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[NOTIFICATION

THE GAUHATI HIGH COURT AT GAUHATI

GAUHATI HIGH COURT RULES TO REGULATE PROCEEDINGS FOR
CONTEMPT OF SUBORDINATE COURTS AND OF THE HIGH COURT.

No.HC.XI-1/75/7157/HC, the 16th July, 1977. In exercise of the powers conferred under articles 215 and 225 of the Constitution of India, Section 23 of the Contempt of Courts Act 1971 and all other powers hereunto enabling, the High Court makes the following Rules:—

PART—I.

1. Short title :— These Rules may be called the Contempt of Courts (Gauhati High Court) Rules, 1977.

(a) These Rules shall extend to the States of Assam, Nagaland, Meghalaya, Manipur and Tripura and also to the Union Territories of Mizoram and Arunachal Pradesh.

(b) These Rules shall come into force from the date of publication thereof in the Official Gazette of the respective States or the Union Territories concerned.

2 Definitions :— In these Rules unless there is anything repugnant in the subject or the context :—

- (a) "Act" means the Contempt of Courts Act 1971 (Act No. 70 of 1971);
- (b) "Section" means a section of the Act ;
- (c) "High Court" means the Gauhati High Court (High Court of Assam Nagaland, Meghalaya, Manipur and Tripura);
- (d) "Judge" means a Judge or an Additional Judge of the Gauhati High Court or a Judge appointed thereto under Article 224A of the Constitution of India,
- (e) "Advocate General" means the Advocate General for the State of Assam or the State of Nagaland or the State of Meghalaya or the State of Manipur or the State of Tripura, as the case may be ;
- (f) "Law Officer" means the Officer specified under Sub-section (2) of Section 15 of the Act for the Union Territory of Arunachal Pradesh or the Union Territory of Mizoram
- (g) "Registrar" means the Registrar of the High Court and shall include the Joint Registrar and such Deputy Registrar or Assistant Registrar as may from time to time be specified by the Chief Justice ;
- (h) All other words and expressions used in these Rules, but not defined herein, shall have meanings respectively assigned to them in the Act,

PART-II. COGNIZANCE AND PROCEDURE.

A—GENERAL

3 (1) Every petition, reference of motion for taking proceedings under the Act shall be registered as Civil Original Petition (Contempt) in respect of Civil contempt, and Criminal Original petition (Contempt) in respect of Criminal contempt.

(2) In proceedings initiated by petition, the initiator shall be described as the petitioner and the opposite party as the respondent, and in other cases the description of the persons proceeded against shall be as follows :—

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4. (a) Every petition under Ruls 3 shall contain-

- (i) the name, description and place of residence of the petitioner or petitioners and of the person or persons charged ;

- (ii) Nature of the contempt alleged, and such material facts including the date or dates of the commission of the alleged contempt, as may be necessary for the proper determination of the case ;
- (iii) If a petition has previously been made by him on the same facts, the petitioner shall give the details of the petition previously made and shall also indicate the result thereof ;
- (b) The petition shall be supported by an affidavit :—
- (c) Where the petitioner relies upon a document or documents in his possession or power, he shall file such document or documents or true copies thereof with the petition ;
- (d) No Court fee shall be payable on the petition or on any documents filed in the proceedings.

5. (1) Every reference relating to Contempt of Court subordinate to the High Court shall be scrutinised by the Registrar who shall place the same before the Chief Justice or any other Judge nominated by him in this behalf for obtaining orders after nothing thereon the nature of the contempt.

(2) When any publication, application, letter of is received by post or otherwise called for any action being taken under the Act by the High Court on its own motion, the matter shall be dealt with in the manner prescribed in sub-rule (1). In the case of criminal contempt of a subordinate Court, the Chief Justice or the Judge, as the case may be, may direct that the paper be sent to the Advocate General of the State in which the subordinate Court is situate, or to the Law Officer, if the subordinate court is situate in the Union Territories of Arunachal Pradesh or Mizoram as the case may be, to move the High Court for taking action under the Act.

6. (1) Every petition, motion or reference in relation to criminal contempt shall, unless the Chief Justice directs it to be heard by a larger Bench, be laid for motion hearing before a Division Bench of at least two Judges.

