

GOVERNMENT OF ASSAM
DEPARTMENT OF PERSONNEL:::PERSONNEL (B)
DISPUR:::GUWAHATI-6

No. ABP.92/2012/295

Dated Dispur, the 8th December, 2022

OFFICE MEMORANDUM

In continuation of Personnel (B) Department's earlier Office Memorandum dealing with Judgment of Hon'ble Gauhati High Court barring the Government Officers to re-adjudicate by themselves and taking decision contrary to Court's judgment issued vide ABP.92/2012/254, dated 01/11/2021, it is once again brought to the notice of Govt. of Assam that similar incidents have been taking place in some Departments of Govt. of Assam.

In the present instance in Contempt Case (C) 406/2022 of Bhuban Ch. Das Vs Rajesh Prasad, the Commissioner and Secretary to the Govt. of Assam, Irrigation Department and Ors, Hon'ble Gauhati High Court observed that in the implementation of the Judgment and order dated 27.10.2021 passed in W.P.(C) 5643/2021, the officials of different level in Irrigation and Finance Departments are taking views, a prima facie reading of which gave an impression that the Officials are taking a view which is different as well as over and above the view taken by the Court in its judgment and order which also would be a contempt of its own.

The Hon'ble High Court also observed that the directions of the High Court are not complied with in many such cases by the Officials of the Govt. at different levels which necessitates the filing of Contempt Petition and it is only after receiving the notice in a Contempt Petition that an order of compliance is passed and produced before the Court and the Court taking lenient view closes such Contempt Petition. The practice is to be deprecated and is not to be repeated.

The Hon'ble Gauhati High Court further directed that all Officials of Govt. of Assam at all levels are to ensure that the Court's order are complied with in its true earnest and if there is any legal impediment, to approach the Court once again rather than sitting over the judgment and orders of the Court for a period of time or to take a view different from the view taken by the Court in its judgment and order.

Accordingly, all Officials of all the Departments are henceforth directed:

- 1) To promptly act upon the Hon'ble Court's orders/ directions for ensuring compliance and if there is any scope for appeal/ review/ revision or some modification to approach the Court promptly without sitting over the order/ judgment passed by the Hon'ble Court.
- 2) Every department must entrust a responsible officer to keep track of the Court's case and compliance of Court orders and the Seniormost Secretary may review the status of all such matters on a fortnightly basis.
- 3) Every department may sensitize their Officers and the Staff in dealing with Court cases, more particularly in ensuring compliance or follow up action to the Court orders.
- 4) Every department may keep close coordination with the Govt. Advocate or Learned Counsels of the department and also with the Judicial department and act proactively in filing proper petition/ affidavit etc. when called for and ensure compliance/ follow up of orders/directions of the Courts in a prompt manner.

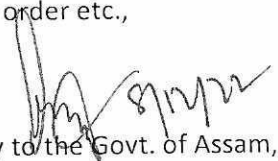



Sd/-
P.K. Borthakur, IAS
Chief Secretary, Assam

Copy for information and necessary action to:

1. All Additional Chief Secretaries to the Government of Assam, Dispur.
2. The Principal Secretary to the Chief Minister, Assam, Dispur.
3. All Principal Secretaries/ Commissioner and Secretaries/ Commissioner & Special Secretaries/ Secretaries to the Government of Assam, Dispur.
4. The Registrar, Gauhati High Court in reference to Hon'ble Court's order dated 02.12.2022 in the Cont. Case (C) No. 406/2022.
5. Sri Dipakar Nath, Senior Govt. Advocate, Gauhati High Court, with reference to his letter No. SRGA/DN/2022/11264, dated 03.12.2022 is requested to apprise Hon'ble Gauhati High court.
6. All Commissioners of Divisions.
7. All Heads of Departments.
8. All Deputy Commissioners. They are requested to send copies of this Notification to all Blocks/ offices of the district.
9. Principal Secretaries, KAAC, Diphu/ Bodoland Territorial Council, Kokrajhar/Dima Hasao Autonomous Council, Haflong.
10. The S.O to the Chief Secretary, Assam, Dispur.
11. PS to the Ministers/ Minister of State, Assam, Dispur.
12. The Superintendent, Assam Government Press, Bamunimaidan, Ghy-21 for favour of publication of the above O.M. in the extra ordinary Assam Gazette.

By order etc.,


Addl. Secretary to the Govt. of Assam,

 Personnel (B) Department

8/12/22