

GAHC040006012023



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

Case No. : WP(C) 220/2023

1:Anthony Pertin and 8 Ors.

S/o Late Omak Pertin,

Permanent Resident of Village Mebo, PO/PS Mebo, District East Siang, AP. Presently residing at Qtr. No. 296/T III, E Sector, PO/PS Naharlagun and serving as Assistant in the Department of Directorate of Audit and Pension, Naharlagun, Govt. of AP.

2: Nabam Yamum

D/o Lt. Nabam Dopum

Permanent Resident of Village Thar

PO/PS Sagalee

District Papum Pare

Arunachal Pradesh

Presently residing at Qtr. No. 297/T III

E Sector Naharlagun

and serving as Junior Teacher in the Department of Education
Govt. of AP

3: Techhi Joram Tara

S/o Late Techhi Tama

Permanent Resident of Village Gotopu

PO/PS Sagalee

Papum Pare Distt. (AP) and presently residing at Qtr. 301/T III

E Sector

Naharlagun

and serving as Junior Engineer
in the PWD Department

Govt. of AP

Naharlagun Division.

4: Hage Onya
D/o Late Hage Akha

Presently residing at Qtr. No. 302/T III
E Sector
Naharlagun
and serving as Technical Assistant in the Department of Health and Family Welfare
Govt. of AP. Contact No. 9436058491

5: Toofan Bagang
S/o Hayang Bagang

Permanent Resident of Village N/Bangang
PO/PS Chayangtajo
East Kameng District (AP) and presently residing at Qtr. No. 300/T III
E Sector
Naharlagun and serving as Assistant
under the Directorate of Health Service
Govt. of AP
Naharlagun.

6: Dodum Bagang
S/o Late Mama Bagang

Contact No. 94360558989.
Presently residing at Qtr. No. 298/T III
E Sector
Naharlagun and Serving as Malaria Inspector
in the Office of DMO Naharlagun
Department of Health and Family Welfare
Govt. of AP.

7: Yanang Taggu
W/o Israel Perme

Permanent Resident of Pasighat
PO/PS Pasighat
Presently residing at Qtr. No. 303/T III
serving as TGT
in the Department of Education
Govt. of AP

8: Laya Nabam
S/o Late Nabam Takar

Permanent Resident of Village Yalang
PO/PS Sagalee
Papum Pare District (AP)
and presently residing at Qtr. No. 299/T III
E Sector
Naharlagun
and serving as Surveyor of Works II
in the Department of UD and Housing
Govt. of AP
Contact No. 8787704498

9: Nanu Narah Ngurang
W/o Shri Ngurang Rikang

Permanent Resident of Village Sagalee
PO/PS Sagalee
Papum Pare District (AP)
and presently residing at Qtr. No. 304/T III
E Sector
Naharlagun
and serving as Assistant Teacher in the Department of Education
Govt. of A

VERSUS

1:THE STATE OF AP and 3 Ors.
Represented by the Secretary, District Administration, Govt. of Arunachal Pradesh,
Itanagar.

2:The Director (Housing)
Govt. of AP
Itanagar.

3:The Deputy Commissioner
Itanagar Capital Complex
Govt. of AP

4:The Chief Executive Officer
Itanagar Smart City Development Corporation Ltd

Advocate for the Petitioner : Taba Tagum

Advocate for the Respondent : GA (AP)

**BEFORE
HONBLE MR. JUSTICE S.K.MEDHI**

ORDER

Date : 16.05.2023

Heard Shri T Tagum, learned counsel for the petitioners. Also heard Ms. P Pangu, learned Addl. Senior Government Advocate, AP for the respondent nos. 1 and 3 whereas Ms. M Karbak, learned counsel appears for the respondent no. 2. Respondent no. 4 is represented by Shri R Ingo, learned counsel.

2. Considering the subject matter and also the order passed by this Court yesterday i.e., 15.05.2023, this writ petition is taken up for disposal at the motion stage.

3. The petitioners, who are 9 in numbers, are employees of various Departments under the Government of Arunachal Pradesh. In connection with their services, the petitioners were allotted Government residential quarter, Type-III, located at E-Sector, Naharlagun, by the Director (Housing) of the State vide various orders ranging from the years 2009 to 2022. The petitioners allege that the allotment being done by the Director (Housing), the same cannot be cancelled by other authority and in this particular case, the impugned order dated 27.04.2023 has been passed by the Deputy Commissioner, Itanagar Capital Complex.

4. As indicated above, by the aforesaid impugned order dated 27.04.2023, the Deputy Commissioner, Itanagar Capital Complex has directed the petitioners

to vacate their respective quarters allotted to them and shift to private rented house within a period of 14 days, failing which, they would be evicted from their quarters. The petitioners allege violation of Rules 311, 312(1) and 313(2) of the Supplementary Rules.

5. Shri Tagum, learned counsel for the petitioners submits that the orders have been passed without jurisdiction, as the Deputy Commissioner, Itanagar Capital Complex does not have the power and jurisdiction to issue such order of eviction inasmuch, as the allotment, itself of the quarters was done by the Director (Housing). He further submits that as no notices have been given to them and the impugned order has adverse civil consequences, the same is not sustainable on the ground of not giving adequate opportunity.

6. On the other hand, Shri Ingo, learned counsel for the respondent no. 4-Corporation submits that a bare reading of the order impugned in this proceeding dated 27.04.2023 would reveal that the same has been passed in view of the proposed construction of multi-storied parking lots at E-Sector by the Itanagar Smart City Development Corporation. He further submits that the impugned order further reveals that the payment of house rent of the abovementioned occupants shall be borne by the Corporation for 1 year and on availability/vacancy of any Government accommodation/quarters under Capital, Itanagar, they shall be provided with the same by the Director (Housing) on priority. The learned counsel for the Corporation submits that the aforesaid action is temporary one which has been done only for the greater public interest. He also submits that the concern of the petitioners has been taken care of as would reflect from the impugned order itself.

7. Ms. Pangu, learned State Counsel and Ms. Karbak, learned counsel for the respondent no. 2 adopt the arguments and contentions made by the learned counsel for the Corporation, Shri Ingo.

8. Upon hearing the parties and on perusal of the materials on record, this Court is of the view that there is an overwhelming public interest involved in issuing the order dated 27.04.2023 and the same reflects that there is no cancellation of any allotment and accordingly, the question of jurisdiction would not come up for consideration. At the same time, the order also reflects that necessary arrangements for payment of rent by the Corporation have been made till such time the alternative accommodations are made available to the petitioners.

9. At this stage, Shri Tagum, learned counsel for the petitioners submits that only petitioner nos. 1 to 7 have been named in the impugned order and the petitioner nos. 8 and 9 are not mentioned.

10. Shri Ingo, learned counsel for the Corporation, however, submits that the concern of the petitioner nos. 8 and 9 would be taken care of in the same manner.

11. In view of the above, this Court is of the considered opinion that no interference is called for with the impugned order dated 27.04.2023. However, taking into consideration the requirement to shift, instead of the period of 14

days granted by the impugned order, the petitioners may be given time of 45 days to vacate the premises so as to facilitate the Corporation to go ahead with the proposed constructions.

12. For the sake of clarification, the aforesaid period of 45 days would end on 15.06.2023.

13. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant