

WP(C) 4478/2017
BEFORE
HON'BLE MR. JUSTICE ARUP KUMAR GOSWAMI

JUDGMENT & ORDER

Heard Mr. A.K. Bhattacharyya, learned senior counsel assisted by Mr. D.K. Bhattacharyya, appearing for the petitioners in WP(C) No.4868/2017, Mr. A.C. Borbora, learned senior counsel, assisted by Mr. M. Smith, appearing for the petitioners in WP(C) No.4476/2017, WP(C) No.4477/2017, WP(C) No.4478/2017 and WP(C) No.4479/2017, Mr. C. Choudhury, learned Advocate General, Assam, assisted by Mr. T.C. Chutia, learned State counsel as well as Mr. U.K. Nair, learned senior standing counsel, Gauhati High Court, assisted by Mr. H.K. Das.

2. In WP(C) No.4476/2017, WP(C) No.4477/2017, WP(C) No.4478/2017 and WP(C) No.4479/2017, filed under Article 226 of the Constitution of India, challenge is made to the Notification dated 20.06.2017 denying extension to the petitioners as Member, Foreigners Tribunal (FT), and to an advertisement dated 21.06.2017 issued by the Registrar (Judicial), Gauhati High Court, inviting applications for preparing a panel of 35 numbers of candidates (28 Nos. vacant posts + 7 Nos. anticipated vacancies) for appointment as Members of the FTs on contractual basis. Prayer is also made to allow the petitioners to continue to serve as Member, FT.

3. In WP(C) No.4868/2017, in addition to the challenges made in the aforesaid four writ petitions, prayer is made to direct the respondents to re-instate the petitioners by extending their tenure beyond 24.05.2017 as well as expunction of certain remarks, which the petitioners contend to be stigmatic, contained in the Notification dated 20.06.2017.

4. While advancing arguments, Mr. A.C. Borbora, learned senior counsel, who represents the petitioners in WP(C) No.4476/2017, WP(C) No.4477/2017, WP(C) No.4478/2017 and WP(C) No.4479/2017 has referred to the pleadings in WP(C) No.4478/2017. In these writ petitions, separate affidavits but with the same contents, were filed by the Principal Secretary to the Government of Assam, Home and Political Department.

5. The case set out in these writ petitions is that the petitioners, who were practicing advocates, responded to an advertisement dated 16.05.2015, issued by the Registrar (Judicial) of the Gauhati High Court, inviting applications from retired District Judges/Additional District Judges and practising advocates, above 45 years of age and completing ten years of legal practice, for filling up of approximately 47 numbers of posts of Members, FT, and they were called to appear before an interview committee constituted by the Gauhati High Court for the purpose of selection of eligible candidates and that the interviews were conducted from 15.06.2015 to 20.06.2015. In the list of selected candidates issued vide Notification dated 01.07.2015, the names of petitioners in WP(C) No.4476/2017, WP(C) No.4477/2017, WP(C) No.4478/2017 and WP(C) No.4479/2017 appeared at Sl. Nos. 18, 8, 12 and 37, respectively. Subsequently, by a Notification dated 29.07.2015, issued by the Commissioner and Secretary to the Government of Assam, Home and Political Department, they were appointed as Members of different FTs and they joined their respective places of posting. It is pleaded that the staff deputed to the FTs were untrained and inadequate and no stenographer was provided. Power supply was also very erratic. After successful completion of one year service, their services were extended for another year, till July 2017. But before completion of the second term, the Notification dated 20.06.2017 was issued by the Principal Secretary to the Government of Assam, Home and Political Department, incorporating two lists: list A containing the names of 42 Members whose tenure had been extended for a further period of two years beyond 24.05.2017 and up to 23.

05.2019, and list B containing the names of 19 Members, including the petitioners, who had been denied further extension beyond 23.06.2017 (wrongly referred as 23.05.2017 in the writ petitions), on the ground that their overall performance was unsatisfactory and that some inadequacies were noticed during last two years. On the very next day, i.e. on 21.06.2017, the Registrar (Judicial), Gauhati High Court, issued another advertisement inviting applications for preparing a panel of 35 numbers of candidates (28 Nos. vacant posts + 7 Nos. anticipated vacancies) for appointment as Members of the FTs on contractual basis. The petitioners in WP(C) No.4476/2017, WP(C) No.4477/2017 and WP(C) No.4479/2017 responded to the said advertisement.

6. The position of the petitioners of WP(C) No.4868/2017 in the merit list is 6, 49, 56, 59, 30, 31, 42, 4, 5 and 24, respectively. In addition to the pleadings in WP(C) No.4476/2017, WP(C) No.4477/2017, WP(C) No.4478/2017 and WP(C) No.4479/2017, it is stated that though the petitioners had taken over charge immediately, the FTs were not made fully functional and there were issues relating to the question as to over which police stations the Members of FTs would exercise jurisdiction and as a result of the same, some of the petitioners could function effectively much belatedly. The employees attached to the FTs were not trained in judicial works and that the FTs lacked minimum infrastructural facilities. It is pleaded that in absence of contingency fund, the petitioners had to spend their own money for purchase of stationeries, etc. The newly created FTs did not have Government Advocates for assisting the Members. Despite the odds and obstacles they had discharged their duties with sincerity and integrity.

7. It is further pleaded that by a letter dated 05.07.2016, the Joint Secretary to the Government of Assam, Home and Political Department, requested all the new Members to furnish five numbers of contesting judgments within the period from 01.08.2015 to 30.06.2016 on or before 11.07.2016 and, accordingly, such judgments were sent to the Registrar (Judicial), Gauhati High Court, along with consolidated statements regarding pendency and disposals. It is stated that by a letter dated 17.06.2016, the Registrar (Judicial), Gauhati High Court, conveyed to the Secretary to the Government of Assam, Home and Political Department that Selection Committee of the Hon'ble Judges resolved to extend the service of the Members, FTs on the basis of their performance, suitability and continued utility. Subsequently, by a Notification dated 10.03.2017, issued by the Commissioner and Secretary to the Government of Assam, Home and Political Department, extended the term of the Members, FTs, including the petitioners, for a further period up to 23.05.2017.

