

GAHC040013792023



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

Case No. : WP(C)/489/2023

Gangdiap Gangsa
S/o Late Gangnyan Gangsa, Village Khasa, P.O/P.S Pongchau, Longding District,
Arunachal Pradesh. Phone No. 8730847731

VERSUS

The State of AP and 4 Others represented through Secretary (Personnel), Government
of Arunachal Pradesh, Civil Secretariat, Itanagar, Pin 791111

2:The Director
Age: 0
Occupation : Geology and Mining Government of Arunachal Pradesh Itanagar.

3:The Deputy Commissioner
Age: 0
Occupation : Longding District Government of Arunachal Pradesh Longding

4:Shri Nowbo Dokkam
Age: 0
Occupation :
S/o Late Chingsa Dokkam village Pongchau P.O/P.S Pongchau District Longding
Arunachal Pradesh.

5:Smti Phohee Wangsu
Age: 0
Occupation :
W/o Shri Matchan Wangsu village Pongchau P.O/P.S Pongchau District Longding
Arunachal Pradesh

Advocate for the Petitioner : T T Tara, Gamken Bam, Taba Tokur, Khoda Apa,
Terji Kamchi, Y Mugli, Riya Sarkar, Kirmani Lollen

Advocate for the Respondent : GA (AP)

**BEFORE
HONBLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 07-12-2023

Heard Mr. T. T. Tara, learned counsel for the petitioner. Also heard Mr. S. Tapin, learned Senior Government Advocate appearing for the respondents no. 1, 2 & 3.

2. As per Office note dated 15.11.2023, notice has already been served on respondents no. 4 & 5. None appears on call for the said respondents.

3. As the learned counsel for the petitioner has expressed urgency in the matter, the matter has been heard.

4. The case of the petitioner, in brief is that at the relevant point of time, he was holding the post of Assistant Mining Development Officer, under the Department of Geology and Mining, Government of Arunachal Pradesh. With an intention to offer his candidature in the ensuing elections, the petitioner submitted his resignation to the Secretary, Geology and Mining Department, Government of Arunachal Pradesh, vide letter dated 08.09.2023. It would suffice to mention that initially an No Objection Certificate (NOC) dated 05.09.2023 was issued in favour of the petitioner. However, on 18.09.2023, the NOC was cancelled, purportedly on the basis of reports dated 18.09.2023 and 21.09.2023 submitted by the Circle Officer-cum-Executive Magistrate, Pongchau. On the ground that the enquires and complaints were entertained without notice to the petitioner and behind his back, the order of cancellation of the NOC dated 18.09.2023 is put to challenge in this writ

petition filed under Article 226 of the Constitution of India.

5. The learned Senior Government Advocate has referred to the stand taken in the affidavit-in-opposition.

6. The contention in the affidavit-in-opposition and the submissions made by the learned counsel for both sides at the Bar have not been referred to in view of the order that is proposed to be passed.

7. In course of deliberations, the learned counsel for the petitioner as well as the learned Senior Government Advocate has submitted that they would have no objection if the matter relating to cancellation of NOC vide order dated 18.09.2023 be remanded back for fresh adjudication before the Deputy Commissioner, Longding with a direction to dispose of the objection/cancellation of the NOC of the petitioner within an outer period of 2 (two) months.

8. The learned counsel for the petitioner has submitted that the petitioner has already submitted a representation dated 20.09.2023 against the cancellation of NOC, which is at Annexure-7 to this writ petition.

9. On the basis of general consensus arrived at the point, the Court is inclined to observe that (i). considering that the cancellation of NOC will have Civil consequence, the Court is inclined to direct the Deputy Commissioner, Longding (respondent no. 3) to grant opportunity to the concerned parties to adduce evidence and to produce documents in their support and thereafter, make an endeavour to dispose of the objection relating to cancellation of NOC within an outer period of 60 (sixty) days from the date of receipt of the certified copy of this order and (ii). That the order

of cancellation of the NOC dated 18.09.2023, shall be subject to further adjudication that would be made by the Deputy Commissioner, Longding; in other words, the said order dated 18.09.2023 shall not create any permanent right in favour of any person and shall be subject to outcome of a fresh determination.

10. Accordingly, the matter has been disposed of with consensus of the parties without any adjudication of the writ and therefore, the Deputy Commissioner, Longding shall examine the matter on its own merit without being influenced by this order.

JUDGE

Comparing Assistant