



GAUHATI HIGH COURT BAR ASSOCIATION

GAUHATI HIGH COURT

GUWAHATI - 781001, ASSAM

Phone # 0361-2541066, Fax : (0361) 2733766, e-mail : ghcba1948@gmail.com
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Ref.No.GHCBA/MEM/HCS/5984/2023

Date: 16.06.2023



To,

Her Excellency,
Smti. Draupadi Murmu
President of India, Rashtrapati Bhavan,
Central Delhi, New Delhi-110004.

Sub: *Memorandum against the decision to shift the Gauhati High Court and other courts from Guwahati.*

Respected Madam,

The Gauhati High Court Bar Association expresses its deep anguish and resentment on the decision to shift the Gauhati High Court from Guwahati to Rangmahal on the North Bank of the River Brahmaputra, in an unilateral decision taken at a meeting held in the office of the Hon'ble Chief Minister, Assam, on 23.05.2023, for the following reasons:

The Gauhati High Court has been functioning from Guwahati, the erstwhile Gauhati since 1948. The Gauhati High Court is presently the High Court of three other states, Arunachal Pradesh, Nagaland and Mizoram with benches in the respective capital city of the said states. In terms of the North Eastern Areas (Reorganisation) Act, 1971, the principal seat of the Gauhati High Court remained at Gauhati or Guwahati as it is now known.

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The High Court Building was constructed in the year 1951. To cater to the requirement of additional space, a new annexe building was inaugurated in the year 2013 at an approximate cost of about Rupees 100 Crores. There is a heritage building near the High Court established in the year 1948, where the Court of Hon'ble District and Sessions Judge is housed. In fact, the said building hosted the High Court from 1948 to 1951 before shifting to the building constructed for the High Court, which has become a part of the heritage and the legacy of the State. The Court of the Learned Chief Judicial Magistrate is also situated nearby within 500 metres. Also, apposite to mention here that various other courts and tribunals under the Kamrup (Metropolitan) District are also situated at Guwahati, apart from the tribunals like the DRT, NCLT, CAT, Armed Forces Tribunal etc. Thus, the city hosts a network of courts and tribunals, being a premier city of the State, in fact of the region and the gateway to the Northeast.

Guwahati being a premier city of the Northeast is well connected with the entire country, not just the State and the region, having the necessary infrastructure in terms of public transport,

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hotel accommodations, PG accommodations etc. The location of the city is convenient to people coming from all parts of the State, whether it is the Lower Assam Region, the Upper Assam or the Barak Valley and even other States.

Rangmahal on the other hand is situated at the North Bank of the river Brahmaputra and falls under the Kamrup District, also referred to as the Kamrup (Rural) District, with its Headquarters at Amingaon. The said district was carved out from the greater Kamrup District which existed before its bifurcation into the two districts, Kamrup (Metropolitan) District and Kamrup. Kamrup or Kamrup (Rural) as it is also known has its own district judiciary. The said bifurcation was made for administrative convenience. The place where the proposed judicial city is to come up is yet to have any kind of infrastructure and at present it can be reached from Guwahati by travelling over the Saraighat Bridge which takes about 30 kms. of travel or by Ferry Service. However, a new bridge is being constructed over the river Brahmaputra, by a Company which has the dubious distinction of its under-construction bridge over river Ganga collapsing like a pack of cards, a few days back.

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Moves to shift various courts under Kamrup (Metro) District from its present location was being heard from time to time and it was learnt that a complex was being established at Boragoan within Guwahati City to shift the various district Courts.

However, on 23.05.2023 a minute of a meeting held in the office of the Hon'ble Chief Minister, Assam surfaced in the social media, whereby it was learnt that in the said meeting, the issue of shifting of the High Court was discussed where the Principal Secretary, to Hon'ble Chief Justice, Gauhati High Court and the Officer on Special Duty of the High Court were present. It transpires from the said minutes that the following decisions were taken.

"1. A high-level committee is to be constituted with a Hon'ble Justice of Gauhati High Court to be nominated by Hon'ble Chief Justice of Gauhati High Court, on the request of State Government. The other members of the Committee will be Advocate General Assam, Chief Secretary Assam, LR & Secy. Judicial Department, D.C. Kamrup, Spl. Secy. PWD(B&NH) shall be the Member Secretary of the Committee.

