

GAHC040007732021



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

Case No. : WP(C) 266/2021

1: Taniram Mingki and 6 Ors,
S/o Lt. Tatok Mingki,
R/o Village Sika Tode, P.O/P.S Silile Oyan, East Siang District, A.P

2: Tatok Tali
S/o Lt. Tasing Tali

R/o Village Sika Tode
PO/PS Silile Oyan
East Siang District
Arunachal Pradesh

3: Tasi Jamoh
S/o Lt. Taker Jamoh

R/o Village Sika Tode
PO/PS Silile Oyan
East Siang District
Arunachal Pradesh

4: Takam Gao
S/o Lt. Takoh Gao

R/o Village Sika Tode
PO/PS Silile Oyan
East Siang District
Arunachal Pradesh

5: Takyam Gao
S/o Lt. Takoh Gao

R/o Village Sika Tode
PO/PS Sille Oyan
East Siang District
Arunachal Pradesh

6: Ogeshwar Tasing
S/O Lt. Tagang Tasing

R/o Village Sika Tode
PO/PS Sille Oyan
East Siang District
Arunachal Pradesh

7: Tayek Tasing
R/o Village Sika Tode
PO/PS Sille Oyan
East Siang District
Arunachal Pradesh

VERSUS

1:THE STATE OF AP and 5 Ors.
Represented by the Secretary General Administration, Govt. of Arunachal Pradesh,
Itanagar

2:The Deputy Commissioner
Pasighat
East Siang District
Arunachal Pradesh

3:The Circle Officer
Sille Oyan circle
East Siang District
Arunachal Pradesh

4:Tate Tasing
Gam Burah (GB)
Sika Tode Village
PO/PS Sille Oyan
East Siang District
Arunachal Pradesh

5:Naloh Tasing
S/o Shri Tate Tasing
General Secretary
Sika Tode Baane Kebang (STBK)
R/o Sika Tode Village
PO/PS Sille Oyan
East Siang District
Arunachal Pradesh

Advocate for the Petitioner : T T Tara

Advocate for the Respondent : GA (AP)

**BEFORE
HONBLE MR. JUSTICE NANI TAGIA**

ORDER

Date : 01-03-2023

Heard Mr. B. Kamdak, learned counsel for the petitioner. Also heard Ms. P. Sangeeta, learned Junior Government Advocate for the respondent nos. 1 to 3 and Mr. V. Jamoh, learned counsel for the respondent nos. 4, 5 & 6.

2. This writ petition has been filed for setting aside of the bye-laws of Sika Tode Baane Kebang (Annexure-2 to the writ petition).

3. Though on perusal of Annexure-2 of the writ petition, no author of the bye-laws of Sika Tode Baane Kebang is to be found but at the end of the bye-laws as many as 7(seven) names have been reflected to be the Drafting Committee of the bye-laws, which are as under:

- | | |
|----------------------|------------|
| 1. Shri Taka Jamoh | - Chairman |
| 2. Shri Oyin Tate | - Member |
| 3. Dr. Vicky Saroh | - Member |
| 4. Shri Deepak Siram | - Member |

- 5. Shri Nalo Tasing - Member
- 6. Shri Apang Jamoh - Member
- 7. Shri Tatem Jamoh - Member

The bye-laws of Sika Tode Baane Kebang is stated to have been framed for the self-governance of the village called Sika Tode.

4. The grievance of the petitioners, as can be noticed from the pleaded case of the petitioners, appears to be that whenever the Gaon Buras of the village, namely, respondent nos. 4 & 5 are approached for issuance of No Objection Certificate (NOC) for issuance of Scheduled Tribe Certificate (ST) by the competent authority, the Gaon Buras of the village, namely, respondent nos. 4 & 5 acting on the bye-laws of Sika Tode Baane Kebang refuses to issue NOC and thereby, depriving the petitioners from obtaining the ST certificate.

5. The respondent nos. 2 & 3, the Deputy Commissioner, Pasighat, East Siang District and Circle Officer, Sille-Oyan circle, East Siang District, respectively, have filed their counter-affidavits, wherein, it has been stated that the said authorities have not issued any orders or directions to the Gaon Buras of Sika Tode village to act upon the bye-laws of Sika Tode Baane Kebang, with regard to verification/recommendation for issuance of the ST certificate and Permanent Residential Certificate (PRC).

6. Upon consideration of the rival pleadings of the parties, it is noticed that the bye-laws of Sika Tode Baane Kebang has neither been framed in exercise of any statutory provisions, nor, any orders or directions have been issued by the competent authority in this regard. Thus, the impugned bye-laws of Sika Tode Baane Kebang cannot be said to have been framed whose, existence

and validity can be traced to the constitution of India.

7. Accordingly, this writ petition is disposed of by providing that in the matter of issuance of No Objection Certificate (NOC) for issuance of Scheduled Tribe Certificate (ST), the bye-laws of Sika Tode Baane Kebang shall not be acted upon insofar as petitioners are concerned.

8. The writ petition is disposed of, with the above direction.

JUDGE

Comparing Assistant