

GAHC040006372023



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

Case No. : WP(C) 238/2023

1:Attom Gyadi @ Atum Gyadi
S/o Shri Bou Gyadi,
R/o Chimpu, Itanagar, PO/PS Itanagar, Arunachal Pradesh.

VERSUS

1:THE STATE OF AP and 2 Ors.
Represented by the Chief Secretary, Govt. of Arunachal Pradesh.

2:The Director General of Police
Govt. of Arunachal Pradesh
Itanagar.

3:The Superintendent of Police
Capital
Itanagar
Arunachal Pradesh

Advocate for the Petitioner : D Saikia

Advocate for the Respondent : GA (AP)

**BEFORE
HONBLE MR. JUSTICE NANI TAGIA**

ORDER

Date : 24-05-2023

Heard Mr. T. Loma, learned counsel for the petitioner. Also heard Ms. Goter Ete, learned Addl. Senior Government Advocate, appearing on behalf of the State Respondents.

This writ petition is directed against the order, dated 17.05.2023, issued by the Superintendent of Police, Capital, Itanagar, vide Memo. No. SPC/ITA/R-86/2023, whereby, the petitioner who is a Constable in the 3rd IRBn, BHQ, Seijosa, and attached to the Superintendent of Police, Itanagar Capital Complex, Itanagar, has been repatriated to 3rd IRBn, BHQ, Seijosa, with immediate effect.

On a contention made by the writ petitioner that he has been singled-out in repatriating back to the 3rd IRBn, BHQ, Seijosa, because he had approached the Superintendent of Police, Itanagar, to know about the whereabouts of his wife, who, according to his information, was detained on 10.05.2023, on which date, there was a *bandh* in the Itanagar Capital Complex.

Having considered the contentions raised by the petitioner, this Court, vide order, dated 22.05.2023, directed Ms. Goter Ete, learned Addl. Senior Government Advocate, to receive instruction in the matter. Pursuant thereto, Ms. Ete, learned Addl. Senior Government Advocate, has produced before this Court, an instruction in the form of a letter, dated 23.05.2023, written by the Superintendent of Police, Capital, Itanagar, to her.

In the aforesaid letter, dated 23.05.2023, in Paragraphs No. 3, 4 and 5, thereof, it has been stated as under:

"3. That, CT Atum Gyadi has been repeatedly pressurizing Police knowing the fact that Smti Ani Sangno was detained under APUAPA. On 16th May/2023, CT Atum Gyadi again came to SP Office, Itanagar reiterated to release his wife Smti Ani Sangno. He was once again informed about the procedure followed under APUAPA and also apprised that the action has not only been initiated against his wife but also many people are kept under detentions who are indulged in unlawful activities in the proposed band call. But, CT Atum Gyadi has been trying to create undue pressure to the authority to release his wife Smti Ani Sangno knowing the legality of the fact.

4. That, it is a matter of fact that one company of 3rd IRBN, Seijosa is temporarily attached under SP Capital Complex, Itanagar for duty and there is no any specific transfer and posting against any individuals. The CO, 3rdIRBN, Seijosa is the competent authority to detail police personnel against the said company and many time replacement is done with the other available force. Apparently, many police personnel from 3rdIRBN, Seijosa are attached with some other units and performing duty in Capital Complex.

5. That, CT Atum Gyadi was also one among the detailed police personnel who have been temporarily attached under SP Capital Complex, Itanagar from the O/O CO, 3rdIRBN, Seijosa. The repatriation order of CT Atum Gyadi to his parent unit doesn't mean that he cannot serve in Itanagar. He can be attached with some other units depending upon the decision of the CO, 3rdIRBN, Seijosa and hence he is at liberty to request the competent authority for the same."

From a perusal of the instruction received from the Superintendent of Police, Capital, Itanagar, to the learned Addl. Senior Government Advocate, it transpires that the wife of the petitioner was detained on 10.05.2023, along with others under the provision of the APUAPA.

As the writ petitioner was repeatedly pressurising the Superintendent of Police, Capital, Itanagar, to release his wife from detention and has been trying to create undue pressure to the authority to release his wife; the impugned order, dated 17.05.2023, was issued by the authority concerned, repatriating him back to the 3rd IRBn, BHQ, Seijosa, to which organization, he belongs to.

It further transpires that though the petitioner has been repatriated back to the 3rd IRBn, BHQ, Seijosa, that, however, does not mean that he cannot serve in the Itanagar Capital Complex. Despite the repatriation; the petitioner can still be attached with some other units at Itanagar depending upon the decision of the Commanding Officer, 3rd IRBn, BHQ, Seijosa .

On instruction received by Ms. Ete, learned Addl. Senior Government Advocate, referred to above, it, therefore, transpires that the impugned order, dated 17.05.2023, in, itself, is not an order of transfer repatriating the petitioner back to his parent organization i.e. 3rd IRBn, BHQ, Seijosa.

In view of the above, no interference is called for to the impugned order, dated 17.05.2023, repatriating the petitioner back to his parent organization i.e. 3rd IRBn, BHQ, Seijosa.

Accordingly, this writ petition stands disposed of with a liberty granted to the petitioner to submit an appropriate representation to the Commanding Officer, 3rd IRBn, BHQ, Seijosa, if he wish to remain attached with some other units at Itanagar Capital Complex.

On such representation being submitted by the petitioner, the Commanding Officer, 3rd IRBn, BHQ, Seijosa, shall take a just and appropriate decision in the matter.

A copy of the letter, dated 23.05.2023, written by the Superintendent of Police, Capital, Itanagar, to Ms. Ete, learned Addl. Senior Government Advocate, shall be retained as a part of the record and marked as Annexure 'X' for identification.

JUDGE

Comparing Assistant