

## **State Transport Workers Association Vs The State of Assam rep by The Chief Secy., to The Govt. of Assam and Others**

**Court:** Gauhati High Court

**Date of Decision:** Oct. 11, 2010

**Hon'ble Judges:** Brojendra Prasad Katakey, J

**Bench:** Single Bench

### **Judgement**

B.P. Katakey, J.

The petitioner, which is an association of the workers of Assam State Transport Corporation (ASTC) and registered

under the Trade Union Act, 1926, represented by its General Secretary, by the present petitioner has challenged the Notice Inviting Tenders (in

short the NIT) dated 22.02.2010 issued by the Chief Executive Officer, Guwahati Metropolitan Development Authority (in short the GMDA),

inviting bids from the reputed companies/firms in respect of 150 buses, for city bus operations purchased with the additional central assistance

provided by the Govt. of India under the Jawaharlal Nehru National Urban Renewal Mission (in short JnNURM), contending inter alia that

pursuant to the announcement of the package by the Govt. of India on 02.01.2009 for providing assistance as a one time measure under JnNURM

for purchase of buses for the Urban Transport System and consequent upon approval of the project report by the Govt. of Assam on 18.02.2009

for availing assistance under the said scheme for purchase of buses for Guwahati city, a proposal was submitted by the Govt. of Assam in

Transport Department on 23.02.2009 to the Joint Secretary and Mission Director , Ministry of Urban Development, Govt. of India for

procurement of 250 Nos. of buses of different categories to be placed at the disposal of the ASTC, about which the Chief Minister of Assam by

his D.O. letter dated 02.03.2009 also informed the Minister of Urban Development, Govt. of India requesting him to provide the funds for

purchase of said 250 Nos. of vehicles to be operated through the ASTC. After approval of the project report by the Govt. of India, as submitted

by the Govt. of Assam, the Govt. of India made available the necessary funds for purchase of 200 Nos. of different types of buses to be

introduced as city service within the Guwahati city area under the JnNURM scheme, which was received by the Govt. of Assam in Transport

Department in the middle part of February, 2010. It has also been contended that though the funds for purchase of the buses have been sanctioned

by the Govt. of India and received by the Govt. of Assam as per the scheme and the proposal submitted through the ASTC, the said buses,

however, are not being allowed to be managed by the ASTC and instead allowed the GMDA to issue NIT from the companies/firms for operating

those buses in the city of Guwahati, in each package of routes and accordingly the NIT dated 22.02.2010 has been published by the Chief

Executive Officer of the GMDA asking for bids from the companies/firms for operation of the said buses. The further contention of the writ

petitioner is that the Govt. of India under the JnNURM scheme allotted buses for city transport to other States also and wherever an organized

body like ASTC is in existence, the same has been allowed to be operated by such already existing body or Corporation, but in case of the city of

Guwahati, the Govt. of Assam instead of allowing the ASTC to manage and operate the city bus service through the aforesaid buses, fund for

which has been sanctioned by the Govt. of India under JnNURM scheme, has allowed the GMDA to manage and operate the same through the

private companies/firms though the GMDA has absolutely no authority to do so under the JnNURM.

2. Though the State of Assam represented by the Chief Secretary and the Principal Secretary to the Govt. of Assam, Transport Department, are

arraigned as respondent Nos. 1 and 2 respectively, an affidavit-in-opposition has been filed by the Deputy Secretary and the Nodal Officer for the

Department of Transport, Govt. of Assam, on behalf of the respondent No. 2, contending that the Govt. of India through the Ministry of Urban

Development has made available the fund to the Govt. of Assam in Transport Department for purchase of 200 Nos. of different types of buses to

be introduced as the city bus service within the area of city of Guwahati. In the said affidavit the respondent No. 2, however, has denied that the

Govt. of Assam through the Transport Department has purchase the buses in the middle part of February, 2010. The said affidavit apart from

saying so, dealing with the averments made by the petitioner in paragraph 9 of the writ petition, nothing has been said relating to the averments

made in paragraphs 1 to 8 and 10 to 13 of the writ petition except saying that the respondent No. 2 has no comment to make. The authority to

issue the NIT by GMDA, which has been challenged by the writ petitioner in the writ petition, has also not been dealt with by the respondent No.