(2) Every petition, motion or reference in relation to civil contempt shall, unless directed otherwise by the Chief Justice, be laid before a Single Bench.

(3) Every notice issued by the High Court shall be in the form appended to these rules and shall be accompanied by a copy of the motion, petition or reference as the case may be, together with the copies of the affidavits, if any.

(4) The notice shall bear the date, the seal of the High Court and shall be issued under the signature of the Registrar,

(5) Notice of every proceeding under the Act shall be served personally on the person charged, unless the High Court for reasons to be recorded, directs otherwise.

(6) The High Court may, if satisfied that the person charged is absconding or likely to abscond or is keeping or likely to keep out of the way to avoid service of the notice, order the issue of warrant of his arrest which, in the case of the criminal contempt, may be in lieu of or in addition to the attachment of his property under sub-sections (3) and (4) of section 17 of the Act. Such warrant may be endorsed in the manner laid down in section 71 of the Code of Criminal Procedure, 1973, in terms of the order of the High Court.

(7) Whenever the High Court issues a notice, it may, if it sees reason so to do, dispense with the personal attendance of the person charged with the contempt and permit him to appear by his Pleader, and may, in its discretion, at any stage of the proceedings, direct the personal attendance of such person, and, if necessary, enforce such attendance in the manner herein before provided.

7. (1) When any person charged with contempt appears or is brought before the High Court and is prepared, while in custody or at any stage of the proceedings, to give bail, such person shall be released on bail, if a bond for such sum of money as the High Court thinks sufficient is executed with or without sureties on condition that the person charged shall attend at the time and place mentioned in the bond and shall continue to so attend until otherwise directed by the High Court.

4/1 Provided further that the High Court may, if it thinks fit, instead of taking bail from such person, discharge him on his executing a bond without sureties for his attendance as aforesaid, or without executing such bond.

(2) Notwithstanding anything contained in sub-rule (1) where a person fails to comply with the conditions of the bail bond as regards the time and place of attendance, the High Court may refuse to release him on bail, when on a subsequent occasion in the same case he appears before the High Court or is brought in custody and any such refusal shall be without prejudice to the powers of the High Court to call upon any person bound by such bond to pay the penalty thereof.

(3) The provision of Sections 422 to 448 and 450 of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to all bonds executed under the rule.

B- CRIMINAL CONTEMPTS.

8. (1) Any person charged with criminal contempt, other than a contempt referred to in Section 14, may file an affidavit in support of his defence on the date fixed for his appearance or any other date fixed by the High Court in that behalf.

(2) If such persons pleads guilty to the charge, his plea shall be recorded and the High Court may, in its discretion, either convict him thereon or accept bail for his appearance at such time, as may be appointed, to receive its judgment.

(3) If such person refuses to plead or does not plead or claims to be tried or the High Court does not convict him on his plea of guilty, it may determine the matter of the charge either on the affidavits filled or after taking such further evidence as may be necessary.

9. In the case of a civil contempt other than a contempt referred to in Section 14, the High Court may take action -

(a) on its own motion ; or

(b) on a petition presented by the party aggrieved ; or

(c) in the case of any civil contempt of a subordinate court, on a reference made to it that Court.

10 (1) In the case of a civil contempt, other than a contempt referred to in Section 14, the person charged may file his affidavit by way of reply to the charge and shall serve a copy thereof on the petitioner or his counsel at least seven days before the date of hearing.

(2) No further return, affidavit or document shall be filed except with the leave of the High Court.

11. In the case of a civil contempt, the High Court may determine the matter of charge either on affidavits filed or on such further evidence as may be taken by itself or recorded by a subordinate court in pursuance of a direction made by it, and pass such order as the justice of the case requires, having regard to the provisions of Sections 12 and 13 of the Act.

PART III APPEALS.

12. (1) Every Appeal filed under the Contempt of Courts Act, 1971 shall be numbered as Contempt Appeal,

(2) Every such Appeal, shall be posted before a Division Bench for orders as to whether notice shall issue to the respondent.

(3) The procedure for regulation of such appeals shall be the same as for appeals under clause 15 of the Letters patent.

PART IV MICELLANEOUS

13. Every person against whom proceedings are initiated under the Act may of right be defended by an Advocate of his choice competent to appear before the High Court.

