



GOVERNMENT OF MEGHALAYA

LAW (A) DEPARTMENT

**CONTEMPT OF COURTS (HIGH
COURT OF MEGHALAYA)
RULES, 2013.**

CONTEMPT OF COURTS (HIGH COURT OF MEGHALAYA) RULES, 2013

No. HCM.II/430/2013/5237. dated 19th November, 2013.- In exercise of the powers conferred under Arts.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 (High Court of Meghalaya) Rules, 2013.

- (a) These rules shall extend to the State of Meghalaya.
- (b) These rules shall come into force from the date of publication thereof in the official Gazette.

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 High Court of Meghalaya;
- (d) “Judge” means a Judge or an Additional Judge or a Judge appointed thereto under Art.224-A of the Constitution of India, of High Court of Meghalaya.
- (e) “Registrar General” includes the Registrar, Joint Registrar and such Deputy Registrar or Assistant Registrar as may from time to time be specified by the Chief Justice;
- (f) All other words and expressions used in these rules, but not defined herein, shall have the meaning respectively assigned to them in the Act.

PART II

COGNIZANCE AND PROCEDURE

A-GENERAL

3. (1) Every petition, reference or 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 opposite party as the respondent, and in other cases the description of the persons proceeded against shall be as follows :

“In re A son of.....occupation.....resident of.....”

4. (a) Every petition under R.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 scrutinized by the Registrar General who shall place the same before the Chief Justice or any other Judge nominated by him in this behalf for obtaining orders after noting thereon the nature of the contempt.

(2) When any publication, application, letter of intimation 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 papers be sent to the Advocate General of the State.

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.

(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 General.

(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 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 hereinbefore 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.

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 provisions of Sections 422 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 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 person 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 filed or after taking such further evidence as may be necessary.

C- CIVIL CONTEMPTS

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 by that court.

10. (1) In a case of 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 Cl.15 of the Letters Patent.

PART IV MISCELLANEOUS

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 R.4 shall be filed by the petitioner or the Advocate-General 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 R.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 Registrar 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 General 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 High Court Rules shall, in so far as they may be applicable, govern the processes issued under these rules.

17. The rule relating to the grant of copies and translation of records contained in 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 General out of the Contingency Fund; provided that the court may direct any party to such proceedings to 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 General 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
Form of Notice
[See Rule 6(3)]

Notice

CRIMINAL/CIVIL ORIGINAL SIDE
CRIMINAL/CIVIL¹ ORIGINAL (CONTEMPT) Petition No..... of 20.....

Proceedings under Contempt of Courts 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 proceeding in the matter will be laid before the Court for the determination of the charge on the20.....(Actual).

You are hereby directed to attend this Court at 10.00 a.m. on the20..... in person/in person or through counsel² to answer the charge and to file an affidavit/an affidavit at least 7 days before the said date in support of your defences if any.

Given under my hand and the seal of the Court, thisday of.....20.....

SEAL

Registrar General
High Court of Meghalaya

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.*

REGISTRAR GENERAL

Shillong, the 5th November, 2013.

No.HCM.II/430/2013/2310.- In exercise of powers conferred by Article 225 of the Constitution of India and all other powers enabling it and in accordance with the order dated 18.1.2010 of the Supreme Court in Civil Appeal No.1134-1135/2002 titled “State of Uttaranchal –vs- Shri Balwant Singh Chufal”, the High Court of Meghalaya hereby makes the following Rules, with respect to practice and procedure for the exercise of Jurisdiction under Article 226 of the Constitution of India pertaining to Public Interest Litigation.