2 in his affidavit. The Chief Secretary to the State of Assam though has been made party respondent No. 1 in the writ petition, he has chosen not

to file any affidavit.

3. The GMDA and its Chief Executive Officer, the respondent Nos. 3 and 4, have contested the writ petition by filing the joint affidavit-in-

opposition giving details about the initiation of the proposal by the Govt. of India for introduction of the city bus services under JnNURM, the

submission of the Detailed Project Report (DPR), requirement of formation of the Special Purpose Vehicle (SPV) structure for management and

operation of such city bus service, initial sanction of fund for purchase of different types of 50 buses and subsequent sanction of the fund for

additional 150 Nos. of buses, the decision of the Govt. of Assam to form a company called Guwahati City Transport Services Limited for

institutional management of city bus system and planning and functioning for all public transport in Guwahati to be jointly owned by the GMDA,

Guwahati Municipal Corporation (GMC) and ASTC. In the said affidavit, it has been denied that the buses are to be placed at the disposal of the

ASTC for running and managing the city bus services, as contended by the writ petitioner. The respondent Nos. 3 and 4 have also contended that

on 18.09.2009 a meeting was held under the Chairmanship of the Chief Secretary, Govt. of Assam, with the participation of (i) the Principal

Secretary, Transport Department, Govt. of Assam; (ii) Secretary, Guwahati Development Department, Govt. of Assam; (iii) Joint Secretary,

Guwahati Development Department, Govt. of Assam; (iv) Deputy Secretary, Guwahati Development Department, Govt. of Assam and (v)

Managing Director, ASTC, wherein a decision was taken to create a coordinating body, namely, SPV for running the 200 buses in the Guwahati

city, which will also have representations from the GMC and ASTC and the Executive Committee of the SPV shall take operational decisions

including route, timings and mode of operating the buses and authorizing the Guwahati Development Department to find out the Revenue Model

adopted by other transport corporation of other States. A further decision ,according to the said respondents, was also taken in the said meeting to

explore the possibility of providing ASTC with a permanent role in operating the buses as they have the experience and allied infrastructure

facilities and even explore the possibility of giving the right of first refusal to ASTC before offering the buses in the Public Private Partnership (PPP)

mode to private players. Relating to the authority to issue the NIT, it has been stated in the said affidavit that pending formation of the SPV, the

Govt. of Assam took a decision to authorize the GMDA to call for the bids for the city bus operations and accordingly the NIT dated 22.02.2010

and the corrigendum thereto were issued by the Chief Executive Officer of the GMDA.

4. The Managing Director of the ASTC in the affidavit-in-opposition filed on behalf of the respondent Nos. 5 and 6 has projected that the project

report as prepared by the ASTC by the Govt. of Assam was submitted to the Govt. of India for sanctioning of the funds under JnNURM for 250

Nos. of buses and accordingly the funds for purchase of 200 Nos. of buses of different types were sanctioned by the Govt. of India and released

to the Govt. of Assam and it was decided to place those buses at the disposal of the ASTC for city bus operations.

5. The Union of India, represented by the Secretary to the Govt. of India, Ministry of Urban Development, respondent No. 7, in the affidavit-in-

opposition filed has contended that the Central Government considered the proposal submitted by the State Government as a single unit and it is

not concerned with the Department or Agency of the State Government, which has initially mooted the proposal and the State Government is

obliged to comply/fulfill the conditions/commitment imposed by/made before the Central Sanctioning and Monitoring Committee (in short CSMC),

which is the competent body to consider the proposal submitted by the State Government, in regard to the sanction of fund for purchase of buses

for city service in respect of the cities identified under JnNURM. It has also been contended that initially the fund for purchase of 50 buses was

sanctioned as per resolution of the CSMC meeting held on 20.02.2009 and subsequently, in terms of the proposal submitted by the State of

