THE HIGH COURT OF MEGHALAYA

WP(CRL)No.7/2014

Shri. Komar T.Sangma,
S/o Ramkai Ch. Sangma,
Village Jongmergre Samanda,
East Garo Hills District,
Meghalaya (Presently in District Jail, Jowai).

:::: **Petitioner**

-**Vs**-

1. The State of Meghalaya represented by the Commissioner & Secretary to the Political Department, Shillong, Meghalaya,

2. District Magistrate,
East Garo Hills District,
Tura, Meghalaya.

3. The Union of India,
Represented by the Secretary, Home,
New Delhi.

4. Advisory Board,
Gauhati High Court, Assam.

5. Superintendent of District Jail,
Jowai, West Jaintia Hills District,
Meghalaya.

:::: **Respondents**

BEFORE
THE HON'BLE MR JUSTICE T NANDAKUMAR SINGH
CHIEF JUSTICE (ACTING)

For the Petitioner	:	Mr. S.Dey, Adv Ms. Q.B.Lamare, Adv.
For the Respondents	:	Mr. N.D.Chullai, Sr. GA. Mr. H.Kharmih, GA.
Date of hearing	:	***21.08.2014***
Date of Judgment & Order	:	***21.08.2014***

JUDGMENT AND ORDER(ORAL)

By this writ petition, the petitioner/detenu is challenging (**1**) the detention order dated 14-1-2014 issued by the District Magistrate, East Garo Hills District, Williamnagar under Section 3(1) of the Meghalaya Preventive Detention Act 1995 for detaining the petitioner/detenu with immediate effect. (**2**) Approval order of the Govt. of Meghalaya dated 24.1.2014 issued in exercise of the power conferred by Sub-Section (3) of Section 3 of the Meghalaya Preventive Detention Act, 1995 and also; (**3**) Confirmation order of the Govt. of Meghalaya dated 4-3-2014 on the 3(three) grounds: (i) Procedural safeguards to be adopted in the case of the detention are not followed by the detaining authority in the given case. (ii) There was non application of mind in issuing the detention order inasmuch as there is not even a whisper in the detention order that the detaining authority has subjective satisfaction that the detenu who had already been in custody and whose bail petitions had been rejected on many occasions is likely to be released on bail, and therefore, the preventive detention order is required, for detaining the detenu under Meghalaya Preventive Detention Act, 1995, and; (iii) The representation filed by the detenu, which is required to be disposed of expeditiously as guaranteed under Article 22(5) of the Constitution of India, was not disposed of expeditiously. In other words, there was an inordinate delay, for which there is no explanation from the side of the respondents, in disposing the representation filed by the detenu.

(2) Heard Mr. S.Dey, learned counsel appearing for the petitioner/detenu and also Mr. H.Kharmih, GA, appearing for the respondents.

(3) The petitioner/detenu is a citizen of India belonging to the Garo Scheduled Tribe and is a permanent resident of Jongmergre Samanda Village, East Garo Hills District. One Sub-Inspector of the Williamnagar Police Station lodged an ejahar on 8-10-2013 for a bomb blast incident on 8-10-2013 to the Williamnagar Police Station; and a criminal case being FIR or Criminal Case No. 81(10) 2013 under Section 353/307 34 IPC read with Section 3 of the Explosive Substance Act, was registered. On 28-11-2010, the petitioner/detenu was arrested by the Police Personnel, Williamnagar Police Station alleging that the petitioner/detenu was involved in the said criminal case, i.e. Williamnagar Police Case No. 81(10)2013. The petitioner/detenu was remanded in police custody.

(4) The petitioner/detenu filed a bail application for the said criminal case in the Court of the Additional District Magistrate, Williamnagar, East Garo Hills District; the learned Magistrate rejected the said bail application on 3-12-2013. The subsequent bail application filed by the petitioner/detenu was also rejected on 16-12-2013 and also by an order dated 20-12-2013, the bail application filed by the petitioner/denenu was also rejected. It is stated in the writ petition that after the successive bail applications had been rejected by the concerned Magistrate, the petitioner/detenu did not file fresh bail application for enlarging him on bail in connection with said case.

