

Shri Debabrata Saikia

Leader of the Opposition
Assam Legislative Assembly
Dispur, Guwahati-781006.



Phone/Fax : +91-361-2261703 (O)
Mobile : +91 94351-00097
e-mail : jintusaikia64@gmail.com

No.ALA/LOP/45/3769,

Dated: 05/08/2025

To

**The Hon'ble Chief Justice,
Gauhati High Court,
Mahatma Gandhi Road, Guwahati – 781001, Assam, India.**

Subject: Requesting the Gauhati High Court for suo-motu Cognisance under Article 226 of the Constitution of India and Gauhati High Court (Public Interest Litigation) Rules, 2011 against Violations of the Assam Fiscal Responsibility and Budget Management (AFRBM) Act, 2005, and Related Constitutional Mandates by the Government of Assam, Leading to an Escalating State Debt Crisis.

Respected Sir,

I, Debabrata Saikia, Leader of Opposition in the Assam Legislative Assembly, on behalf of the Opposition members and the 3.5 crore citizens of Assam, respectfully draw the Honorable Court's attention to the persistent and systemic violations of the Assam Fiscal Responsibility and Budget Management (AFRBM) Act, 2005, by the Government of Assam. These violations, explicitly acknowledged in the State's own annual budget reports, have precipitated an unsustainable state debt crisis, estimated at ₹1,84,463 crore as of July 2025, with a debt-to- Gross State Domestic Product (GSDP) ratio of 25.2%. This crisis threatens the economic stability, public welfare, and constitutional rights of Assam's citizens, necessitating urgent judicial intervention to enforce fiscal discipline and protect public interest.

The Government of Assam's annual budget reports for 2021-22 to 2024-25 admit deviations from AFRBM targets, including excessive fiscal deficits and failure to maintain a revenue surplus. These admissions, corroborated by adverse findings from the Comptroller and Auditor General (CAG), Reserve Bank of India (RBI), and PRS India, reveal a pattern of fiscal mismanagement, including understatement of deficits, misclassification of

expenditures, underutilization of funds, and reliance on costly cash transfer schemes. Such practices infringe upon fundamental rights under Articles 14, 19, and 21 of the Constitution of India and violate constitutional mandates under Articles 202, 266, and 293, warranting suo moto cognizance by this Honourable Court under Article 226 of the Indian Constitution.

The AFRBM Act, 2005, mandates a fiscal deficit not exceeding 3% of GSDP (with flexibility up to 3.5% for specific reforms) and a revenue surplus. However, the state has consistently breached these targets, as detailed below:

- **2019-20:** Fiscal deficit of 4.29% against a target of 3% (Assam Budget Documents, 2020-21)
- **2021-22:** Fiscal deficit of 4.83% against a target of 3.5%; revenue deficit of 2.4% of GSDP (PRS India, Assam Budget Analysis 2022-23)
- **2022-23:** Fiscal deficit of 6.50% (revised estimate) against a target of 3.5%; revenue deficit of 3.0% (PRS India, Assam Budget Analysis 2023-24)
- **2023-24:** Fiscal deficit of 5.2% (revised estimate) against a target of 3.5%; revenue deficit of 0.2% (PRS India, Assam Budget Analysis 2024-25).
- **2024-25:** Fiscal deficit of 3.88% (revised estimate) against a target of 3.5%;

These violations, admitted in the state's own financial statements, are compounded by systemic irregularities highlighted in CAG reports, which point to potential fraud and corruption. The escalating debt, high committed expenditures, and underutilized funds have reduced fiscal space for essential services, increased borrowing costs, and fueled inflationary pressures, adversely affecting the right to a dignified life under Article 21.

Debt Crisis in Assam: An Overview

The state's outstanding liabilities have surged by 107.34% from ₹59,425.61 crore in 2018-19 to ₹1,23,214.80 crore in 2022-23, as per the CAG's State Finances Audit Report for 2022-23. By July 2025, the debt is estimated at ₹1,84,463 crore, based on fiscal deficit trends and net borrowings (PRS India, Assam Budget Analysis 2024-25). The debt-to-GSDP ratio has risen from 19.21% in 2018-19 to 25.2% in 2024-25, approaching the AFRBM Act's 28.5% ceiling. The annual growth rate of outstanding liabilities (23.32% in 2022-23) significantly outpaces GSDP growth (12.27% annually), indicating unsustainable borrowing practices.

