

GAHC040006242023



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

Case No. : IA(C) 81/2023

1:Er. Mirik Bagra
S/o Lt. Momi Bagra,
The then Public Information Officer cum the Executive Executive Engineer, Public
Health Engineering and Water Supply Department, Basar Division, Lepa Rada
District, Arunachal Pradesh, and a permanent resident of Higi Bagra village, PO/PS
Aalo, District West Siang, Arunachal Pradesh.
Ph. 7085507024

VERSUS

1:The Arunachal Pradesh Information Commission and 2 Ors.
Represented by the Secretary, Arunachal Pradesh Information Commission (APIC),
Office near Civil Secretariat, Itanagar, PO/PS Itanagar, District Papum Pare,
Arunachal Pradesh.

2:The Registrar
Arunachal Pradesh Information Commission (APIC)
Office near Civil Secretariat
Itanagar
PO/PS Itanagar
District Papum Pare
Arunachal Pradesh.

3:Yiter Lombi
Advocate
Gauhati High Court
Itanagar Permanent Bench
Yupia
District Papum Pare
Arunachal Pradesh

Advocate for the Petitioner : Binter Picha

Advocate for the Respondent : Rintu Saikia

**BEFORE
HONBLE MR. JUSTICE ROBIN PHUKAN
ORDER**

14.06.2023

Heard Mr. B. Picha, learned counsel for the applicant and Mr. R. Saikia, learned counsel for the opposite party.

2. This Interlocutory Application is being filed by the applicant for staying operation of the order dated 16.03.2023, and further stay of proceeding of APIC No. 583/2022, [Shri Yiter Lombi vs. Er. Mirik Bagra] till final disposal of the connected writ petition.

3. It is to be noted here that the applicant has filed one writ petition, being W.P. (C) No. 191(AP)/2023, for setting aside the impugned order dated 16.03.2023, passed by the Arunachal Pradesh Information Commission, Itanagar in appeal No. APIC No. 583/2022 and also to set aside the entire proceeding of APIC No. 583/2022, for being not maintainable.

4. It is the case of the applicant that though he was the PIO Cum Executive Engineer, PHE & WS, Basar Division, yet, he has furnished all the information, whatever was available with him to the private respondent namely, Yiter Lombi and thereafter, the applicant was transferred from Basar Division to the Office of the Superintendent of Engineer, Circle Office, Bene. As such, for any subsequent non-furnishing of the information to the private respondent cannot be held liable. But, in spite of that the respondent authorities have passed the impugned order dated 16.03.2023 and under section 20[1] of the RTI Act, 2005 imposing penalty of Rs. 25,000/-, for allegedly violation of sub-

section 1 of section 7 of the RTI Act, 2005 and further directed him to pay a sum of Rs. 5,000/- only to the private respondent for monetary losses incurred on to and fro journey expenses due to the delay in furnishing of information. Accordingly, the applicant has deposited the said penalty amount and thereafter, also the respondent authorities have been continuing the further proceeding against the applicant and subjected him to harassment for which he challenged the correctness of the order dated 15.02.2023 and continuation of further proceeding of APIC No. 583/2022 in the writ proceeding. The said application is pending for disposal and as the applicant is being harassed by the respondent authorities, this IA is filed for granting stay of the impugned proceeding and the impugned order.

5. Mr. B. Picha, learned counsel for the applicant submits that the proceeding against the petitioner is being continued by the respondent authorities, even after deposition of the fine of Rs. 25,000/- and his transfer from his erstwhile post to another post by virtue of which he is no longer PIO of the erstwhile office. As the further continuation of the proceeding is being challenged along with the impugned order dated 16.03.2023, Mr. Picha contended to stay further proceeding.

6. On the other hand, Mr. R. Saikia, learned counsel for the respondent authorities has vehemently opposed the petition on the ground that the applicant has challenged the order of this court in the writ petition, and in the said petition stay was not granted for which the applicant preferred a writ appeal and in the said appeal, a Division Bench of this court, vide order dated 03.05.2023, in W.A. No. 14/2023, has dismissed the petition observing that the learned Single Judge have made no observation refusing to grant the interim prayer of the petitioner and without any leave being granted, the petitioner

cannot approach this court again by filing the Interlocutory Application, where the prayer made in the Writ Appeal and Interlocutory Application is same. Therefore, Mr. Saikia contended to dismiss the petition.

7. Having heard the submission of learned counsel for both the parties, I have carefully gone through the petition as well as the document placed on record and also the impugned order dated 16.03.2023, and the proceeding of APIC No. 583/2022 and the order of the Division Bench of this Court in Writ Appeal No. 14/2023.

8. It is not in dispute that the Writ Appeal was dismissed not on merit. It is also not in dispute that no leave was granted by the Appellate Court for filing similar prayer before this court. Further, it is not in dispute that a penalty of Rs. 25,000/- was imposed upon the applicant and that on account of being transferred from the erstwhile post of Executive Engineer to another place and by virtue of this he is no longer PIO of said office and for any subsequent non-compliance he cannot be made responsible.

9. Thus, the entire proceeding pending, before the APIC and the impugned order dated 16.03.2023, having been challenged in the writ petition, a prima-facie case appears to be made out in favour of the applicant. And thus, balancing equity between both the parties, this court is inclined to stay further proceeding of APIC No. 583/2022, till disposal of the writ petition.

10. In terms of above, this IA stands disposed of.

JUDGE

Comparing Assistant