8. While denying the allegations made and contentions advanced in respect of the impugned Notification and the advertisement, in the affidavit filed by the State respondents in WP(C) No.4476/2017, WP(C) No.4477/2017, WP(C) No.4478/2017 and WP(C) No.4479/2017, it is stated that by a letter dated 24.06.2015, the State Government of Assam had requested the Gauhati High Court to carry out selection process for filling up 64 posts of FTs for their expeditious functioning in accordance with terms and conditions approved by the Ministry of Home Affairs, Government of India and notified vide Notification 29.07.2015. It is stated that 64 new FTs had to be operationalised by 16.10.2015. While the selection process of staff was being conducted by the Gauhati High Court, the Deputy Commissioners of the districts had been directed to depute staff from local offices as a temporary measure to the FTs. After selection process was completed, issuance of appointment orders of staff was delayed as the extension of term of the FTs and 384 posts of staff for FTs beyond 24.05.2015 was pending consideration with the Ministry of Home Affairs. Subsequently, on 31.10.2016, approval having been accorded by the Government of India, appointment orders of staff were issued on 31.12.2016. It is pleaded that on consideration of various aspects including the reports of Monthly Performance Statements submitted by the petitioners, their services were extended till 23.06.2017 by a Notification dated 23.05.2017. It is stated that the appointments were purely contractual in nature and subsequently, while g

granting extension to 42 Members for a further period of two years with effect from 24.05.2017, extension in respect of 19 Members of FTs including the petitioners was denied because their performance had been found unsatisfactory and some inadequacies had been noticed in the last two years. All Performance Reports were assessed and monitored and the performance of the FT Members was discussed in the Monitoring Committee meetings held under the aegis of the Gauhati High Court.

It is stated that performance of the FTs had always been an important topic in the Monitoring Committee meetings and the Gauhati High Court had required the Government of Assam to monitor and assess the performance of the petitioners and other similarly situated persons and, accordingly, their performance was assessed by the State Government, which was the only indicator for grant of extension. A chart showing performance appraisal of the newly appointed Members of the FTs as on 30.04.2017 is also enclosed.

9. In the affidavit filed by the State respondents through the Principal Secretary to the Government of Assam, Home and Political Department in WP(C) No.4868/2017, while denying the allegations made and contentions advanced in respect of the impugned Notification and the advertisement, in addition to what is stated in the affidavits filed in WP(C) No.4476/2017, WP(C) No.4477/2017, WP(C) No.4478/2017 and WP(C) No.4479/2017, it is stated that service of the petitioners were extended till 23.06.2017 in terms of Notification 23.05.2017 based on the Monthly Performance Statements submitted by the petitioners. The Monitoring Committee with a Judge of this Court had been monitoring the functioning of the FTs and Government of Assam had also assessed the performance of the petitioners and other similarly situated persons and the same was also periodically discussed in course of the meetings of the Monitoring Committee.

10. An affidavit-in-reply was filed to the affidavit of the State Government by the petitioners in WP(C) No.4868/2017.

11. The Union of India, which is arrayed as respondent No.3 in WP(C) No.4868/2017, had prayed for deleting it from the array of the respondents as no action of the Union of India is in issue.

12. The Registrar General, Gauhati High Court, has filed an affidavit for and on behalf of respondent Nos.4 and 5 in WP(C) No.4868/2017. It is pleaded that the petitioners have no legal right to challenge the advertisement dated 21.06.2017 and to pray for continuation of their contractual service after rejection of extension by the Government of Assam. It is pleaded that the Gauhati High Court is involved only to the extent of holding selection for appointment of Members, FT, and the Monitoring Committee, with a Judge of this Court, monitoring the functioning of the FTs, had required the Government of Assam to assess the performance of the petitioners and, accordingly, it was so assessed by the Government of Assam. The assessment of performance and the decision not to extend contractual service was that of the Government of Assam, Home and Political Department, it being the appointing authority. Approval of High Court is required only for extension and not for non-extension after completion of term. The contentions advanced with regard to validity of the impugned Notification and the advertisement are also denied as not tenable. A reply affidavit is filed by the petitioners to the aforesaid affidavit of respondent Nos.4 and 5.

13. Mr. A.C. Borbora, learned senior counsel has submitted that during the tenure of two years, i.e., since their appointment as Member of FTs till the impugned Notification dated 20.06.2017 was issued, the petitioners were never informed/communicated about any adverse remarks on their performance, either by the High Court or by the Union of India or by the State of Assam, although monthly reports/statements were being sent by the petitioners for scrutiny. The petitioners' contractual appointments were terminated at the fag end of their contractual term and, that too, without there being any basis to hold that their performance was unsatisfactory and without giving any opportunity to confront the same as th

e same has civil consequences. Contrary to the stipulations in the advertisement, their performance was not assessed by the High Court and, that apart, the parameters employed by the State respondents to assess the performance/adequacy of the petitioners are wholly irrational and, therefore, the impugned Notification dated 20.06.2017 is arbitrary, without any authority of law and is in violation of Articles 14, 16 and 21 of the Constitution of India, he submits. What alleged inadequacies had been noticed were also not specified. It is submitted by him that the impugned Notification is stigmatic in nature. He has also submitted that the petitioners had legitimate expectation that their appointment would be extended and, on termination of their contractual appointment, it will be difficult for the petitioners to come back to legal practice. He has submitted that the minutes of meetings annexed with the affidavit of the State respondents are not worthy of consideration as they are not duly signed. Learned Senior counsel places reliance on paragraphs 10 and 11 in the case of Ramana Dayaram Shetty Vs. The International Airport Authority of India & Ors., reported in AIR 1979 SC 1628, and paragraph 11 of M/s Kasturi Lal Lakshmi Reddy Vs. State of Jammu and Kashmir & Anr, reported in AIR 1980 SC 1992.

