

# HIGH COURT OF SIKKIM

## EDITORIAL BOARD



Hon'ble Shri Justice Sunil Kumar Sinha,  
Chief Justice,  
High Court of Sikkim



Hon'ble Smt. Justice Meenakshi Madan Rai,  
Judge,  
High Court of Sikkim

**VACANCIES IN COURTS**

(i) Vacancies in the High Court of Sikkim as on 31.12.2015

Sl.No.	Sanctioned Strength	Working Strength	Vacancies
1.	03	02	01

(ii) Vacancies in the District & Subordinate Courts as on 31.12.2015

Sl.No.	Sanctioned Strength	Working Strength	Vacancies
1.	Superior Judicial Service (SSJS) - 10	07	03  01 post of District & Sessions Judge (Spl. Div.-1) and 01 post of District & Sessions Judge (Spl. Div.-II) & 01 post in the cadre of SSJS created (in compliance to the direction passed by the Hon'ble Supreme Court in Brij Mohan Lal Vs. Union of India)
2.	Sikkim Judicial Service (SJS) – 08	07	01  01 post of CJM-cum-Civil Judge (South & West)
<b>Total</b>	<b>18</b>	<b>14</b>	<b>04</b>

## COURT NEWSLETTER OCTOBER-DECEMBER 2015

**INSTITUTION, DISPOSAL & PENDENCY OF CASES****(1) Statement of Main & Misc. Cases in the High Court of Sikkim from 01.10.2015 to 31.12.2015.**

Sl. No.	Pending as on 30.09.2015	Institution	Disposal	Pending as on 31.12.2015
	Main Cases	Main Cases	Main Cases	Main Cases
1.	92	54	32	114

**(2) Total Institution, Disposal & Pendency of cases in the Subordinate Courts of Sikkim from 01.10.2015 to 31.12.2015.**

NAME OF THE COURT		CIVIL CASES				CRIMINAL CASES			
		Opening balance as on 01.10.2015	Institution from 01.10.2015 to 31.12.2015	Disposal from 01.10.2015 to 31.12.2015	Pendency at the end of 31.12.2015	Opening balance as on 01.10.2015	Institution from 01.10.2015 to 31.12.2015	Disposal from 01.10.2015 to 31.12.2015	Pendency at the end of 31.12.2015
East District at Gangtok	Main cases	211	61	42	230	667	171	128	710
	Misc. cases	88	64	76	76	19	164	163	20
West District at Gyalshing	Main cases	17	17	9	25	23	30	27	26
	Misc. cases	18	22	24	16	04	48	51	01
North District at Mangan	Main cases	5	5	5	4	20	2	11	11
	Misc. cases	2	14	5	11	00	13	13	00
South District at Namchi	Main cases	39	11	20	30	91	83	88	86
	Misc. cases	27	13	24	16	04	101	99	06
Family Courts	Main cases	129	53	68	114	27	30	25	32
	Misc. cases	1	2	1	2	13	7	7	13
Fast Track Courts	Main cases					4	2	2	4
	Misc. cases					0	0	0	0
Juvenile Justice Boards	Main cases					19	14	6	27
	Misc. cases					0	7	7	0
<b>Total Main Cases</b>		<b>401</b>	<b>146</b>	<b>144</b>	<b>403</b>	<b>851</b>	<b>332</b>	<b>287</b>	<b>896</b>
<b>Total Misc. Cases</b>		<b>136</b>	<b>115</b>	<b>130</b>	<b>121</b>	<b>40</b>	<b>340</b>	<b>340</b>	<b>40</b>

## COURT NEWSLETTER OCTOBER-DECEMBER 2015

**INSTITUTION, DISPOSAL AND PENDENCY OF CASES DISTRICT WISE**

(1) Total Institution, Disposal and Pendency of cases in the Subordinate Courts of Sikkim from 01.10.2015 to 31.12.2015

