

GAHC040000332023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : IA(C) 6/2023

1:Karikho Kri
S/o Late Sotri Kri,
R/o Kri Niwas, Telluliang, PO/PS Tezu, District Lohit (Arunachal Pradesh), 792001

VERSUS

1:Nuney Tayang
S/o Late Posu Tayang,
R/o Shivaji Nagar Road, PO and PS Tezu, District Lohit (Arunachal Pradesh) 792001

Advocate for the Petitioner : Adam Tatak

Advocate for the Respondent : Ninnong Ratan

Linked Case : Election Pet. 1/2019

1:SHRI NUNEEY TAYANG
AGED ABOUT 38 YRS. S/O LT. POSU TAYANG
R/O HOUSE NO. E-265
SHIVAJI NAGAR ROAD
TEZU
PO TEZU
PS TEZU
DISTRICT LOHIT
AP. PIN 792001. PHONE NO. 9436049011

VERSUS

1:SHRI KARIKHO KRI AND ANR.
S/O LT. SOTRI KRI
R/O KRI NIWAS
VILLAGE TELLUIANG
PO/PS TEZU
DISTRICT LOHIT
AP. PIN-792001.

2:DR. MOHESH CHAI
S/O LT. TANKAKSO CHAI
R/O T. CHAI RESIDENCE
CHAI COLONY
TEZU
PO/PS TEZU
DISTRICT LOHIT
AP. PIN -792001

Advocate for the Petitioner : D Nag
Advocate for the Respondent : T T Tara

BEFORE
HONBLE MR. JUSTICE NANI TAGIA

ORDER

Date : 19-01-2023

Heard Mr. K. Tama, learned counsel for the applicant and Mr. D. Mozumdar, learned Senior counsel assisted by Mr. S. K. Deori, learned counsel for the opposite party.

This interlocutory application has been filed seeking modification of the order dated 05.01.2023, passed by this Court in Election Petition no. 01/2019, whereby, for the reasons recorded in the order dated 05.01.2023, the election petition was directed to be listed on 16.01.2023, for production of 8 (eight) official Defence Witnesses, namely, DWs. 8, 11, 14, 16, 17, 18, 26 and 29, for their examination-in-chief as well as cross-examination and

for filing evidences-in-chief on affidavits of the 18 DWs, namely, DW nos. 1, 1A, 9, 10, 23, 24, 25, 27, 28, 30, 31, 32, 33, 34, 34(A), 35, 36 & 37.

In the proceeding held on 16.01.2023, in the election petition, following order was passed:

“...Heard Mr. N. Ratan and Mr. S. K. Deori, learned counsels appearing for the petitioner. Also heard Mr. Aniruddha Chatterjee, Mr. Aritra Basu and Ms. Pallavi Gogoi, learned counsels appearing for the respondent, returned candidate.

Pursuant to order dated 05.01.2023, evidences-in-chief on affidavits, in respect of 18 DWs, namely, DW nos. 1, 1A, 9, 10, 23, 24, 25, 27, 28, 30, 31, 32, 33, 34, 34(A), 35, 36 & 37 have been filed.

The learned counsels for the respondent/returned candidate has also produced the official DWs, namely, DWs. 8, 18, 26 and 29, who have been examined-in-chief and also cross-examined.

Accordingly, further appearance of the DWs 8, 18, 26 and 29, are hereby dispensed with.

As the respondent/returned candidate was supposed to produce all the official witnesses today for examination and cross-examination, in terms of the order dated 05.01.2023, which order was passed by this Court after having taken note of the order dated 02.01.2023, passed by the Hon'ble Supreme Court in SLP(C) No. 23316-23317/2022, in which order it was provided that no further time shall be extended for production of the defence witnesses and the extension of the time shall be up till 16.01.2023, the production of official defence witnesses by the respondent/returned candidate is treated to have been complete.

Out of 18 non-official DWs whose evidences-in-chief have been filed on affidavits, learned counsel for the petitioner has proposed to cross-examine only 4 (four) of such DWs, who are the DWs 1, 1A, 9 & 10, for which, the learned counsel for the petitioner has prayed for production of these witnesses on 19.01.2023.

As prayed for by the learned counsel for the petitioner and also having regard to the order passed by the Hon'ble Supreme Court on 02.01.2023, in SLP(C) No. 23316-23317/2022 whereby, the Hon'ble Supreme Court had extended time till 16.01.2023 to enable the returned

candidate to produce all the witnesses or file the evidences-in-chief by affidavits before this Court, let this matter be listed on 19.01.2023, for cross-examination of the DWs. 1, 1A, 9 & 10.

In view of the above, this interlocutory application seeking modification of the order dated 05.01.2023, passed in the election petition no. 01/2019, has become infructuous.

Accordingly, this interlocutory application stands dismissed as infructuous.

JUDGE

Comparing Assistant