(5) While the petitioner was in custody in connection with the said criminal case after his successive bail applications had been rejected, the detaining authority issued the impugned detention order dated 14-1-2014, under Section 3(1) of the Meghalaya Preventive Detention Act, 1995. For easy reference, the detention order dated 14-1-2014 (Annexure – 4 to the writ petition) is quoted hereunder:-

"GOVERNMENT OF MEGHALAYA
OFFICE OF THE DISTRICT MAGISTRATE:
EAST GARO HILLS DISTRICT: WILLIAMNAGAR
NO.EGH/CON.201(MPDA)/2014/3,

Dated Williamnagar, the 14th January,2014

ORDER UNDER SECTION 3(1) OF THE MEGHALAYA PREVENTIVE DETENTION ACT,1995

***Whereas**, a new militant outfit by the name of Garo National Liberation Army(GNLA) has come into being in Garo hills in Meghalaya of which Shri Champion R. Sangma and Shri Sohan D. Shira are the originators and founders;*

***Whereas** this militant organization has unleashed a reign of terror on the peace loving citizenry by executing criminal activities like extortion, kidnapping for ransom, ruthless murders of businessman and traders, criminal intimation to create a fear psychosis to suit their nefarious designs;*

***Whereas,** this organization GNLA has been formed with the intention of waging war against the constitutionally formed and elected sovereign govt of the day for creation of a Garo national entity and for which they are training gullible and susceptible poor, unemployed, rural youth;*

***Whereas,** it is circumstance wise proved that Shri Komar T. Sangma, S/O shri Ramaki Ch. Momin of Jongmegre Samanda, East Garo Hills who is now in judicial custody is an active member of GNLA who has contributed in his might in the furtherance of the devious designs of the militant organization GNLA and is of dangerous and desperate character who is an active threat to public security;*

***Whereas**, his repeated commission of crimes at the instance of his superiors in the militant organization reflect his incorrigible intent to foment terror and points towards his indifference and total disregard to life, liberty of innocent citizens and their peace and security;*

***Whereas,** he has been arrested by police for his involvement in various unlawful activities and crimes like extortion, dacoity, kidnapping, murder and robbery etc. with deadly weapons for ransom,*

disruption of public order etc. for which police have implicated him in;

1. ***Williamnagar P.S. Case No. 81(10)2013 U/S 353/407/34 IPC***

2. ***Williamnagar P.S. Case No. 57(06)2013 U/S 435/436 IPC RW Sec.3 of ES Act.***

Whereas, *I am satisfied that if Shri komar T.Sangma is allowed to remain at large, he would act in a manner prejudical to the security of the state and maintenance of public order in the district and would contribute in consolidation of the militant organization which shall be a constant threat to the peace, prosperity and security of the law abiding and peace loving citizenry of the district and the state and unleash mayhem and unspeakable atrocities on the people by indulging in murder, criminal intimation, extortion, kidnapping for ransom in furtherance of their treacherous designs;*

NOW, *therefore, in exercise of the power conferred upon me under section 3(1) Megahlaya Preventive Detention Act, 1995, I, Shri Vijay Kumar Mantri, IAS, District Magistrate, East Garo Hills District, Williamnagar do hereby direct forthwith that the person of Shri. Komar T. Sangma shall be taken into preventive detention with immediate effect and that the detention shall be at District Jail, Jowai, Jaintia Hills until further orders;*

Further, Shri Komar T. Sangma shall, in accordance with article 22 (5) of the constitution of India read with section 8 (1) of MPDA, 1995 have every right to make a representation against the order of detention to the Govt. addressed to the District Magistrate, east Garo Hills, Williamnagar and the Principal Secretary in Political Department, Govt. of Meghalaya.

