

GAHC010098622021



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/3234/2021

KHODA TAGIA AND 4 ORS.
AC/2486 LODGED IN THE DISTRICT JAIL,NORTH LAKHIMPUR, ASSAM,
S/O LATE KHODA EYA
VILLAGE LOTH. PS ZIRO DIST LOWER SUBANSIRI
ARUNACHAL PRADESH

2: SRI TAI NAGAMDIR
AC/2725
LODGED IN THE DISTRICT JAIL
NORTH LAKHIMPUR
ASSAM
S/O LATE KARGO NGOMDIR
VILLAGE NAGAMDIR
PS AALO
DIST WEST SIANG
ARUNACHAL PRADESH

3: SRI DIL BAHADUR PRADHAN
AC/2535
LODGED IN THE DISTRICT JAIL
NORTH LAKHIMPUR
ASSAM
S/O LATE BIJAN LAL PRADHAN VILL. SAW MILL (TAJEP KHETI)
PASIGHAT 6 KMS SOUTH WEST PS PASIGHAT
DIST WEST SIANG
ARUNACHAL PRADESH

4: SRI HASTHA BAHADUR RAI
AC/2487
LODGED IN THE DISTRICT JAIL
NORTH LAKHIMPUR
ASSAM
S/O LATE MONDAS RAI
PAI GATE CO HAGE SARA

PS ZIRO
LOWER SUBANSIRI
ARUNACHAL PRADESH

5: SRI OBINO MANDAL
AC/2322
LODGED IN THE DISTRICT JAIL
NORTH LAKHIMPUR
ASSAM
@ABEL MANDAL @ RAMU
S/O LATE SURYA MANDAL @ DASRU VILLAGE SURYA CAMP(RAGA) PS
ZIRO
DIST LOWER SUBANSIRI
ARUNACHAL PRADESH

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM, HOME
AND POLITICAL DEPARTMENT, DISPUR GUWAHATI 781006, KAMRUP M
ASSAM

2:THE INSPECTOR GENERAL OF PRISONS ASSAM
ASSAM PRISON HEADQUARTERS
KHANAPARA
GUWAHATI 781022
ASSAM

3:THE STATE OF ARUNACHAL PRADESH
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ARUNACHAL
PRADESH PRISONS AND CORRECTIONAL ADMINISTRATION
CIVIL SECRETARIATE
ITANAGAR
791111

4:THE INSPECTOR GENERAL OF PRISONS
ARUNACHAL PRADESH
DIRECTORATE OF PRISONS AND CORRECTIONAL ADMINISTRATION
JULLY VILLAGE
ITANAGAR
791113

5:THE SUPERINTEDENT
DISTRICT JAIL
NORTH LAKHIMPUR
ASSAM
NORTH LAKHIMPUR
ASSAM

6:ASSAM STATE LEGAL SERVICE AUTHORITY
REPRESENTED BY ITS MEMBER SECRETARY
ADJACENT TO GAUHATI HIGH COURT NEW BLOCK
GHY 01

7:ARUNACHAL PRADESH STATE LEGAL SERVICES AUTHORITY
CHIEF MINISTER'S OLD OFFICE BUILDING
NITI VIHAR
DIST PAPUMPARE
ITANAGAR
791111
ARUNACHAL PRADESH

Advocate for the Petitioner : MRS. R S CHOWDHURY

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 26-06-2023

Heard Mr. D.K. Bhattacharya, learned counsel for the petitioners; Mr. N. Goswami, learned Junior Government Advocate, Assam for the respondent nos. 1, 2 & 5; Mr. A. Chandran, learned Additional Senior Government Advocate, Arunachal Pradesh for the respondent nos. 3 & 4.

2. The relevant excerpts of the Order dated 02.06.2023 read as follows : -

2. The petitioners, 5 [five] in nos., have preferred this writ petition seeking their transfer from a prison in the State of Assam to a prison in the State of Arunachal Pradesh in terms of the provisions contained in Section 3 of the Transfer of Prisoners Act, 1950. It is projected that the petitioners are convicts, who are undergoing sentences pursuant to judgments rendered by different courts in the State of Arunachal Pradesh. When a request was made from the end of the Inspector General of Prisons, Assam to the Inspector General of Prisons, Arunachal Pradesh by his letter bearing no. PRI.211/2005/92 dated 13.10.2016 for acceptance or otherwise of the convicts for

transfer from District Jail, North Lakhimpur to a prison in the State of Arunachal Pradesh, the said request was declined by the Inspector General of Prisons, Arunachal Pradesh by a letter bearing no. DG/J-33/2010 dated 11.11.2016 on the premise that District Jail, Jolly, Itanagar was overcrowded at that point of time. The said decision was conveyed about 7 [seven] years earlier. The prison infrastructure in the State of Arunachal Pradesh might have undergone changes with increase in capacity, etc. Notwithstanding the earlier observation made in the year 2016, it appears appropriate for the competent authority in the State of Arunachal Pradesh to revisit the earlier decision as regards transfer of the convicts, who are undergoing sentences after their conviction rendered by judgments of the courts in Arunachal Pradesh, from District Jail, North Lakhimpur to any prison in the State of Arunachal Pradesh as on date.