14. Mr. A.K. Bhattacharyya, learned senior counsel appearing for the petitioners in WP(C) No.4868/2017 broadly endorses the submissions of Mr. Borbora. Relying on paragraphs 46.2 and 47 of the judgment of the Supreme Court in Assam Sanmilita Mahasangha & Ors. Vs. Union of India, reported in (2015) 3 SCC 1, Mr. Bhattacharyya submits that the Chief Justice of this Court was requested by the Supreme Court to monitor the functioning of the FTs by constituting a Special Bench and, therefore, the Monitoring Committee constituted by the Government of Assam to oversee the performance of the FTs and/or to take a decision to discontinue service of the petitioners is in violation of the aforesaid judgment. He submits that performance of the Members of the FTs will have to be monitored by a Bench of the High Court and not by executive officers. He has in this connection, emphasized that the Supreme Court had observed if it was so necessary, monitoring would be undertaken by an empowered committee to be constituted by the Supreme Court itself. He submits that when the very constitution of the monitoring committee by the Government is illegal, it logically follows that the assessment done by such monitoring committee cannot be sustained in law. He has submitted that the petitioners are Judicial Officers of subordinate Courts within the meaning of Article 235 of the Constitution of India and, therefore, control over their performance as Judicial Officers of subordinate Courts is vested upon the Gauhati High Court. He submits that service of the petitioners could not have been terminated without a recommendation of the High Court on the touchstone of Article 233, 234 and 235 of the Constitution of India and if the Government is allowed and permitted to judge the performance of the petitioners, the same will erode and destroy the cherished value of independence of judiciary. In the instant case, before denying extension to the petitioners, no prior approval and/or concurrence of the High Court was taken and the impugned Notification dated 20.06.2017 was issued on wholly extraneous and irrelevant considerations. He has also submitted that the impugned Notification is stigmatic in character and the same having been issued in gross violation of the principles of natural justice, is bad in law. He has submitted that the petitioners hold civil posts and, therefore, they are entitled to protection under Article 311 of the Constitution of India. The learned senior counsel submits that even while issuing the impugned Notification, no uniformity in application of the parameters devised had been adhered to and extension/refusal to grant extension had been accorded on the mere ipse dixit of the State respondents. He has submitted that that there was non-application of mind is apparent in view of the fact that service of one Dibosh Saikia, a Member, was neither extended nor terminated and he continues to discharge his functions as Member, FT. He has submitted that in view of the letter dated 08.07.2016 of the Commissioner and Secretary to the Government of Assam, Home and Political Department, addressed to the Members, FTs that the Government will extend or terminate the service of the Members only on the basis of the recommendation of the Gauhati High Court and the stipulations in the advertisement, evaluation of performance

nce by any authority other than the High Court is wholly incongruous and cannot be sustained in law. It is argued by him that in the discharge of functions as a Member of FT, the petitioners have to follow a judicial approach and the number and percentage of foreigners declared, which were also taken into consideration, cannot be a relevant consideration. There is nothing on record to show any shortcomings in the discharge of their duties and their contractual appointment was terminated before expiry of its term. Learned senior counsel has placed reliance on the following judgments:

Madan Mohan Choudhary Vs. State of Bihar & Ors., reported in (1991) 5 SCC 396, S.P. Gupta Vs. Union of India, reported in (1981) Suppl. SCC 87, Union of India Vs. Sankalchand Himatlal Sheth, reported in (1977) 4 SCC 193, L.D. Jaikwal Vs. State of Uttar Pradesh, reported in (1984) 3 SCC 405, Ishwar Chand Jain Vs. High Court of Punjab and Haryana & Anr., reported in (1988) 3 SCC 370, Supreme Court Advocates-on-Record Association Vs. Union of India, reported in (2016) 5 SCC 1, State of Assam & Ors. Vs. Kanak Chandra Dutta, reported in AIR 1967 SC 884, State of Gujarat & Ors. Vs. R.L. Keshav Lal & Ors., reported in (1980) 4 SCC 653, Jagdish Mitter Vs. Union of India, reported in AIR 1964 SC 449, Debesh Chandra Das Vs. Union of India, reported in (1969) 2 SCC 158, Management of Utkal Machinery Ltd. Vs. Workman, Santi Patnaik, reported in AIR 1966 SC 1051, Parshotam Lal Dhingra Vs. Union of India, reported in AIR 1958 SC 36, Samsher Singh Vs. State of Punjab & Anr., reported in (1974) 2 SCC 831, State of Uttar Pradesh & Anr. Vs. Kaushal Kishore Shukla, reported in (1991) 1 SCC 691, Registrar General, High Court of Gujarat & Anr. Vs. Jayashree Chamanlal Buddhbhatti, reported in (2013) 16 SCC 59, Shri Kumar Padma Prasad Vs. Union of India & Ors., reported in (1992) 2 SCC 428, State of Gujarat Vs. Gujarat Revenue Tribunal Bar Association & Anr., reported in (2012) 10 SCC 353, Kumari Srilekha Vidyarthi & Ors. Vs. State of U.P. & Ors., reported in (1991) 1 SCC 212, Devendra Pratap Narain Rai Sharma Vs. State of Uttar Pradesh & Ors., reported in AIR 1962 SC 1334, Smt. S.R. Venkataraman Vs. Union of India & Anr., reported in (1979) 2 SCC 491, R.S. Garg Vs. State of Uttar Pradesh & Ors., reported in (2006) 6 SCC 430, State of Assam & Ors. Vs. Moslem Mondal & Ors., reported in 2013 (1) GLT 809.

15. Placing reliance on Section 4(16) of the Foreigners (Tribunals) Order, 1964 (for short, 1964 Order), Mr. C. Choudhury, learned Advocate General, Assam, submits that the Tribunal renders only an opinion on the question referred to it and, therefore, it not being a judgment, the Members of the FTs cannot be construed to be Judicial Officers. He contends that the reliance placed by Mr. Bhatnacharyya on Articles 233, 234 and 235 of the Constitution of India is wholly misconceived. It is submitted by him that mere selection by the High Court will not make the petitioners Judicial Officers and since the Members of FTs do not belong to judicial service, he will not advance any argument on independence of judiciary. He submits that the posts held by the petitioners are also not civil posts as Public Service Commission was not consulted in terms of Article 320(3) of the Constitution of India. He has submitted that how many foreigners had been declared by an individual Member of an FT cannot be the basis for the purpose of making assessment as to whether service of that Member is to be extended or not and, therefore, the same was not taken into consideration at all while taking a decision on extension/non-extension of the Members of the FTs. He submits that on valid considerations, service of the petitioners having not been found satisfactory and some inadequacies having been noticed, their service was not extended. He, however, submits that though according to him, the words overall performance unsatisfactory, and some inadequacies noticed, appearing in the Notification dated 20.06.2017 are not stigmatic, he will not have any objection whatsoever if the Court expunges the same. He submits that having regard to the prayer made for setting aside the Notification dated 20.06.2017, the Members of FTs, whose services were extended, are necessary parties and they having not been made parties, no relief, as prayed for, to interfere with the Notification dated 20.06.2017, can be granted. He has produced before the Court files bearing No.PLB. 359/2016 (E CF 4161) on the subject of Scrutiny of Orders of the FTs and bearing No.PLB 447

/2017 (E CF No.11295) on the subject of Performance Appraisal on FTs. Mr. Choudhury has relied on the following judgments:

State of Uttar Pradesh & Anr. Vs. Kushal Kishore Shukla, reported in (1991) 1 SCC 691, Triveni Shankar Saxena Vs. State of U.P. & Ors., reported in 1992 Supp (1) SCC 524, Allahabad Bank Officers' Association & Anr. Vs. Allahabad Bank & Ors., reported in (1996) 4 SCC 504, Central Electricity Supply Utility of Odisha Vs. Dhobei Sahoo & Ors., reported in (2014) 1 SCC 161, Punjab State Power Corporation Ltd. & Ors. Vs. Hari Kishan Verma, reported in (2015) 13 SCC 156.

