



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

Case No. : WP(C)/64/2016

MHALEVIZO THEVO
S/O LT. VINOLHOULIE THEVO,
R/O CHEDEMA VILLAGE, KOHIMA, N/L

VERSUS

THE STATE OF NAGALAND AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO
THE GOVT. OF N/L, DEPT. OF VETERINARY AND ANIMAL
HUSBANDRY , N/L, KOHIMA
2) THE DIRECTOR, DEPT. OF VETERINARY AND
ANIMAL HUSBANDRY, N/L
DEPT. OF VETERINARY AND ANIMAL HUSBANDRY, N/L, KOHIMA
3) THE CHIEF VETERINARY OFFICER, KOHIMA, N/L
KOHIMA
4) KHOVILIE STEPHEN
S/O SHRI. LHOUSILIE, R/O CHEDEMA VILLAGE, KOHIMA, N/L
Advocate-LIMAWAPANG
,AREPLA CHANG (R-4)

Advocate for the Petitioner : YANGER WATI

Advocate for the Respondent : GOVT ADV NL

**BEFORE
HONBLE MR JUSTICE KARDAK ETE**

ORDER

Date : 24-07-2023

Heard Mr. Z. Kulnu, learned counsel for the petitioner and also heard Ms. A. Ayemi, learned State counsel for respondent nos. 1, 2 and 3 and Mr. Limawapang, learned counsel appearing for respondent No. 4.

By filing this petition, the petitioner prays for a direction to consider for appointment on the basis of landownership and in the alternative for a direction to the respondent authorities for issuance of advertisement for filling up the post of Chowkidar at VHC, Chakhabama, Kohima, Nagaland.

The case projected by the petitioner is that the present site of the Veterinary Sub-Centre was donated free of cost by three landowners, with an understanding that the Grade IV post shall be offered to the land owners. The petitioner stated that the family members of the two land owners were given employment opportunity, however, none of the family members of the petitioner has been appointed on the basis of the land ownership as on date.

On the retirement of the father of the respondent no. 4 from the post of Chowkidar, the petitioner as well as the private respondent applied for the said post. However, instead of considering the petitioner, the private respondent No. 4 was appointed in the said vacant post of Chowkidar. On such

development, the Chedema Village Council informed the State government for consideration on the ground that none has been appointed from the family members in any Grade IV post on the basis of land ownership. On such representation dated 20.05.2015 of the village council, the appointment of the private respondent vide order dated 07.05.2015 was cancelled and his serviced was terminated on 08.07.2015 by the respondent authority.

Thereafter, by order no. VET/EST-3/KMA/1/2015-16 dated 09.07.2015, the petitioner was appointed to the post of Chowkidar at VHC, Chakhabama on ad-hoc basis, in place of the private respondent no. 4.

Being aggrieved of the cancellation and termination order dated 08.07.2015, the respondent no. 4 approached this Court by filing the writ petition being WP(C) no. 130(K)/2015 against the termination order dated 08.07.2015 and also challenging the order dated 09.07.2015 whereby the petitioner was appointed in place of the respondent no. 4. This court by order dated 02.12.2015 disposed of the matter whereby the appointment of the petitioner vide order dated 09.07.2015 was set aside and the respondent no. 4 was allowed to continue in terms of the order dated 07.05.2015, in which post the respondent no. 4 is still continuing as on date. In the said order this court has provided that the State respondents will proceed with the matter in accordance with the law.

It is noticed that the present writ petition was disposed of on 16.08.2018 by this Court with a direction that the authorities shall immediately advertise the post of Chowkidar at VHC, Chakhabama

within a period of five months, however a civil review petition 12/2018 was filed by the respondent no. 4 on the ground that the respondent no. 4 was not given an opportunity which amount to denial of being heard, this Court allowed the Civil Review petition 12(K)/2018 accordingly revived the present writ petition vide order dated 14.05.2019.

The grievance of the petitioner is that since he is one of the land owners who had donated the land for establishment of VHC, Chakhabama, Kohima, Nagaland, he is entitled to be appointed to grade IV post of Chowkidar in which post the respondent no. 4 is serving. The learned counsel for the petitioner submits that the family member of the other land owners were appointed in lieu of the land donated for the Government establishment, but none of his family members have been appointed in any government job in lieu of the land which his family has donated, hence, the petitioner is entitled for appointment to any Group IV post in the Government.

The learned counsel for the petitioner submits that as per the notification No. LR/6-181/LIT/215 dated 05.03.2018 under clause 3(c) it provides that it is not the policy of the government to provide employment to the land owner in perpetuity. The employment of land owner, if permitted by a verifiable and valid agreement, is limited to the person first appointed as land owner in Government service and does not entitle his descendants for further employment on his retirement from service. Since the government has not appointed any of the family members of the petitioner, the petitioner should be considered for appointment in place of the respondent no. 4.

Ms. A. Ayemi, learned State counsel submits that admittedly the petitioner along with two others have donated their land in question for establishment of VHC at Chakhabama, Kohima, Nagaland. She submits that the father of the petitioner was appointed to grade IV post on the basis of land ownership earlier. However, no records is available, and only the joining report has been traced out . The learned State counsel fairly submits that the post in question shall be filled up as per the relevant rules and in accordance with law.

Mr. Limawapang, learned counsel for the respondent no. 4 submits that the respondent No. 4 is also one of the land owners who donated the land for establishment of VHC, Chakhabama for which he is also entitled to be appointed on the basis of land ownership. The father of the respondent No. 4 was appointed on its own merit and not on the basis of land ownership therefore the consideration of the respondent no. 4 cannot be barred. He however fairly submits that since the post is a public post, it is to be filled up in accordance with law.

Having heard the submissions of the learned counsel for the parties, this Court is of the opinion that since the post is a public post in the department of Veterinary & Animal Husbandry it is to be filled up by following the constitutional scheme of public employment. It is noticed that this Court vide order dated 02.12.2015 passed in WP(C)/130(K)/2015 as already provided the State to proceed with the matter in accordance with law coupled with the order dated 16.08.2018 in the present matter, wherein this Court has also directed the authorities to advertise the post of

Chowkidar at VHC, Chakhabama as per the existing rules and fill up the said post.

On consideration of the matter in its entirety, this court is of the view that without traversing to the rival contentions of the learned counsel for the parties on merit, it would be appropriate to direct the respondent authorities to fill up the post in accordance with law. Accordingly, it is directed that the authorities shall advertise the post of Chowkidar of V.H.C, Chakhabama and fill up the same in accordance with law by allowing all the eligible candidates including the petitioner and respondent no.4.

The writ petition accordingly stands disposed of.

Sd/-
JUDGE

Comparing Assistant