is interested would in any manner benefit from the relief sought in the present litigation save as a member of the General Public. This petition is not guided by self-gain or gain of any person, institution, body and there is no motive other than of public interest in filing this petition.

5. I have done whatsoever inquiry/ investigation which was in my power to do, to collect all data/materials which were available and which were relevant for this court to entertain the present petition.

6. I further confirm that I have not concealed in the present petition any data/ material/ information which may have enabled this court to form an opinion whether to entertain this petition or not and/or whether to grant any relief or not.

By Order
Sd/ P.K. Saikia
REGISTRAR GENERAL

Memo No.HC.XI 01/10 (Pt.)/ 52-72 /RC dated 27.01.2011

Copy to:

1. The Secretary General, Supreme court of India, New Delhi 110001.
2. The L.R. & Secretary to the Govt. of Assam, Judicial Department, Dispur, Guwahati.
3. The Secretary to the Govt. of Nagaland, Department of Justice and Law, Kohima.
4. The Secretary to the Govt. of Meghalaya, Law Department, Shillong.
5. The Secretary to the Govt. of Manipur, Law Department, Imphal.
6. The Secretary to the Govt. of Tripura, Law Department, Agartala.
7. The Secretary to the Govt. Mizoram, Law and Judicial Department, Aizawl.
8. The Secretary to the Govt. of Arunachal Pradesh, Law Department, Itanagar.
9. The Registrar (_____), Gauhati High Court, Guwahati.
10. The Registrar, Gauhati High Court, Kohima Bench, Kohima/ Shillong Bench, Shillong/ Imphal Bench, Imphal/ Agartala Bench, Agartala/Aizawl Bench, Aizawl.
11. The Registrar General, High Court of _____, _____.
12. The District & Sessions Judge, _____, _____.
13. The Secretary General, Gauhati High Court Bar Association, Guwahati.
14. The Secretary, High Court Bar Association, Kohima Bench, Kohima/Shillong Bench, Shillong/ Imphal Bench, Imphal/ Agartala Bench, Agartala/ Aizawl Bench, Aizawl/ Itanagar Bench, Naharlagun.
15. Sri P.I. Jose, Advocate, Supreme Court of India, New Delhi-110001.
16. The Deputy Registrar (_____), Gauhati High Court, Guwahati.
17. The Deputy Registrar (Judl.-II)-cum-Secretary to Hon'ble the Chief Justice, Gauhati High Court, Guwahati.
- ✓ 18. The Deputy Registrar, Gauhati High Court, Itanagar Bench, Naharlagun.
19. The Deputy Director (Printing & Stationery), Assam Govt. Press, Bamunimaidam, Guwahati-21.
He is requested to publish the notification in the next issue of the Assam Gazette and send at least 20 copies of the same to the undersigned after publication.
20. The Deputy Director, Nagaland Govt. Press, Kohima/Meghalaya Govt. Press, Shillong/ Manipur Govt. Press, Imphal/ Tripura Govt. Press, Agartala/ Mizoram Govt. Press, Aizawl/ Arunachal Pradesh Govt. Press, Itanagar.
They are requested to publish the notification in the next issue of their respective Official Gazettes and send at least 5 copies each to the undersigned after publication.
21. The Assistant Registrar (_____), Gauhati High Court, Guwahati.
22. The P.S. to Hon'ble Mr. Justice _____, Gauhati High Court, Guwahati.
23. The Systems Analyst, Gauhati High Court, Guwahati for uploading the notification on the Internet.
24. The Superintendent (_____), Gauhati High Court, Guwahati.

John
27.01.11
REGISTRAR GENERAL

Memo No.
Copy to :-

dated Naharlagun, the 09th Feb, 2011

1. The President/ Secretary GHCIPBBA, Naharlagun.
2. The Asstt Librarian, GHC, Itanagar Bench, Naharlagun.
3. Notice Board.
4. File.


Deputy Registrar
Gauhati High Court
Itanagar Bench: Naharlagun.