



GOVERNMENT OF ASSAM

No.21/80/2

Dated Dispur, the 7th May'66.

OFFICE MEMORANDUM

Subject:- Submission of files/records before the Assam Administrative Tribunal.

The Government, vide office Memorandum No. AR.27/79/16 dated 24.2.81, had advised all Administrative Departments and Heads of Departments to submit only the correspondence portions of the files, after retaining their notesheets, to the Assam Administrative Tribunal, whenever records of a case are called for by the Tribunal.

2. However, on re-examining this matter, the Government have decided, in partial modification of O.M. No.AR.27/79/16 dated 24.2.81, that whenever any notesheets of files are summoned by the Tribunal, the Officer thus summoned may take necessary action as follows :-

- (i) He may examine whether at all any specific privilege needs to be claimed against production of notesheets, under section 123 or 124 of the Indian Evidence Act.
- (ii) He may produce the notesheets of files before the Tribunal, if no privilege is seen to be involved.
- (iii) But if it is found necessary to claim any privilege, the officer summoned by the Tribunal,-
 - (a) Will appear before the Tribunal personally on the date fixed, in accordance with section 162 of the Indian Evidence Act, taking with him the concerned notesheets in a sealed envelope and also filling an affidavit generally describing the nature of the contents of the concerned note-sheets, the nature of the privilege claimed and the basis therefore, leaving the question of privilege for the decision of the Tribunal under the above mentioned section: and
 - (b) Make advance arrangements with the Government Advocate in the Tribunal, so that if the Tribunal rejects the claim of privilege, the Government Advocate immediately moves the Tribunal staying the

operation of its order for a reasonable period, for enabling the Government to file a review petition before the Tribunal or a writ petition before the High Court, (This will help prevent premature disclosure of documents in respect of which it is considered essential to claim privilege.)

3. This procedure will also apply 'mutatis mutandis' to any other document/record summoned by the Tribunal, where it is considered necessary to claim privilege.
4. As the Tribunal is a statutory appellate authority and as parties before it are, not general public, but only the Government and its employees, any such privilege will have to be claimed under sections 123 or 124 of Indian Evidence Act, not mechanically, but only with great circumspection, after properly balancing the public interest in maintaining confidentiality of certain records and communications, and the countervailing public interest in dispensation of justice through the Tribunal.

Sd/- B.C. THAKURIA

**Secretary to the Govt. Of Assam,
Administrative Reforms and Training Department.**