16. Mr. U.K. Nair, learned senior standing counsel, Gauhati High Court, has placed before the Court certified copies of the proceedings of the Monitoring Meetings of Functioning of FTs held on 16.07.2016, 05.10.2016, 20.12.2016, 27.02.2017 and 22.05.2017, which he submits are part of WP(C) No.1754/2015 (taken up). He has submitted that the petitioners do not come under the purview of Judicial Officers and, to buttress his argument he has drawn the attention of the Court to the posts and cadre under the Assam Judicial Service Rules, 2003. He has submitted that the impugned Notification is not stigmatic and the performance of the Members of the FTs are required to be assessed by the Government of Assam, it being the appointing authority. He has relied on the following judgments:

Satish Chandra Anand Vs. Union of India, reported in AIR 1953 SC 250, Union Territory of Tripura Vs. Gopal Chandra Dutta Choudhuri, reported in AIR 1963 SC 601, State of Gujarat & Anr. Vs. P.J. Kampavat & Ors., reported in (1992) 3 SCC 226, Director, Institute of Management Development, U.P. Vs. Pushpa Srivastava (Smt), reported in (1992) 4 SCC 33, Allahabad Bank Officers' Association (supra), GRIDCO Ltd. & Anr. Vs. Sadananda Doloi & Ors., reported in (2011) 15 SCC 16, Sultanul Arifin Ahmed Vs. State of Assam & Ors., reported in (2012) 3 GLT 397, Ajoy Kumar Haloi Vs. State of Assam & Ors., reported in (2014) 3 GLT 420 and State of Assam & Ors. Vs. Moslem Mondal & Ors., reported in 2013 (1) GLT 809.

17. I have considered the submissions of the learned counsel for the parties and have perused the materials on record as well as the records produced by Mr. Choudhury.

18. Foreigners Act, 1946 (for short, 1946 Act) was enacted with a view to provide exercise of certain powers by the Central Government in respect of entry of foreigners into then British India, their presence therein and their departure there from. After independence, the words British India were substituted by the word India. Section 2(a) of the 1946 Act defines a foreigner as a person who is not a citizen of India. Sub-section (1) of Section 3 of the 1946 Act empowers the Central Government to make provision or provisions by Order, either generally or with respect to all foreigners or with respect to any particular foreigner or any prescribed class or description of foreigner, for prohibiting, regulating or restricting the entry of foreigners into India or, their departure there from or their presence or continued presence therein. In exercise of powers conferred under Section 3 of the 1946 Act, 1964 Order was made by the Central Government for determination, as to whether a person is or is not a foreigner within the meaning of 1946 Act, by a Tribunal constituted for that purpose. The Tribunal gets jurisdiction to give an opinion on the question whether a person is a foreigner or not when a reference is made to it. The Tribunal, thereafter, has to cause service of notice on the person to whom the reference relates to along with copy of the main grounds on which he is alleged to be a foreigner. The Tribunal is also required to give a reasonable opportunity of making a representation, producing evidence in support of his case and after considering such evidence, as may be produced and after hearing such persons, as are required to be heard, it has to submit its opinion to the authority specified in the order of reference. Section 2(2) provides that the Tribunal shall consist of such number of persons having judicial experience as the Central Government may think fit to appoint.

19. In *Sarbananda Sonowal (I) Vs. Union of India & Anr.*, reported in (2005) 5 SCC 665, the Supreme Court had directed the Union of India to constitute sufficient number of FTs under the 1964 Order to effectively deal with cases of foreigners, who have illegally come from Bangladesh or had illegally resided in Assam. In *Sarbananda Sonowal (ii) Vs. Union of India*, reported in (2007) 1 SCC 174, the Supreme Court observed that no time limit for implementation of the directions was fixed in *Sarbananda Sonowal (i)* (supra) with the hope that the Central Government would implement the directions within a reasonable time. As the same was not done and as there was no adequate reasons for justifying the non-implementation of the directions issued in *Sarbananda Sonowal (i)*, the Supreme Court issued directions in *Sarbananda Sonowal (ii)* to the Union of India to constitute sufficient number of Fts under the 1964 Order to effectively deal with the cases of foreigners, who have illegally come from Bangladesh or are residing in Assam, within a period of 4(four) months. In *Sarbananda Sonowal (ii)* (supra), the Supreme Court at paragraph 63 had observed as follows:-

63. This being the situation there can be no manner of doubt that the State of Assam is facing 'external aggression and internal disturbance' on account of large-scale illegal migration of Bangladeshi nationals. It, therefore, becomes the duty of the Union of India to take all measures for protection of the State of Assam from such external aggression and internal disturbance as enjoined in Article 355 of the Constitution. Having regard to the constitutional mandate, the question arises whether the Union of India has taken any measures for that purpose.

20. In *Moslem Mondal* (supra), a Full Bench of this Court, having regard to the requirement of appointing the Members in the FT vis-a-vis non-availability of adequate number of qualified Judicial Officers, had observed that the Government of Assam and the Government of India might consider recruitment of persons, who have acquired qualification laid down in Article 233 of the Constitution of India for being considered for appointment as the District Judge, as Member of FTs temporarily.

21. In paragraph 44 of *Assam Sanmilita Mahasangha* (supra), the Supreme Court observed as follows:-

44. The affidavit of the Union also indicates that in addition to 36 Foreigners Tribunals which are claimed to be functioning in the State of Assam, 64 additional tribunals have been sanctioned in June, 2013. The affidavit of the State of Assam indicates that steps are underway for making the aforesaid Tribunals functional.

22. At paragraph 46 of the aforesaid judgment, the Supreme Court issued directions under Article 142 of the Constitution of India in 3(three) broad headings - (I) Border fencing, Border roads and provision for flood lights (46.1); (ii) Foreigners Tribunals (46.2); (III) Existing Mechanism of Deportation of Declared Illegal Migrants (46.3). Directions at Paragraphs 46.2 read as follows:-

46.2 The Gauhati High Court is requested to expedite and to finalise the process of selection of the Chairperson and Members of the Foreigners Tribunals, if required in phases, depending on the availability of officers opting to serve in the Tribunals. Within 60(sixty) days of the selection being finalised by the Gauhati High Court, the State of Assam will ensure that the concerned Foreigners Tribunals become operational. The Chief Justice of the Gauhati High Court is requested to monitor the functioning of the Tribunals by constituting a Special Bench which will sit at least once every month to oversee the functioning of the Tribunals.

