

The Assam Frontier (Administration of Justice) Regulation, 1945

ASSAM

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The Assam Frontier (Administration of Justice) Regulation, 1945 Regulation 1 of 1945A Regulation to consolidate and amend the law governing the Administration of justice in the Frontier Tracts of Assam. Preamble. - Whereas it is expedient to consolidate and amend the law governing are Administration of justice in the Balipara, Lakhimpur, Sadiya and Tirap Frontier Tracts of Assam. Now, therefore, the Governor of Assam, in exercise of the powers conferred by sub-section (2) of Section 92 of the Government of India Act, 1935, is pleased to make the following Regulation-

Chapter I General

1. Short title, extent, Commencement and repeal.

(a) This Regulation may be called the Assam Frontier (Administration of Justice) Regulation, 1945. (b) It shall come into force on such date as the Governor may by notification in the Assam Gazette appoint and from such date the Rules for the Administration of Justice in the Balipara Frontier Tract, the rules for the Administration of Justice, in the Lakhimpur Frontier Tract, and the rules for the Administration of Justice in the Sadiya Frontier Tract, published with Notification Nos. 2530 (f)-A.P., 2530 (d)-A.P., and 2530 (c)-A.P., respectively, dated the 26th March, 1937, shall be deemed to be repealed.

2. Definitions.

- In this Regulation, except where the contrary appears from the context-"the Governor" means the Governor of Assam. "heinous offence" means and includes any of the following namely-Murder, culpable homicide, causing grievous hurt, rape, kidnapping or abducting in order to subject to slavery, disposing or buying of persons as slaves, habitual dealing in slaves, dacoity, robbery,

nothing, house-breaking, theft of cattle, mischief by fire or any fire or any explosive substance, any offence punishable under Chapter VI of Chapter XII of the Indian Penal Code, any offence punishable under the Arms, and any attempt to commit or abatement of any of the aforesaid offences;"pleader" includes a mukhtar or any professional agent;Deputy Commissioner includes an Additional Deputy Commissioner and, so far as the Lakhimpur Frontier Tract is concerned, the Deputy Commissioner or Kahimpur; and "Assistant Commissioner" includes, so far as that Tract is concerned, an Assistant Commissioner or an Extra Assistant Commissioner in the District of Lakhimpur, appointed in this behalf by the Governor."the Tracts" means the Balipara, Lakhimpur, Sadiya and Tirap Frontier Tracts.

3. Administration.

(1)The administration of the Tracts is vested in the Governor and of each Tract in the Political Officer, the Assistant Political Officer, and the village authorities thereof, or such other officer or officers as the Governor may see fit from time to time to appoint to that behalf subject to the provision hereinafter contained.(2)The Deputy Commissioner, the Assistant Commissioner of the Tracts shall be appointed by the Governor, acting in his discretion.

4. Jurisdiction of Assistant Political Officers.

- The Deputy Commissioner may, subject to the provisions of this Regulation, define the jurisdiction of any Assistant Commissioner and may transfer any case, civil or criminal, from one Assistant Commissioner to another, or from an Assistant Commissioner to himself.

5. Village authorities.

(1)The Deputy Commissioner shall appoint such person or persons as he considers desirable to be the members of a village authority for such village or villages as he may specify, and may modify or cancel any such order or appointment, and may dismiss any person so appointed.(2)In any area for which no village authority has been constituted under the provisions of sub-section (1), the powers and functions of the villages authority; as provided by this Regulation, shall be exercised and performed by the Political Officer, or by any Assistant Political Officer authorised by him in this behalf.

Chapter II

Police

6. Police duties of Village authorities.

(1)The ordinary duties of police in respect of crime shall be discharged by the village authorities. They shall maintain peace and order within their jurisdiction.(2)The village authorities shall not be deemed to be Police Officers for purposes of Section 25 and Section 26 of the Indian Evidence Act,

1872 (Act 1 of 1872) or of Section 162 of the Code of Criminal Procedure 1898 (Act V of 1898).(3)The village authorities shall watch and report on any vagrant or any bad or suspicious character found within their jurisdiction, and may apprehend any such person if they have reasonable grounds for suspecting that he has committed or is about to commit an offence, and shall hand over any person so apprehended to the Political Officer or an Assistant Commissioner.

7. Control of Police.

- Every Civil Police State shall be under the control of the Deputy Commissioner but its administration with regard to the pay, allowances, clothing, transfer and discipline of the staff shall be vested in the Superintendent of Police of the District which furnished the staff or such other Police Officer as the Government may appoint in this behalf, provided that transfer shall be made in consultation with the Deputy Commission.