3. In such view of the matter, Mr. Goswami, learned Additional Advocate General, Arunachal Pradesh shall obtain fresh instruction as regards transfer of the prisoners as there appears to be an approval already for such transfer from the end of the prison authorities in Assam.

4. Mr. Bhattacharya, learned counsel for the petitioner has submitted as per Prison Statistics – India 2021 published by the National Crime Records Bureau, Ministry of Home Affairs, Government of India, the occupancy rate [in percentage] in all prisons in the State of Arunachal Pradesh was 75.4% as on 31.12.2021.

5. List the case on 26.06.2023, as requested by Mr. Goswami, learned Additional Advocate General, Arunachal Pradesh for further instructions in the matter.

3. In deference to the order dated 02.06.2023, Mr. Chandran, learned Additional Senior Government Advocate, Arunachal Pradesh has placed a copy of a letter bearing no. JHQ/TCP-13/2018/1148 dated 13.06.2023 of the Directorate of Prisons and Correctional Administration, Government of Arunachal Pradesh, which is addressed to him.

4. The contents of the letter dated 13.06.2023 [supra] read as under :-

“GOVERNMENT OF ARUNACHAL PRADESH
DIRECTORATE OF PRISONS AND CORRECTIONAL ADMINISTRATION
ITANAGAR

No. JHQ/TCP-13/2018/1148

Dated Itanagar, the 13th June 2023

Sub:- W.P.[C] no. 3234/2021 filed by Shri Khoda Tagia & 4 others vs. State of Assam & 6 others.

Ref:- Ref your vide letter No. AP/GA/2023/796 dated 06.06.2023/796

Sir,

With reference to subject cited above, it to inform you that regarding the report of Prison Statistics - India 2021 published by the National Crime Record Bureau, MHA, Govt. of India wherein it is shown that the occupancy rate [in percentage] in prisons in the State of Arunachal Pradesh being 75.4 % as on 31.12.2021. In this connection it is to clarify here that during 2021 even though additional 100 inmates capacity was constructed at District Jail, Tezu however in practical due to non construction of inner security wall between main security wall and additional 100 inmates capacity ward, no inmates were admitted in newly constructed ward. Hence, the occupancy rate [in percentage] shown as 75.4%, which was also non inclusion of other sub-jails.

Further, the prison occupancy of district jails and sub-jails of the state as on 08.06.2023 is shown below –

Sl. No.	Name of Prisons	Male inmates Capacity	Male inmates as on 08.06.2023	Occupancy [in percentage]	Overcrowding
1	District Jail, Jully Itanagar	165	206	125%	41
2	District Jail, Tezu	144	87	60%	57 [Due to vacant in new cell]
3	Sub-Jail, Aalo	20	24	120%	4
4	Sub-Jail, Pasigaht	50	52	104%	2
5	Sub-Jail, Yingkion	15	10	67%	5
6	Sub-Jail, Koloriong	21	14	67%	7
7	Sub-Jail, Khonsa	32	46	144%	14
8	Sub-Jail, Changlang	20	37	185%	17

9	Sub-Jail, Longding	20	24	120%	4
Total		487	500	103%	13

In view of above, the following 5 [five] convicts of District Jail, North Lakhimpur, Assam namely [1] Sri Khoda Tagia, [2] Sri Tai Ngomdir, [3] Sri Dil Bahadur Pradhan, [4] Sri Hastha Bahadur Rai and [3] Sri Obino Mandal may be shifted to District Jail, Tezu, Arunachal Pradesh.”

5. Mr. Chandran, learned Additional Senior Government Advocate, Arunachal Pradesh has submitted that the State of Arunachal Pradesh is agreeable to shift the 5 [five] petitioners, who are undergoing their sentences as convicts in the District Jail, North Lakhimpur, Assam to the District Jail, Tezu, Arunachal Pradesh in consultation with the prison authorities of the State Government in Assam.

6. Mr. Goswami, learned Additional Junior Government Advocate, Assam appearing for the respondent nos. 1, 2 & 5 and Mr. Chandran, learned Additional Senior Government Advocate, Arunachal Pradesh appearing for the respondent nos. 3 & 4 have submitted that the respondent prison authorities from the State of Assam and the State of Arunachal Pradesh in consultation with each other, will facilitate the transfer of the 5 [five] petitioners from the District Jail, North Lakhimpur, Assam to the District Jail, Tezu, Arunachal Pradesh within a period of 2 [two] months from today.

7. Mr. Bhattacharya, learned counsel for the petitioner who has been served with a copy of the letter dated 13.06.2023, has, on instruction, agreed to the proposal advanced by the State counsel.

8. In view of the broad consensus arrived at by the learned counsel for the parties in the afore-stated manner, this writ petition is disposed of with a direction to the State respondents in the State of Assam and the State of Arunachal Pradesh to facilitate the transfer of the 5 [five] petitioners who are undergoing their sentences as convicts in the District Jail, North Lakhimpur, Assam at present, to the District Jail, Tezu, Arunachal Pradesh within a period of 2

[two] months from today.

9. With the above direction, the writ petition is disposed of. In the event there arises any subsequent cause of action, the petitioners are at liberty to seek appropriate remedy as available to them under the law. No cost.

JUDGE

Comparing Assistant