



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

Case No. : WP(C)/223/2021

SHRI. PERAMTHINLUNG AND 6 ORS
S/O KUANGMA, R/O H/NO.23A, TEPUN VILLAGE, DISTRICT - PEREN,
NAGALAND 2: SHRI. PILAK

3: SHRI. RAMRIDIN

4: SHRI. LUNGKHUM

5: SHRI. KUNGSILU

6: SHRI. KALINCHAP

7: SMTI. NAMLUNGS

VERSUS

THE STATE OF NAGALND AND 10 ORS
REPRESENTED BY THE CHIEF SECRETARY, NAGALAND, KOHIMA 2:THE
COMMISSIONER NAGALAND

3:THE DEPUTY COMMISSIONER

4:THE ADDITIONAL DEPUTY COMMISSIONER

5:SHRI. LUNGKIU

6:SHRI. ACHUN

7:SHRI. AGAU

8:SHRI. KIDIN

9:SHRI. KHENGNI

10:SMTI. WITALAK

11:SHRI. KAIRILUN

Advocate for the Petitioner : P. B. PAUL

Advocate for the Respondent : GOVT ADV NL

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

ORDER

27.03.2023

Heard Mr. Pfosekho Pfotte, learned counsel for the
petitioners and Mr. C.T. Jamir, learned Senior Counsel assisted by

Ms. Marlyn Rutsa, learned counsel for the private respondent Nos. 5 to 11. Also heard Ms. Lucy, learned State Counsel for the respondent Nos. 1 to 4.

[2.] Having regard to the nature of dispute projected by the parties, the instant case is taken up for disposal at this stage.

[3.] By filing this writ petition, the petitioners have challenged the decision made by the Deputy Commissioner, Peren District dated 29.04.2021 by which the objection made by the petitioners to the selection of the Village Council member of Tepun village including the respondent Nos. 5 to 11 was upheld. According to the petitioners, in the process of selection/election of the Village Council member to Tepun village, those persons who are from Tepun village but residing outside the village should not be permitted to exercise their voting rights in the process. Similarly, in the Resolution arrived at in the Tepun village general meeting meant to be followed for the tenure 2021 – 2031, it was resolved that the members of the Tepun village who had earlier migrated elsewhere and had returned back for resettlement to the village should not be given any right to hold key post in the village such as GB's, member etc., until they complete residing for 3 (three) years on returning to the village. The selection for Village Council members of Tepun village according to the petitioners therefore

has been done in gross violation of the Resolutions adopted by the earlier Village Council. It is also in contravention to Section 4 of the Village Councils Act, 1978 according to the learned counsel for the petitioners. He therefore submits that appointment of the private respondents are against the relevant provisions of the Village Councils Act, 1978 and the same should be interfered with. The learned counsel however submits that as per Section 20 of the said VC Act, any dispute arising in the selection of any member of the Village Council, the same should be referred to the State Government and whose decision shall be final. He submits that in a case of similar nature i.e., *WP(C) No. 55/2006 (Mr. Poseruh Lohe & Ors. –Vs- The State of Nagaland & Ors.)* this Court, in view of the provisions of Section 20 of the Village Council Act had referred the matter to the State Government for its decision. Therefore, the present case being squarely covered by the said decision and in view of Section 20 of the Village Council Act, matter be referred to the State Government.

[4.] Mr. C.T. Jamir, learned Senior Counsel has no objection to the prayer made by Mr. Pfosekho Pfotte in view of the said provision and also the law laid down by this Court.

[5.] In view of above, this writ petition is disposed of with a direction to the Deputy Commissioner, Peren (respondent No. 3) to

refer the matter to the State Government through the Chief Secretary to the Govt. of Nagaland (respondent No. 1) for consideration of the complaint submitted in terms of Section 20 of the Village Councils Act, 1978. The exercise as directed be carried out as expeditiously as possible and within the outer limit of 2 (two) months from the date of receipt of a certified copy of this order. The interim order passed earlier shall abide by the final order to be passed by the State Government.

[6.] Writ petition accordingly stands disposed of.

Sd/-

JUDGE

Comparing Assistant