

GAHC010010862017



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

Case No. : Review.Pet./11/2017

THE STATE OF NAGALAND and ANR
REPRESENTED BY THE CHIEF SECY. TO THE GOVT. OF NAGALAND,
NAGALAND, KOHIMA

2: THE COMMISSIONER and SECY. TO THE GOVT. OF NAGALAND

DEPTT. OF MUNICIPAL AFFAIRS
NAGALAND
KOHIMA

VERSUS

MS NUKSUNG TILA AND 3 ORS.
ADVOCATE, GAUHATI HIGH COURT, KOHIMA BENCH, KOHIMA,
NAGALAND

2: THE SECRETARY

TO THE GOVERNMENT OF NAGALAND
DEPARTMENT OF URBAN DEVELOPMENT
KOHIMA
NAGALAND
PIN-797001.

3: THE JOINT SECRETARY

TO THE GOVERNMENT OF NAGALAND
DEPARTMENT OF URBAN DEVELOPMENT
KOHIMA
NAGALAND
PIN-797001.

4: THE DIRECTOR

DIRECTORATE OF URBAN DEVELOPMENT
NAGALAND
PIN-797001

Advocate for the Petitioner : MR. TAO

Advocate for the Respondent : MR. S DUTTA, SR.ADV.

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HONOURABLE MR. JUSTICE ROBIN PHUKAN

JUDGMENT & ORDER (ORAL)

Date : 24-01-2023
(A.M. Bujor Barua, J)

Heard Ms. M. Kechii, learned counsel for the review petitioners.

2. By the order dated 05.08.2022 in I.A.(Civil) No. 409/2017, the petitioners were allowed to effect Dasti service on the respondent No. 1 namely, Ms. Nuksungtila who was the petitioner in PIL No. 71/2015. By this review petition, the petitioners being the State of Nagaland and Others seek for a review of the order dated 16.09.2015 in PIL No. 71/2015. We have also taken note of the communication dated 16.08.2022 which indicates that Dasti notice upon the respondent No. 1 Ms. Nuksungtila had been effected, but none appears for the respondent No. 1 when the matter is called.

3. Aggrieved to the extent that in the order dated 16.09.2015 in PIL No. 71/2015, there is also a provision that the Government of Nagaland is required to create a separate Commissionerate and a separate cadre of the Municipal Affairs, the PIL itself was instituted. In course of the hearing of the PIL, the notification dated 01.04.2015 of the Chief Secretary to the Government of Nagaland was produced before the Court which provided that a new Directorate

of Municipal Affairs and the existing Directorate of Urban Development would be under a common administrative head and that the Government of Nagaland was pleased to create a separate Directorate of Municipal Affairs. In the circumstance, in the order dated 16.09.2015 in PIL No. 71/2015, it was taken note that a separate Directorate of Municipal Affairs had been created and put into existence. However, the further provision that the Government of Nagaland is also required to create a Commissionerate of Municipal Affairs is adversely affecting the Government of Nagaland. In the circumstance, this review petition has been instituted.

4. In the hierarchy of administrative structure, there is a Government department which is headed either by a Commissioner or a Secretary or as the case may be by any other appropriate Secretary, and for the purpose of carrying out the activities of the department a Commissionerate or a Directorate may be created. In view of the administrative hierarchy, we are of the view that once a Directorate of Municipal Affairs had been separately created which is functioning under the Urban Development Department of the Government of Nagaland and the Urban Development Department is being headed by a Principal Secretary, there would be no further requirement to create a new and separate Commissionerate inasmuch as, in view of the existence of a Directorate we do not find a requirement of a Commissionerate, or otherwise the concept of having a Directorate and a Commissionerate to carry out the activities of a Government department would lead to a situation where the nature and functions to be performed by the Directorate and the Commissionerate would be more or less the same which may lead to a confusion rather than bringing any clarity in the administration.

5. Accordingly, the order dated 16.09.2015 in PIL No. 71/2015 is modified to

the extent that the requirement of the said order to create also a Commissionerate, over and above the Directorate, stands recalled. But however, it is clarified that the requirement of having an administrative department under which the Directorate would function would remain in place, which again may be headed by a Commissioner or a Secretary or any other form of a Secretary.

The review petition is allowed as indicated above.

J U D G E

J U D G E

Comparing Assistant