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No.ALA/LOP/45/3089

Dated Dispur, the 19th Dec.' 2024

To,

**The Hon'ble Chief Justice of India,
Supreme Court of India,
Tilak Marg, New Delhi-110001**

SUB.: VIOLATION OF CONSTITUTION OF INDIA, PRIVILEGES AND DUTIES BY THE ADVOCATE GENERAL OF ASSAM BY TAKING OFFICE OF PROFIT/POSITIONS OF PECUNIARY GAINS AGAINST NORMS AND RULES.

Ref:-

- 1) **Judicial Department Memorandum No. JDJ(E).15/1990/Pt-III/4 dated 21/05/2021 appointing Sri Devojit Lon Saikia as Advocate General of Assam**
- 2) **Article 165 and Article 177 of the Indian Constitution**
- 3) **Rule 48 of the Bar Council of India Rules under Advocates Act,1961**
- 4) **Breach of privileges under Rule 158, Rules of Procedure and Conduct of Business in Assam Legislative Assembly 2016.**
- 5) **Appointment of Sri Devojit Lon Saikia as Secretary(Acting) by BCCI vide Letter dated 07/12/2024 from BCCI President Roger Binny.**
- 6) **Appointment of Sri Devojit Lon Saikia as International Cricket Council Director, Member of ICC Finance and Commercial Affairs Committee, HR & Remuneration Committee**

Respected Hon'ble Justice,

I wish you well and hope this letter finds you in good health and well being. I, **Sri Debabrata Saikia, MLA**, in my capacity as the Leader of Opposition in Assam Legislative Assembly and Leader of Assam Congress Legislative Party, would like to bring to your's notice a sensitive matter that involves violation of Constitution of India by a sworn Representative appointed under the hand and seal of the Governor of Assam.

The present Advocate General of Assam, Sri Devojit Lon Saikia was appointed as the Esteemed Advocate General of Assam on 21st May 2021 vide Letter No. JDJ(E).15/1990/Pt-III/4 dated 21/05/2021, whereby he swore his allegiance and abidance to the Rules and restrictions under Article 165 of the Indian Constitution. As such, Article 165 of the Indian constitution stipulates that the Governor shall appoint a person who is **qualified to be appointed as Judge of a High Court** to be the Advocate General of State. Thus, the Advocate General of a State must hold himself up to the rules and guidelines stipulated to be adhered to by any High Court Judge of a State. The role of an Advocate General is to give advice to the Government of Assam upon such legal matters

and perform such other legal duties as may be assigned to him by the Office of Your Excellence. The duties upon the Advocate General are thus to confer upon the functions to him under the Constitution of India and as such he shall be held to hold utmost loyalty and priority to it as such so. The Advocate General also has **the right to speak in, and otherwise take part in the proceedings of the Legislative Assembly**, including in any Committee of the Legislative Assembly of which he may be part of without being entitled to vote under Article 177 of the Indian Constitution, thus making him a member of the Assam Legislative Assembly.

The Advocate General of Assam vide his appointment dated 07/12/2024 was appointed as the (Acting) Secretary of the Board of Cricket Control of India by the President of BCCI, Sri Roger Binny, whereby in a letter addressed to Mr. Saikia, it was cited that under Clause 7(1)(d) of the BCCI Constitution he was handed **secretarial powers** to Mr. Saikia, who was also the Advocate General of Assam. Mr. Binny further stated that *“Accordingly, I delegate the functions of secretary to you till the post is filled up by processes laid down as per BCCI rules and regulations.”* It is understood that Sri Saikia will continue upon this role until September, 2025 when the vacancy is permanently filled up. Further, due to his appointment as Secretary of BCCI, Sri Devojit Lon Saikia was also appointed as Director to the International Cricket Council (ICC) along with Sri Roger Binny, whereby he was to subsume his role as Committee Member of **ICC Finance and Commercial Affairs Committee, HR & Remuneration Committee** and other roles delegated to him as part of the international governing body of Cricket situated in Dubai, United Arab Emirates.

We, the Assam Pradesh Indian National Congress Party are delighted that a son of Assam has been appointed to such a coveted position. And we congratulate Sri Devojit Lon Saikia on his achievement for the same. But, in this regard we also plead that Sri Saikia should hold himself in utmost regard and commitment towards the Constitution of India and responsibilities betrothed upon him by the Government of Assam and people of Assam with the topmost priority before any other commitments.