Given under my Hand and Seal of the Court this ***14th day of January, 2014.***

Sd/-
(Vijay Kumar Mantri)
District Magistrate
East Garo Hills District
Williamnagar"

(6) By the detention order dated 14-1-2014, the petitioner/detenu had been intimated that the petitioner/detenu shall in accordance with Article 22 (5) of the Constitution of India read with Section 8(1) of the Meghalaya Preventive Detention Act, 1995, have every right to make representation against the detention order to the District Magistrate, East Garo Hills District, Williamnagar and Principal Secretary, Political Department, Govt. of Meghalaya. The petitioner/detenu filed the representation dated 5-2-2014 to; (i) District Magistrate, East Garo Hills District, Williamnagar, Meghalaya and (ii) Principal Secretary/Commissioner & Secy, Political Department, Govt. of Meghalaya.

(7) It is nobody's dispute that the petitioner had filed said representation dated 5-2-2014 and also the concerned authorities had received the representation. Only on 28-2-2014 the petitioner/detenu had been informed that the State Government, in exercise of the power conferred by Sub-Section (3) of Section 3 of the Meghalaya Preventive Detention Act, 1995, had approved the detention order vide approval order dated 24.1.2014. Mr. S.Dey, learned counsel appearing for the petitioner/detenu had drawn the attention of this Court to the copy of the approval detention order dated 24-1-2014 which shows that the petitioner/detenu had received a copy of the said approval order, i.e. 24-1-2014 only on 28-2-2014, inasmuch as the petitioner/detenu had put his signature for acknowledging receipt of the copy of the approval order dated 24-1-2014 only on 28-2-2014**.**

(8) The State Government had issued the confirmation order dated 4-3-2014, wherein the period of detention will be 3(three) years, w.e.f. 14-1-2014 to 13-1-2017.

GROUND No.2

(9) On careful perusal of the impugned detention order dated 14-1-2014, which has been quoted above, it is clear that there is not even a whisper of the detaining authority as to subjective satisfaction that the detenu who is already in custody and whose bail applications had been rejected by the concerned Magistrate, is likely to go on bail and therefore the detenu is required to be detained under the detention order. It is fairly settled law that the subjective satisfaction of the detaining authority is a cumulative effect of consideration of all the materials available before the detaining authority; the Court is not concerned with the sufficiency or insufficiency of the materials for coming to subjective satisfaction.

(10) The Court in exercise of its judicial review of the detention order is only concerned as to whether the subjective satisfaction is based on no evidence or whether there was any subjective satisfaction or not. In the present case, there is no indication in the detention order dated 14-1-2014 that the detenu who is already in custody is likely to be released on bail. It is also well settled that preventive detention order is not vitiated only on the ground that detenu had already been in custody. What is required to be indicated in the detention order of the detenu who is already in custody is that the detenu is likely to be released on bail or not**.** The Apex Court in ***Union of India vrs Paul Manickam and ors (2003), 8 SCC page 352*** held that if the authority passing the order of detention is aware of the fact that he is actually in custody, there has to be a reason to believe on the basis of reliable material placed before him, that there is every possibility of his release on bail, and that on being released, he would in all probability indulge in prejudicial activities. In the present case, as stated above, there is no material or indication, or whisper to show that there is subjective satisfaction on the part of the detaining authority on the

materials placed before him that the petitioner/detenu is likely to be released on bail.

(11) Para 14 of the ***(2003), 8 SCC Paul Manickam case Supra*** reads as follows:-

> *"14. So far as this question relating to the procedure to be adopted in case the detenu is already in custody is concerned, the matter has been dealt with in several cases. Where detention orders are passed in relation to persons who are already in jail under some laws, the detaining authorities should apply their mind and show their awareness in this regard in the grounds of detention, the chances of release of such persons on bail. The necessity of keeping such persons in detention under the preventive detention laws has to be clearly indicated. Subsisting custody of the detenu by itself does not invalidate an order of his preventive detention, and the decision in this regard must depend on the facts of the particular case. Preventive detention being necessary to prevent the detenu from acting in any manner prejudicial to the security of the State or to the maintenance of public order or economic stability etc, ordinarily, it is not needed when the detenu is already in custody. The detaining authority must show its awareness to the fact of subsisting custody of the detenu and take that factor into account while making the order. If the detaining authority is reasonably satisfied with cogent materials that there is likelihood of his release and in view of his antecedent activities which are proximate in point of time, he must be detained in order to prevent him from indulging in such prejudicial activities, the detention order can be validly made. Where the detention order in respect of a person already in custody does not indicate that the detenu was likely to be released on bail, the order would be vitiated. [**(1989) 4 SCC 418 : 1989 SCC (Cri) 732 : AIR 1989 SC 2027 N. Meera Rani versus Govt. of T.N. and (1990) 1 SCC 746 : 1990 SCC (Cri) 249 : AIR 1990 SC 1196 Dharmendra Suganchand Chelawat versus Union of India].** The point was gone into detail in **(1991) 1 SCC 128: 1991 SCC (Cri) 88: AIR 1991 SC 1640 Kamarunnissa versus Union of India.** The principles were set out as follows: even in the case of a person in custody, a detention order can be validly passed: (1) if the authority passing the order is*