23. At paragraph 47, it is stated as follows:-

47. The implementation of the aforesaid directions will be monitored by this Court on the expiry of three months from today. In the event it becomes so necessary, the Court will entrust such monitoring to be undertaken by an empowered committee which will be constituted by this Court, if and when required.

24. A perusal of the Office Memorandum dated 29.07.2015 goes to show that vide letter dated 26.12.2014, the Ministry of Home Affairs, Government of India had issued new terms and conditions for appointment of advocates as Members of FTs. Clause 7 of the Notification dated 26.12.2014, which is reproduced in the Office Memorandum dated 29.07.2015, provides that selection of an advocate as Member, FT, will be done by a Three-Member Special Bench of the High Court to be constituted by the Chief Justice of the High Court as per direction of the Supreme Court of India in WP(C) No.562/2012.

25. The Notification dated 23.05.2017 goes to show that by a communication dated 31.10.2016, the validity of 64 newly created FTs were extended up to 23.05.2017 and, consequently, the tenure of newly appointed Members and supporting staff of 64 FTs stood extended up to 23.05.2017. Proposals had been submitted by the Government of Assam to the Government of India to extend the validity of all the 64 FTs for a further period of two years with effect from 24.05.2017 and, as formal communication regarding extension of validity was awaited, the Members of the newly created 64 FTs were allowed to dispose of references till 23.06.2017 pending formal communication to be received from the Government of India.

26. It will be appropriate, at this juncture, to extract herein-below Clause 2 of the advertisement dated 16.05.2015. The same reads as under:

2. Tenure of the Members: (i) The retirement age of officers will be 67 years.
- (ii) Appointment of lawyers as Member of the Tribunal will be purely on contractual basis for 2 (two) years or as extended from time to time subject to approval of the High Court.
- (iii) The tenure of the Members so selected will be subject to their performance, suitability, continued utility and time to time assessment done by the Gauhati High Court.

27. The terms as laid down in the advertisement makes it abundantly clear that pursuant to the above advertisement, appointments are made as Member of the FTs on purely contractual basis.

28. Mr. Bhattacharyya had placed reliance on S.P. Gupta (supra), Sankalchand Himatlal Sheth (supra), Ishwar Chand Jain (supra), Supreme Court Advocates-on-Record Association (supra), L.D. Jaikwal (supra) and Samsher Singh (supra) to highlight the importance and significance of the concept of independence of the judiciary, which is one of the basic structures of the Constitution, as well as to emphasise that the subordinate judiciary is to be insulated from executive interference, which is the reason why control over District Courts and the Courts subordinate thereto are vested in the High Court under Article 235 of the Constitution of India. In Ishwar Chand Jain (supra) the Supreme Court had observed that an independent and honest judiciary is a sine qua non for rule of law and if the Judicial Officers are under constant threat and complaint or enquiry, the subordinate judiciary will not be able to administer justice in an independent and honest manner and, therefore, the High Court should take steps to protect its honest officers by ignoring ill-conceived and motivated complaints. In L.D. Jaikwal (supra), the Supreme Court had observed that by the very nature of his work, a Judge has to decide matters against one or the other of the parties and if the fact that he renders a decision, which is resented to by a litigant or his lawyer, were to expose him to scandalous attack, the same will sound the death-knell of

the institution. Madan Mohan Choudhary (supra) was pressed into service to bring into focus that once the Judges don the robes, they forget all the previous associations and connections while dealing with a matter in the administrative side and the transformation is so complete and real that even though they themselves were part of the decision making process, they quash their own administrative decisions in exercise of their power under judicial review and thus maintain the majesty and independence of the Indian judiciary in which the people have always reposed tremendous faith.

29. In Gujarat Revenue Tribunal Bar Association (supra), the Supreme Court held that terms court and tribunal are not inter-changeable. It is also observed that a tribunal may not necessarily be a Court, in spite of the fact that it may be presided over by a Judicial Officer, as other qualified persons may also possibly be appointed to perform such duties. The Supreme Court further laid down the tests which determine whether a tribunal is a Court or not.

30. Section 3A(3) of the 1946 Act provides that subject to the provisions of the 1964 Order, the FTs shall have the powers to regulate its own procedure for disposal of the cases expeditiously in a time-bound manner. Section 4 of the 1964 Order provides that the FTs shall have the power of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 and the powers of a Judicial Magistrate (1st Class) under the Code of Criminal Procedure, 1973 in respect of (a) summoning and enforcing the attendance of any person and examining him or her on oath; (b) requiring the discovery and production of any document; (c) issuing Commissions for the examination of any witness; (d) directing the proceedee to appear before it in person; and (e) issuing a warrant of arrest against the proceedee if he or she fails to appear before it. In Moslem Mondal (supra), a Full Bench of this Court had observed that the nature of proceeding before the tribunal is a quasi-judicial proceeding and they have to discharge quasi-judicial functions.

31. Article 236 of the Constitution defines Judicial Officers to mean a service consisting exclusively of persons intended to fill up the posts of District Judge and other civil judicial posts inferior to the post of District Judge. In Shri Kumar Padma Prasad (supra), the Supreme Court had observed that the expression judicial office in generic sense may include wide variety of offices which are connected with the administration of justice in one way or the other. In the context of Article 217(2)(a), the Supreme Court held that the expression judicial office means a judicial office which belongs to the judicial service as defined under Article 236(b) of the Constitution of India. The same analogy will have to be applied in respect of interpretation of Article 235 of the Constitution of India. The post of Member of FT is not a post under the Assam Judicial Service Rules, 2003 and, therefore, the submission of Mr. Bhattacharyya that the High Court has control as understood in terms of Article 235 of the Constitution of India over the Members of FTs, is not tenable.

