

APPENDIX-3

THE ASSAM HIGH COURT (JURISDICTION OVER REGIONAL
COUNCIL COURTS) ORDER, 1959

Notification No. TAD/R/11/53/32, dated 8th August, 1959.- In exercise of the powers conferred by sub-paragraph (3) of paragraph 4 of the Sixth Schedule to the Constitution of India and of all other powers enabling him in that behalf, the Governor of Assam is pleased to make the following Order:

1. (1) This Order may be cited as the Assam High Court (Jurisdiction over Regional Council Courts) Order, 1959.

(2) It shall come into force at once.

2. In this Order-

- (a) "Advocate General" means the Advocate General of Assam;
- (b) "Autonomous Region" means the Pawi-Lakher Autonomous Region;
- (c) "Constitution" means the Constitution of India;
- (d) "Regional Council" means the Pawi-Lakher Regional Council;
- (e) "Regional Council Court" means the Regional Council Court constituted under the provisions of paragraph 7 of Pawi-Lakher Autonomous Region (Administration of Justice) Rules, 1954;
- (f) "Governor" means the Governor of Assam;
- (g) "High Court" means the High Court of Assam;
- (h) "Government Advocate" means the Government Advocate appointed by the Government of Assam;
- (i) "Village Court" means a Village Court constituted under the provisions of sub-paragraph 6 of the Pawi-Lakher Autonomous Region (Administration of Justice) Rules, 1954.

3. An appeal against a final order or decision of the Regional Council Court in a civil suit where the valuation of the suit is Rs. 1,000 or more, shall lie to the High Court:

Provided that such appeal shall be presented within ninety days from the date of the order or decision appealed against, exclusive of the time requisite for obtaining a copy of the said order or decision:

Provided further that the High Court may admit an appeal filed beyond the period of limitation if the appellant satisfies the Court that he had sufficient cause for not preferring the appeal within the specified period.

Explanation.-The term "suit" includes execution proceedings.

4. (1) In criminal cases an appeal shall lie to the High Court from any order of

conviction of the Regional Council Court awarding a sentence of six months' imprisonment or upwards.

(2) An appeal under sub-Cl. (1) shall be presented within sixty days of the date of order appealed against excluding the time needed for obtaining a copy of the order:

Provided that the High Court may admit an appeal filed beyond the period of limitation if the appellant satisfies the Court that he had sufficient cause for not preferring the appeal within the specified period.

5.(1) The Governor may direct the Government Advocate to present an appeal to the High Court against any order of acquittal by the District Council Court.

(2) An appeal against acquittal under Cl. (1) shall be presented within ninety days from the date of the order appealed against excluding the time requisite for obtaining a copy of the order.

6. The High Court may, on application or otherwise, call for the proceedings of any civil or criminal case decided by or pending in any village court or the Regional Council Court and pass such orders as it may deem fit.

7.(1) whenever it is made to appear to the High Court -

(a) that a fair and impartial inquiry, trial or adjudication cannot be had in any case, suit, appeal or other proceedings in the village court or the Regional Council Court in which it is pending; or

(b) that some question of law, tribal or otherwise of unusual difficulty is likely to arise; or

(c) that a view of the place in or near which any offence has been committed may be required for the satisfactory inquiry into or trial of the same; or

(d) that an order under this clause will tend to the general convenience of the parties or witnesses; or

(e) that such an order is expedient for the ends of justice or is required by the provision of any law applicable to the case;

it may—

(i) if the case, suit or the proceedings, as the case may be, is pending in a village court, transfer the same for disposal to any other village court within the Autonomous Region or to the Regional Council Court;

(ii) if the case, suit, appeal or the proceedings, as the case may be, is pending in the Regional Council Court, withdraw the same to its own file for its final disposal or for the disposal of any or more of the issues involved therein.

(2) The High Court may by exercise of the powers given under sub-Cl. (1), act either on the report of the Lower Court or on the application of a party interested or on its own initiative.

(3) Every application for the exercise of the powers conferred by this clause shall be made by motion, which shall, except, when the applicant is the Advocate-General or Government Advocate, be supported by an affidavit or affirmation.

(4) When an accused person makes an application under this rule, the High Court may direct him to execute a bond with or without sureties on the condition that he will, if so ordered, pay any amount which the High Court may, under this clause, award by way of compensation to the person opposing the application.

(5) Every accused person making any such application shall give to the Government Advocate or accredited representative of the District Council, as the case may be, notice in writing of the application together with a copy of the grounds on which it is made: and no order shall be made on the merits of the application, unless at least forty-eight hours have elapsed between the giving of such notice and the hearing of the application.

(6) where any application for the exercise of the power conferred by this clause is dismissed, the High Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of compensation to any person who has opposed the application such sum not exceeding two hundred and fifty rupees as it may consider proper in the circumstances of the case.

(7) If, before the argument (if any) for the admission of an appeal begins, or in the case of an appeal admitted before the argument for the appellant begins, any party interested intimates to the Court that he intends to make an application under this clause, the Court shall upon such party executing, if so required a bond without sureties, of an amount not exceeding two hundred rupees that he will make such application within a reasonable time to be fixed by the Court postpone the appeal for such a period as will afford sufficient time for the application to be made and an order to be obtained thereon.

(8) The High Court before which an appeal in a civil suit is filed, may before admitting the appeal, order the appellant to deposit or furnish sufficient security for all reasonable expenditure likely, in the opinion of the Court, to be incurred by the respondent in the hearing of the appeal and if the appellant be a judgment debtor, may also order to furnish security for part or the whole of the decretal amount.

(9) The decree of the High Court in a civil case shall be transferred to the Court passing the original order or in case of an order passed in a case withdrawn under sub-Cl. (ii) of Cl. 7(1) to the Regional Council Court for execution as a decree of its own.