8. Occurrence of heinous offence.

- On the Commission of any heinous offence within their jurisdiction, the inhabitants of the village shall at once, if possible apprehend the offender, and in any case shall at once inform the village authority, who, if the offender has not been apprehended, shall proceed without delay to the place where the offence was committed and enquiry into it.

9. Reports by Village authority.

- It shall be the duty of the village authorities to report to the Deputy Commissioner, Assistant Commissioner as soon as possible all crimes, violent deaths, and serious accidents occurring within their jurisdiction, and all occurrences whether within or beyond their jurisdiction, which may come to their knowledge and which are likely to affect the public peace; and to arrest and deliver up offenders as soon as may be within a period of twenty four hours of such arrest excluding the time necessary for the journey from the place of arrest to the Court having jurisdiction to try them.

10. Pursuit and arrest of offenders.

- A village authority may pursue beyond their jurisdiction any offender or vagrant or bad or suspicious character whom they consider it necessary to apprehend under the provisions of sub-section (3) of Section 6. They shall not, however, ordinarily arrest the offender or such person without informing the village authority within whose jurisdiction he is found and inviting their assistance, but may do so if there is a reasonable apprehension that he may otherwise escape.

11. Procedure when arrest impossible.

- When a village authority is unable to arrest an offender, they may apply to the Deputy Commissioner or an Assistant Commissioner or any Officer empowered to make arrests, for assistance.

12. Aid to Village authorities.

(1) All inhabitants of the Tracts are bound to aid the village authority when required to do so for the maintenance of order or apprehending offenders, and are liable to fine for failing to give such assistance. (2) Such fine if imposed by the village authority shall not exceed Rs. 50/- and if imposed by the Deputy Commissioner or an Assistant Commissioner shall not exceed Rs. 200/-. (3) An appeal shall lie from an order passed under sub-section (2) by a village authority to the Assistant Commissioner and from an order passed under sub-section (2) by an Assistant Commissioner to the Deputy Commissioner. (4) If it appears that the community is to blame and that particular offenders cannot be discovered, a fine not exceeding Rs. 1,000/- may be imposed upon the community by the Deputy Commissioner. (5) Any fine imposed under sub-section (2) or sub-section (4) may be recovered by distraint of the property of the person or persons on whom it is imposed.

13. Punishment of members of Village Authority.

- Without prejudice to any punishment to which he may be liable under any other law, a member of a village authority shall, for any misconduct in the exercise of his functions under this Chapter, be punishable with fine which may extend to Rs. 500/- or with imprisonment of either description for a term which may extend to six months, on conviction by the Deputy Commissioner or an Assistant Commissioner. An appeal shall lie from an order of Assistant Commissioner under this section to the Deputy Commissioner.

14. Revision.

- The Governor may at any time call for the proceedings in any matter under Section 12 or Section 13, and may modify or set aside an order of a village authority passed under sub-section (2) of Section 12, or an order, original or appellate passed by the Deputy Commissioner or an Assistant Commissioner under either of those sections.

Chapter III

Criminal Proceedings

15. Administration.

- Criminal justice shall be administered by the Deputy Commissioner, the Assistant Commissioner and the village authorities.

16. Appointment of Additional Deputy Commissioner.

- The Governor may appoint an Additional Deputy Commissioner for the trial or particular cases when he thinks fit, and may direct that such Additional Deputy Commissioner, shall, for the purpose, exercise all or any of the powers of the Deputy Commissioner.

17. Powers of Deputy Commissioner.

- The Deputy Commissioner shall be competent to pass any sentence warranted by law.

18. Powers of Assistant Commissioner.

- The Assistant Commissioner shall exercise any powers not exceeding those of a Magistrate of the 1st Class, as defined in the Criminal Procedure Code, with which they may be invested by the Governor.

19. Jurisdiction of Village authorities.

- The village authorities may try any case involving any of the under mentioned offences in which the person or persons accused is or are resident within their jurisdiction-Theft, including theft in a building.Mischief, not being mischief by fire or any explosive substance.Simple hurt.Criminal trespass or house trespass.Assault or using criminal force.

20. Power of Village authorities.

- A village authority may impose a fine not exceeding Rs. 50/-, for any offence which they are competent to try, and may also award payment in restitution or compensation to the extent of the injury sustained. Such fines and payments may be enforced by distraint of the property of the offender.

21. Compensation.

- The Deputy Commissioner or Assistant Commissioner may order compensation to be paid to any person in a criminal case out of the proceeds of fines imposed in the case.