In this regard, it must be brought to your notice that Sri Devojit Lon Saikia, who is also a non-voting member of the Assam Legislative Assembly, has violated the privileges of the House by taking a Secretarial Position along with a Position of Director which has several pecuniary and financial benefits by a foreign organization (ICC) and a non-governmental organization(BCCI) in violation of the principles of “Office of Profit”. Further, the **Rule 48 of the Bar Council of India Rules under Advocates Act,1961** categorically states that *“An Advocate may be Director or Chairman of the Board of Directors of a company with or without any ordinary sitting fee, **provided none of his duties are of an executive character. An Advocate shall not be a Managing Director or a Secretary of any company.**”*

Thus, Sri Devojit Lon Saikia, by taking upon the role of Secretary(Acting) of BCCI has violated the cardinal rule of Advocates in India whereby he took the duty of a Secretary of a Company (BCCI is a registered Society under the Tamil Nadu Societies Registration Act of 1975) by being involved in duties of the nature of executive as characterized by the Judgement of the Hon'ble Supreme Court in *Board of Cricket Control for Cricket in India & ors Vs Cricket Association of Bihar & Ors (2015) 3 SCC 251* popularly known as the ***Justice Rajendra Mal Lodha Committee Report***.

The appointment of Sri Devojit Lon Saikia as Member of the Board of Directors of ICC is also questionable as he must not hold any position of employment with a Member State as per ICC Articles and Memorandum of Association. He being Advocate General of Assam, is in violation of ICC Rules. Also, a holder of India's Constitutional Post cannot take upon an International Organization's Fiduciary Position, if that Organization has India's foreign adversaries like Pakistan, Bangladesh etc. as its members. This put's India and State of Assam's interests at critical compromising position.

It is also pertinent to mention herein that, Sri Devojit Lon Saikia, under the advice of the present Assam Government, was appointed into Committees to draft laws on critical issues (child marriage, polygamy) in relation to the State of Assam. Further, the Government of Assam since 1970 has enacted **The Assam Game and Betting Act, 1970** which bans the activities of gambling (online or offline) in the State of Assam. Sri Devojit Lon Saikia, by his appointment as Secretary (Acting) of BCCI is under direct conflict with the policies of State of Assam. As the primary sponsor of BCCI Men's Cricket Team, the Sponsor "**Dream 11**" is being investigated by several Investigating Agencies for betting and match fixing. Further, him being part of International Cricket Council's **Finance and Commercial Affairs Committee would be interacting with international cricket betting companies** which are absolutely illegal in India and also the state of Assam, which creates a direct conflict of interest in his role as the Advocate General of Assam, Secretary (Acting) of BCCI and Director/Committee Members of Financial Committees of ICC and BCCI.

I would also like to bring to your notice that Sri Devojit Lon Saikia, was in similar peculiar position in the past, where he had to resign from the post of Senior Additional Advocate General of Assam in December 2018 to make himself eligible to contest for the post of Secretary of Assam Cricket Association as under the eligibility norms of the association's constitution, there existed, at the relevant point of time, a bar for anyone holding public office from contesting for any post of office bearers of the cricket association. But this time, Sri Devojit Lon Saikia in complete disregard to the fact that he is holding a Public Post that too a Constitutional Post, has chosen to go for similar, in complete violation of Rules and laws, something of which he is seen as the Guardian Protector, in the State of Assam, as the Topmost Legal Officer of the Government of Assam.

In this regard, I pray to your conscience to kindly treat this matter with utmost importance and see it as serious breach of privileges by a Constitutional Post Holder in the Government of Assam; and accordingly act upon the matter at the earliest. For this Act, the State of Assam would be always obliged and benevolent to you.

Thanking you,

Yours sincerely,



(DEBABRATA SAIKIA)

Copy for information and necessary action to:

1. The Hon'ble Governor, Assam.
2. The Hon'ble Chief Minister, Assam.
3. The Chief Secretary, Assam.
4. The Chairman, Bar Council of India.



(DEBABRATA SAIKIA)