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2. *The Committee shall inspect the proposed land comprising 240 Bighas approximately, in Rangmahal area of Amingaon, out of which around 100 Bighas shall be required for setting up the new High Court Complex in the form of a Judicial City.*

3. *The said Complex shall accommodate the entire Gauhati High Court as well as other Judicial Courts of Kamrup Metro and Kamrup districts including residential accommodation for Hon'ble Judges and other Officials and staff.*

4. *D.C. Kamrup shall start the requisition/acquisition process within one month after finalisation of the site selection.*

5. *Spl. Comm. & Spl. Secy. PWD (B&NH) shall simultaneously process NIT for preparation of Detailed Project Report.*

6. *The entire project will be taken up in a phased manner as prioritized by the Committee".*

When this minute of the meeting dated 23.05.2023 came to light, an Extra Ordinary General Meeting the Association was called on 05.06.2023 to discuss the issue.

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The members of the Bar, who are not only important stakeholders but infact an integral part of the justice dispensation process, were unanimous that the move be opposed tooth and nail as the same is not only unreasonable but also undermines not only the role of the members of the Bar in the justice dispensation system but even the convenience of the litigant public in general.

The members expressed their shock and dismay that the High Court and the Registry of the High Court without taking the members of the Bar into confidence and without even a whiff of discussion unilaterally, agreed to the proposal to move the High Court. The resolution makes it apparent that the Registry of the High Court was well aware of what was happening and yet no efforts were made to discuss the issue with the Bar. The haste in the decision-making process and the manner, in which it was taken in a way, raises serious question mark on the independence and autonomy of the Judiciary.

The Gauhati High Court Bar Association is categorical in its opposition to the move to shift the Gauhati High Court and other Courts to Rangmahal as proposed in the meeting dated 23.05.2023. The proposal though may sound to be very palatable proposition on

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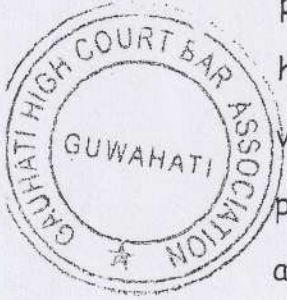


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paper, the project, if implemented would rather cause a great deal of hardship to the lawyers practicing in the Gauhati High Court and the various other Courts and Tribunals located within the city. The practicing advocates have over the years built up their establishments and chambers in the city and in the event they have to attend Courts at Rangmahal, it would have serious impact on their working style and functioning, as a lot of time would be lost every day, while travelling to and from the Courts from different parts of Guwahati, which covers an area of 216 square kms. approximately. The young lawyers and especially the lady lawyer would be seriously affected if they have to travel all the way to Rangmahal.

Under the present set up, lawyers travelling from different parts of the city have to negotiate bad roads, water logging during rainy seasons apart from heavy traffic. At times even to cross a stretch of a Kilometre, it takes about half an hour or more and there are also traffic jams created because of regular VIP movements, through the streets of Guwahati. Therefore, travelling further to Rangmahal even after the new bridge is commissioned would increase the travel time considerably, affecting not only the lawyers but also would cause great hardship to the litigants coming from the nook and

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corner of the State and the entire region, if they have to approach tribunals like DRT, CAT, NCLT etc. Guwahati being the premier City with infrastructure, certainly way better than any other part of the state, well communicated with the rest of the State, helps the litigants coming from the different parts of the state to agitate issues of violation of their fundamental and legal rights. Today, a litigant can think of coming to Guwahati, meet his advocate and leave for his station within the day, however if the Courts are shifted to Rangmahal, the chamber time etc. of the advocates would be severely impacted and as a result of which a person who can afford a day's stay at Guwahati will be burdened with longer stay at Guwahati, resulting in additional expenditure and wastage of time, more particularly when Rangmahal does not have any infrastructure in place. One cannot forget, that people knock the doors of the High Court seeking invocation of its extraordinary jurisdiction under the Constitution of India even for basics, like salary and pension.

The present location of the Gauhati High Court and other courts which are scattered nearby can be accessed by lawyers and litigants converging from various directions of the city. Even assuming that the new bridge that is being constructed would shorten the distance

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between Guwahati and Rangmahal, the fact remains that, lawyers and litigants will have to converge at one or two points and finally cross the bridge from a particular point over the river or in its bank and take a single route which would create severe traffic congestion over the bridge and as a result of which valuable time, fuel and energy would be wasted, in the process adversely impacting the system and even the environment. It can be reasonably expected that during the peak hours, the rush of vehicles trying to cross the bridge at a time, would lead to utter chaos.

