

GAHC020001782023



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

Case No. : Review.Pet./2/2023

MR. E. ZUBENTHUNG NGULLIE
S/O EZANSAO NGULLIE,
R/O OKOTSO VILLAGE, WOKHA - 79711, NAGALAND

VERSUS

MR. THUNGBEMO C. SHITIRI AND 5 ORS
S/O CHANCHI SHITIRI,
R/O PANGTI VILLAGE WOKHA,
C/O TSANSO NGULLIE STENO GR - I, DIRECTORATE OF ANIMAL
HUSBANDRY AND VETERINARY SERVICES DEPARTMENT,
GOVERNMENT OF NAGALAND, KOHIMA

2) THE STATE OF NAGALAND,
REPRESENTED THROUGH THE CHIEF SECRETARY
TO THE GOVERNMENT OF NAGALAND, KOHIMA

3) THE SECRETARY TO THE GOVERNMENT,
ANIMAL HUSBANDRY AND VETERINARY SERVICES DEPARTMENT,
NAGALAND, KOHIMA

4) THE DEPUTY COMMISSIONER,
WOKHA, NAGALAND

5) THE DIRECTOR,
ANIMAL HUSBANDRY AND VETERINARY SERVICES DEPARTMENT,
NAGALAND, KOHIMA

6) THE CHIEF VETERINARY OFFICER,
WOKHA, NAGALAND

Advocate for the Petitioner : NAOMY SALE

Advocate for the Respondent : I. IMTI LONGCHAR

**BEFORE
HON'BLE MR. JUSTICE NELSON SAILO**

ORDER

Date : 28-08-2023

Heard Mr. Pakinrichapbo, learned counsel for the review petitioner and Mr. I. Imti Longchar, learned counsel for the respondent No. 1. No one appears for the State respondents despite notice.

[2.] By filing this review petition, the petitioner prays for review of the order dated 24.03.2023 passed by this Court in WP(C) No. 115/2019. The respondent No. 1 as writ petitioner had challenged the approval given by the Government to appoint the review petitioner as Medicine Carrier at Veterinary Health Centre, Sungro under the establishment of Chief Veterinary Officer, Wokha and the resultant appointment made vide order dated 08.03.2019. It is the case of the writ petitioner that when vacancy arose, he submitted an application to the Director, Animal Husbandry & Veterinary Services for being appointed to the post in question on 06.06.2016 being a local of the area and also belonging to the family of land owners where Stockman Centre, Sungro town was established.

[3.] The writ petition was considered and disposed of vide order dated 24.03.2023 by setting aside the appointment order dated 08.03.2019 of the review petitioner and directing the respondent authorities to consider the case of the writ petitioner for appointment as Medicine Carrier in

terms of the recommendation which was forwarded by the Director of Animal Husbandry & Veterinary Services to the Principal Secretary to the Govt. of Nagaland, Animal Husbandry & Veterinary Services on 15.01.2018.

[4.] The respondent No. 8 being aggrieved with the order has now filed the instant review petition as review petitioner on the following grounds:-

"Grounds for review

- i. The discovery of new documentary evidence which is annexed as Annexure-8, 9, 10 & 11.*
- ii. Whether the learned Single Judge committed a grave error both in law and facts by directing the State respondents to appoint the respondent no.1 to the post of Medicine Carrier when two people were already appointed on ground of land ownership rights.*
- iii. That learned Single Judge has misread and misinterpreted the legal aspects of the Office Memorandum dated 16.08.2018 for which the learned Single Judge arrived at a wrong decision.*
- iv. Whether the Learned Single Judge erred in law by observing that the two notifications cannot be applicable without quashing it.*
- v. That the conclusion of the Ld. Single Judge is unjust, unreasonable and self contrary.*

vi. *That the Learned Single Judge would not have to apply any rule of interpretation to find out the nature of the O.M dated 16.08.2018 as the same was legibly written and its context are vivid.*

vii. *The Appellant reserved its right of taking any additional grounds or grounds at the time of considering the instant appeal."*

