

GAHC040006052023



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

**Case No. : WP(C)/223/2023**

Colonel Koj Tari  
S/o Late Koj Hanya,  
R/o Vill Dutta, PO/PS Ziro, Dist. Lower Subansiri, Arunachal Pradesh.

VERSUS

THE STATE OF AP and 5 Ors.  
Represented by the Chief Secretary, Itanagar, Arunachal Pradesh.

2: The Commissioner  
to the Hon'ble Governor, Arunachal Pradesh, Itanagar.

3: The Secretary  
Govt. Of Arunachal Pradesh, Department of Administrative Reforms, Arunachal Pradesh Civil Secretariate, Block No. 4 Itanagar.

4: The Joint Secretary  
Govt. Of Arunachal Pradesh, Department of Administrative Reforms, Arunachal Pradesh Civil Secretariate, Block No. 4 Itanagar.

5: The Screening Committee  
Represented by its Chairman Shri Ramesh Negi, IAS (Retd.) O/o Department of Administrative Reforms, Arunachal Pradesh Civil Secretariat, Block No. 4, Itanagar.

6: The Secretary  
to the Arunachal Pradesh Public Service Commission (APPSC), Itanagar, Arunachal Pradesh.

**Advocate for the Petitioner** : Bedanta Kaushik

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

Linked Case : WP(C)/213/2023

Rosy Taba

Age: 35

Occupation :

Address:Wife of Chakter Gongo

Presently residing at Vivek Vihar

Quarter No. 81

Type III

PO R.K. Mission

Itanagar

PS Itanagar

Papumpare District

Arunachal Pradesh.

Phone No. 9615616729

VERSUS

THE STATE OF AP and 4 Ors.

Address:Through the Chief Secretary

Govt. of Arunachal Pradesh

Itanagar.

2:The Chief Secretary

Address:Govt. of Arunachal Pradesh

Itanagar.

3:The Secretary

Address:Department of Administrative Reforms

Govt. of Arunachal Pradesh

Itanagar.

4:The Under Secretary

Address:Department of Administrative Reforms

Govt. of Arunachal Pradesh

Itanagar.

5:The Screening Committee

Address:Constituted vide order dated 11.01.2023 for screening the applications received for the post of Chairman and Members of Arunachal Pradesh Public Service Commission through its Chairman

Shri Ramesh Negi

IAS (Retd.)

**BEFORE**

**THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY**

For the petitioner  
(In WP(C)/223(AP)/2023)

: Mr. D Mazumdar,  
Senior Advocate  
Mr. B Kaushik, Advocate

For the petitioner  
(In WP(C)/213(AP)/2023)

: Mr. D. Panging, Advocate

For the Respondents

: Mr. I Chowdhury, A.G.,  
Arunachal Pradesh  
Mr. RH Nabam, Addl. A.G., A.P.  
Mr. S Tapin,  
Senior Government Advocate

Date of Hearing

: 09.11.2023, 10.11.2023,  
13.11.2023

Date of Judgement

: 08.12.2023

**JUDGEMENT & ORDER (CAV)**

1. Heard Mr. D. Mazumdar, learned Senior Counsel, assisted by Mr. B Kaushik, learned counsel, appearing on behalf of the petitioner, in WP(C) 223 (AP)/2023, and heard Mr. D Panging, learned counsel appearing on behalf of the petitioner in WP(C) 213(AP)/2023. Also heard Mr. I Chowdhury, learned Advocate General, Arunachal Pradesh, assisted by Mr. S Tapin, learned Senior Government Advocate appearing on behalf of the State respondents and Mr. R.H. Nabam, learned Additional Advocate General, Arunachal Pradesh.

2. As agreed to by the learned counsels for the parties, these two writ petitions are taken up for final hearing on 13.11.2023 as both the writ petitions involve identical facts and identical question of law.
3. The basic challenges made in these two writ petitions are a decision of the State Cabinet dated 29.03.2023, whereby a decision was taken by the Cabinet to recall the appointment notification dated 07.02.2023 issued under Article 316(1) of the Constitution of India by the Governor appointing Chairman/Members of Arunachal Pradesh Public Service Commission (hereinafter referred as to AAPSC) pursuant to a selection process initiated vide advertisement dated 21.11. 2022 and the resultant Notification dated 18.04.2023, issued by the Governor whereby, the Notification of appointment dated 07.02.2023 issued in exercise of power under Article 316(1) of the Constitution of India was recalled. The further challenge is the advertisement dated 28.04.2023, whereby, applications were invited for filling up one post of Chairman and 3 (three) post of Members for appointment in APPSC.
4. Both the petitioners were appointed as Member of APPSC by Notification dated 07.02.2023 issued in exercise of power under Article 316(1) of the Constitution of India pursuant to a selection process.