Assam, fund for purchase of 150 additional buses was sanctioned as per decision taken by the CSMC on 24.04.2009, with the condition that the

buses would be run through the structure known as SPV, which would comprise of ASTC, GMDA and GMC with the Chief Secretary of the

Govt. of Assam as Chairman and Managing Director of ASTC as Managing Director of SPV to start with. It has also been contended in the said

affidavit that the approval of the CSMC is conditional to the commitment of the State Government and the actual owner of the buses would be

SPV having the above composition. The respondent No. 7, however, has further contended that it is for the Govt. of Assam to decide the

modalities of operation of 200 buses to be run for the city of Guwahati, fund for which has been sanctioned under the JnNURM, keeping in view

the best interest of the people residing in the city of Guwahati.

6. I have heard Mr. Uzir, learned Counsel for the petitioner; Mr. N. Dutta, learned Sr. Counsel appearing for the respondent Nos. 1 and 2; Mrs.

M. Hazarika, learned Sr. Counsel appearing for the respondent Nos. 3 and 4; Mr. P.C. Deka, learned Sr. Counsel appearing for the respondent

Nos. 5 and 6 and Mr. R. Sarma, learned Asstt. Solicitor General appearing for the respondent No. 7.

7. Mr. Uzir, learned Counsel for the petitioner referring to the communication dated 12.01.2009 issued by the Joint Secretary and Mission

Director, Ministry of Urban Development, Govt. of India to all the Chief Secretaries of the States and the Union Territories submits that the central

financial assistance in the form of grant to the State Government for procurement of buses for Urban Transport under JnNURM and the guideline

attached to the said communication does not attached a condition that the buses are to be run and managed by SPV structure only and it can,

wherever there already exist the Transport Corporation can be run and managed by such Transport Corporation without formation of the SPV

structure. It has also been submitted by Mr. Uzir that it is evident that DPR for 250 buses were submitted by the Govt. of Assam keeping in mind

the ASTC for running and managing the same and also in compliance of the requirement of availing assistance under JnNURM. Mr. Uzir in that

regard has also referred to the D.O. letter dated 02.03.2009 issued by the Chief Minister of Assam to the Minister of Urban Development, Govt.

of India, wherein it has been mentioned that another comprehensive proposal along with the DPR for purchase of the additional 250 Nos. of buses

through ASTC has been submitted to the Govt. of India and requesting the Minister to favourably consider the proposal of the ASTC in order to

provide a better and efficient transportation system in the Guwahati city. Mr. Uzir further submits that the formation of the SPV is not the

mandatory condition for releasing the central assistance for purchase of the buses under JnNURM, which is evident from the communication dated

05.05.2010 issued by the Under Secretary to the Govt. of India, Ministry of Road Transport and Highways to the General Secretary, All India

Road Transport Worker's Federation (AIRTFW), of which the writ petitioner is a constituent, wherein it has been mentioned that vide D.O. letter

dated 05.04.2010 , the Ministry of Urban Development, Govt. of India has been advised not to insist upon formation of the SPV. to facilitate the

central assistance to the State under JnNURM for procuring buses for operation in the urban areas and to make necessary arrangement to facilitate

the central assistance to the State Road Transport undertakings for operating the vehicles in city areas under JnNURM, from where according to

Mr. Uzir it appears that wherever the State Road Transport Corporations or undertakings are in existence, such bus services are to be run and

managed by such Corporations/undertakings. Mr. Uzir further submits that the said position has been admitted by the Govt. of India in the Ministry

of Urban Development, respondent No. 7, in its affidavit-in-opposition dated 07.09.2010, more particularly, in paragraph 6 thereof where it has

been stated that it is for the Govt. of Assam to decide the modalities of operation of buses in the best interest of the people residing in the city of

Guwahati.