**Part – 1
Preliminary**

1. Short Title: These Rules may be called the High Court of Meghalaya (Public Interest Litigation) Rules, 2013.
2. Commencement : These Rules shall come into force from the date of its publication in the Official Gazette.
3. Definition : In these rules, unless the context otherwise requires:
 - (a) “High Court” means the High Court of Meghalaya,
 - (b) “Letter Petition” means an informal written communication, addressed to the High Court or Hon’ble the Chief Justice or any Hon’ble Judge of the High Court.
 - (c) “Public Interest Litigation” means a writ petition under Article 226 of the Constitution of India, instituted *pro bona publico* for enforcement of public interest or general interest as distinguished from individual interest, in which the public or a class of a community have some interest by which their legal rights or liabilities are affected and also includes a legal action initiated by the Court for the purpose aforesaid or a Letter Petition which may be entertained as Public Interest Litigation under these Rules.
 - (d) “Public Interest Litigation Cell” means a cell created by the Chief Justice for processing Letter Petitions to be placed before the Public Interest Litigation Committee.
 - (e) “Public Interest Litigation Committee” means the Committee consisting of two sitting judges nominated by the Chief Justice.
 - (f) “State” means the State as defined under Article 12 of the Constitution of India.
 - (g) “Deputy Registrar” means an officer appointed by the Chief Justice to the post of Deputy Registrar under the High Court of Meghalaya (Recruitment, Conditions of Service of Officers and Staff) Rules, 2013.

PART II

Letter Petition

4. Public Interest Litigation Cell: The Chief Justice shall by an order constitute a Public Interest Litigation Cell for the High Court which will be headed by an officer not below the rank of Deputy Registrar.

5. Duty of the Public Interest Litigation Cell: Letter Petition shall be processed by the Public Interest Litigation Cell for being placed before the Public Interest Litigation Committee.

6. Public Interest Litigation Committee: The Chief Justice shall by an order constitute a Committee for the High Court, consisting of two Sitting Judges of the High Court as Members.

7. Public Interest Litigation Bench: Without prejudice to the powers of the Chief justice to mark any matter to any Bench for hearing, the Chief Justice shall constitute a Public Interest Litigation Bench which, subject to any directions to the contrary, shall hear all matters of Public Interest Litigation.

8. Guidelines for screening Letter Petitions: Letter Petitions raising or alluding to matters of public Interest shall be entertained as Letter Petitions and unless directed by the Public Interest Litigation Committee, Letter Petitions under the following categories shall not be entertained as Public Interest Litigation.

- (i) Landlord-tenant disputes,
- (ii) Service matters and those pertaining to pension and gratuity,
- (iii) Personal disputes between individuals,
- (iv) Disputes relating to contractual or statutory liabilities,
- (v) Matrimonial disputes.

9. Processing, screening and listing of Letter Petitions as Public Interest Litigations before the Public Interest Litigation Committee:

(a) All Letter Petitions received in the Public Interest Litigations Cell, shall first be processed in the Public Interest Litigation Cell. However, neither any anonymous Letter Petition nor any such petition from which the identity of the Letter Petition cannot be established or ascertained shall be entertained.

(b) Public Interest Litigation Committee shall take such action, it may consider necessary, on the letter Petitions presented before it.

(c) Once a Letter Petition is approved by the Public Interest Litigation Committee to be entertained as a Public Interest Litigation Petition, the same shall be placed before the Public Interest Litigation Bench unless otherwise directed by the Chief Justice.

(d) The Public Interest Litigation Cell, then shall prepare a gist of the Letter Petition and the points of public concern, raised in the Letter Petition, the replies, if any, received from any department, addressed of the Government Departments / officials, who may be considered as the necessary or appropriate / proper parties for the decision of the petition and send it for listing.

PART III

Filing of Public Interest Litigations

10. Instruction for filing Public Interest Litigations:

(i) A writ petition intended to be a Public Interest Litigation shall contain:

(a) An inscription immediately below the number of the writ petition in the title, namely "In The Matter of A Public Interest Litigation".

(b) A specific averment, in para 1 of the writ petition, to the effect that writ petitioner has no personal interest in the litigation and that the petition is not guided by self-gain or for gain of any other person / institution / body and that there is no motive other than of public interest in filing the writ petition.