**5. Background facts:-**

The undisputed facts leading to filing of the these writ petitions , discernible from the pleadings of the parties, are summarized as follows:

- I. On 21.11.2022, the Government of Arunachal Pradesh, Department of Administrative Reforms issued an advertisement inviting applications from citizens of India for filling up one post of Chairman

and 3 posts of Members in the APPSC.

- II. The petitioners being eligible and interested submitted their application for the post of Member, Arunachal Pradesh Public Service Commission.
- III. Thereafter, on 11.01.2023, the Government of Arunachal Pradesh, Department of Administrative Reforms issued a notification constituting a screening committee for screening the applications received for the post of Chairman and Members of APPSC.
- IV. Thereafter, in the meeting held on 12.01.2023, Screening Committee recommended the names of the petitioners, along with others for appointment as Member of APPSC.
- V. Then, on 04.02.2023 after detailed deliberations the cabinet approved the name of the petitioners alongwith 2 others for appointment as Member of the APPSC.
- VI. On 07.02.2023, the Governor of Arunachal Pradesh in exercise of powers conferred under Clause (1) of Article 316 of the Constitution of India read with clause 4 of the Arunachal Pradesh Public Service Commission Regulation, 1988(For short Regulation,1988) appointed the petitioners as a Member of the Arunachal Pradesh Public Service Commission.
- VII. Then, on 15.02.2023 the Joint Secretary, Department of Administrative Reforms communicated to the petitioners that the Governor of Arunachal Pradesh has consented to administer the oath of office and secrecy to the newly appointed Chairman and Members of the Arunachal Pradesh Public Service Commission on

17.02.2023 and the petitioners were requested to arrive at Raj Bhawan by 14:30 hours.

- VIII. On 17.02.2023, the cabinet decided to call off the swearing-in ceremony of the Chairman and Members of the Arunachal Pradesh Public Service Commission in view of the request placed by the Arunachal Indigenous Tribes Forum and Pan Arunachal Joint Steering Committee.
- IX. Thereafter, on 18.02.2023 a meeting was held in the CM's conference hall between the Government of Arunachal Pradesh and Pan Arunachal Joint Steering Committee and other representatives, wherein the demand for cancellation of the appointment notification of the newly appointed Chairman and Members of the Arunachal Pradesh Public Service Commission was agreed and it was decided that the same was to be placed before the cabinet for its approval.
- X. Thereafter, on 29.03.2023 the cabinet approved the proposal for recalling of the appointment order dated 07.02.2023 in respect of selections made for Chairman/Members of Arunachal Pradesh Public Service Commission which is under challenge in the present writ petition.
- XI. On 18.04.2023, a notification was issued recalling the order dated 07.02.2023 by which the petitioners were appointed as Member, Arunachal Pradesh Public Service Commission. This is yet another challenge in these writ petition.
- XII. Thereafter, a fresh advertisement was issued on 28.04.2023 for getting application for appointment.

**6. Submission of the learned counsel for the petitioners:**

The arguments advanced by Mr. D. Mazumdar, learned Senior Counsel and Mr. D. Panging, learned counsel are as under:-

- I. Once an appointment is made under Article 316 (1) of the Constitution of India, the appointment for all purposes is complete and a member does not cease to be a member just because one has not been administered oath of office and secrecy. The requirement to take oath is only for the purpose of starting to discharge one's function as a member of a Public Service Commission. There is no such condition in the provision of Article 316 of the Constitution of India.
- II. Article 316(2) makes it evident that said provision is for the purpose of determining the tenure of a member after he enters upon his office and can by no stretch of imagination be interpreted to mean that a member ceases to be a member just because he has not been administered the oath of office and secrecy, moreso, because the Constitution does not provide for administering oath of office and secrecy to a member of a Public Service Commission.
- III. The proviso to Article 316(2) makes it all the more clear that a member of a Public Service Commission can be removed from the office only in the manner provided in Clause (1) and (3) of Article 317. Therefore, the notification recalling the appointment is void ab initio being violative of Article 317(1) and 317(2).
- IV. As held in the judgment of the Hon'ble Apex Court rendered in the case of **Ram Pal Singh Vs State of Uttar Pradesh and Ors**

reported in **(2018) 6 SCC 692** a member who is elected to a legislative house does not cease to be a member only for the reason that he had not subscribed to the oath unless there is specific provision in this regard, similarly a member appointed to Public Service Commission shall not cease to be a member for want of oath.

