

GAHC040009472023



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

Case No. : IA(C)/127/2023

Karikho Kri
S/o Late Sotri Kri,
R/o Kri Niwas, Village Telluliang, PO/PS Tezu, District Lohit Arunachal Pradesh.
(For the Special Power of Attorney Holder)

VERSUS

Nuney Tayang
S/o Late Posu Tayang,
R/o House No. E 265, Shivaji Nagar Road, Tezu, PO Tezu, PS Tezu, District Lohit,
Arunachal Pradesh, PIN 792001

Advocate for the Petitioner : K Dorjee

Advocate for the Respondent : D Mazumdar, Sr. Advocate

BEFORE
HONBLE MR. JUSTICE NANI TAGIA

ORDER

Date : 18-07-2023

Heard Mr. K. Tama, learned counsel for the applicant. Also heard Mr. S. K. Deori, learned counsel for the opposite party.

2. This is an application, filed under Section 116 B of the Representation of

the People Act, 1951, seeking stay of the judgment and order dated 17.07.2023, passed in the Election Petition No. 01 of 2019, for a period of 1 (one) month, to enable the applicant to exercise his statutory right of appeal under Section 116-A of the Representation of the People Act, 1951, before the Hon'ble Supreme Court.

3. Section 116 B (1) of the Representation of the People Act, 1951, reads as under:

“...(1). An application may be made to the High Court for stay of operation of an order made by the High Court under section 98 or section 99 before the expiration of the time allowed for appealing therefrom and the High Court may, on sufficient cause being shown and on such terms and conditions as it may think fit, stay the operation of the order; but no application for stay shall be made to the High Court after an appeal has been preferred to the Supreme Court.”

4. Section 116 B (1) of the Representation of the People Act, 1951, thus, provides that on an application filed, the High Court may stay the operation of the order made by it under section 98 or section 99 before the expiration of the time allowed for appealing therefrom if sufficient cause is shown by the applicant.

5. Praying for stay of the judgment and order, dated 17.07.2023, passed in the Election Petition No. 01 of 2019, for a period of 1 (one) month, the petitioner in paragraph-10 of the application has stated as under:

“That your applicant states that there are certain ongoing public utility projects undertaken by the applicant as an MLA, and if the judgement and

order dated 17.07.2023 is not stayed by this Hon'ble Court is exercise of powers u/s 116-B, all these projects will come to a halt and the public interest would eventually suffer".

6. On perusal of paragraph-10 of the application filed by the applicant, it is noticed that petitioner has sought for stay of the judgment and order, dated 17.07.2023, passed in the Election Petition No. 01 of 2019, on the ground that there are certain ongoing public utility projects undertaken by the applicant as an MLA and if the judgment and order dated 17.07.2023 is not stayed by this Court, in exercise of power under Section 116 B, all these projects will come to a halt and the public interest would eventually suffer. Though the applicant has stated that there are several ongoing public utility projects undertaken by the applicant as an MLA but it has not been specified or elaborated in the application as to which of the ongoing public utility projects would come to a halt without the participation of the MLA.

7. In that view of the matter, I am of the view that the aforesaid ground on which the stay of the judgment and order dated 17.07.2023, passed in the Election Petition No. 01 of 2019 is sought for by the petitioner, can hardly be said to be a sufficient cause for stay of the judgment and order dated 17.07.2023, passed in the Election Petition No. 01, as provided under Section 116 B of the Representation of the People Act 1951.

8. In view of the above, I am not inclined to stay the judgment and order dated 17.07.2023, passed in the Election Petition No. 01 of 2019, for a period of 1 (one) month, in the absence of sufficient cause shown by the applicant in the accompanying application, thereby, leaving the applicant to file an appeal before the Hon'ble Supreme Court.

9. The interlocutory application stands disposed of, in terms above.

JUDGE

Comparing Assistant