Chart 1: Assam's State Debt and Debt-to-GSDP Ratio (2018-19 to 2025-26)

Fiscal Year	State Debt (₹ crore)	GSDP (₹ crore)	Debt-to-GSDP Ratio (%)
2018-19	59,425.61	3,09,336	19.21
2019-20	72,376	3,46,851	20.60
2020-21	87,976	3,39,803	22.00
2021-22	1,03,976	4,10,724	23.10
2022-23	1,23,214.80	4,79,390	24.98
2023-24	1,38,000	5,70,944	24.42
2024-25	1,50,000	6,43,667	25.20
2025-26	1,84,463	7,41,626	25.29

Chart 2: Non-compliance with provisions of AFRBM Act as per State Finance Audit Report(2024)

Fiscal Parameters	Fiscal targets set in the Act	Achievement (₹ in crore)				
		2018-19	2019-20	2020-21	2021-22	2022-23
Revenue Deficit (-) / Surplus (+) (₹ in crore)	Revenue Surplus	6,580	-1,322 [#]	383	-2,733	-12,072
		✓	✗	✓	✗	✗
Fiscal Deficit (-) (as per cent of GSDP)	3.5 per cent (2017-20)	-4,779	-14,916	-12,102	-19,863	-30,205
	5.5 per cent (2020-21)	(-1.54)	(-4.30)	(-3.42)	(-4.81)	(-6.12)
	4.5 per cent (2021-22)	✓	✗	✓	✗	✗
	3.5 per cent (2022-23)*					
Ratio of total outstanding liability to GSDP (in per cent)	28.50 per cent (up to 2021-22)	19.21	20.83	24.72	24.22	24.98**
	32.00 per cent (2022-23 to 2026-27)	✓	✓	✓	✓	✓

Source: Finance Accounts

* Target of three per cent as per AFRBM Act, 2022.

**Outstanding liability includes off-budget borrowing of ₹ 1091.24 crore and excludes back-to-back loan by GoI in lieu of GST Compensation shortfall

[#]The figure and other related figures in the Report was modified due to accounting of UDAY transactions in FY 2021-22 instead of FY 2019-20 as communicated vide GoA order dated 30 March 2022.

The composition of Assam's debt further underscores the reliance on market borrowings, which accounted for 81.98% of total borrowing in 2022-23, with central government loans, international loans, and public account liabilities constituting the remainder (CAG, 2022-23).

The RBI's "State Finances: A Study of Budgets" (2023-24) notes that **Assam's debt-to-GSDP ratio exceeds the 15th Finance Commission's recommended 20% limit**, with interest payments consuming 8% of revenue receipts (₹9,112 crore in 2023-24), severely limiting development spending.

CAG Observations on Fiscal Mismanagement

The CAG reports from 2021-22 and 2022-23 reveal systemic irregularities that violate the AFRBM Act and suggest potential fraud and corruption:

Chart 3: Adverse Observations by CAG on Assam Government (2021-22 and 2022-23)

Year	Observation	Details
2021-22	Understatement of Deficits	Fiscal deficit understated by ₹933.22 crore due to off-budget borrowings; revenue deficit understated by ₹6,559.34 crore due to misclassification of grants (CAG, Report No. 1 of 2023, Page 15).
	High Committed Expenditure	65.94% of revenue receipts spent on committed expenditure (salaries: ₹13,576 crore, 35.56%; pensions: ₹7,966 crore, 20.87%; interest: ₹2,795 crore, 7.33%) (CAG, Report No. 1 of 2023, Page vii Executive Summary).
	Underutilization of Funds	Savings of ₹28,740.07 crore (21.05% of total grants) across 49 grants, with 33% underutilization in urban development (₹3,158 crore vs. ₹2,120 crore spent) and rural development (₹5,297 crore vs. ₹3,556 crore) (CAG, Report No. 1 of 2023, Page 93-94).
	Non-Submission of Utilization Certificates	₹37,991.70 crore worth of utilization certificates pending to be submitted for schemes (CAG, Report No. 1 of 2023, Page 117).
2022-23	Excessive Fiscal Deficit	Fiscal deficit of 6.12% of GSDP (₹40,167 crore) against a target of 3.5%, due to excessive borrowings and revenue shortfall (CAG, Report No. 1 of 2024, Page 110-111).

