

GAHC040006022023



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

Case No. : WP(C) 221/2023

1:Dunggap Nokar and 6 Ors.
S/o Mr. Karshi Nokar,
Permanent Resident of Village Karko, PO Yingkiong, PS Jengging, District Upper
Siang, Arunachal Pradesh.

2: Nane Apang
W/o Shri Oda Pangkam
Permanent Resident of Village Karko
PO Yingkiong
PS Jengging
District Upper Siang
Arunachal Pradesh.

3: Nengkak Pangkam
W/o Shri Danik Pangkam
Permanent Resident of Village Karko
PO Yingkiong
PS Jengging
District Upper Siang
Arunachal Pradesh.

4: Annong Jongkey
S/o Shri Tiger Jongkey
Permanent Resident of Village Karko
PO Yingkiong
PS Jengging
District Upper Siang
Arunachal Pradesh.

5: Maklek Apang S/o Shri Tukleng Apang
Permanent Resident of Village Karko
PO Yingkiong PS Jengging
District Upper Siang Arunachal Pradesh.

6: Karo Pangkam S/o Shri Aga Pangkam
Permanent Resident of Village Karko
PO Yingkiong PS Jengging
District Upper Siang
Arunachal Pradesh.

7: Bitom Jongkey
S/o Shri Oteng Jongkey
Permanent Resident of Village Karko
PO Yingkiong
PS Jengging
District Upper Siang
Arunachal Pradesh

VERSUS

1:THE STATE OF AP and 8 Ors.
Represented by the Chief Secretary, Itanagar, Arunachal Pradesh.

2:The Secretary Department of Panchayati Raj Itanagar Arunachal Pradesh.

3:The Deputy Commissioner Yingkiong Upper Siang Arunachal Pradesh.

4:The District Panchayat Development Officer 6 Jengging Yingkiong
Upper Siang Arunachal Pradesh.

5:The Panchayat Technical Assistant (JE) 6 Jengging Yingkiong
Upper Siang Arunachal Pradesh.

6:Kabit Apang S/o Tadar Apang Vill Ramsing PO Yingkiong
PS Jengging Upper Siang Arunachal Pradesh.

7:Ananda Jopir S/o Kangut Jopir Vill Karko 6 Jengging Yingkiong Upper Siang
Arunachal Pradesh.

8:M/s CNN Enterprise Represented by its Proprietor Shri Nong Nangkar
Resident of Village Gosang PO/PS Jengging District Upper Siang Arunachal Pradesh.

9:Genom Apang S/o Duyang Apang R/o Karko Village PO/PS Jengging
District Upper Siang Arunachal Pradesh

Advocates for the Petitioner : Bedanta Kaushik
Tapi Omo
P Bora
K Kozing
Advocate for the Respondent : GA (AP)

**BEFORE
HONBLE MR. JUSTICE NANI TAGIA**

ORDER

Date : 29.05.2023

Heard Mr. Bedanta Kaushik, learned counsel for the petitioners.

Also heard Mr. Subu Tapin, learned Senior Government Advocate, appearing on behalf of the State Respondents.

This writ petition has been filed, contending that the work orders, dated 23.12.2020, for construction of an approach road from Kine Kibo to Mobuk Area(Phase-i, Phase-ii, Phase-iii, and Phase-iv) vide Memos. No. JNG/PR/WO/15/2019-20, in favour of the private respondent No. 8 viz. M/s. CNN Enterprise, Jengging, and technical-cum-completion reports by the Panchayat Technical Assistant(Junior Engineer), 6-Jengging Panchayat, Jengging, have also been given but no such approach road from Kine Kibo to Mobuk Area in the District of Upper Siang, Arunachal Pradesh, have, in fact, been constructed by the respondent No. 8.

Under the aforesaid circumstances, the petitioners have prayed for the following reliefs:

- “i. A writ in the nature of Mandamus directing the respondent authorities to sanction adequate fund for construction of the approach road from Kine Kibo to Mobuk area and thereafter to construct the approach road as per fund allotted;***
- ii. A writ in the nature of Mandamus directing the respondent No. 1 and/or respondent No. 3 to constitute an independent committee consisting of technical members to conduct an enquiry by physical verification and by giving opportunity of hearing to the petitioners as well as villagers of Karko village against the illegalities in respect of execution of work of approach road from Kine Kibo to Mobuk area pursuant to work order nos. JNG/PR/WO-15/2019-20 dated 23-12-2020.***

- iii. ***A writ in the nature of Mandamus and or any other writ to direct the respondent No. 1 to initiate criminal proceedings against the persons involved in misappropriation of fund on the pretext on completion of the approach road from Kine Kibo to Mobuk area as per work order nos. JNG/PR/WO-15/2019-20 dated 23-12-2020;***
- iv. ***A writ in the nature of Mandamus shall not be issued directing the Respondent authorities to recover the amount of money paid pursuant to the purported completion of the work order dated 23-12-2020 from the persons involved in misappropriation of fund sanctioned for execution of the approach road from Kine Kibo to Mobuk area upon cause/s shown and upon perusing the records and after hearing the parties, Your Lordships may be pleased to make the Rule absolute and/or to pass such further or other order/s as Your Lordships may deem fit and proper for the interest of justice.”***

The petitioners have also contended that a complaint to this effect, was also submitted to the DPDO(Panchayati Raj)-cum-PO, Upper Siang District, Yingkiong, on 21.12.2022, but no action has been initiated by the said authority as yet.

The contention raised by the petitioners, appears to be siphoning-off the sanctioned amount for construction of the approach road from Kine Kibo to Mobuk Area(Phase-i, Phase-ii, Phase-iii, and Phase-iv), mentioned in the work orders, dated 23.12.2020, issued by the District Panchayat Development Officer, Upper Siang District, Arunachal Pradesh, Yingkiong, and therefore, the act alleged by the petitioners against the respondents, in essence, appears to be an offence under the Indian Penal Code as well as the Prevention of Corruption Act, 1988.

The petitioners, however, appears to have not approached the competent authority to register a case and investigate the matter under the Indian Penal Code as well as the Prevention of Corruption Act, 1988.

In that view of the matter, I am of the considered view that the prayers made by the petitioners, at this stage; cannot be granted by the Court.

The writ petition stands closed with liberty granted to the petitioners to approach the competent authority for redressal of their grievances.

JUDGE

Comparing Assistant