

GAHC040013092023



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

Case No. : IA(C)/149/2023

Ramu Welly
Age: 53
Occupation :
Address: Presently posted as Executive Engineer
Urban Development and Housing Department
Govt. of Arunachal Pradesh
PO Yingkiiong
Upper Siang District
Arunachal Pradesh.

VERSUS

Kame Bengia
Age: 0
Occupation :
Address: S/o Late Bengia Rajeng

Presently serving as Executive Engineer
Itanagar Municipal Corporation
Opposite VKV 2
Gohpur
Itanagar
Papum Pare District
Arunachal Pradesh.

Advocate for : T T Tara
Advocate for : Dicky Panging appearing for Kame Bengia: Advocate appearing for
respectively.

Linked Case : WP(C)/374/2023

Kame Bengia
Age: 50
Occupation :
Address: Son of Late Bengia Rajeng

Presently serving as Executive Engineer
Itanagar Municipal Corporation
Opposite VKV 2
Gohpur
Itanagar
Papumpare District
Arunachal Pradesh
Phone No. 8787452677

VERSUS

THE STATE OF AP and 6 Ors.

Age: 0
Occupation :
Address: Through the Secretary
Urban Development and Housing
Govt. of Arunachal Pradesh
Itanagar.
2: the Secretary
Age: 0
Occupation :
Address: Urban Development and Housing
Govt. of Arunachal Pradesh
Itanagar.

3: the Secretary
Age: 0
Occupation :
Address: Education
Govt. of Arunachal Pradesh
Itanagar.

4: the Director
Age: 0
Occupation :
Address: Higher and Technical Education
Govt. of Arunachal Pradesh
Itanagar.

5: Hali Welly
Age: 0
Occupation :
Address: Presently posted as Executive Engineer

Urban Development and Housing Department
Govt. of Arunachal Pradesh
PO Aalo
West Siang District
Arunachal Pradesh.

6:Ramu Welly
Age: 0
Occupation :
Address:Presently posted as Executive Engineer

Urban Development and Housing Department
Govt. of Arunachal Pradesh
PO Yingkiong
Upper Siang District
Arunachal Pradesh.

7:George Welly
Age: 0
Occupation :
Address:Presently posted as Executive Engineer
Urban Development and Housing Department
Govt. of Arunachal Pradesh
PO Jairampur
Changlang District
Arunachal Pradesh.

Advocate for : Dicky Panging
Advocate for : GA (AP) appearing for THE STATE OF AP and 6 Ors.: Advocate ,
appearing for 2, 3, 4, 5, 6, 7, respectively.

BEFORE
HONBLE MR. JUSTICE AJIT BORTHAKUR

ORDER

04.10.2023

Heard Mr. T.T. Tara, learned counsel for the applicant. Also heard Mr. D. Panging, learned counsel for the respondent.

2. By this interlocutory application the applicant, who is the private respondent No.6 in WP(C) No.374(AP/2023, has prayed for

vacation/modification/alteration of the ex-parte ad interim status quo order, dated 16.08.2023, passed by this Court in WP(C) No. 374(AP)/2023 directing the respondent authorities to maintain status quo on the process of selection to the post of Superintending Engineer in the Department of UD & Housing, Government of Arunachal Pradesh, Itanagar.

3. On 16.08.2023, this Court passed the following order in the connected WP(C) No.374(AP)/2023-

“Heard Mr. D. Panging, learned counsel for the petitioner, who submits that the respondent authority concerned are contemplating to initiate the process of promotion from the post of Executive Engineer Urban Development and Housing Department to the next higher post of Superintendent Engineer of the same Department.

He submits that the petitioner has acquired a degree in the required field on regular basis while the respondent Nos. 5, 6 & 7 had acquired their respective degrees through correspondent course which otherwise has been declared to be not permissible by the Apex Court in the case of Orissa Lift Irrigation Corporation Limited vs. Rabi Sankar Patro and Ors. reported in (2018) 1 SCC 468. In view of above, issue notice of motion, returnable within 3 weeks.

Ms. R. Basar, learned Government Advocate appearing on behalf of the respondent Nos. 1 & 2 and Mr. T. Jamoh, learned Standing Counsel, Education Department appearing for respondent Nos. 3 & 4 have entered appearance and accepted notice on behalf of their respective respondents, no formal notice is required to be issued to the said respondent. However, they shall be provided with requisite extra-copy of the petition during the course of the day, if not already furnished.

The learned counsel for the petitioner shall take steps for service of notice upon the private respondent Nos. 5, 6 & 7 by registered post with A/D as well as by usual process within 3(three) days from today.

Also issue notice on the interim prayer made by the petitioner making returnable by 3(three) weeks

List the matter again after 3(three) weeks.

Till the next date, the respondents are directed to maintain status-quo on the process of selection to the post of Superintendent Engineer.”

4. The applicant, *inter alia*, contended that the case projected in the

connected W.P.(C) No.374(AP)/2023 by the petitioner is against the Degree in Civil Engineering obtained by the applicant, dated 15.09.2011 and 15.09.2012 from the Institute of Civil Engineers, Associate Membership [AMICE(I)], Guwahati Centre through "open & Distance Learning" made purportedly in violation of the directions passed by the Hon'ble Supreme Court in the case of *Orissa Lift Irrigation Corporation Ltd. Vs. Rabi Sankar Patro and others, reported in (2018) 1 SCC 468*. The applicant has contended that such a factual position does not in law cloth the writ petitioner with any rights to challenge the degree obtained by the applicant in the instant I.A. According to the applicant, the circular dated 23.11.2020 vide Memo No. F.No.13-56/PC/ODL-Mode/AICTE/2020 issued by the Adviser, P and A.P.B. of All India Council for Technical Education recognised the courses conducted by the Professional Bodies/Institutions for all purposes including higher Education and employment upto 31.05.2013. Therefore, the applicant contended that the Degree in Civil Engineering obtained by the applicant dated 15.09.2012 is valid and as such, does not fall within the purview and ratio laid down by the Hon'ble Apex Court in *Rabi Sankar Patro (Supra)*, which was, in fact, suggestive in nature with one time relaxation only to conduct test examinations by the AICTE.

5. Now, having heard the learned counsel of both sides at length and perusal of the averments made by the applicant and further, the objection filed by the respondent/writ petitioner, this Court finds it expedient without causing any prejudice to either of the parties to suitably modify the ex-parte interim order, dated 16.08.2023 passed in the connected W.P.(C) No.374/2023 in consonance with the consensus reached between the parties during the hearing.

6. Accordingly, it is provided that the process of selection to the post of

Superintending Engineer may be done and result of such selection be kept in sealed cover, (without publication) and further, the selection so made shall be subject to the final outcome in the connected W.P.(C) No. 374(AP)2023.

7. This modified interim order shall form part of the order, dated 16.08.2023 passed in WP(C) No. 374(AP) 2023.

Accordingly, the instant interlocutory application stands disposed of.

JUDGE

Comparing Assistant