32. In Kanak Chandra Dutta (supra), the question was whether a Mouzadar is a person holding a civil post under the State within the meaning of Article 311 of the Constitution. It was held that while there is no formal definition of post or civil post, in the context of Articles 309, 310 and 311, a post denotes an office. There is a relationship of master and servant between the State and a person said to be holding a post under it. The existence of such relationship is indicated by the State's right to select and appoint the holder of the post, its right to suspend and dismiss him, its right to control the manner and method of his doing the work and the payment by it of his wages or remuneration. It was further held that the relationship of master and servant may be established by the presence of all or some of the factors referred to above in conjunction with other circumstances. Judging in that light, the Supreme Court had held that the Mouzadar in the Assam Valley is the holder of a civil post. Following the principles laid down in Kanak Chandra Dutta (supra), in the case of R.L. Keshav Lal

(supra), it was held that only because Panchayats are declared to be body corporates, it cannot be said that any of the persons working under them cannot be considered as members of a civil service under the State. In view of the above decisions, it has to be understood that an incumbent in the post of Member, FT holds a civil post.

33. At this stage, it will be appropriate to extract the relevant portion of the Notification dated 20.06.2017, which reads as follows:

No.PLB.447/2017/28: In pursuance of the approval conveyed by the Ministry of Home Affairs, Govt. of India, vide letter No.11012/13/2013-NE.IV dated 02/05/2017 regarding extension of the newly created 64 F.T.s and also the revival of 384 Nos. of posts of the 64 F.T.s for a further period of 2 (two) years beyond 24/05/2017, the Govt. of Assam is pleased to extend the tenure of the below-mentioned Members of FTs for a further period of 2 (two) years beyond 24/05/2017 and up to 23/05/2019.

This extension will be made on the basis of a review of the overall performance of the Members during their tenure as Members, FT.

(A) * * * * * * * * *

(B) The Government of Assam is also pleased to deny further extension beyond 23/06/2017 (Ref. Notification No.PLB.160/2013/Pt/II/89 dated 23/05/2017) in respect of the following Members of the Foreigner's Tribunals having found their overall performance unsatisfactory and also due to some inadequacies noticed during the last two years.

Accordingly, their tenure shall cease on 23/06/2017 (afternoon). They shall hand over charges to the persons indicated against their names on 23/06/2017 (afternoon) without fail.

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34. Great emphasis was laid by the learned senior counsel appearing for the petitioners that the impugned Notification dated 20.06.2017 reciting that denial of extension was on account of having found their overall performance unsatisfactory and also due to some inadequacies during the two years is stigmatic in character. Therefore, it will be appropriate to take note of the judgments cited in this connection by the parties.

35. In *Parshotam Lal Dhingra* (supra), it was held that a termination of service brought out by the exercise of a contractual right is not per se dismissal or removal. While misconduct, negligence, inefficiency or other disqualification may be the motive or the inducing factor which influences the Government to take action under the terms of the contract of employment or the specific service rule, nevertheless, if a right exists, under the contract or the rules, to terminate the service the motive operating on the mind of the Government is wholly irrelevant. In other words, if the termination of service is founded on the right flowing from the contract or the service rules then, prima facie, the termination is not a punishment and carries with it no evil consequences and so Article 311 is not attracted. But even if the Government has, by contract or under the rules, the right to terminate the employment without going through the procedure prescribed for inflicting the punishment of dismissal or removal or reduction in rank, the Government may, nevertheless, choose to punish the servant and if the termination of service is sought to be founded on misconduct, negligence, inefficiency and other disqualification, then it is a punishment and the requirements of Article 311 must be complied with.

36. In Jagdish Mitter (supra), the Supreme Court, while acknowledging that the tenure held by a temporary public servant or a probationer is of a precarious character, had held that protection of Article 311 can be invoked not only by permanent public servants, but also by public servants who are employed as temporary servants, or probationers and so, there can be no difficulty in holding that if a temporary public servant or a probationer is served with an order by which his services are terminated, and the order unambiguously indicates that the said termination is the result of punishment sought to be imposed on him, he can legitimately invoke the protection of Article 311. The order of discharge in the case recited that the officer having been found undesirable to be retained in Government service, he is served with a month's notice of discharge. The Supreme Court observed that the order casts a stigma and in that sense must be held to be an order of dismissal and not a mere order of discharge. Though reversion to a lower post does not per se amount to a stigma, in Debesh Chandra Das (supra), on the facts of the case, it was held that reversion is accompanied by stigma amounting to reduction in rank.

37. In Samsher Singh (supra), it was held that if a probationer is discharged on the ground of misconduct or inefficiency or for similar reason without a proper enquiry and without his getting a reasonable opportunity of showing cause against his discharge, it may, in a given case, amount to removal from service within the meaning of Article 311(2) of the Constitution.

38. In Kaushal Kishore Shukla (supra), the Supreme Court held that the respondent being a temporary Government servant had no right to hold the post, and the competent authority having terminated his services by an innocuous order of termination without casting any stigma on him, the fact that prior to issuance of the order of termination the Government had held a preliminary enquiry does not alter the nature of the order of termination into that of punishment. In Triveni Shankar Saxena (supra), the ratio of Kaushal Kishore Shukla (supra) was reiterated.

39. In Jayashree Chamanlal Buddhbhatti (supra), it was observed that if it is a case of deciding the suitability of a probationer, and for that limited purpose any inquiry is conducted, the same cannot be faulted as such. However, if during the course of such an inquiry any allegations are made against the person concerned, which result into a stigma, he ought to be afforded the minimum protection which is contemplated under Article 311(2) of the Constitution of India even though he may be a probationer. The protection is very limited viz. to inform the person concerned about the charges against him, and to give him a reasonable opportunity of being heard.

40. In Management of Utkal Machinery Ltd. (supra), the view of the Labour Court that in absence of any standing order, unsatisfactory work of an employee may be treated as misconduct, was approved.

41. Dhobei Sahoo (supra) was pressed into service by Mr. Choudhury to contend that for grant of extension, the person would not have a right and it would depend upon the capability, efficiency and suitability as adjudged by the employer.

42. In Hari Kishan Verma (supra), the Supreme Court held that recital of previous misconduct and punishment imposed and analysis of the ACRs in the order of compulsory retirement, reflects the decision making process and the same cannot be characterised as stigmatic.

43. In Satish Chandra Anand (supra), the Supreme Court held that it being an ordinary case of a contract being terminated by notice under one of its clauses, Article 311 has no application because the same is neither a dismissal nor a removal from service, nor is it a reduction in rank.

44. In Gopal Chandra Dutta Choudhuri (supra), the Supreme Court had stated that it cannot be assumed that an order ex facie one of termination of employment of a temporary employee was intended to be one of dismissal and the onus to prove that such was the intention of the authority terminating the employment must lie upon the employee concerned.