(c) A specific averment, in para 2 of the writ petition, as to the source of knowledge of the facts alleged in the writ petition and the further inquiries / investigation made to determine the veracity of the same.

(d) A specific averment, in para 3 of the writ petition, specifying the class of persons for whose benefit the petition has been filed and as to how such persons are incapable of accessing the Court themselves.

(e) A specific averment, in para 4 of the writ petition, of the persons / bodies / institutions likely to be affected by the order(s), sought in the writ petition and which / who shall be impleaded as respondents and a further averment that to the knowledge of the petitioner, no other persons/bodies/institutions are likely to be affected by the orders sought in the writ petition.

(f) A specific averment, in para 5 of the writ petition, of the background of the petitioner with qualifications so far as it may be material to show the competence of the petitioner to espouse the cause. If the petitioner is an organization, the names and address of its office bearers and the nature of its

activities shall also be stated. An averment shall also be made that the petitioner has the means to pay the costs, if any, imposed by the Court and on the undertaking to the Court in that respect.

(g) In para 6 of the writ petition, details of the representation(s) made to the authorities concerned for remedial actions and replies, if any received thereto shall be set out precisely.

(h) If the petitioner has previously filed public interest litigation or preferred Letter Petitions, the details thereof would be set out in a tabular form giving the number of the writ petition, the status and outcome thereof.

(i) Pleadings in brief divided into paragraphs setting forth the cause which has given rise to the filing of the writ petition shall be pleaded followed by the grounds in support of the prayer, followed by the prayer clause in the last paragraph giving the precise prayer which the petitioner wants to be granted by the court.

Provided that if the petitioner is unable to provide information for any of the matters above, there shall be a specific averment as to the reason why said information is not being provided.

(j) Averments made in the petition shall be supported by an affidavit, verifying by solemn affirmation, by the petitioner, disclosing the statements which are true to his knowledge or true to his knowledge derived from information disclosing the source of information and true to his knowledge derived from record.

(ii) Every Public Interest Litigation shall be accompanied by an affidavit as per Proforma 'A' annexed to these Rules.

11. Notwithstanding anything contained in these rules, relating to the procedure for filing and entertaining any petition in the nature of Public Interest Litigation, the High Court may *suo motu* decide to treat any matter or issue as Public Interest Litigation, without insisting on adherence to the said procedure.

PART IV

12. **Inherent Power of the Court not affected:** Nothing in these Rules shall be deemed to limit or otherwise affect the inherent power of the Court to make such order(s) as may be necessary for the ends of justice or to prevent abuse of the process of the Court, including the power to impose exemplary costs and / or to debar a petitioner or an Advocate from filing Public Interest Litigation if found to be indulging in frivolous or motivated litigation.

AFFIDAVIT

I aged years, S/o R/o by profession do hereby solemnly affirm and declare as under.

1. That I am the petitioner above named OR I am of the petitioner above named. The petitioner is a society / company having its registered office at and I have vide resolution passed in the Meeting of the Board of Directors General Body / Executive Committee of the petitioner been authorized to institute and sign this petition.

2. I have filed the present petition as a Public Interest Litigation.

3. I have gone through the High Court of Meghalaya (Public Interest Litigation) Rules, 2013 and do hereby affirm that the present Public Interest Litigation is in conformity thereof.

4. I / Petitioner have / has no personal interest in the litigation and neither myself nor anybody in whom I am / petitioner is interested would in any manner benefit from the relief sought in the present litigation save as a member of the General Public. This petition is not guided by self-gain or gain of any person, institution, body and there is no motive other than of public interest in filing this petition.

5. I have done whatsoever inquiry / investigation which was in my power to do, to collect all data / materials / information which were available and which were relevant for this court to entertain the present petition.

6. I further confirm that I have not concealed in the present petition any data / material / information which may have enabled this court to form an opinion whether to entertain this petition or not and / or whether to grant any relief or not.

By Order

REGISTRAR GENERAL