- V. Article 188 of the Constitution of India provides for taking of oath by members of Legislative Assembly before taking his seat in the Legislative Assembly and the same analogy is squarely applicable in respect of member of the Public Service Commission as held in ***Ram Pal Singh (supra)***.

**7. Alternative argument advanced by the learned counsel for the petitioners:-**

- I. Even If the rigors of Article 317 would not apply, then also the impugned action are liable to be interfered with as the same is totally arbitrary and no plausible reason or principle is indicated nor is discernible from the impugned action making it ex-facie arbitrary being hit by Article 14 of the Constitution of India. The Screening Committee after detailed deliberations and after taking into consideration relevant factors had recommended the name of the petitioners as Member, APPSC and thereafter, the State Cabinet in its meeting dated 04.02.2023 had approved the name of the petitioners as Members, APPSC consequent to which the notification dated 07.02.2023 was issued by the Governor of Arunachal Pradesh in exercise of powers conferred under Clause (1) of Article 316 of the Constitution of India.

- II. A democratically elected Government governed by the Rule of Law cannot succumb to illegal pressure on being threatened with violence and recall a validly made appointment just to get out of a tricky law and order situation. However, the State acted in an unconstitutional manner.
- III. Every State action must be informed with reasons and where neither plausible reason or principle is indicated nor is it discernible from the impugned action, the same would be ex-facie arbitrary and liable to be interfered with. In support of his submission, he relies on the decision on ***Kumari Shrilekha Vidyarthi –vs- State of U.P.*** reported in ***(1991) 1 SCC 212.***
- IV. The impugned action, which is stated to be taken on public interest after discussion with the stakeholder like the two organizations mentioned above is not sustainable without there being any other valid reason but demand of the two organization. Even, the representation of the organizations submitted on 03.12.2022 which is much prior to the appointment of the petitioner does not and contain any objection to the appointment of the petitioners. In support of the submission, the learned counsel for the petitioner relies on the decision in ***State of Punjab vs Bandeeep Singh and Ors*** reported in ***(2016) 1 SCC 724.***
- V. The State respondents neither raised any question about the lack of any parameter so as to question the merit of the petitioners to be appointed as Members of APPSC nor the agitators had raised any objection to the appointment of the petitioners much less on the ground of lack of merit or incompetence of the petitioners including

character and antecedence as stipulated in the advertisement. The agitations undertaken by ANSU and PAJSC and others are in respect of the past activities of the APPSC before the appointment of the petitioners. But the State respondents succumbed to the public pressure and took the decision to cancel the appointment of the petitioners to console the agitators. Thus, the whole action of the State respondents is apparently based on irrelevant and extraneous conditions and the same is unfair, unreasonable and arbitrary and in violation of Article 14 of the Constitution of India. In support, the learned counsel for the petitioners relies in ***E.P. Royappa –Vs- The State of Tamil Nadu & Anr*** reported in ***(1974) 4 SCC 3***.

**8. Submission of the learned Advocate General for the State of Arunachal Pradesh on behalf of the respondents:**

Mr. I. Chowdhury, learned Advocate General for the State of Arunachal Pradesh submits the following:-

- I. The Governor of Arunachal Pradesh has framed the Arunachal Pradesh Public Service Commission Regulations, 1988 in exercise of powers conferred under Article 318 of the Constitution of India. The said Regulations of 1988 have been amended by way of the amendment Regulations of 2015 and 2019, which mandates taking an oath of office and secrecy, to be, administered by the Governor before entering upon their office.
- II. The petitioners have not taken the oath administered by the Governor.
- III. The notification dated 18.04.2023 recalling the notification dated

07.02.2023 by which the petitioners were appointed as Member were issued before they took oath of office administered by the Governor. Although the petitioners were appointed under Sub-clause (1) of Article 316 of the Constitution of India, they had not entered upon their office since the oath of office was not taken and/ or administered. Sub-clause (2) of Article 316 mandates that a member shall hold office for a term of 6 years from the date on which he enters upon his office. Sub-clause (b) of Article 316(2) provides that a member of a Public Service Commission may be removed from his office in the manner provided in Clause (1) or Clause (3) of Article 317. Similar is the language employed by the makers of the Constitution of Article 317 of the Constitution of India.