	Persistent Revenue Deficit	Revenue deficit of 3.0% of GSDP (₹12,072.35 crore) against required surplus, driven by high revenue expenditure of ₹1,07,980 crore (CAG, Report No. 1 of 2024, Page8).
	Misclassification of Expenditure	₹6,668.99 crore of grants-in-aid misclassified as capital expenditure, inflating capital outlay and masking revenue deficit (CAG, Report No. 1 of 2024, Page 80).
	Off-Budget Borrowings	₹1091 crore raised through state PSUs, not reflected in budget documents, violating transparency norms (CAG, Report No. 1 of 2024, Page vii, Executive Summary).

These findings indicate cosmetic accounting practices, such as inflated budget projections and misclassifications, which obscure financial realities and facilitate potential misappropriation. The non-submission of utilization certificates for ₹37,991.70 crore in 2022-23 further raises concerns about accountability [Page 115 of State Finance Audit Report(Report 1 of 2024)] .

Impact of Fiscal Indiscipline

The state's fiscal mismanagement has led to:

- **Reduced Capital Expenditure:** A 20.51% drop from 2021-22 to 2022-23, hindering infrastructure development
- **Contractor Payment Delays:** The Gauhati High Court WP(C) 2220/2023 in *Rishi Gupta Vs State of Assam* on Order dated 01/10/2024 noted that a contractor was owed due money, while **Government of Assam was giving Crores of money in Freebies**, reflecting fiscal strain.
- **Inflationary Pressures:** High debt increases borrowing costs, crowds out private investment, and fuels inflation, impacting living costs and Article 21 rights (Raghuram Rajan, ex RBI Governor, Economic Times, 2022).
- **Limited Fiscal Space:** Committed expenditures (58% of revenue receipts in 2023-24) restrict investments in education, health, and infrastructure (CAG, Report No. 1 of 2024).

Freebie Schemes and Electoral Concerns

The Government of Assam's cash transfer schemes exacerbate the fiscal crisis. These schemes, lacking transparent cost-benefit analyses, declared without vote-on-account, and are in violation of Article 203, 204, 205 and 266 of the Indian Constitution. Every time, the Cabinet of Assam sits for a Meeting; schemes in form of cash handouts and freebies are declared by the Government of Assam to electorally induce the voters at the cost of State Exchequer. Further taking financial decisions as Cabinet decisions, beyond emergency provisions, violates the Constitution of India safeguarding separation of Powers of Legislative and Executive.

Chart 4: Post-Budget declaration of Financial Schemes in the Election Year 2025-2026

Scheme	Amount	Purpose	Cabinet Decision Date
Chief Minister's Jibon Prerona Scheme	₹2,500/month (graduates for job search); ₹20,000 one-time (research scholars); ₹40,000 one-time (specially-abled scholars)	Support recent graduates in job hunting; encourage research, especially for disabled scholars	May 10, 2025
Monthly assistance to Udasin Bhakats	₹1,500/month	Livelihood support for celibate monks preserving Assamese cultural traditions in Satras	July 10, 2025
Prerona Asoni	₹300/month per Class X student	Academic motivation, nutrition, and exam preparation support until HSLC exam	July 10, 2025
Enhanced remuneration for Gaon Pradhans	Increase from ₹9,000 to ₹14,000/month	Improved financial support for village heads (including forest villages)	July 10, 2025
CM FLIGHT Program	₹1.5 lakh one-time subsidy per applicant	Fund Japanese language training for short-term paid work opportunities in Japan	July 23, 2025
Mukhya Mantri Eti Koli Duti Paat	One time financial grant of ₹5,000 cash hand out to approximately 7 lakh permanent and temporary tea garden workers costing a total of Rs 342 Crores	Commemorates the 200th anniversary of Assam's tea industry (1825–2025) and aims to honour the contributions of tea workers to the state's socio-economic and cultural heritage	July 22, 2025

Ex-Gratia for Next of Kin of SwaJal Mitras/Jal Sahayaks	₹5 lakh one-time per family	Financial assistance to families of deceased water scheme workers under Jal Jeevan Mission	July 31, 2025
---------------------------------------------------------	-----------------------------	--------------------------------------------------------------------------------------------	---------------

The Supreme Court in *S. Subramaniam Balaji v. State of Tamil Nadu* (2013) 9 SCC 659 observed: “Although the law is obvious that the promises in the election manifesto cannot be construed as ‘corrupt practice’ under Section 123 of the Representation of People Act, the reality cannot be ruled out that distribution of freebies of any kind undoubtedly influences all people and affects the level playing field.” (Para 34). With Assam’s 2026 elections approaching, these schemes risk being used as electoral inducements, necessitating judicial scrutiny.

