

GAHC040005782020



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

**Case No. : WP(C)/217/2020**

Karyom Noshi and Anr.  
S/O LT. LOMKAR NOSHI, PERMANENT RESIDENT OF VILLAGE KAMBU,  
PO/PS KAMBA, WEST SIANG DISTRICT, AP. 2: HONGLI NOSHI  
Age:  
Occupation

VERSUS

THE STATE OF AP AND 2 ORS.  
REPRESENTED BY THE SECRETARY, GENERAL ADMINISTRATION, GOVT.  
OF AP, ITANAGAR. 2: THE DEPUTY COMMISSIONER CUM-DISCIPLINARY  
AUTHORITY  
Age: 0  
Occupation :

3: HENKIR LOLLEN  
Age: 0  
Occupation

**Advocate for the Petitioner : Rintu Saikia**

**Advocate for the Respondent : GA (AP)**

**BEFORE  
HONBLE MR. JUSTICE NANI TAGIA**

**ORDER**

**Date : 14-07-2023**

1. Heard Mr. B. Taipodia, learned counsel for the petitioners. Also heard Ms. P. Pangu, learned Junior Government Advocate for the State respondents.
2. None appears for the respondent no. 3 though a counter-affidavit on behalf of the respondent no. 3 has been filed through Mr. I. Riram, learned Additional Senior Government Advocate.
3. Mr. Taipodia, learned counsel for the petitioners has prayed for 2 (two) weeks time to file rejoinder-affidavit to the counter-affidavit filed by the respondents.
4. However, on perusal of the Office notes, it appears that the learned counsel appearing for the petitioners had taken time on as many as 6 (six) occasions to file re-joinder affidavit to the counter-affidavit filed by the respondents.
5. This writ petition is directed against the order dated 15.07.2020, issued by the Deputy Commissioner, West Siang District, Aalo, vide No. WS/ADM-48/1996-2020/, whereby, the petitioners who are the Gaon Buras of Kambu village under Kamba circle have been dismissed from the post of Gaon Bura on the ground *inter-alia* that both the petitioners as Gaon Buras are not discharging their duties as village authority by ignoring and disobeying the orders and directions of the village Head Gaon Bura, Kambu Lune Bane authorities and the local Administrative officers.

6. Assailing the impugned order dated 15.07.2020, issued by the Deputy Commissioner, Aalo, whereby, the petitioners have been dismissed from the position of Gaon Buras, the petitioners have stated in paragraph-17 of the writ petition that the impugned dismissal order, dated 15.07.2020 has been issued by the Deputy Commissioner, Aalo, without issuing notice to the petitioners and thus, in violation of the principle of natural justice. Accordingly, the petitioners contend that the impugned order of dismissal, dated 15.07.2020, cannot be sustained and the same should be set aside and quashed, on the ground that the same has been issued behind the back of the petitioners without affording a reasonable opportunity to defend themselves and thus, violating the principle of natural justice.

7. The respondent nos. 2 & 3, the Deputy Commissioner-cum-Disciplinary Authority, Aalo, West Siang District and the Extra-Assistant Commissioner (Judicial)-cum-Enquiry Officer, Aalo, West Siang District, have filed their counter-affidavits.

8. In the counter-affidavit filed by the respondent no. 2, the Deputy Commissioner, West Siang District, Aalo, in response to the averments made by the petitioners in paragraph-17 of the writ petition, it has been stated in paragraph-14, as under:

*“...14. That with regards to the statement made in paragraph-17 of the writ petition, the answering respondent as already stated above the HGB (Head Village Authority) and Gaun Burah (Village Authority) falls and govern by the Assam Frontier (District Administration) and regulation Act 1945 which is not a departmental enquiry and the Act does not falls under Central Civil service rule. Further it is pertinent to mention herein that the termination of both the GBs not only made from the complaint from Shri Mormi Ninu but with correspondence from the Addl. Deputy Commissioner, Kamba, report from Circle Officer, Kamba, and Inquiry*

*report submitted by the Inquiry Officer as appointed by me and by going through all the records of complaint and meetings for their dismissal. The termination of both the GBs (Village authority) has not violated the any course of law and principle of Natural Justice."*

9. The respondent no. 3, the Extra-Assistant Commissioner (Judicial)-cum-Enquiry Officer, Aalo, in the counter-affidavit filed, in response to the averments made by the petitioners in paragraph-17 of the writ petition, has stated in paragraph-7 of the counter-affidavit of the respondent no. 3, as under:

*"...7. That with regard to the statement made in paragraph17 of the writ petition, the answering respondent begs to state that stated and submit that whether the HGBs and GBs are appointed by the Deputy Commissioner and the HGBs and GBs does not fall under the ambit of CCS rule. So, presence and appointment of presenting officer is not necessary as suggested by the competent authority. Further, the Deputy Commissioner is the appropriate authority to answer all this issue."*

10. On perusal of the response filed by the respondent nos. 2 & 3 in their counter-affidavits, to the averments made by the petitioners in paragraph-17 of the writ petition that the impugned dismissal order dated 15.07.2020, was issued without issuing notice to the petitioners, have neither been disputed by the respondent nos. 2 & 3 nor the respondent nos. 2 & 3 in their counter-affidavits filed, have indicated that before the impugned dismissal order dated 15.07.2020 was passed by the Deputy Commissioner, West Siang District, Aalo; the petitioners were given opportunity of hearing on the proposed order of dismissal dated 15.07.2020.

11. In view of the above, it is thus an admitted position that the impugned order of dismissal dated 15.07.2020 was passed by the Deputy Commissioner, West Siang District, Aalo, dismissing the petitioners from the postion of Gaon Buras without affording an opportunity to the petitioners to

defend themselves and thus, in violation of the principle of natural justice. Accordingly, the impugned order of dismissal dated 15.07.2020, passed by the Deputy Commissioner, West Siang District, Aalo, cannot be sustained in law.

12. Accordingly, the impugned dismissal order, dated 15.07.2020, issued by the Deputy Commissioner, West Siang District, Aalo, vide No. WS/ADM-48/1996-2020/, whereby, the petitioners have been dismissed from the postion of Gaon Buras, is hereby set aside and quashed, with a liberty granted to the respondent authorities to initiate action against the petitioners, in accordance with Rules by following the principle of natural justice, if the respondent authorities are of the view that the petitioners are liable for any action for the conduct of the petitioners in the capacity of Gaon Buras.

13. The writ petition is allowed to the extent indicated above and disposed of with the above measures.

**JUDGE**

**Comparing Assistant**