8. Mr. Uzir to buttress his argument has submitted that even the Principal Secretary to the Govt. of Assam in Transport Department issued a

communication dated 23.02.2009 to the Joint Secretary and Mission Director, Ministry of Urban Development, Govt. of India, informing that a

separate DPR for purchasing 250 Nos. of different types of buses is being forwarded for consideration of the Ministry keeping in view the running

of the city bus services by the ASTC for more than 30 years and having all the infrastructure facilities with further intimation that the ASTC, which

has been created under the Road Transport Corporation Act, 1970 and has the legal mandate to run the bus service including the city service,

would be able to create a separate business unit (SBU) for city service to comply with the requirement of availing assistance under JnNURM.

9. Referring to the proceeding of the meeting held on 18.09.2009, which has been annexed as Annexure-VIII to the affidavit-in-opposition filed by

the GMDA (respondent Nos. 3 and 4), it has also been submitted by the learned Counsel for the petitioner that a decision was taken in the said

meeting held under the chairmanship of Chief Secretary to the Govt. of Assam, with the participation of the Principal Secretary, Transport

Department; Secretary, Guwahati Development Department; Joint Secretary, Guwahati Development Department; Deputy Secretary, Guwahat

Development Department and the Managing Director, ASTC, to explore the possibility of providing ASTC with a permanent role in operating the

buses as it has experience and allied infrastructure facilities and also to explore the possibility of giving the right of first refusal to ASTC before

offering the buses in PPP mode to private players.

10. Relating to the NIT dated 22.02.2010 issued by the Chief Executive Officer, GMDA, which is under challenge in the writ petition, it has been

submitted by Mr. Uzir that in any case the GMDA has no authority to run and manage the bus services in the city through the buses purchased

under such central assistance and as such any arrangement made by the State Government asking the GMDA to issue the NIT is contrary to the

scheme under which such central assistance has been granted by the Govt. of India to the Govt. of Assam, as is apparent from the affidavit filed by

the Govt. of India, the respondent No .7. Mr. Uzir, therefore, submits that while setting aside the tender process initiated by the Chief Executive

Officer, GMDA by issuing the NIT dated 22.02.2010, the Government of Assam may be directed to allow the ASTC to run and manage the city

bus services by means of the buses purchased under central assistance under the financial assistance of the Govt. of India under JnNURM.

11. Mr. Dutta, learned Sr. Counsel appearing for the respondent Nos. 1 and 2, submits that the financial assistance given by the Govt. of India

under JnNURM for purchasing the buses for city bus services attach conditions to it, namely, the formation of the city specific SPV, constitution of

which has also been fixed i.e. the ASTC, GMDA, GMC as well as its elected members, who has been given the responsibility of running and

managing the city bus services through such buses and operation of such bus service through PPP mode with one private operator running cluster

of minimum of 25 buses. As such the Govt. of Assam cannot allow the ASTC to manage and run such bus services through such buses, as in that

case it would be violative of the conditions imposed for granting of such central assistance, which in turn may entail cancellation of such grant by the

Govt. of India. Placing reliance on the proceeding of 69th CSMC meeting held on 20.02.2009 and 21.02.2009, it has been submitted that the

Govt. of India has insisted formation of the city specific SPV with the involvement of the ASTC , as at present the bus service is run by the ASTC,

though the SPV was initially formed by the Govt. of Assam with the GMDA and GMC only. According to Mr. Dutta, in respect of all the States

where such central assistance was granted, the Govt. of India insisted formation of the city specific SPV. Referring to the minutes of the 70th

CSMC meeting held on 26.02.2009, it has been submitted by Mr. Dutta that though the State of Uttarakhand instead of formation of city specific

SPV proposed to have a State level SPV, for the cities namely, Dehradun, Haridwar, Nainital, the same was rejected by the CSMC and directed

formation of the city specific SPVs. Mr. Dutta, drawing attention of the Court to the minutes of the 72nd meeting of CSMC submits that financial

assistance for procuring 150 Nos. of additional buses was sanctioned with the condition that those have to be operated through PPP mode only

and hence the ASTC cannot be allowed to manage and operate those buses.