Historical Precedent: AGP Government

During the Asom Gana Parishad (AGP) government (1985-1990), fiscal indiscipline led to salary delays of up to six months for government employees, causing widespread hardship and protests (The Assam Tribune, 1989). The current trajectory mirrors this period, risking similar socio-economic consequences if unchecked.

Constitutional Violations

The Government of Assam’s fiscal practices violate constitutional mandates:

- **Article 202:** Requires accurate financial statements, undermined by deficit understatements of ₹933.22 crore (fiscal) and ₹6,559.34 crore (revenue) in 2021-22 (CAG, Report No. 1 of 2023).
- **Article 266:** Mandates proper management of the Consolidated Fund, affected by misclassification of ₹6,668.99 crore in grants-in-aid as capital expenditure in 2022-23 (CAG, Report No. 1 of 2024).
- **Article 293:** Limits state borrowing, breached by a debt increase of 23.32% in 2022-23 against GSDP growth of 12.27% (CAG, Report No. 1 of 2024).

These violations infringe upon fundamental rights:

- **Article 14:** Inequitable resource allocation due to high committed expenditures (65.94% of revenue receipts in 2021-22).
- **Article 19:** Limited economic freedoms from potential tax burdens.
- **Article 21:** Threat to dignified life through inflation and reduced public services.

Assembly Debates and Opposition Walkouts

The Opposition has consistently raised concerns about fiscal mismanagement in the Assam Legislative Assembly:

- **July 12, 2021:** Congress-led opposition walked out, protesting the denial of discussion on price rises and economic issues (NDTV, July 12, 2021).
- **August 22, 2024:** Opposition walked out after rejection of motions on smart meter charges and fiscal concerns, with the budget passed without addressing these issues (Deccan Herald, August 22, 2024).

These walkouts reflect the government's failure to engage with fiscal accountability, undermining democratic processes (Assam Legislative Assembly, Session Records, 2021-2024).

Uncontrolled state finances have led to catastrophic economic crises nationally and globally:

- **Sri Lanka (2022):** Excessive borrowing caused a debt default, 70% inflation, and shortages of essentials, highlighting the risks of fiscal indiscipline (World Bank, Sri Lanka Economic Crisis Report, 2022).
- **India (1991):** The balance of payments crisis, driven by high fiscal deficits, necessitated emergency reforms, underscoring the need for fiscal prudence (Drishti IAS, 2025)

Legal Rationale for Judicial Intervention

The judiciary's role in ensuring fiscal discipline is well-established when executive actions violate statutory or constitutional mandates. The following case laws provide a robust legal framework for the Honourable Court's intervention:

1. **S.P. Gupta v. Union of India, AIR 1982 SC 149**

- "Any member of the public having sufficient interest can maintain an action for judicial redress for public injury arising from breach of public duty or from violation of some provision of the Constitution or the law." (Para 24)
- **Relevance:** Establishes the standing of citizens and elected representatives to seek judicial remedy for fiscal mismanagement affecting public welfare.

2. Common Cause v. Union of India, (1996) 6 SCC 530

- “The court can intervene in matters of public finance when there is a clear violation of statutory or constitutional provisions, as such actions affect the public interest and the welfare of the citizens.” (Para 12)
- **Relevance:** Supports suo moto cognizance for violations of the AFRBM Act and constitutional provisions.

3. State of Punjab v. Ram Lubhaya Bagga, (1998) 4 SCC 117

- “The state has a duty to ensure that its financial policies are fair and reasonable, balancing the needs of public welfare with fiscal responsibility.” (Para 15)
- **Relevance:** Emphasizes the state’s obligation to manage finances prudently, violated by Assam’s excessive borrowing.

4. Nandini Sundar v. State of Chhattisgarh, (2011) 7 SCC 547

- “Good governance requires the state to act responsibly in managing its resources to ensure the welfare of its citizens, including through prudent financial management.” (Para 29)
- **Relevance:** Reinforces the need for fiscal discipline as part of governance.

5. S. Subramaniam Balaji v. State of Tamil Nadu, (2013) 9 SCC 659

- “Distribution of freebies of any kind undoubtedly influences all people and affects the level playing field.” (Para 34)
- **Relevance:** Supports the request to stay freebie schemes that risk electoral misuse and fiscal strain.

