

GAHC040003212022



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

Case No. : WP(C)/115/2022

Nyapi Naso
D/o Jomnya Naso,
Permanent Resident of Village Eyi, PO/PS Aalo, West Siang District, Arunachal Pradesh

VERSUS

THE STATE OF AP and 3 Ors.
Represented by the Chief Secretary, Govt. of Arunachal Pradesh, Itanagar

2:The Extra Assistant Commissioner, Itanagar Capital Complex, Itanagar,
District Papum Pare, AP.
Age: 0 Occupation :

3:Kenkar Yomcha Resident of A Sector, Itanagar PO/PS Itanagar, Papum Pare
District, AP
Age: 0 Occupation :

4:Moji Loyi Resident of Pakam village, PO/PS Aalo, District West Siang, AP.
Age: 0 Occupation

Advocate for the Petitioner : T T Tara
Jungam Jini

Advocate for the Respondent : GA (AP)

**BEFORE
HONBLE MR. JUSTICE NANI TAGIA**

ORDER

Date : 03.08.2023

Heard Mr. Jumgam Jini, learned counsel for the petitioner. Also heard Mr. Ito Riram, learned Addl. Senior Government Advocate, appearing on behalf of respondents No. 1 & 2.

However, none has appeared on behalf of respondent No. 3 despite service of notice as indicated in the Office Note, dated 26.04.2023, as well as this Court's order, dated 29.06.2023.

This writ petition is directed against the order, dated 18.02.2022, issued by the Extra Assistant Commissioner(EAC)-cum-Executive Magistrate, Itanagar Capital Complex, Itanagar, vide Memo. No. EAC/ITA/JUD/LOC-MEL-4/2021/195, as well as the order, dated 10.03.2022, issued by the Extra Assistant Commissioner(EAC)-CUM-Executive Magistrate, Itanagar Capital Complex, Itanagar, vide Memo. No. EAC/ITA/JUD/LOC-MEL-4/2021/207, whereby, a local Mel/Kebang has been constituted by the Extra Assistant Commissioner(EAC)-cum-Executive Magistrate, Itanagar Capital Complex, Itanagar, comprising of the members mentioned in the impugned order, to decide the marriage dispute between the petitioner and the respondent No. 3, herein.

The aforesaid impugned orders have been purportedly issued by the Extra Assistant Commissioner(EAC)-cum-Executive Magistrate, Itanagar Capital Complex, Itanagar, in exercise of powers conferred under the Administration of Justice Regulation Act, 1954, of Arunachal Pradesh Volume-I.

Though the counter affidavit by the respondent No. 2, namely, the Extra Assistant Commissioner(EAC), Itanagar Capital Complex, Itanagar, has been filed, contesting the case; Mr. Jini, learned counsel for the petitioner, as well as Mr. Riram, learned Addl. Senior Government Advocate, submit that the Administration of Justice Regulation Act, 1954, of Arunachal Pradesh Volume-I, mentioned by the Extra Assistant Commissioner(EAC)-cum-Executive Magistrate, Itanagar Capital Complex, Itanagar, in the impugned orders, referred to above, is not correct.

There is no Administration of Justice Regulation Act, 1954, of Arunachal Pradesh Volume-I, but, there is the Regulation viz. Assam Frontier(Administration of Justice) Regulation, 1945, as well as the Arunachal Pradesh Civil Court Act, 2021.

Mr. Jini, learned counsel for the petitioner, and Mr. Riram, learned Addl. Senior Government Advocate, therefore, submit that the power to constitute such forum for resolution of a dispute between the parties by the Extra Assistant Commissioner(EAC)-cum-Executive Magistrate has neither been conferred under the Assam Frontier(Administration of Justice) Regulation, 1945, nor, in the Arunachal Pradesh Civil Court Act, 2021.

In view of the above; both the orders, impugned herein, i.e. (1). 18.02.2022, issued by the Extra Assistant Commissioner(EAC)-cum-Executive Magistrate, Itanagar Capital Complex, Itanagar, vide Memo. No. EAC/ITA/JUD/LOC-MEL-4/2021/195, and (2). order, dated 10.03.2022, issued by the Extra Assistant Commissioner(EAC)-CUM-Executive Magistrate, Itanagar Capital Complex, Itanagar, vide Memo. No. EAC/ITA/JUD/LOC-MEL-4/2021/207, shall stand set aside and quashed for want of jurisdiction of the respondent No. 2, namely, the Extra Assistant Commissioner(EAC),

Itanagar Capital Complex, Itanagar, to constitute a local Mel/Kebang for resolution of a dispute between the parties.

The writ petition stands disposed of in terms above.

JUDGE

Comparing Assistant