12. Referring to the scheme of JnNURM and the guidelines issued for the purpose of extending additional central assistance for purchasing the

buses for city bus services under the said scheme, it has further been submitted that the State Government or the State Level Nodal Agency is

required to submit the DPR and there is no scope for preparation of the DPR by the ASTC and submission of the same to the Govt. of India for its

own. Any proposal from the different organization is required to be considered by the State Government or the State Level Nodal Agency and

thereafter the DPR is formulated and submitted to the Govt. of India. Hence, according to Mr. Dutta, the contention of the petitioner that a specific

DPR for sanction of the funds for purchase of 250 Nos. of buses to be managed by the ASTC only was submitted, cannot be accepted. Placing

reliance on the communication dated 06.03.2009, copy of which has been produced before the Court, issued by the Secretary to the Govt. of

India in Ministry of Urban Development to the Chief Secretary to the Govt. of Assam, it has been submitted by Mr. Dutta that in fact the proposal

of the ASTC for releasing the central assistance for purchase of 250 Nos. of buses through the ASTC has not been considered by the Govt. of

India and the Govt. of Assam was asked to review the proposal, further informing that the demand for additional buses for Guwahati would be

considered only after receiving clarity from the State Government through State Level Steering Committee (SLSC) regarding implementation of the

city bus services in Guwahati.

13. Mr. Dutta, however, has submitted that as the formation of the SPV is a condition attached to the grant of financial assistance by the

Government of India to the Govt. of Assam and such bus services are required to be run and managed by such SPV, the issuance of the NIT by

the GMDA authority is contrary to such condition. Mr. Dutta further submits that the city bus services with those buses procured with the central

assistance would now be run and managed by the SPV after its formation, with the constitution as accepted by the Govt. of Assam as well as by

the Govt. of India.

14. Mrs. Hazarika, learned Sr. Counsel appearing for the respondent Nos. 3 and 4 while adopting the argument advanced by Mr. Dutta, learned

Sr. Counsel appearing for the respondent Nos. 1 and 2, relating to the condition of formation of the SPV and running and managing the bus

services by such SPV through PPP mode, however, has submitted that pursuant to the Government of Assam's decision to allow the GMDA to

float the tender, pending formation of the SPV, the NIT was issued by the Chief Executive Officer, GMDA on 22.02.2010, for allotment of buses

to various companies/firms in terms of the guidelines issued by the Govt. of India for that purpose and as soon as the SPV is formed, it would take

over the management and running of such bus services. Mrs. Hazarika further submits that since the process initiated vide NIT dated 22.02.2010

has been stayed by this Court, in any case, a fresh process has to be initiated for allotment of the said buses in terms of the guidelines issued by the

Govt. of India and that would naturally be done by the SPV.

15. Mr. Deka, learned Sr. Counsel appearing for the respondent Nos. 5 and 6, supporting the arguments advanced by Mr. Uzir, learned Counsel



for the petitioner, submits that it is evident from various communications, as referred to by the learned Counsel for the petitioner, that the DPR was

submitted by the Govt. of Assam seeking central assistance for procuring the buses with a view to allow the ASTC to run and manage the same,

which has the experience as well as the infrastructure for that purpose . According to the learned Sr. counsel, the formation of the SPV, where the

State Transport Corporation or undertaking is in existence, is not the condition precedent for the central assistance for purchase of the buses and

the ASTC being a creature of a statute and managing the bus services throughout the State of Assam including the city bus services in Guwahati, is

to be entrusted with the responsibility of running and managing the city bus services through the buses purchased with the central assistance.

16. The learned Asstt. Solicitor General appearing for the respondent No. 7 referring to the averments made in the affidavit-in-opposition filed has

submitted that the central assistance for purchase of the buses for the city bus service was granted with the condition of formation of the SPV with

the participation of the ASTC (50%), GMDA (10%) and GMC (40%) and such SPV is required to be chaired by the Chief Secretary to the

Govt. of Assam with the Managing Director of ASTC, as the Managing Director to start with. Since the approval of the CSMC, according to the

learned Asstt. Solicitor General, is conditional to the formation of such SPV and the State Government has given commitment for such formation, it

is the SPV who is to run and manage the city bus services through such buses. The learned Asstt. Solicitor General has, however, submitted that

the modalities of operation of these buses , subject to condition of sanction by CSMC, is to be decided by the Govt. of Assam, keeping in view

the best interest of the people residing in the city of Guwahati.