45. In P.J. Kampavat (supra), in respect of appointment which expressly stated that not only the services shall be terminated at any time without giving any notice and without assigning any reason but also that the appointment is for a limited period co-terminus with the concerned minister's tenure, no order of termination was necessary for putting an end to their service, much less a prior notice.

46. In Pushpa Srivastava (supra), the Supreme Court held that the appointment being purely ad hoc and on a contractual basis for a limited period of six months, on expiry of the period of six months, the right to remain in the post comes to an end.

47. In Kumari Shrilekha Vidyarthi (supra), the State Government had by a circular terminated the engagement of all the Government Counsel engaged throughout the State and it had sought to defend the same on the ground that such appointments being contractual in nature were terminable at the will of the Government. The Supreme Court held that even when the matter is in the realm of contract, the State could not cast off its personality and exercise a power unfettered by the requirements of Article 14 or claim to be governed only by private law principles applicable to private individuals. It was further held that unlike private individuals, the State, while exercising its powers and discharging its functions, acts for public good and in public interest and consequently, every State action has an impact on the public interest which would in turn bring in the minimal requirements of public law obligations in the discharge of such functions. Accordingly, it was held that to the extent, the challenge to State action is made on the ground of being arbitrary, unfair and unreasonable and hence offensive to Article 14 of the Constitution of India, judicial review is permissible. It was declared by the Supreme Court that the fact that the dispute fell within the domain of contractual obligations did not relieve the State of its obligation to comply with the basic requirements of Article 14.

48. In GRIDCO Ltd. (supra), the Supreme Court observed that the development of law over the past few decades goes to show that a writ Court is entitled to judicially review the action and determine whether there was any illegality, perversity, unreasonableness, unfairness or irrationality that would vitiate the action, no matter the action is in the realm of contract but that does not mean that the writ Court will act as appellate authority. It is observed that so long as the action taken by the authority is not shown to be vitiated by the infirmities referred to above and so long as the action is not demonstrably in outrageous defiance of logic, the writ Court ought to respect the decision under challenge and ought not to interdict the same by holding that a more reasonable decision or course of action could have been taken in the circumstances.

49. In Allahabad Bank Officers' Association (supra), the Supreme Court, in the context of an order of compulsory retirement of a Government servant, held that stigma would mean a statement in the order indicating his misconduct or lack of integrity. It was held that mere reference to the rule, even if it mentions grounds for compulsory retirement, cannot be regarded as sufficient for treating the order of compulsory retirement as an order of punishment. In such a case, the order can be said to have been passed in terms of the rule and, therefore, a different intention cannot be inferred. So also, if the statement in the order refers only to the assessment of his work and does not at the same time cast an aspersion on the conduct or character of the Government servant, then it will not

be proper to hold that the order of compulsory retirement is in reality an order of punishment. Whether the statement in the order is stigmatic or not will have to be judged by adopting the test of how a reasonable person would read or understand it. In the aforesaid case, the expressions want of application to Bank's work and lack of potential as well as he has also been found not dependable were held to be not stigmatic as such remarks were made in relation to his work and not for any other purpose.

50. In Sultanul Arifin Ahmed (supra), this Court observed that as Clause 5 of the terms and conditions of the employment of the petitioner provides automatic dispensation of contractual service on expiry of the period of employment, the refore, even if the appraisal of his performance was considered by a duly constituted Committee, there was no requirement of issuing any notice to him and that the Court cannot issue a writ of mandamus to continue the contractual service of the petitioner beyond the term fixed.

51. In Ajoy Kumar Haloi (supra), it was held by this Court that the writ Court cannot extend the contractual period of engagement as that would amount to usurping the power of the authority to grant extension by the Court.

52. Ramana Dayaram Shetty (supra) and M/s Kasturi Lal Lakshmi Reddy (supra) were rendered in the context of grant of distribution of state largesse and the broad principles enunciated therein are not relevant for the purpose of these cases. However, it is necessary to be noted that the Supreme Court in the above cases laid down that every action taken by the Government must be in public interest and the Government cannot act arbitrarily and without reason and if it does, its action would be liable to be invalid. In Smt. S.R. Venkataraman (supra) and R.S. Garg (supra), the Supreme Court had dealt with the concept of malice in law, which is not very relevant in the factual matrix of these cases.

53. In order to ascertain how far and to what extent the words having found their overall performance unsatisfactory and also due to some inadequacies noticed during the last two years appearing in the Notification dated 20.06.2017 impact the validity and legality of the Notification on the touchstone of the principles that can be culled out on the basis of judgments discussed herein above, it will be apposite to consider the decision making process culminating in issuance of the Notification dated 20.06.2017. While doing so, the Court will have to consider the sheet anchor of the argument of the petitioners that the Government could not have validly undertaken the exercise to assess the performance of the Members of FTs. If that contention of the petitioners is accepted then there may not be an occasion to go into the question as to whether the impugned Notification is stigmatic in character as the same will have to be construed to have been passed in colourable exercise of power. In that event, however, the Court will also have to grapple with the question as to what relief the petitioners will be entitled to in the facts and circumstances of the case.

54. A perusal of the file on the subject of Scrutiny of Orders of FTs goes to show that State Level and District Level Screening Committees were set up to scrutinize the opinions of FTs as to whether they need to be challenged in higher judicial forum. The State Level Screening Committee was constituted with the Additional Chief Secretary/Commissioner and Secretary, Home and Political Department as Chairman with Special Director General of Police (Border), Assam, as Member Secretary to review the recommendations of the District Level Screening Committees. The other Members of the Committee are Commissioner and Secretary, Home and Political Department, Secretary, Judicial Department, Advocate General, Gauhati High Court and Joint Secretary, Home and Political Department. By a Notification dated 06.09.2016, District Level Screening Committees were constituted with Deputy Commissioner of the District as the Chairman and Superintendent of Police (Border) as Member. The other Members of the Committee are Additional Deputy Commissioner (Magistracy), Public Prosecutor and Assistant Government Pleader of co

ncerned FT. It also appears that an Office Memorandum dated 12.07.2017 on the subject of Advisory for the District Level Screening Committees was issued by the Principal Secretary to the Government of Assam, Home and Political Department, providing, amongst others, that as the Superintendent of Police (B) makes references to the FTs, it is his responsibility to ascertain the reasons as to why his references had been rejected by the FTs. It was also emphasized that the objective of the District Level Screening Committees is not to find fault with the opinion of the FTs but to scrutinize the opinion in the context of the references as to whether there is any scope for assailing the same before a superior Court.