- IV. Absence of oath prevents entry into office. If no oath is taken before assumption of office as enjoined by the Constitution, there is no legal title to hold the office. When there is no legal title to hold the office, a Member has not entered into office by taking oath, adherence of Article 317(1) & (2) is not required. The maker of Constitution has intentionally used the word "office" in Article 316(2) and 317(1) & (2) and not in Article 316(1). Therefore, 'appointment' and 'office' cannot be equated. Once a person after appointment enters "office" after subscribing oath, the only question of removal from "office" by following the procedure mandated under Article 317 shall arise. In support, he relies on the Full Bench decision the Kerala High Court in the case of ***K.C. Chandy vs. R. Balakrishna Pillai*** reported in ***AIR 1986 Ker 116***.

**9. Reply to alternative arguments made in the petitions by Mr. I.**

**Chowdhury, learned Advocate General for the State of Arunachal Pradesh:-**

- I. It is true that there was an overwhelming and unprecedented public demand and on 17.02.2023. The Cabinet in its meeting held did not mechanically decide to recall the orders of appointment. In fact, as evident from the minutes of the Cabinet meeting dated 17.02.2023, it was merely decided to call off the swearing-in ceremony/ oath-taking ceremony. Thereafter, deliberations at various levels took place and nearly one month and 10 days later, the Cabinet in its meeting held on 29.03.2023 approved the proposal for recalling of the appointment order dated 07.02.2023.
- II. The contention on behalf of the petitioners to the effect that action was taken as a consequence of agitation resorted to by the public at large are per se bad in law, is fundamentally fallacious. It is a matter of fact that the Citizenship Act, 1955 was amended and Section 6A was inserted as a consequence of several years of agitation resorted to by the public in the State of Assam, which was led by the All Assam Students Union. In fact, this factual aspect is expressly recorded in the statement of objects and reasons of the Citizenship (Amendment) Act, 1985. Similarly, pursuant to several years of agitation resorted to by the public in Bodoland, led by the All Bodo Students Union, the Constitution of India was amended by the Constitution (90<sup>th</sup> Amendment) Act, 2003 in respect of Sixth Schedule, which fact is recorded in the statement of object and reasons. As such, merely because the action impugned in the instant case was triggered by agitation resorted to by the public at large,

the same cannot be held to be unsustainable in law.

**10. The issues:-**

From the facts recorded hereinabove and the arguments advanced, in the considered opinion of this court the following issues are required to be addressed by this court:

- I. Whether there is a distinction in meaning between the words "appointed, employed in sub clause (1) of Article 316 of the Constitution of India and the words "enter upon his office", employed in sub-clause (2) of Article 316" and whether, procedure under Article 317 is required to be followed only after oath is administered to a Member/Chairman in terms of Clause 4B?
- II. Whether, in the event it is held that the petitioners are not entitled for procedural protection provided under Article 317, the impugned action can be interfered being arbitrary, unreasonable and being violative of Articles 14 and 16 of the Constitution of India?

**11. Determination:**

- I. Article 315 mandates for creation of Public Service Commission for the Union and for each States. It also enables for creation of Joint Commissions for two or more States on the agreement of concerned States.
- II. Article 316 provides for appointment and terms of office of the members. In terms of clause (1) of article 316, the President of India or the Governor of a State is the appointing authority to appoint Chairman and Members in case of Union Commission or State Commission as the case may be. The proviso to sub clause (1)

prescribes that one half of the Members of every Public Service Commission shall be persons, who had on the date of their appointment held office under the Government of India or under the Government of a State for atleast 10 years. Thus it prescribes qualification for certain class of members.

- III. Clause 2 of Article 316 provides for tenure of office of a member of public service commission. A period of 6 (six) years or age of 62 years, whichever is earlier, in case of Member of a State Commission is prescribed and such period is to be counted from the date on which, the member enters upon his office.
- IV. Article 318 empowers the Governor of the State to make regulation in case of a State Commission to determine the number of members of the commission and their condition of service.
- V. The Governor of Arunachal Pradesh, in exercise of aforesaid power under Article 318 of the Constitution of India had framed Arunachal Pradesh Public Service Regulations, 1988 to determine the composition and staff of the Arunachal Pradesh Public Service Commission, their tenure of office and conditions of service. Part-II of said regulation deals with composition of the Commission, pay and tenure of the members and other employees. Part-III deals with the leave of the members. Part-IV deals with pension of members and Part-V deals with travelling and other allowances of the members. Amended Regulation 4 B was inserted to the Regulation 1988 by prescribing an oath of secrecy to the Chairman and Members to be administered by the Governor of Arunachal Pradesh or his nominee before entering upon their office in terms of the form

of oath of secrecy incorporated therein.