[5.] The first two grounds taken by the review petitioner is that, there is discovery of new documentary evidence which are annexed as Annexures - 8, 9, 10 & 11 to the review petition. Court committed error in directing the appointment of the writ petitioner when two persons had already been appointed on land ownership rights. Annexure - 8 is a communication dated 16.11.2018 made by the writ petitioner to the Director, Animal Husbandry & Veterinary Services, Nagaland, Kohima requesting review of the Government's decision to appoint a candidate as Medicine Carrier as he was not a genuine land owner. Annexure - 9 is the approval for appointment of five (5) candidates to various post of Grade - IV under the department of AH & Veterinary Services written by the Joint Secretary to the Govt. of Nagaland, Department of Animal Husbandry & Veterinary Services to the Director of the same department. Annexure - 10 is a communication dated 29.04.2020 made by the Additional Secretary to the Govt. of Nagaland, Department of Animal Husbandry & Veterinary Services to the Director of the same Department on the subject of complaint letter against the Government approval given for

appointment to the post of Medicine Carrier at VHC, Sungro under CVO, Wokha. The letter says that land compensation as per information furnished by the Department was settled at Rs. 900/- per acre. Secondly, two persons were employed in the name of land owners and they have now retired. That Sh. Pithungo Shitiri and Sh. Khonthungo Shitiri (land owners) were appointed as Medicine Carrier and still serving. Annexure - 11 is a communication dated 20.10.2020 made by the Director, AH & Veterinary Services, to the writ petitioner on the subject of complaint letter against the Government approval for appointment to the post of Medicine Carrier at VHC, Sungro under CVO, Wokha. The contents of the letter is one and the same with that of the letter dated 29.04.2020 (Annexure - 10).

[6.] According to the Review petitioner, in view of the aforesaid documents, the order dated 24.03.2023 passed in WP(C) No. 115/2019 should be reviewed. It may however be seen that the writ petitioner in his writ petition had challenged the approval given by the State Government vide the communication signed on 02.11.2018 and 06.11.2018 for appointing the review petitioner to the post of Medicine Carrier which also contained the names of four other persons. It was also argued on behalf of the State Government as well as the private respondent No. 8 (review petitioner) that Shitiri clan cannot claim appointment in the Department on the strength being land owner in perpetuity. That the appointment given to land owner is personal and

once he vacates the post on retirement, the post has to be filled up through open advertisement by giving opportunity to all interested applicants. Similarly, it was contended on behalf of the review petitioner that as per the standing Government policy, employment given to land owners is only a one time entitlement and therefore, the writ petitioner cannot claim employment on the basis of being land owner contrary to the government policy.

[7.] This Court had also considered the Office Memorandum dated 03.03.2022 which is regarding the filling up of Group 'D' post in various Departments under the Government of Nagaland, issued by the Chief Secretary. The Office Memorandum provided that the requirement of floating advertisement could be dispensed with for filling up posts on account of difficulties faced by the Department as long as the procedure adopted is carried out in fair and transparent manner and the approval of Government is obtained. Although the notifications dated 05.03.2018 and 06.08.2018 provided that the appointments given to land owners cannot be carried out in perpetuity and the same is only a one time appointment given to land owners but a view was taken that as the post in question fell vacant on 19.05.2016, the two notifications issued subsequently cannot be made applicable retrospectively. Further, the appointment of the review petitioner was made on the recommendation of the Advisor, Animal Husbandry & Veterinary Services on 17.07.2018 and the same was not preceded by any process of selection, coupled with the fact that the

review petitioner although claiming to be an indigenous inhabitant of Wokha district, he admittedly was not from the clan which donated the land in question. It was therefore under such circumstance that the recommendation and appointment of the review petitioner was found to be not sustainable.

[8.] As stated in the preceding paragraphs, the issues raised by the review petitioner in the review petition was already considered by this Court while disposing of the writ petition. In other words, the discovery of new documentary evidence projected by the review petitioner contains materials which have already been considered by this Court while disposing the writ petition vide order dated 24.03.2023. In fact, Annexures - 8 and 9 of the review petition were annexed in the writ petition as Annexures - 11 and 10 respectively. Therefore, the grounds for review taken in this regard cannot be accepted and is therefore rejected.

[9.] In respect of the other grounds which include the Court having misread/misinterpreted the legal aspects of the Office Memorandum concerned and the conclusion of the Court being unjust, unreasonable and self contrary, the same cannot be considered to be grounds for reviewing the order dated 24.03.2023 considering the scope of review and the settled principle of law that review is not an appeal in disguise.

[10.] Thus, upon due consideration and hearing the learned counsels for the review petitioner and for the respondent No. 1, this Court finds no ground for reviewing the order dated 24.03.2023 passed in WP(C) No.

115/2019 and accordingly, the review petition is dismissed.

Sd/-
JUDGE

Comparing Assistant