22. Disposal of cases by Village Authorities, Powers to compel attendance.

- The village authorities shall decide all cases in open Darbar in the presence of at least three independent witnesses and of the complainant and accused. They are empowered to order the attendance of all the foregoing, and of the witnesses to be examined in the case, and to impose a fine not exceeding Rs. 50/- on any person failing to attend when so ordered.

23. Procedure by Village authorities after sentence.

- If any person on whom a fine has been imposed by a village authority fails to deposit the amount at once, or within such further time as the village authority may allow, the village authority shall send him to an Assistant Commissioner to be dealt with in such manner as he may deem fit, unless the accused person gives notice of his intention to appeal against the decision.

24. Appeals from Village authorities.

- Any party aggrieved by decision of a village authority may appeal within seven days to the Assistant Commissioner who on receipt of such appeal, shall try the case de novo.

25. Appeals from Assistant Political Officers.

- An appeal shall lie from an original decision of an Assistant Commissioner to the Deputy Commissioner.

26. Appeals to the High Court.

- An appeal shall lie to the High Court against sentences of three years' imprisonment and upwards, and sentences of death or transportation. In other cases there shall be no right of appeal, but the High Court may entertain an appeal by special leave.

27. Limitation for appeals.

(1) All appeals under Section 25 or 26 must be presented within thirty days from the date of the order appealed against, excluding the time taken in procuring a copy of the order. Provided that an appeal from a sentence of death shall be preferred within seven days from the date of the sentence, excluding the time taken in procuring a copy of the order. (2) The Deputy Commissioner shall on passing a sentence of death inform the person sentenced of the provisions of sub-section (1).

28. Powers of revision.

- The High Court or the Deputy Commissioner may call for the proceedings of any officer subordinate to it, and reduce, enhance or cancel any sentence passed, or remand the case for retrial, but no offence shall be punished by a sentence exceeding that warranted by law.

29. Transfer of cases.

- The High Court may for any reason which it considers proper transfer any original case, pending or under trial before any Court, to any other Court competent to try it, which is governed by this Regulation.

30. Confirmation of sentence.

(1) All sentences of death, transportation, or imprisonment for seven years or more shall be subject to confirmation by the High Court, and the proceedings of all cases in which any such sentence has been passed shall be submitted to the High Court forthwith, and no such sentence shall be carried into effect unless so confirmed. (2) Powers in such cases. - In any case submitted under sub-section (1) the High Courts-(a) May confirm the sentence or pass any other sentence warranted by law;

or(b)May annul the conviction and convict the accused of any offence of which the Deputy Commissioner might have convicted him; or(c)May order a new trial on the same or an amended charge; or(d)May acquit the accused person:Provided that no order of confirmation shall be made until the period allowed for preferring an appeal has expired, or, if an appeal is presented within such period, until such appeal is disposed of.

31. Sentence of death.

(1)When a sentence of death passed by the Deputy Commissioner is confirmed by the High Court, the Deputy Commissioner, shall, on receiving the order of confirmation, cause such order to be carried into effect by issuing a warrant in the form given in item No. XXXV of such Schedule V of the Code of Criminal Procedure, 1898, (Act V of 1898) and taking such steps as may be necessary.(2)The Deputy Commissioner shall fix the time and place of execution, and the time fixed shall not be less than 21 or more than 28 days from the date of issue of the warrant.

32. Criminal Procedure.

- The High Court, the Deputy Commissioner, the Assistant Commissioner shall be guided in regard to procedure by the Principles of the Code of Criminal Procedure, 1898, so far as they are applicable to the circumstances of the Tracts and consistent with the provisions of this Regulation. The chief exceptions are-(a)Verbal orders or notice only shall be requisite in any except when the regular police are employed, or when the person concerned is not a resident of or in the Tract at the time but orders of summons shall in every case be for a fixed day, and the order shall be made known to the person concerned or to some adult member of his family, and, failing this, shall be openly proclaimed at the place where he is, or was last known to be, in sufficient time to allow him, if he sees fit, to appear.(b)The proceeding of the village authorities need not be recorded in writing, nor shall it be necessary that examinations before the Deputy Commissioner or Assistant Commissioner be signed by the parties examined, but the Deputy Commissioner or Assistant Commissioner may require the village authorities to report their proceedings in any way which appears suitable.(c)There shall be no preliminary enquiries by regular or village police unless the Deputy Commissioner or Assistant Commissioner sees fit to direct one.(d)Recognisance to appear shall not be taken unless it appears necessary to the Deputy Commissioner or an Assistant Commissioner.(e)Procedure before the Deputy Commissioner or Assistant Commissioner shall be recorded in English only.

33.

Omitted.