(i) **East District at Gangtok.**

NAME OF THE COURTS		CIVIL CASES				CRIMINAL CASES			
		Opening balance as on 01.10.2015	Institution from 01.10.2015 to 31.12.2015	Disposal from 01.10.2015 to 31.12.2015	Pendency at the end of 31.12.2015	Opening balance as on 01.10.2015	Institution from 01.10.2015 to 31.12.2015	Disposal from 01.10.2015 to 31.12.2015	Pendency at the end of 31.12.2015
District & Sessions Judge (East)	Main cases	85	38	29	94	90	33	27	96
	Misc. cases	70	61	69	62	0	64	63	1
District & Sessions Judge (Spl. Div.-I)	Main cases	1	0	1	0	0	0	0	0
	Misc. cases	2	0	1	1	0	0	0	0
District & Sessions Judge (Spl. Div.-II)	Main cases	9	5	4	10	12	0	5	7
	Misc. cases	2	0	2	0	0	1	1	0
Chief Judicial Magistrate-cum- Civil Judge (East & North)	Main cases	10	3	2	11	335	108	82	361
	Misc. cases	5	0	0	5	9	63	64	8
Civil Judge-cum- Judicial Magistrate (East)	Main cases	106	15	6	115	230	30	14	246
	Misc. cases	9	3	4	8	10	36	35	11
<b>Total Main Cases</b>		<b>211</b>	<b>61</b>	<b>42</b>	<b>230</b>	<b>667</b>	<b>171</b>	<b>128</b>	<b>710</b>
<b>Total Misc. Cases</b>		<b>88</b>	<b>64</b>	<b>76</b>	<b>76</b>	<b>19</b>	<b>164</b>	<b>163</b>	<b>20</b>

(ii) **West District at Gyalshing**

NAME OF THE COURT		CIVIL CASES				CRIMINAL CASES			
		Opening balance as on 01.10.2015	Institution from 01.10.2015 to 31.12.2015	Disposal from 01.10.2015 to 31.12.2015	Pendency at the end of 31.12.2015	Opening balance as on 01.10.2015	Institution from 01.10.2015 to 31.12.2015	Disposal from 01.10.2015 to 31.12.2015	Pendency at the end of 31.12.2015
District & Sessions Judge (West)	Main cases	12	8	5	15	14	7	3	18
	Misc. cases	14	17	17	14	0	15	15	0
Civil Judge-cum- Judicial Magistrate (West)	Main cases	5	9	4	10	9	23	24	8
	Misc. cases	4	5	7	2	4	33	36	1
<b>Total Main Cases</b>		<b>17</b>	<b>17</b>	<b>9</b>	<b>25</b>	<b>23</b>	<b>30</b>	<b>27</b>	<b>26</b>
<b>Total Misc. Cases</b>		<b>18</b>	<b>22</b>	<b>24</b>	<b>16</b>	<b>4</b>	<b>48</b>	<b>51</b>	<b>1</b>

(iii) North District at Mangan

NAME OF THE COURTS		CIVIL CASES				CRIMINAL CASES			
		Opening balance as on 01.10.2015	Institution from 01.10.2015 to 31.12.2015	Disposal from 01.10.2015 to 31.12.2015	Pendency at the end of 31.12.2015	Opening balance as on 01.10.2015	Institution from 01.10.2015 to 31.12.2015	Disposal from 01.10.2015 to 31.12.2015	Pendency at the end of 31.12.2015
District & Sessions Judge (North)	Main cases	0	4	1	32	3	1	2	2
	Misc. cases	2	13	4	11	0	2	2	0
Civil Judge-cum- Judicial Magistrate (North)	Main cases	5	0	4	1	17	1	9	8
	Misc. cases	0	1	1	0	0	11	11	0
<b>Total Main Cases</b>		<b>5</b>	<b>4</b>	<b>5</b>	<b>4</b>	<b>20</b>	<b>2</b>	<b>11</b>	<b>11</b>
<b>Total Misc. Cases</b>		<b>2</b>	<b>14</b>	<b>5</b>	<b>11</b>	<b>0</b>	<b>13</b>	<b>13</b>	<b>0</b>

(iv) South District at Namchi

NAME OF THE COURTS		CIVIL CASES				CRIMINAL CASES			
		Opening balance as on 01.10.2015	Institution from 01.10.2015 to 31.12.2015	Disposal from 01.10.2015 to 31.12.2015	Pendency at the end of 31.12.2015	Opening balance as on 01.10.2015	Institution from 01.10.2015 to 31.12.2015	Disposal from 01.10.2015 to 31.12.2015	Pendency at the end of 31.12.2015
District & Sessions Judge (South)	Main cases	19	6	12	13	60	21	18	63
	Misc. cases	20	11	17	14	4	22	24	2
Chief Judicial Magistrate-cum- Civil Judge (South & West)	Main cases	0	0	0	0	14	42	44	12
	Misc. cases	3	1	4	0	0	41	37	4
Civil Judge-cum- Judicial Magistrate (South)	Main cases	20	5	8	17	17	20	26	11
	Misc. cases	4	1	3	2	0	38	38	0
<b>Total Main Cases</b>		<b>39</b>	<b>1</b>	<b>20</b>	<b>30</b>	<b>91</b>	<b>83</b>	<b>88</b>	<b>86</b>
<b>Total Misc. Cases</b>		<b>27</b>	<b>13</b>	<b>24</b>	<b>16</b>	<b>4</b>	<b>101</b>	<b>99</b>	<b>6</b>