- VI. Article 317 prescribes procedure for removal and suspension of a Member of Public Service Commission, which is a strict judicial procedure including the requirement that the President of India must have the supporting report of Supreme Court in order to remove the Chairman or Member of a Public Service Commission.
- VII. It is well settled that in the constitutional scheme under Articles 315 to 323, Constitution of Public Service Commission at the center and in the states are recommended to secure an efficient civil service inasmuch as the values of independence, impartiality and integrity are the basic determinants of the constitutional conception of creation of Public Service Commission. The said articles of the constitution provides the members and the chairman of the Public Service Commission protection from political and personal influence and give it a position of stability in terms of the security of tenure of the chairman and members and the strict judicial procedure for their removal to safeguard them against motivated or wrong charges.
- VIII. From the aforesaid provisions of Constitution of India, it is clear that the Governor is the appointing authority in case of the Chairman and Members of a State Public Service Commission. In the case in hand, pursuant to a due selection process as discussed hereinabove, the petitioners in the two writ petitions were selected for appointment to the post of Member of APPSC. The recommendation of the Scrutiny Committee was approved by the State Cabinet on 04.02.2023 and on the basis of such approval, the Governor of Arunachal Pradesh in exercise of powers conferred

under clause 1 of Article 316 issued the Notification dated 07.02.2023 appointing the petitioners as Member of Public Service Commission. Thus, it is an appointment to the office to the Member/Chairman inasmuch as appointment so made must be to a specific office. Though the maker of the Constitution has not used the word "office" in Article 316(1), however, appointment in the context of Article 316(1) shall essentially mean the appointment as Member of the Commission and after issuance of the appointment notification under Article 316, the appointment is complete.

- IX. After such appointment, Article 316 confers a right upon a Member of a State Commission to hold such office for a period of 6 years or attainment of maximum age of 62 years, whichever is earlier, however, subject to removal by following procedure prescribed under Article 317. Such period of 6 years or 62 years is required to be calculated with effect from the date on which such Chairman or the Member actually enters into the office by virtue of their appointment. Such calculation, in so far as the same relates to the State of Arunachal Pradesh, is required to be counted from the date of subscribing the oath of secrecy administered by the Governor or his representative in terms of Regulation 4B of the Regulation 1988.
- X. There is no doubt in the mind of this Court from the reading of the Articles 315 to 318 of the Constitution of India and the Regulation 1988 that the prescription of subscribing oath is for the purpose of determination of tenure inasmuch as Article 318 empowers the Governor only to make regulation for the purpose of determination of number of Members of Commissions and their conditions of

service. Therefore, in absence of such oath, a person may not be entitled to the benefit of his services such as salary, leave etc., however, absence of such oath cannot, by stress of any imagination can be treated that the order of appointment issued by the Governor in terms of Article 316(1) shall remain ineffective and that the appointment so made is not to the office of the Member and that such appointment order issued by Governor under its Article 316(1) is subject to provision of Clause 4B of the Regulation, 1988. Such interpretation shall not only make Article 316 nugatory but also mean being controlled by Regulation 4B of the Regulation 1988.

- XI. In the considered opinion of this Court, once an appointment under Article 316(1) is issued, the appointment so made is to the office of the Member and the prescription for administering oath is made for determination/calculation of the tenure of such office and for the purpose of entitling the Member the benefit of their respective office. From the reading of the Constitutional provision as well as the Regulation 1988, it is clear that the appointment to the office of Member is complete when an appointment order is issued by the Governor in exercise of his power under Article 316(1) of the Constitution of India and therefore, to remove a person from such office, the mandate under Article 317 is required to be followed.
- XII. Yet another aspect of the matter is that if the interpretation to the Articles 316 and 317 is made as sought for by the learned Advocate General, the Article 316(1) shall be made enforceable subject to the provision of Regulation 4B of the Regulation 1988, which, in the considered opinion of this Court shall make Article 316(1) nugatory.