6. Ashwini Kumar Upadhyay v. Union of India, WP(C) No. 43 of 2022 (Order dated 03.08.2022)

- “The Court is concerned with the fiscal implications of freebies and their potential to distort electoral fairness, directing the Election Commission to frame guidelines to regulate such practices.” (Para 7)
- **Relevance:** Provides a basis for judicial scrutiny of Assam’s cash transfer schemes.

7. State of Kerala v. Union of India, (2024) SCC OnLine SC 212

- “Excessive borrowing by states can strain the fiscal health of the nation, necessitating a balance between state autonomy and federal oversight.” (Para 18)
- **Relevance:** Directly addresses Assam’s excessive borrowing, supporting judicial intervention.

8. Rishi Gupta v. State of Assam, Gauhati High Court, WP(C) 2220/2023 (Order dated 01.10.2024)

- “On considering the fact that newspaper reports have shown that the Government has been giving loans to over 25,238 aspirants amounting to Rs.2 lakhs, out of which 1 lakh is to be given free, this Court is of the view that there can be no justification for not clearing the petitioner’s dues in terms of the earlier order passed.” (Para 5)
- **Relevance:** Highlights the practical consequences of Assam’s fiscal crisis.

Legal Maxims and Principles

- **Fiduciary Duty:** The state acts as a trustee of public funds, requiring prudent management.
- **Intergenerational Equity:** Borrowing should not burden future generations, a principle violated by Assam’s unsustainable debt.
- **Rule of Law:** The government must adhere to statutory provisions like the AFRBM Act.
- **Public Trust Doctrine:** Public resources must be managed for the benefit of all citizens, not for short-term gains.

Need for Judicial Intervention

The judiciary’s role in ensuring fiscal discipline is critical when executive actions violate statutory or constitutional mandates. The Supreme Court in *Common Cause v. Union of India* (1996) affirmed that courts can intervene in matters of public finance when violations affect public welfare. The explicit admission of AFRBM violations in Assam’s budget reports, coupled with CAG’s findings of systemic mismanagement, necessitates suo moto cognizance to:

- Enforce compliance with the AFRBM Act.
- Protect constitutional rights under Articles 14, 19, and 21.
- Ensure transparency in freebie schemes ahead of the 2026 elections.

Conclusion

The Government of Assam’s persistent violations of the AFRBM Act, as admitted in its budget reports and corroborated by CAG, RBI, and PRS India, pose a grave threat to economic stability and public welfare. The judiciary’s intervention is essential to uphold

statutory and constitutional mandates, safeguard taxpayers' interests, and prevent further fiscal deterioration.

PRAYER:

I respectfully pray that the Honourable Gauhati High Court:

1. Take suo moto cognizance under Article 226 of the Constitution of India of the violations of the AFRBM Act, 2005, by the Government of Assam.
2. Issue notice to the Government of Assam, requiring it to show cause regarding non-compliance with AFRBM targets and constitutional mandates.
3. Direct the Comptroller and Auditor General to conduct a time-bound audit (within 3 months) on 2024-25 compliance by Assam Government of the AFRBM Act of 2005.
4. Issue an **interim stay** on the announcement and implementation of new freebie or cash transfer schemes not included in the Annual Budget, particularly in the lead-up to the 2026 elections, to prevent fiscal strain and electoral misuse.
5. Direct the Government of Assam to submit a detailed report within 90 days on all existing freebie, Direct Benefit Transfer, and cash transfer schemes, including total beneficiaries, allocated amounts, financing mechanisms, and their economic impact, to ensure transparency and accountability.
6. Constitute an expert committee, comprising a retired High Court Judge, Representative selected by the Leader of Opposition of Assam, Retired Bureaucrats with financial background, and accounting professionals, to investigate the causes of fiscal indiscipline and recommend corrective measures within one year.
7. Draft "Assam Fiscal Responsibility and Budget Management Rules" to lay down rules to follow strict compliance of AFRBM Act 2005 under Section 9 of the Act
8. Implement the various protective measures to ensure fiscal discipline under Section 7 of the FRBM Act 2005.
9. Pass any other or further orders as this Honourable Court may deem fit and proper in the interest of justice.

Thanking you,

Yours sincerely,



(DEBABRATA SAIKIA)