> *aware of the fact that he is actually in custody; (2) if he has a reason to believe on the basis of reliable material placed before him (a) that there is a real possibility of his release on bail, and (b) that on being released, he would in all probability indulge in prejudicial activities; and (3) if it is felt essential to detain him to prevent him from so doing. If an order is passed after recording satisfaction in that regard, the order would be valid. In the case at hand the order of detention and grounds of detention show an awareness of custody and/or a possibility of release on bail."*

(12) From the ratio laid down by the Apex Court in ***Paul Manickam*** case, it is clear that even for the case of a person in custody, the detention order can be passed :-

> *"(1) if the authority passing the order is aware of the fact that he is actually in custody; (2) if he has a reason to believe on the basis of reliable material placed before him (a) that there is a real possibility of his release on bail, and (b) that on being released, he would in all probability indulge in prejudicial activities; and (3) if it is felt essential to detain him to prevent him from so doing. If an order is passed after recording satisfaction in that regard, the order would be valid. In the case at hand the order of detention and grounds of detention show an awareness of custody and/or a possibility of release on bail."*

(13) The ratio laid down in Paul Manickam case had been repeatedly followed by the Apex Court in later cases including the different High Courts. The Gauhati High Court (incidentally authored by this Court, Mr. Justice T. Nandakumar Singh) in ***Yumnam Rajen Singh vrs District Magistrate, Imphal West & ors GLT 2011 (5)*** held that the non indication of the subjective satisfaction of the detaining authority in the detention order, that the detenu is likely to be released on bail shall vitiate the detention order.

(14) Para 13 and 14 of the ***Yumnam Rajen Singh vrs District Magistrate, Imphal West & ors GLT 2011 (5) reads as follows:***

"The ratio laid down by the Apex Court in Kamarunissa's case (supra) had been followed by the Apex Court in the subsequent cases i.e. Union of India Vs. Paul Manickam & Anr: AIR 2003 SC 4662. The Apex Court in Paul Manickam's case (supra) held that where the detention order in respect of a person already in custody does not indicate that the detenu was likely to be released on bail, the order would be vitiated. Relevant part of Para 12 of the AIR in Paul Manickam's case (supra) read as follows:

> *"12. So far as this question relating to procedure to be adopted in case the detenue is already in custody is concerned, the matter has been dealt with in several cases. Where detention orders are passed in relation to persons who are already in Jail under some other laws, the detaining authorities should apply their mind and show their awareness in this regard in the grounds of detention, the chances of release of such persons on bail. The necessity of keeping such persons in detention under the preventive detention laws has to be clearly indicated. Subsisting custody the detenue by itself does not invalidate an order of his preventive detention, and decision in this regard must depend on the facts of the particular case. Preventive detention being necessary to prevent the detenue from acting in any manner prejudicial to the security of the State or to the maintenance of public order or economic stability etc ordinarily, it is not needed when detenue is already in custody. The detaining authority must show its awareness to the fact of subsisting custody of the detenue and take that factor into account while making the order. If the detaining authority is reasonably satisfied on cogent materials that there is likelihood of his release and in view of his antecedent activities which are proximate in point of time, he must be detained in order to prevent him from indulging such, prejudicial activities the detention order can be validly made. Where the detention order in respect of a person already in custody does not indicate that the detenue was likely to be released on bail, the order would be vitiated. (See N. Meera Rani V. Govt. of Tamil Nadu, (AIR 1989 SC 2027): Dharmendra Suganchand V. Union of India, (AIR 1990 SC 1196). The point was gone into detail in Kamarunnissa V Union of India (AIR 1991 SC 1640). The principles were set out as follows. Even in the case of a person in custody, a detention order can be validly passed, (1) if the authority passing the order is aware of the fact that he is actually in*

