

GAHC020006492023



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

Case No. : I.A.(Civil)/141/2023

THEJANGULIE
H.NO. 77, WARD 8, MEDZIPHIPHEMA DIMAPUR NAGALAND 797106

VERSUS

CHRISTIAN INSTITUTE OF HEALTH SCIENCES AND RESEARCH
AND 5 ORS
4TH MILE DIMAPUR, P.B. NO 31
P.O ARTC, NAGALAND-797115

2: MRS BARBARA MARISA GONCALVES NUNES
H/NO.77
WARD NO.8
R/O MEDZHIPHEMA - 797106
CHUMUKEDIMA DISTRICT
NAGALAND
VERSUS

1: CHRISTIAN INSTITUTE OF HEALTH SCIENCES AND RESEARCH
(CIHSR) AND 5 ORS
4TH MILE DIMAPUR
P.B. NO.31
P.O. ARTC
NAGALAND
797115

2:PRINCIPAL SECRETARY
DEPARTMENT OF HEALTH AND FAMILY WELFARE
REPRESENTING THE STATE OF NAGALAND
GOVT. OF NAGALAND
KOHIMA NAGALAND 797001

3:NAGALAND MEDICAL COUNCIL
PMTI COMPLEX

MERHULITSA COLONY
KOHIMA-797001
NAGALAND

4:THE STATE OF NAGALAND
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF NAGALAND
KOHIMA NAGALAND-797001

5:THE UNION OF INDIA
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA
MINISTRY OF HEALTH AND FAMILY WELFARE
ROOM NO. 348-A- WING
NIRMAN BHAVAN
NEW DELHI-110001

6:ALL INDIA INSTITUTE OF MEDICAL SCIENCES (AIIMS)
DELHI
REPRESENTED BY ITS DIRECTOR
ANSARI NAGAR
NEW DELHI-110029

Advocate for the Petitioner : THEJANGULIE

Advocate for the Respondent :

Linked Case : WP(C)/6/2022

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Advocate for : THEJANGULIE
Advocate for : appearing for CHRISTIAN INSTITUTE OF HEALTH SCIENCES
AND RESEARCH(CIHSR) AND 5 ORS

**BEFORE
HON'BLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : 23-11-2023

Heard Mr. Thejangulie, the petitioner-in-person; and Mr. Pfosekho Pfotte, learned counsel for the opposite party No. 1. Also heard Ms. V. Suokhrie, learned Additional A.G., Nagaland for the opposite party nos. 2 & 4; and Mr. Yangerwati, learned CGC for the opposite party no. 5.

2. The instant interlocutory application has been preferred by the applicant who is the petitioner-in-person in the connected writ petition, W.P.[C] no. 6/2022. The connected writ petition has been preferred under Article 226 of the Constitution of India contending *inter alia* that the applicant-petitioner's child, aged about 3 [three] years, suffered due to alleged negligence on the part of the authorities of the respondent no. 1 therein, i.e. opposite party no. 1 herein. Seeking redressal of grievances of the parents, the applicant-petitioner has preferred the connected writ petition stating that due to such medical negligence, the child of the applicant-petitioner is on the verge of complete disablement. The applicant-petitioner-in-person who is the father of the child, has preferred the instant interlocutory application seeking impleadment of his wife as the petitioner no. 2 in the connected writ petition. It has been averred that due to such medical condition of the child, the body needs constant care, attention and treatment from either of the parents. As the applicant as the lone petitioner-in-person is pursuing the connected writ petition in personal capacity it would be beneficial if he or his wife i.e. the mother of the child can pursue the connected writ petition on the dates the writ petition would be listed. It has been further averred that such impleadment would be in the interest of effective and expeditious adjudication of the writ petition.

3. Having gone through the statements and averments made in the connected writ petition, it transpires that the writ petition has been

preferred seeking enforcement of the fundamental right to life and or alleging infringement of the fundamental right to life, which is protected under the Article 21 of the Constitution. The right to life also includes right to protect life. Though a plea has been raised to the effect that the proposed petitioner is not a citizen of India but a citizen of Portugal and a writ petition could not be pursued by a non-citizen, the Court is not convinced about the same as Article 21 speaks about 'a person', not about 'a citizen'. In the considered view of this Court, by preferring the connected writ petition, the applicant-petitioner is seeking to protect the right to life of his child and for expeditious consideration of the connected writ petition it would be in the interest of justice that the prayer made in the instant interlocutory application is allowed, as both the father and the mother are equally interested and concerned to protect the life of their child. Such impleadment is permissible following the spirit contained in the provisions of Order 1 Rule 10[2], Code of Civil Procedure, 1908 which permits the Court, either upon or without the application of a party, to allow a person who is an interested one, to join the proceedings and to enable the Court to adjudicate upon and settle the matter involved in the proceedings effectually and completely.

4. Having regard to the above, the instant interlocutory application for impleadment of Mrs. Barbara Nunes as petitioner No. 2 in the connected writ petition, W.P.[C] no. 6/2022 is allowed.

5. The Registry to cause necessary correction in the cause-title of the connected writ petition, W.P.[C] no. 6/2022 and thereafter, to list the same on **18.01.2024**.

Sd/-
JUDGE

Comparing Assistant