34. Suspension and remission.

(1)The President may, either upon conditions or without conditions, suspend the execution of or remit any sentence of death, and the Governor may, in like manner suspend the execution of or rent

any sentence.(2)If any sentence has been suspended or remitted upon conditions, and in the opinion of the President or the Governor, as the case may be, those conditions have not been fulfilled, the President or the Governor may cancel the suspension or remission and thereupon the person whose sentence has been suspended or remitted may, if at large, be arrested by any police without warrant and remanded to undergo the unexpired portion of his sentence or made to undergo the punishment.

35. Communication.

- The President may commute any Sentence of death and the Governor may commute any one of the following sentences, for any other mentioned after it-death, transportation, confiscation of property, rigorous imprisonment, whipping, simple imprisonment, fine.

Chapter IV

Civil proceedings

36. Administration.

- Civil Justice shall be administered by Deputy Commissioner, the Assistant Commissioner and the village authorities.

37. Deputy Commissioner and Assistant Commissioner.

- The Deputy Commissioner may try suits of any value. The Assistant Commissioner may try suits not exceeding Rs. 1,000/- in value. -

38. Arbitration.

(1)The Deputy Commissioner and the Assistant Commissioner shall in every case in which both parties are indigenous to the Tract endeavour to persuade them to submit to arbitration by a panchayat.(2)If the parties agree, each party shall nominate an equal number of members of the panchayat, and the Deputy Commissioner or Assistant Commissioner shall either choose, or direct the panchayat to choose, a further person as umpire.(3)The name and address of the member of the panchayat and umpire, and a statement of the matter in dispute shall be recorded, and the Deputy Commissioner or Assistant Commissioner shall direct the village authority or come other person to assembly the panchayat and witnesses within such time as he may specify, and shall also fix a date on which the decision of the panchayat shall be announced before him.(4)The umpire shall have no vote as a member of the panchayat, but shall enter on and decide the master in dispute if the panchayat, or a majority of its, members, are unable to agree on their decision before the date fixed under sub-section (3).(5)On the date fixed for the announcement of the decision, the umpire and the parties shall appear before the Court which directed the arbitration, and the Court shall record the decision together with any order which it considers reasonable for the payment, or apportionment,

of the costs of the panchayat's proceedings.(6)The decision so recorded shall be enforceable as if it was a decision of the Court recording it and shall be final.

39. Arbitration in other case.

(1)In cases in which neither or only one of the parties is indigenous to the Tract, the Deputy Commissioner or Assistant Commissioner may, with the consent of both parties, order that the case be referred to arbitration by a panchayat, and the provisions of sub-section (2) to (5) inclusive of Section 38 shall then apply except that the Deputy Commissioner or Assistant Commissioner shall give the parties an opportunity to object to the decision.(2)Any such object must be made within ten days of the day on which the decision of the panchayat or umpire is recorded and if made, shall be considered by the Deputy Commissioner whose decision shall be final.(3)If no such objection is made the provisions of sub-section (6) of Section 38 shall apply.

40. Power of Authorities.

- The village authorities shall try all suits without limit of value, in which both the parties are indigenous to the Tract and live within their jurisdiction and which are not submitted to arbitration under the provisions of Section 38. As other suits which are not submitted to arbitration under the provisions of Section 39 shall be tried by the Deputy Commissioner or an Assistant Commissioner.

41. Powers to enforce attendance.

- The village authorities shall have power to order the attendance of the parties and of witnesses, and to fine upto a limit of Rs. 50/- persons failing to attend when ordered to do so.

42. Unfounded and vexatious suits.

- The village authorities shall have power to award costs, as well as compensation not exceeding Rs. 50/- in any case to defendants for unfounded or vexatious suits brought against them.

43. Assessors.

- The village authorities may appoint one or more assessors to assist them in coming to a decision, and when they do so shall record, but shall not be bound by the opinion of the assessors or assessors.

44. Hearing of cases.

(1)All suits tried by the village authorities shall be decided in open Darbar in the presence of the parties and at least three independent witnesses.(2)The Deputy Commissioner or an Assistant Commissioner may direct a village authority to report their proceedings in any case or class of case in any way which may appear to him to be suitable. Save as required by such direction, no record of

any proceedings shall be maintained.(3)After hearing both parties and their witnesses, if any, the village authority shall forthwith pronounce a decision.

45. Procedure after Pronouncement of decision.

(1)Unless any party having a right of appeal against a decision of village authority gives notice, when such decision is pronounced, of his intention to appeal against it, the village authority shall carryout the decision forthwith, and for such purpose may proceed by distraint of any property belonging to any person liable to pay any sum under decision unless such person furnish security to the satisfaction of the village authority.(2)If notice of intention to appeal is given, the village authority shall send the parties and witnesses to the Deputy Commissioner or an Assistant Commissioner forthwith, and one of the members of the village authority or one of the independent witnesses shall accompany them.