custody; (2) if he has reason to believe on the basis of reliable material placed before him: (a) that there is a real possibility of his release on bail and (b) that on being released, he would in all probability indulge in prejudicial activities, and (3)if it is felt essential to detain him to prevent him from so doing. If an order is passed after recording satisfaction in that regard, the order would be valid. In the case at hand the order of detention and grounds of detention show awareness of custody and/or possibility of release on bail."

14. Keeping in view of the ratio laid down by the Apex Court in No. (1) Kamarunissa's case (supra), (2) Paul Manickam's case (supra) and decision of this Court in Loitongbam Manimohon's case (supra) we have carefully applied our minds in the given case to decide as to whether the impugned detention order dated 01.06.2011, which does not mention anything about the subjective satisfaction of the Detaining Authority that the petitioner-detenue is likely to be released on bail vitiated or not for non mentioning of subjective satisfaction in this regard in impugned detention order. We may here recall the decision of the Apex Court in ***Pebem Ningol Mikoi Devi Vs. State of Manipur and Ors.: (2010) 9 SCC 618*** *wherein the Apex Court held that the grounds of detention are sufficient or not to order detention, is not within the ambit of the discretion of the Court but is a matter of subjective satisfaction of the authority which is implied. But here in the present case there is no subjective satisfaction of the Detaining Authority in the impugned detention order that the petitioner is likely to be released on bail. Since there is no subjective satisfaction of the Detaining Authority in the impugned detention order that the petitioner-detenue is likely to be released on bail, the impugned detention order itself is vitiated."*

(15) For the foregoing discussions, this Court is of the considered view that only on this ground, the continued detention under the impugned detention order is vitiated.

GROUND No.3

(16) It is the mandate of the Constitution under Article 22 (5) of the Constitution of India that the detenu should be provided with the earliest opportunity of making the representation against the detaining order and

the detaining authority shall dispose of the representation as early as possible.

(17) It is fairly settled there is no limitation period for disposing the representations. However, as mandated under Article 22(5) of the Constitution of India, the detaining authority has to dispose the representation as early as possible. It is also fairly settled the principle of law that the procedural safeguard to be adopted in case of the detention order shall be jealously guarded by the detaining authority.

(18) Even at the time of filing the writ petition, i.e. 8-4-2014, the petitioner/detenu was not even informed the decision of the detaining authority regarding the said representation, i.e. 5-2-2014 filed by the petitioner/detenu; and accordingly a ground had been taken in the writ petition i.e. '**Ground no. (I)'** that the representation of the detenu dated 5-2-2014 was not considered by any of the authority thereby denying the constitutional rights of the detenu. The respondents had filed joint affidavits wherein the respondents stated that the question of considering the representation does not arise as detention of the detenu had already been approved by the Govt. of Meghalaya, Political Department, dated 24-1-2014 and confirmed by order dated 4-3-2014. Therefore, there is no explanation for the delay in disposal of the representation. Rather, the respondents are taking undue advantage of the delay in disposal of the representation. This is not acceptable under the known law involving the fundamental rights of the citizen under the Constitution of India. The said representation dated 5-2-2014 was addressed to (1) the District Magistrate as well as (2) the State Government. The petitioner/detenu filed the rejoinder affidavit dated 23-7-2014 wherein the petitioner/detenu stated that the State Government under its letter dated 2-5-2014 informed the petitioner/detenu that the said representation of the petitioner/detenu

had been considered by the State Government and found that no ground exist to justify the revocation of the detention order. Therefore, it is clear from the said letter of the Government of Meghalaya dated 2-5-2014 that the said representation of the petitioner/detenu dated 5-2-2014 had been disposed of after a considerable delay of 87 days. As stated above, there is no limitation period for disposing the representation but if there is a delay in disposing the representation, there should be reasonable explanation for the delay. Over and above, the representation is to be disposed of as expeditiously as possible. In the present case, there is no explanation for delay of 87 days in disposing the representation of the petitioner/detenu dated 5-2-2014.