(v) Family Courts

NAME OF THE COURT		CIVIL CASES				CRIMINAL CASES			
		Opening balance as on 01.10.2015	Institution from 01.10.2015 to 31.12.2015	Disposal from 01.10.2015 to 31.12.2015	Pendency at the end of 31.12.2015	Opening balance as on 01.10.2015	Institution from 01.10.2015 to 31.12.2015	Disposal from 01.10.2015 to 31.12.2015	Pendency at the end of 31.12.2015
Family Court, East at Gangtok	Main cases	93	38	52	79	19	20	16	23
	Misc. cases	1	1	0	2	11	4	6	9
Family Court West at Gyalshing	Main cases	13	4	6	11	2	4	2	4
	Misc. cases	0	0	0	0	0	0	0	0
Family Court North at Mangan	Main cases	2	3	2	3	0	1	1	0
	Misc. cases	0	0	0	0	0	0	0	0
Family Court South at Namchi	Main cases	21	8	8	21	6	5	6	5
	Misc. cases	0	1	1	0	2	3	1	4
<b>Total Main Cases</b>		<b>129</b>	<b>53</b>	<b>68</b>	<b>114</b>	<b>27</b>	<b>30</b>	<b>25</b>	<b>32</b>
<b>Total Misc. Cases</b>		<b>1</b>	<b>2</b>	<b>1</b>	<b>2</b>	<b>13</b>	<b>7</b>	<b>7</b>	<b>13</b>

(vi) Fast Track Court

NAME OF THE COURT		CRIMINAL CASES			
		Opening balance as on 01.07.2015	Institution from 01.10.2015 to 31.12.2015	Disposal from 01.10.2015 to 31.12.2015	Pendency at the end of 31.12.2015
Fast Track Court (East & North) at Gangtok	Main cases	1	2	1	2
	Misc. cases	0	0	0	0
Fast Track Court (South & West) at Gyalshing	Main cases	3	0	1	2
	Misc. cases	0	0	0	0
<b>Total Main Cases</b>		<b>4</b>	<b>2</b>	<b>2</b>	<b>4</b>
<b>Total Misc. Cases</b>		<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**(vii) Juvenile Justice Boards**

NAME OF THE COURTS		CRIMINAL CASES			
		Opening balance as on 01.10.2015	Institution from 01.10.2015 to 31.12.2015	Disposal from 01.10.2015 to 31.12.2015	Pendency at the end of 31.12.2015
Juvenile Justice Board East, at Gangtok	Main cases	16	12	3	25
	Misc. cases	0	5	5	0
Juvenile Justice Board West, at Gyalshing	Main cases	0	0	0	0
	Misc. cases	0	2	2	0
Juvenile Justice Board North, at Mangan	Main cases	0	0	0	0
	Misc. cases	0	0	0	0
Juvenile Justice Board South, at Namchi	Main cases	3	2	3	2
	Misc. cases	0	0	0	0
<b>Total Main Cases</b>		<b>19</b>	<b>14</b>	<b>6</b>	<b>27</b>
<b>Total Misc. Cases</b>		<b>0</b>	<b>7</b>	<b>7</b>	<b>0</b>