17. Mr. Uzir in reply to the argument advanced by the learned Counsel for the respondents while reiterating his argument already advanced, as

noticed above, has further submitted that the minutes of the 72nd meeting of the CSMC held on 24th April, 2009 only stipulates that bus operation

may be through PPP mode. According to the learned Counsel it appears from the said stipulation that operation of buses through PPP mode is an

option only given to the State, and the State Government may explore other options, which is also evident from the stand of the respondent No. 7

in their affidavit-in-opposition.

18. I have considered the submissions of the learned Counsel for the parties and also perused the pleadings of the parties including the annexures

appended thereto. I have also perused the documents made available by the respondent Nos. 1 and 2 in the form of a paper book, which consists

of the guidelines issued by the Govt. of India for additional central assistance under JnNURM and the minutes of various CSMC meetings.

19. Pursuant to the second stimulus package announced by the Govt. of India on 02.01.2009, a decision was taken to grant one time assistance to

the States up to 30.06.2009, under JnNURM, for purchase of the buses for urban transport systems in mission cities, which was approved by the

Ministry of Urban Development, Govt. of India. A set of guideline was thereafter issued by the Govt. of India for financing purchase of the buses

for urban transport system under JnNURM, which was circulated by the Ministry of Urban Development to all the Chief Secretaries of the States

and Union Territories, Principal Secretaries of the Urban Development Department, Municipal Commissioners of 63 mission cities as well as the

Managing Directors of the State Transport undertakings. Clause 2.0 of the said guidelines stipulates the conditions for extending the additional

central assistance to be provided as a one time measure for procurement of the buses. It requires submission of a DPR by the State Government

or the State Level Nodal Agency (SLNA). It also provides that the priority in the matter of sanction of the funds would be given to the proposal

submitted for PPP mode, however, keeping the ownership of the buses with the parastatals or the Urban Local Bodies (ULBs). Clause 2.1.(ii) of

the said guidelines provides that in order to ensure that the buses procured under JnNURM are utilized exclusively for urban transport, the

States/UTs/ULBs/parastatals shall setup a city specific wholly owned SPV/umbrella public body for controlling and managing the city bus

service/BRTS. The said clause of the guideline is reproduced below:

2.1(ii) - The financing for buses under JnNURM is exclusively for urban transport i.e. city bus service and/or BRTS for the city/urban area for

which buses are procured. In order to ensure that the buses procured under JnNURM are utilized exclusively for urban transport , the

States/UTs/ULBs/parastatals shall setup a city specific wholly owned SPV/umbrella public body for controlling and managing the city bus

service/BRTS.

20. Clause 3.0 of the said guideline contains measures to be adopted in respect of the reforms in urban transport. Clause 3.1 provides that the

additional central assistance would be tied to the reforms contained therein in the field of urban transport as part of structural reforms under

JnNURM. In the State Level, amongst other, it requires setting up of a city level Unified Metropolitan Transport Authority (UMTA) duly backed

by a legislation, to facilitate coordinated planning and implementation of projects relating to urban transport and their integrated management. In the

city level the required reforms are - (i) setting up of a Dedicated Urban Transport Fund, (ii) formulation of an advertisement policy which taps

advertisement revenue on public transport, intermediate public transport and public utilities for public purposes subject to relevant legislations, (iii)

formulation of parking policy wherein parking fee should represents the true value of the land occupied, which is used to make public transport

more attractive; banning of parking on arterial/ring roads, multi-level parking centres in City Centres with park-and-ride facility etc., (iv) organizing

a well organized and efficient city bus system by using ITS through city-specific SPV for bus services, preferably on PPP, under well structured

contracts where the umbrella institution of the government professionally does the role of planning, coordination, contracting, monitoring,

supervision as well as management of common infrastructure and services etc., (v) multimodal integration, including suburban railways (by involving

MoR) to provide network-connectivity in the region and single ticketing to provide seamless travel and (vi) setting up of a Traffic Information

Management Control Centre for effective monitoring and enforcement of traffic as well as data-generation and data-collection for future planning.

