

The High Court: Jurisdiction in Relation to Tribal Areas of Meghalaya

History and evolution

Jurisdiction over the State of Meghalaya is exercised by the High Court of Gauhati whose ancestry can be traced to the Assam High Court. The Assam High Court was established on April 5, 1948 by an Order issued by the Governor General.¹ Prior to that date, Assam was under the jurisdiction of the Calcutta High Court.² Assam was then a bigger Assam.³ With effect from December, 1963 (under the State of Nagaland Act, 1962) when the State of Nagaland was constituted, the High Court came to be known as the Assam and Nagaland High Court. The next stage was reached when, under the provisions of the North-Eastern Areas (Reorganisation) Act, 1971, the States of Meghalaya, Manipur and Tripura were created, as well as the Union Territories of Mizoram and Arunachal Pradesh. The High Court came to be known as the Gauhati High Court, being the common High Court for Assam, Nagaland, Meghalaya, Manipur and Tripura and its jurisdiction was extended to Mizoram and Arunachal Pradesh. Under the provisions of this Act, the jurisdiction of the Gauhati High Court was extended to the Union Territories of Arunachal Pradesh and Mizoram. We thus have the present High Court named as the Gauhati High Court (the High Court of Assam, Nagaland, Meghalaya, Manipur and Tripura) having jurisdiction over the five States as well as the two Union Territories.

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1. Justice Baharul Islam, "Law and Justice in the Eastern Region", paper reproduced in *Gauhati High Court Commemoration Volume (1948-1973)* 22-25.
 2. Justice M.C. Pathak, speech reproduced in *Gauhati High Court Commemoration Volume (1948-1973)* 17.
 3. Assam then comprised present Assam, Nagaland and Meghalaya and present Mizoram and Arunachal Pradesh.

The High Court in relation to tribal areas

By the Constitution, jurisdiction of the High Court of Assam was to be extended to the District Council Courts and the Regional Council Courts in accordance with Orders of the Governor issued under sub-paragraph (3) of paragraph 4 of the Sixth Schedule to the Constitution.

By the Assam High Court (Jurisdiction over District Council Courts), Order, 1954 (hereinafter referred to as the Assam High Court Order 1954) issued by the Governor of Assam under paragraph 4(3) of the Sixth Schedule to the Constitution, provisions were made regarding the appellate, revisional and other powers of the High Court in regard to the courts of tribal areas. The Order is concerned with District Council Courts and Subordinate District Council Courts—the latter expression being used as including Additional Subordinate District Council Courts also.⁴

An appeal shall lie to the High Court against a final order or decision of a District Council Court in a civil suit where the valuation of the suit is Rs. 1,000 or more. The term "suit" in this context includes an execution proceeding.⁵

In criminal cases, an appeal shall lie to the High Court from any order of conviction of the District Council Court awarding a sentence of six months' imprisonment or upwards.⁶

As regards acquittal,⁷ in a criminal case, the Governor may direct the Government Advocate to present an appeal to the High Court against an order of acquittal passed by the District Council Court.

There is also an elaborate provision for the exercise of revisional jurisdiction in respect of any civil or criminal case decided by or pending in any court in the autonomous district constituted under the provisions of sub-paragraph (1) and (2) of paragraph 4 of the Sixth Schedule to the Constitution.⁸

A provision⁹ has also been made for empowering the High Court to transfer cases from various courts.

4. Para 2 (e) and (f), Assam High Court Order, 1954.

5. *Id.* para 3 and explanation.

6. *Id.* para 4 (1).

7. *Id.* para 5 (1).

8. *Id.* para 6.

9. *Id.* para 7.