**SOME RECENT JUDGMENTS OF HIGH COURT OF SIKKIM**

**FROM (01.10.2015 to 31.12.2015)**

- 1. Subordinate Legislation cannot exceed the scope of the parent Act:** On 14/10/2015, in WP(C) No. 41 of 2013 (M/s. Shubh Enterprises Vs. Union of India & Ors.) the Court, striking down Rule 3(11) of the Lotteries (Regulation) Rules, 2010 which provided that a state, where lotteries are conducted by another state, is entitled to charge an amount of Rs. 2000/- per draw from the organizing state, held that the said Rule is a subordinate piece of legislation framed by the Central Government in exercise of powers conferred by Sub-Section 1 of the Lotteries (Regulation) Act, 1998. The Lottery (Regulation) Act, 1998 was enacted under entry 40 of List-1 of the Seventh Schedule of the Constitution of India which empowers the parliament to legislate on lotteries organized by the government of India or the government of a state, and is regulatory in nature. Therefore, it would not be possible to levy tax or fees in other charges or other forms of imposts thereunder. It, therefore, would follow by natural corollary that rules framed under the Lottery (Regulation) Act, 1998 cannot make a provision levying any tax or fees or imposts. It was held that there is no any specific provision in the Lotteries (Regulation) Act by which power to impose tax or fees has been provided. Rule 3(11), therefore, appears to be in excess of the provisions in the parent Act, and therefore, would be rendered *ultra vires* the provisions of the said Act. The Court also quashed the Notification dated 06/08/2010 issued by the Government of Sikkim under Rule 3(11) of the Lottery (Regulation) Rules, 2010.
- 2. Manifest illegality in the conduct of disciplinary proceedings cannot be sustained on the ground of delay in approaching Writ Court:** On 15/10/2015, a Single Bench of the Court in WP(C) No. 05 of 2015 (Smt. Chezum Lepcha Vs. State of Sikkim), quashing the order whereby the petitioner was placed at the lowest scale in the pay band of Sub-Inspectors of Police and her seniority reduced to the junior-most place amongst the Sub-Inspectors as on 09.01.2012, held that although there was some delay on the part of the petitioner in approaching the court, the manifest illegality cannot be sustained on the ground of delay or laches. Delay by itself cannot be a ground for refusal to entertain a *lis*. The only thing that is required to be seen is as to whether the petitioner has given cogent reasons for the delay in approaching the

writ court. The Court observed serious infractions of the provisions of Rule 6 and other provisions of the Sikkim Police Force (Discipline and Appeal) Rules, 1999 in the conduct of disciplinary proceedings against the petitioner on ground of careless attitude to her duty and failure to submit investigation of four cases in time. It was further held that there was no inquiry as contemplated under Rule 7(1) of the said Rules, no presenting officer was appointed as required under Rule 7(5)(c) of the said Rules, no opportunity was provided to the petitioner to make her defence, no opportunity to examine and cross-examine the witnesses was afforded to the petitioner, no opportunity of hearing or filing written statement was given to the petitioner. The Court quashed the entire disciplinary proceedings against the petitioner, holding that the disciplinary proceedings was carried out in flagrant violation of the Rules.

**3. Mere recovery of controlled substances from a vehicle is not sufficient to attract the provisions of section 9(d) of the Sikkim Anti Drugs Act, 2006:** On 20/11/2015, in CrI. Rev. P. No. 10 of 2015 (Shri Manoj Kumar Gupta Vs. State of Sikkim), the Court, setting aside the order of the trial court which imposed condition of depositing Rs. 1,00,000/- for release of the truck seized in connection with carrying of controlled substances under Section 9(d) of the Sikkim Anti Drugs Act, 2006, laid down a distinction between a contravention of the provisions of the Act using a mode of transport or any other form of conveyance as provided in section 9(d) of the Act and a simple contravention. It was held that these are two different instances which is clear from reading the entire section 9. The Court held that "contravention using a mode of transport" would not be understood as simply moving of the accused by any conveyance, having possession of meager amount of controlled substances. For attracting the provisions of clause (d), there must be evidence to the effect that a particular mode of transport was purposely and intentionally utilized by the accused for commission of the offence and in absence of such mode of transport the offence of such degree would, possibly not have been committed. In the instant case, where some controlled substances were recovered from the truck carrying cement on being checked, it was held that *prima facie*, it does not appear that the alleged contravention involves the accused persons using a mode of transport as envisaged in clause (d) of S. 9. The Court directed release of the seized vehicle on interim custody of the petitioner on executing a *supurdnama* in sum of Rs. 1,00,000/- with a local surety in like sum to the satisfaction of the Special Court for production of the said vehicle before the Special Court/any other Court as and when directed.