21. Clause 4.0 requires appraisal of the DPRs by the Urban Transport Division in the Ministry of Urban Development, Govt. of India and placing

of the proposal for additional central assistance for consideration and approval by CSMC under the Chairmanship of the Secretary, Urban

Development, Govt. of India.

22. Pursuant to such decision of the Govt. of India for grant of additional central assistance for procurement of the buses under JnNURM, the

Govt. of Assam initially on 18.02.2009 submitted the proposal for purchase of 100 buses and construction of bus depots and 3(three) terminals

which was ultimately placed before the CSMC. The decision making body, namely, CSMC in its meeting dated 20.02.2009 sanctioned the

financial assistance for procurement of 50 buses. Thereafter the Principal Secretary to the Govt. of Assam in Transport Department submitted

another proposal vide its communication dated 23.02.2009 to the Govt. of India in Urban Development Department indicating therein that since

the ASTC, which is a body created under the Road Transport Corporation Act, 1970, has been running the city bus services in Guwahati for more

than 30 years, it would be able to create a separate business unit (SBU) for availing assistance under JnNURM. A communication, therefore, was

given by the Govt. of Assam to the Govt. of India in the Ministry of Urban Development for running and managing the buses for city bus service

under urban transport system in the Guwahati city through the ASTC by constituting SBU instead of formation of the SPV. The Chief Secretary to

the Govt. of Assam also on 26.02.2009 issued a D.O. letter to the Secretary to the Govt. of India in the Ministry of Urban Development relating

to the submission of the proposal for sanction of an amount of Rs. 68 crores for buying 250 Nos. of buses for improving the transportation system

in Guwahati through the ASTC. The Chief Minister of Assam in his D.O. letter dated 02.03.2009 requested the Minister of Urban Development,

Govt. of India to favourably consider the DPR for purchase of the additional 250 Nos. of buses to be managed through the ASTC. It, however,

appears from the D.O. letter dated 06.03.2009 issued by the Govt. of India in the Ministry of Urban Development to the Chief Secretary to the

Govt. of Assam that the Chief Secretary was requested to review the proposal submitted for sanction of the aforesaid amount of Rs. 68 crores for

purchase of 250 Nos. of buses to improve the transportation system in Guwahati city through ASTC and intimating that the demand for additional

buses would be considered only after receiving clarity from the State Government through SLSC regarding implementation of the city bus services

in the Guwahati, as the submission of such proposal through SLSC is a mandatory requirement for sanction of the project under JnNURM.

23. It is, however, not known, whether after issuance of the aforesaid D.O. letter dated 06.03.2009 by the Secretary to the Govt. of India in the

Ministry of Urban Development to the Chief Secretary to the Govt. of Assam, what was exactly the proposal resubmitted to the Govt. of India

through SLSC, as nothing has been placed on record by the respondent Nos. 1 and 2. However, since CSMC, which is the competent body to

consider the proposal on behalf of the Government of India, in its meeting held on 24.04.2009 sanctioned the additional fund for procurement of

150 buses, it can safely be presumed that such proposal through SLSC/SLNA was submitted by the Govt. of Assam after reviewing and clarifying

the issues raised in the aforesaid D.O. letter dated 06.03.2009. Under the guidelines issued by the Govt. of India, the DPR being required to be

submitted by the State Government or SLNA, it is not material even if the proposal was initiated by a particular agency or department.

24. The CSMC in its 72nd meeting held on 24.04.2009 approved sanctioning of fund for procurement of 150 Nos. of additional buses of different

categories for the Guwahati city subject to condition that (i) the bus operation may be (emphasis added) through Public Private Partnership mode

with one private operator running cluster of minimum of 25 buses, (ii) to put all Government advertisement.