46. Appeals from Village authorities.

(1)Any person aggrieved by a decision of village authorities may appeal to the Assistant Commissioner in suits not exceeding Rs. 500/- in value, and to the Deputy Commissioner in suits exceeding that value.(2)If such an appeal is filed, a record shall be made of the matter in dispute, and of the decision of the village authority.(3)The appellate Court shall, if necessary, examine the parties, and if the decision appears to be just, shall affirm and enforce the decision as it own. If the appellate Court sees grounds to doubt the justice of the decision, it shall try the case de novo or refer it to a panchayat; in any case so referred the provisions of Section 38 shall apply as if the parties had agreed to submit to arbitration.

47. Appeals from Assistant Commissioner.

- An appeal shall lie to the Deputy Commissioner from any decision, original or appellate, of an Assistant Commissioner.

48. Appeals from Deputy Commissioner.

- An appeal shall lie to the High Court from an original decision of the Deputy Commissioner of the value of the suit is not less than Rs. 500/- or if the suit involves a question of tribal rights or customs, or of the right to, or possession of, immovable property.

49. Presentation of appeals.

- An appeal which lies to the Deputy Commissioner or High Court may be presented to the Assistant Commissioner who shall, if it is in order and presented in due time, endorse upon it the date of receipt and transmit it with the records of the case to the Deputy Commissioner.

50. Powers of Revision.

- The High Court may, on application or otherwise, call for the proceedings of any original case or appeal decided by the Deputy Commissioner, and not appealable under this Regulation and may pass such orders as it may deem fit.

51. Limitation other conditions.

- Every petition of appeal under Section 47 or Section 48, and every application under Section 50 shall be accompanied by a copy of the order against which the appeal or application is made and shall be filed within thirty days of the date of such order, excluding the time taken in procuring a copy of the orders.

52. Civil Procedure.

- The High Court, the Court of Deputy Commissioner, Assistant Commissioner shall be guided by the spirit, but shall not be bound by the letter, of the Code of Civil Procedure, 1908 (Act V of 1908) and shall follow subject to any express provisions of these rules, the principles of the Indian Limitation Act 1908, (Act IX of 1908) in disputes between persons who are not indigenous to the Tracts.

53. Execution of decrees.

(1) If any decree is modified or amended as a result of an appeal or of an order under Section 50 the decree as so modified or amended shall for the purposes of execution be deemed to be decree of the Original Court. (2) Decree against persons resident beyond the jurisdiction of the Court if satisfaction cannot be obtained within the Tract, shall be transferred for execution to a Court having jurisdiction.

54. Exemption of execution.

- Houses, necessary clothing, cooking, utensils or implements whereby the owner or his family subsists, shall not be attached, sold or transferred in execution of a decree, unless the house or other thing so exempted is the actual subject matter of the suit. Land may be sold or temporarily transferred where custom admits of individual rights in it being recognised.

55. Imprisonment for debt.

- No person shall be imprisoned for debt, except where the Deputy Commissioner is satisfied that he has made a fraudulent disposition or concealment of property. In such case the debtor may be detained for a period not exceeding six months.

56. Representation.

(1) No Pleader shall be allowed to appear in any case before the village authorities. (2) No Pleader shall be allowed to appear in the Courts of the Deputy Commissioner or Assistant Commissioner except with the Deputy Commissioner permission. Such permission shall not be refused if the defendant at the time the cause of action arose resided beyond the jurisdiction of the Court in an area where the appearance of pleader is not restricted. (3) The High Court may by special leave permit any pleader to appear in any case before it.

Chapter V Evidence

57. Oaths.

(1) In criminal cases before the Deputy Commissioner, Assistant Commissioner, oaths shall be administered to all witnesses when the accused is charged with murder, but not in other cases unless either party so required, or the Court so determine. (2) In civil suits before the Deputy Commissioner, Assistant Commissioner, oaths shall not be administered to parties or witnesses unless either party so require, or the Court so determine. (3) When an oath is administered, it shall be in the manner which the Court considers most binding on the conscience of the person making it.

58. False evidence.

- Any person who gives false evidence in any criminal case or civil suit, whether as a party or a witnesses, and whether after an oath has been administered to him or otherwise, shall be deemed to have given false Evidence Act XLV within the meaning of the Indian Penal Code, 1860.

59. Guidance with regard to evidence.

- The Deputy Commissioner, Assistant Commissioner shall in all criminal cases and civil suits be guided by the general principles of the Indian Evidence Act 1 of 1872.