## SOME RECENT MAJOR EVENTS

### FULL COURT FAREWELL REFERENCE

Full Court Farewell Reference was held on 16<sup>th</sup> October, 2015 in the High Court of Sikkim in honor of Hon'ble Mr. Justice S.P.Wangdi, Judge, High Court of Sikkim who was to lay down office on superannuation on 24<sup>th</sup> October, 2015. The Farewell Reference was attended by Hon'ble Mr. Justice S.K. Sinha, Chief Justice, High Court of Sikkim, Hon'ble Mrs. Justice Meenakshi M. Rai, Hon'ble Mr. Justice A.P.Subba, Former Judge, family members of Hon'ble Mr. Justice S.P. Wangdi, Registrar General, Registrar, Members of the Bar, Judicial Officers, Senior Advocates and Officers and Staff of Registry of the High Court of Sikkim. A dinner was hosted in the evening in honour of his Lordship.



## **FULL COURT REFERENCE**

(i) On 6<sup>th</sup> October, 2015 a Full Court Reference was held in the High Court of Sikkim on the demise of Justice Manmohan Singh Gujral, former Chief Justice of this High Court on 13<sup>th</sup> September, 2015. The Full Court Reference was attended by Hon'ble Mr. Justice Sunil Kumar Sinha, Chief Justice, High Court of Sikkim, Hon'ble Mr. Justice S.P. Wangdi, Judge, High Court of Sikkim, Judicial Officers, Senior Advocates, Members of the Bar and Officers of the Registry.

(ii) On 4<sup>th</sup> November, 2015 a Full Court Reference was held in the High Court of Sikkim on the demise of Justice Barin Ghosh, former Chief Justice of this High Court on 6<sup>th</sup> October, 2015. The Full Court Reference was attended by Hon'ble Mr. Justice Sunil Kumar Sinha, Chief Justice, High Court of Sikkim, Hon'ble Mrs. Justice Meenakshi M. Rai, Judge, High Court of Sikkim, Judicial Officers, Senior Advocates, Members of the Bar and Officers of the Registry.

## **IMPORTANT VISITS & CONFERENCES**

1. Hon'ble Mrs. Justice Meenakshi Madan Rai, Judge, High Court of Sikkim attended "the Advanced Course on Economic Crimes" 8<sup>th</sup> to 11<sup>th</sup> October, 2015 at the National Judicial Academy, Bhopal.
2. Hon'ble Mrs. Justice Meenakshi Madan Rai, Judge, High Court of Sikkim also attended a programme on Judging &

Judicial Methods for Newly Elevated High Court Judges on 19<sup>th</sup> to 22<sup>th</sup> November, 2015 at the National Judicial Academy, Bhopal.

3. Hon'ble Mrs. Justice Meenakshi Madan Rai, Judge, High Court of Sikkim attended the Regional Conference for Mediation on 28<sup>th</sup> and 29<sup>th</sup> November, 2015 at the High Court of Tripura, Agartala.

**PROGRESS MADE IN THE HIGH COURT AND SUBORDINATE COURTS OF SIKKIM UNDER E-COURTS MISSION MODE PROJECT**

**October to December, 2015**

1. A one day training programme on "Hardware trouble shooting under e-Courts Mission Mode Project" was conducted for selected ministerial staff of High Court and Subordinate Courts of Sikkim on 7<sup>th</sup> November, 2015 at Sikkim Judicial Academy.
2. Two day training programme on "Refresher on Ubuntu 14.04 Operating System and Libre Officer Writer 14.04" under e-Courts Mission Mode

Project was conducted for Ministerial Staff of the High Court and Subordinate Courts of Sikkim on 20<sup>th</sup> November and 21<sup>st</sup> November, 2015.

3. e-Tender for procurement of forty (40) Computers and LAN items for Subordinate Courts of Sikkim under Phase-II of e-Courts Mission Mode Project was floated on 28<sup>th</sup> November, 2015 in the Sikkim e-Tender Portal.
4. A one day refresher course on National Core version CIS 2.0 under e-Courts Mission Mode Project was conducted for selected ministerial staff of the High Court and Subordinate Courts of Sikkim on 9<sup>th</sup> December, 2015.

# HIGH COURT OF SIKKIM



## NEWSLETTER

Vol. 9, Issue No. 4

October to December, 2015



### EDITORIAL BOARD

Hon'ble Mr. Justice Sunil Kumar Sinha, Chief Justice, High Court of Sikkim

Hon'ble Mrs. Justice Meenakshi Madan Rai, Judge, High Court of Sikkim

### COMPILED BY

Mrs. K.C. Barphungpa, Registrar General

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A quarterly Newsletter published by High Court of Sikkim, Gangtok

Also available on our website: [www.highcourtofsikkim.nic.in](http://www.highcourtofsikkim.nic.in)

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