The decision to shift the other courts of the Metropolitan district and the Kamrup District to the so called Judicial City also lacks clarity and the move indicates an invariably impending chaos in the justice dispensation system. The transfer/shifting of all the Courts, though it is not very clear as to which of the courts will be shifted, baffles the members of the Bar as regards the object sought to be achieved as it is not very clear as to whether the two districts would be merged into one and if so whether the reasoning of public convenience for creation of the two districts by bifurcating the original Kamrup District has lost its relevance. The new district was created in the year 2003 and for the purpose of infrastructure huge

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investments were made. It is not understood as to what emergent necessity has arisen to club back the two districts. On the other hand, if there is no proposal to club the two districts, it is not discernible as to what logic and understanding, except whims and caprice, apply for shifting of the Courts of the Kamrup (Metropolitan) Districts to another District.

The shifting of the District Courts to Rangmahal would have a serious impact on dispensation of justice as in the cases tried by the courts especially on the original side, the witnesses, whether be it a case of criminal or civil nature, play a very pivotal role in the decision making process and in these present days when people are so engrossed with their lives, even more people would become disinterested in coming up for adducing evidences, if they have to lose their entire day in travelling to and from the courts, to stand for others.

The proposed move to shift the High Courts and other Courts is not due to any known demand from any quarter with regard to the present infrastructure available, especially in the High Court, being insufficient. No demands have been made by any of the Bar

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Associations for shifting of the High Court or for that matter for shifting of the other Courts, either from the present location at Guwahati or even from Amingaon, where the courts of the Kamrup District are situated.

While one can appreciate the concerns of those at the helm, for the improvement of judicial infrastructure but the members are of the view that the concerns of improvement of judicial infrastructure would have been better addressed had the request made by the Bar Association in the year 2018 for allotting the space falling vacant on demolition of the Brahmaputra Ashoka Hotel, adjacent to the High Court, been accepted. It is still not late in the day, that the said space along with other nearby lands and the building being constructed cannot be handed over for development of the judicial infrastructure at Guwahati and developed into a state-of-the-art Judicial building while protecting the existing infrastructure and the heritage. Such a move, rather than developing the space as a Convention Centre would be a befitting gesture, reflecting the genuine concern of development of the judicial infrastructure.

The newly constructed High Court building in 2013 was reportedly constructed at a cost of about Rs.100 crores, though the

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initial budget was of Rs.65 crores. Even 10 (Ten) years have not elapsed, since the new building was inaugurated and it is not understood as to what necessitated the shifting of the entire apparatus to Rangmahal, even though much better accommodation could have been provided in an around the present High Court premises as already indicated.

Further, allocation of space occupied by office of Social Welfare Office, Banglow No.2, and the Planetarium can be additionally thought of, if additional space is required for improving the judicial infrastructure.

That the state of Assam is already reeling under huge burden of debt which is estimated to be about Rs.1,42,00,000/- (Rupees One lac Forty Two) crores and under such circumstances, the state cannot be put under the burden of further loans for creating so called Judicial City. Such a decision would only burden the taxpayers who are already reeling under inflation and high cost of living. It would be most unfortunate, if the members of the Bar and the judiciary fail to stand up against the move to shift the Courts into the newly proposed Judicial City and burden the already overburdened masses.

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The members also expressed concerns over the fact that bridge under construction over the Brahmaputra is being constructed by the same firm which was also constructing a bridge over the Ganga at Bihar, which had collapsed like a pack of cards a few days back. The said bridge is supposed to cut the distance between Guwahati and Rangmahal but when the construction of the Bridge itself raises concern, given the distinction of the construction company engaged, the decision to construct the Judicial City may be a disaster in lurking. The members also expressed concern about the lack of clarity on the fate of heritage High Court building in the event of the shifting of the High Court.

The members further opined that almost all High Courts of the country have been functioning from their original seats, which are all situated in crowded areas, within the city and many courts are handling much larger number of litigations. As such, the decision to shift the Gauhati High Court to Rangmahal, when alternative expansion possibilities exists, in the adjacent areas does not augur well, reflecting the concerns of a better and developed judicial infrastructure.

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The Gauhati High Court Bar Association therefore demands that the decision to shift the Gauhati High Court and other Courts from Guwahati to Rangmahal be revoked. Further, the building learnt to be a Convention Centre in the making be handed over to the High Court for its expansion and housing the other Courts, tribunals within the Kamrup (Metropolitan) District in the interest of better dispensation of justice, befitting the concerns for development of the Judicial infrastructure.

Your Sincerely,

Girin Pegu

(Girin Pegu)

Secretary General

GHCBA

SECRETARY GENERAL

GAUHATI HIGH COURT BAR ASSOCIATION
GUWAHATI

M. K. Choudhury

(Mrinal Kumar Choudhury)

President

GHCBA

PRESIDENT

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