(19) The Apex Court in ***Rashid Kapadia vrs Medha Gadgil and ors (2012) 11 SCC 745*** held that unexplained delay in considering the representation shall vitiate the continued detention. In the present case, there is absolutely no explanation for the delay of 87 days in disposing the said representation of the detenu dated 5-2-2014.

(20) Para 11, 12, and 13 of ***Rashid Kapadia vrs Medha Gadgil and ors (2012) 11 SCC 745*** reads as under:

> *"11.The fact that the representation was made on 06-08-2011 and it was disposed of on 07-09-2011 by the 1st respondent is not in dispute. In the counter affidavit filed by the 1st respondent in the writ petition it is stated at para 19 as follows:*
>
> > *"19. With reference to paras 8(DD) of the petition, I say that the representation dated 6.8.2011 made by Shri Rashid Kapadia, was received in my office on 6.8.2011 late in the evening. The parawise comments from the Sponsoring Authority were called for by letter dated 09.08.2011. I say that during this period 7.8.2011 was holiday. The Sponsoring Authority forwarded the parawise comments on 26.8.2011 which were received in the Department on 26.8.2011 late in the evening. There were holidays on 27.08.2011, 28.08.2011, 31.08.2011 and 01.09.2011 and*

on 29.08.2011 due to heavy rain fall the office work was paralysed. I further state that the Assistant concerned submitted a detailed note and forwarded it to the Under Secretary on 30.8.2011. The Under Secretary endorsed it on 2.9.2011 and forwarded it to the Dy.Secretary. The Dy. Secretary endorsed it on 5.9.2011 and forwarded the papers to me. I say that during this period 4.9.2011 was holiday. I had independently considered the representation and rejected it on 7.9.2011. Accordingly rejection reply was issued on 7.9.2011 through Speed Post to the applicant."

12. It can be seen from the above extracted portion that the first respondent called for the parawise remarks of the Sponsoring Authority (Customs Department) on 09-08-2011. However, the Sponsoring Authority responded to the inquiry of the 1st respondent on 26-08-2011 with a delay of fifteen days. The reasons for such delay have not been explained by the Sponsoring Authority, represented by the third respondent herein. There is nothing on the record placed before us, which explains the abovementioned delay on the part of the third respondent's Department.

13. It is well settled that the right of a person, who is preventively detained, to make a representation and have it considered by the authority concerned as expeditiously as possible, is a constitutional right under Article 22 (5). Any unreasonable and unexplained delay in considering the representation is held to be fatal to the continued detention of the detenu. The proposition is too well settled in a long line of decisions of this court. We do not think it necessary to examine the authorities on this aspect, except to take note of a couple of judgments where the principle is discussed in detail. They are: Mohinuddin v. District Magistrate, Beed {(1987)4 SCC 58: 1987 SCC (Cri) 674} and Harshala Santosh Patil v. State of Maharashtra {(2006) 12 SCC 211 : (2007) 1 SCC (Cri) 680}."

(21) This Court (Mr. Justice T.Nandakumar Singh) in ***Kshetrimayum Prakash Singh @ Paka vrs District Magistrate and ors 2006 (SUPPL).GLT 453*** held that in the absence of reasonable explanation for the delay of six days in disposal of representation, continued detention held impermissible and illegal. Para 20 and 21 of the GLT in the

Kshetrimayum Prakash Singh @ Paka vrs District Magistrate and ors 2006 (SUPPL).GLT 453 (Supra)reads as under:

> *"20. By virtue of section 14 of the NSA, the Central Government has absolute jurisdiction to consider and dispose of the representation of the petitioner dated 12.7.2005 independently without even calling para-wise comments from the State Government. In the case in hand, as discussed above, all the materials including the ground of detention and other materials along with the detention of the petitioner under the NSA were available with the Central Government on the date on which the representation of the petitioner dated 12.7.2005 reached to the Central Government. The only explanation by the Central Government in explaining the delay of altogether 37 days in disposing the representant of the petitioner dated 12.7.2005 was that the para-wise comments of the State Govt. to the representant of the petitioner was received lately, but in the affidavit-in-opposition nothing is mentioned as to how and why the para-wise comments of the State Government to the representation of the petitioner is required even if all the materials are available with the Central Government. Further, as discussed above, explanation for delay of 6(six) days in forwarding the representation of the petitioner dated 12.7.2005 to the Central Governments by the State Government is mentioned neither in the affidavit-in-opposition of the respondent 1 and 2 nor in the affidavit in opposition of the respondent no. 3, i.e. Union of India.*
>
> *21. In view of the above discussions, we are of the firm view that there are supine, indifference, slackness and callousness attitude in considering the representation of the petitioner by the respondent and delay in disposal of the representation are not explained. As a result, thereof, there is a breach of the constitutional imperative rendering the continue detention of the petitioner is impermissible and illegal. Accordingly we hold that detention order dated 27.6.2005 which had been approved by the State Government under its order dated 6.7.2005 and affirmed by the State Government under its order dated 12.8.2005 are illegal and accordingly quashed. Since the writ petition is succeeded on the ground of unexplained delay in disposing the representation filed by the petitioner, we are of the considered view that other ground taken by the petitioner for assailing the detention order would be of only for academic purposes and hence, we are not deciding the other grounds."*

(22) The Gauhati High Court in ***Lang Kamdeng Gracy Vs. State of Meghalaya and Ors arising from State of Meghalaya and reported in 2008 (1) GLT 227*** held that:

> *"13. Having meticulous analysed of the above averments made by the respondent authorities, particularly the State authority, it appears that admittedly the representation submitted by the detenu on 29.8.07 was disposed of by the authority on 1.10.07 after 32 days. Nonetheless, we do not find any such averments or any reasonable, cogent or plausible explanation of such delay of 32 days in disposing the representations. There is no whisper anywhere either in their affidavits filed by the authorities that the delay was occurred due to their investigation or in obtaining other necessary instruction to substantiate such delay. We have also perused the record so placed before us. Amazingly, records also do not reveal any such acceptable explanation of such delay.*
>
> *14. In view of the above facts and circumstances, we are of the considered view that the representation was disposed of causing an inordinate delay and the same was not sufficiently and properly explained. It is argued on behalf of the State that the delay was caused for obtaining certain instruction from the detaining authority which necessitated the Government for making correspondences as a result of which the delay was occurred. It has also been argued that there was no hard and fast rule for disposal of the representation although it is admitted that representation needs to be expeditiously considered and disposed of.*
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> *15. To substantiate such arguments, strong reliance has been placed on the following judicial authorities:*
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> *1) K.M. Abdulla Kohni v. Union of India (AIR 1991 SC 574).*
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> *2) D. Anuradha v. Joint Secretary and Anr. (2006) 5 SCC 142.*
>
> *3) Vinod K. Chawla v. Union of India and Ors. (2006) 7 SCC 337.*
>
> *17. In the instant case, the representation dated 29.8.2007 presented to the respondent No.1, who being the competent authority, ought to have disposed of the same without any avoidable delay with a sense of urgency. However, it appears to us that the same was disposed of very casually and with callous attitude only on 1.10.2007. No explanation has been forthcoming for such*

unexplained delay in disposal of the representation itself in our firm opinion vitiates the impugned detention."

(23) For the foregoing reasons, this Court is of the considered view that there are supine, indifference, slackness and callousness attitude in considering the representation of the petitioners by the respondents and delay in disposal of representation are not explained.

(24) The effect of the discussions and decision of this Court in the foregoing paras would be that the impugned detention order dated 14-1-2014, approval order dated 24.1.2014 and confirmation order dated 4-3-2014 are illegal and accordingly quashed. The detenu, Shri Komar T. Sangma shall be released forthwith unless wanted in any other case.

(25) Writ petition is allowed. No order as to costs.

CHIEF JUSTICE (ACTING)

S.Rynjah