Such a constitutional mandate cannot be made nugatory on the basis of the Regulation 1988, more particularly when such regulation is enacted for purpose of determining the number of Members and terms and conditions of service.

- XIII. Therefore, to summarize, the appointment made by the Governor under Article 316(1) of the Constitution of India is an appointment to the office of Chairman/Member and once such appointment is made, it is an appointment to the respective office inasmuch as constitutional provision cannot be made effective subject to any provision made under Rule framed in exercise of power under Article 318 of the Constitution of India, more particularly, in absence of any such prescription of oath of secrecy to complete the appointment process in the Constitution itself.
- XIV. Therefore, when the appointment is to the respective office, removal there from shall necessarily require strict adherence of Article 317 of the Constitution of India. The "entering into the office" after administering oath is for the purpose of determination of tenure and for other benefits attached to such appointment under the Regulation, 1988. Non compliance of mandate of Regulation 4B of the Regulation 1988, shall not in any manner effect the appointment made by virtue of Article 316(1) of the Constitution of India.
- XV. Finally, an interpretation to Clause 4B of the Regulation, 1988, having a tendency to fetter the mandate of the Constitution under Articles 316 and tendency to fetter an appointment made under Article 316(1) of the Constitution of India is required to be avoided,

more particularly, when it is clear that appointment and removal of Members/Chairman are clearly provided in the Constitution itself. Otherwise, under the guise of rule making power, there shall be a scope to make clear Constitutional provision being controlled and made effective subject to a rule made under Article 318.

XVI. This Court is having no difference of opinion with the ratio laid down in **K.C.Chandy** (supra) relied on by the learned Advocate General. However, in the given facts of these cases, there is no constitutional mandate of subscribing to any oath to make the appointment under Article 316(1) effective. The case of **K.C.Chandy** (supra) is a case where the issue was whether breach of oath committed by a Minister would be a constitutional impediment for his continuance in his office inasmuch as Article 164 (3) of the Constitution of India itself prescribes subscribing of oath of office and secrecy by a Minister in the form set out in the Third Schedule of the Constitution of India. Similarly, in terms of Article 188, the Constitution itself expressly prescribes subscription of oath by the Member of the Legislative Assembly etc. Same is not the case in the present litigation. In the present case, the prescription of subscribing oath to the Members of the APPSC is a prescription of the Regulation 1988 which relates to the terms of service of Members and not a prescription of the Constitution itself. Therefore, the Regulation 4B cannot control the mandate of Article 316(1) and Article 317(1) & (2).

XVII. That being the position, this Court is of the firm view that the Governor is having no sanction and authority under law more

particularly in view of the mandate of Article 317 of the Constitution of India to withdraw such order of appointment in the manner the same has been done, nor the State Cabinet shall have such power.

XVIII. The issue No. 1 is answered accordingly. In view of the determination made, the further determination of the issue No. 2 shall be academic only. Accordingly, same is left open.

## **12. Directions:-**

In view of the determination made herein above the following directions are issued:-

- I. The Cabinet decision taken on 29.03.2023 to recall the Notifications dated 07.02.2023, so far the same relates to the writ petitioners is interfered with being beyond the scope of Constitutional mandate under Article 317 of the Constitution of India.
- II. The impugned orders dated 18.04.2023 so far the same relates to the writ petitioners is set aside and quashed being issued in violation of Article 317 of the Constitution of India.
- III. The respondents may continue with the selection process pursuant to advertisement dated 28.04.2023, however, such process should not include the post of Members to which the two petitioners herein had already been appointed by Notifications dated 07.02.2023.
- IV. It is also made clear that the directions issued shall be limited to the writ petitioners only inasmuch as no other Member/Chairman has approached this Court raising their grievances.
- V. In view of the findings of this Court that the petitioners are duly

appointed as Members of APPSC, the respondent authorities shall proceed in terms of Regulation, 1988.

VI. It is clarified that if materials are available to exercise the power under Article 317 of the Constitution of India against the two petitioners, the present order shall not debar the respondents to take recourse to the provision of Article 317 of the Constitution of India to remove the present petitioners.

13. With the aforesaid, the present writ petitions stand allowed. Parties to bear their own cost.
14. Registry of Itanagar Permanent Bench, Gauhati High Court, shall return back the Government record to Mr. S. Tapin, learned Senior Government Advocate, State of Arunachal Pradesh.

**JUDGE**

**Comparing Assistant**