55. There has to be a mechanism in place to scrutinize the opinions of the FTs for the purpose of making a conscious decision as to whether such opinions are required to be assailed before a higher forum. To that extent, constitution of the State Level Screening Committee and District Level Screening Committees can not be faulted with though considerable arguments had been advanced that the executive could not have scrutinized the opinions given by the Members of FTs. References to the FTs are made by the instrumentalities of the State and, therefore, State can certainly form Committees to scrutinize the opinions rendered. Office Memorandum dated 12.07.2017 puts the issue in perspective as it was emphasized therein that the exercise to be undertaken by the District Level Screening Committees is only to the limited extent of determining whether the opinions can test the scrutiny of law. Such an exercise, in view of the stated stand, cannot be equated with assessment of the performance of the Member of the Tribunal rendering the opinion.

56. A perusal of the File No.PLB. 447/2017 goes to show that the Principal Secretary (LSC) had put up a note on 05.06.2017 in the context of extension/ continuation of Members of FTs. 19 Members including 15 Members (Advocate background) of new FTs, 2 Members (Advocate background) of old FTs and 2 Members (Judicial) of old FTs, whose names are given, had been identified for poor performance and it was opined that their services may not be extended in view of their poor performance. The data collected and compiled was stated to be at Flag 'X' and 'Y'. No page number is indicated and records do not contain any Flag 'X' and 'Y'. However, there are four sets of performance appraisal of the newly appointed Members under the initials of Additional Secretary to the Government of Assam, Home and Political Department. The four sets of performance appraisal are annexed with the affidavit of the State respondents, albeit, without signature.

57. Clause 2(ii) of the advertisement dated 16.05.2015 had made it clear that the appointment of lawyers as Members would be on purely contractual basis for two years or as extended from time to time, subject to approval of the High Court. Clause 2(iii) goes to show that the tenure of the Members so selected will be subject to their performance, suitability, continued utility and time to time assessment done by the Gauhati High Court. Clause 2(ii) of the advertisement dated 21.06.2017, which was issued subsequent to the impugned Notification dated 20.06.2017, is identically worded with Clause 2(iii) of the advertisement dated 16.05.2015. Clause 2(i) of the said advertisement speaks about appointment on purely contractual basis for two years or as extended from time to time on need and performance basis. It is also provided therein that extension of service will be subject to approval by the High Court. Reading of Clauses 2(ii) and (iii) of the advertisement dated 16.05.2015 together makes it clear that the appointment will be purely on contractual basis for two years. The tenure of the Members will be subject to their performance, suitability, continued utility and time to time assessment done by the Gauhati High Court. Therefore, the performance, suitability, continued utility and time to time assessment by the High Court is a condition precedent for either continuing with or extending the tenure or not continuing with or extending the tenure. Extension will follow subject to approval of the High Court, which, in other words, mean that without any approval, no extension can be granted by the appointing authority. It logically follows that even if the tenure of an individual Member is not to be continued or an individual Mem

ber has to be denied extension, the same will have to be on the basis of assessment made by the High Court and it cannot be countenanced, as sought to be advanced by the respondents, that a decision can be taken by the Government to deny the benefit of extension as, the pre-requisite of assessment by the High Court for continuance or otherwise of the tenure, cannot be jettisoned and side-tracked, having regard to the stipulations in the advertisement. In this context, it is also relevant to reproduce the following two letters:-

I. THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MOZORAM AND ARUNACHAL PRADESH)

No.HC.XLVI-01/2016/18/FT

From : Sri B. K. Chetri,
Registrar (Judicial)
Gauhati High Court,
Guwahati.

To : Sri S.S. Meenakshi Sundaram,
Secretary to the Government of Assam,
Home & Political Department,
Dispur, Guwahati - 781006.

2016 Dated Guwahati the 17th of June,

Sir,

With reference to the above, it is to be mentioned herein that the Members appointed to the Foreigners Tribunals, Assam, vide Notification dated 29.07.2015 by the Government of Assam are going to complete one year on 28.07.2016. Their appointment was for a period of one year and the Advertisement seeking application has mentioned the tenure as for 2 (two) years purely on contractual basis or as extended from time to time on need and performance basis up to 60 years of age. The tenure of Members so selected will be subject to their utility and time to time assessment done by the Gauhati High Court.

The Selection Committee of the Hon'ble Judges has resolved to extend the service of the Members, Foreigners Tribunals, on the basis of their performance, suitability and continued utility.

As directed, I request you to instruct the Members, Foreigners Tribunals, appointed vide Notification dated 29.07.2015 to submit their statement of pendency and disposal w.e.f. 01.08.2015 to 30.06.2015 on or before 11th July, 2016, in the 'FORMAT' enclosed with this letter.

Further, it may be mentioned that vide letter No.HC.XLVI-1/2015/113-14,FT dated 19.05.2016, all the Members were asked to submit monthly disposal statements from May onwards by the 10th of each month. Despite the caution in the said letter that 'non-furnishing of the statements on time will be viewed adversely'. As many as 27 (twenty-seven) Members (list enclosed as LIST 'A') have failed to submit the statements till 16.06.2016. Accordingly, you are requested to seek an explanation from the erring Members for not sending the monthly statements. All the details sought for be provided in the following E-mail ID:ftribunalghc64@gmail.com.

Yours faithfully,

Sd/-
REGISTRAR (JUDICIAL)

II. GOVERNMENT OF ASSAM
POLITICAL (B) DEPARTMENT:: DISPUR:: GUWAHATI

Issue No.2: Regarding extension of term of Members of Foreigners Tribunal appointed vide notification dated 28.07.2015:

The issues relating to extension of the term of the Members of Foreigners Tribunal beyond one year is discussed.

Considering all relevant factors including the time required to assess the performance of the Members of Foreigners Tribunal, it is decided to extend their services by one year by the Government. However, in the extension order of the Members of Foreigners Tribunal it is to be clearly mentioned that their further extension would be subject to scrutiny/evaluation of their performance.

In respect of Member, Foreigners Tribunal, Jonai and Karimganj -I, in view of several complaints of serious nature being received, Government may consider extending his term for six months till appropriate decision is taken.

II. 05.10.2016:

Issue No.5: Regarding extension of term of Members of Foreigners Tribunal appointed vide notification dated 28.07.2015:

The Commissioner & Secretary to the Government of Assam, Home and Political Department, apprised the participants that in anticipation of the approval of the Government of India, the term of validity of 64 Nos. of additional Foreigners Tribunals have been extended by the Government of Assam b