14. A paper book consisting of the documents specified in rule 4 shall be filed by the petitioner or the Advocate General or the Law Officer, as the case may be, in triplicate in a case of criminal contempt and in duplicate in a case of civil contempt. Thereafter, as many copies of the paper-book as there are respondents to whom notice is issued, shall also be furnished along with the process fee prescribed in rule 16.

15. (1) In a case where any proceedings are taken on a reference by a subordinate court or by the High Court on its own motion, the Registry shall prepare the paper-book in triplicate in a case of criminal contempt and in duplicate in a case of civil contempt. Such paper-book shall consist of the following documents :—

- (i) Reference or motion.
- (ii) The objectionable material, if any, alleged to constitute contempt.
- (iii) Any other document which the Registrar may deem fit to include or which the High Court may require.

(2) All relevant material brought on the record from time to time shall be included in each paper-book.

(3) In any such case, the Court may, at any stage, appoint an Advocate for the conduct of the proceedings.

16. The Rules contained in Chapter XI of Part II of the High Court Rules shall, in so far as they may be applicable, govern the processes issued under these Rules.

17. The rules relating to the grant of copies and translation of records contained in Chapter XIII of Part IV of the High Court Rules shall, in so far as they may be applicable, govern proceedings under the Act,

18. When any person is summoned by the High Court to appear as a witness in any proceedings under the Act, the expenses of such witness, as determined according to the rules for the time being in force, shall be paid by the Registrar out of the Contingency Fund; provided that the Court may direct any party to such proceedings to pay such expenses.

19. The High Court may direct any party to a proceeding under the Act to pay the costs thereof as determined by it to any other party thereto.

20. It shall be the duty of the Registrar to carry out, enforce and execute the orders passed by the High Court in any proceeding under the Act, and in particular, orders imposing fines or awarding costs.

ANNEXURE

(See Rule 6(3))

IN THE GAUHATI HIGH COURT.

(High Court of Assam, Nagaland, Meghalaya, Manipur & Tripura)

NOTICE.

CRIMINAL/CIVIL ORIGINAL SIDE.

CRIMINAL/CIVIL ORIGINAL (CONTEMPT) PETITION No. OF 19

Proceedings under the Contempt of Court Act, 1971

(Act No. 70 of 1971)

WHEREAS from the material laid before this Court, it has been made to appear that you are guilty of contempt of court, punishable under section 12 of the Contempt of Courts Act, 1971, the proceedings in the matter will be laid before this Court for the determination of the charge on the _____
19 _____ (Actual)

You are hereby directed to attend this Court at
10.00 .A.M. on the _____ 19_____

In person _____ to answer the charge and to
~~in person or through counsel~~ *

file an affidavit

_____ an affidavit at least 7 days before the said date**
in support of your defence, if any.

Given under my hand and the seal of the Court, this _____
day of _____ 19_____

BY ORDER OF THE HIGH COURT

Registrar

Gauhati High Court

(High Court of Assam, Nagaland Meghalaya,

SEAL.

Note. 1. This shall be so stated only if an express order in this behalf has been passed by the High Court. In the absence of such an order this alternative shall be deleted.

**Note-2. This alternative is to be mentioned only in cases of civil contempt.

By order
P.S. Rajkhaw
Registrar]

√ No. GAD.67/72/149, the 16th July, 1977. In exercise of the powers conferred by section 3 of the Mizoram Official Language Act, 1974 (Act No. 3 of 1975) the Lt. Governor of Mizoram is pleased to prescribe the use of the Mizo language at the District level offices in the districts of Aizawl and Lunglei for the purpose of correspondence in cases where the original petitions have been submitted by members of the public in the Mizo language.

This Notification shall take effect on and from 1st August, 1977.]
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√ No. GAD. 67/72/148, the 16th July, 1977. In exercise of the powers conferred by sub-section (3) of section 1 of the Mizoram Official Language Act, 1974 (Act No. 3 of 1975,) the Lt. Governor of Mizoram is pleased to apoint the 1st day of August 1977 as the date on which the said Act shall come into force.

F. Pahnuna,
Secretary to the Govt. of Mizoram,
General Administration Deptt.]