

GAHC040000382024



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

Case No. : WP(C)/8/2024

Yeshi Wangdi

S/o Late Lobsang Norbu, R/o New Bomdila, PO Bomdila, West Kameng District, AP

VERSUS

The State of AP and 5 Ors

represented by the Commissioner(Vigilance), Govt of AP, Itanagar
Commissioner(Vigilance)

2:The

Age: 0

Occupation :

3:The Principal Secreatary (VigilancE)

Age: 0

Occupation :

4:The Deputy Commissioner

Age: 0

Occupation :

5:The Director

Age: 0

Occupation :

6:The DLRSO
Age: 0
Occupation

Advocate for the Petitioner : Vijay Jamoh

Advocate for the Respondent : GA (AP)

-BEFORE-

HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI

23.01.2024

Heard Shri V. Jamoh, learned counsel for the petitioner and also heard Ms. T. Wangmo, learned State counsel representing the State respondents.

On 11.01.2024, when this Court had considered the matter, the learned State counsel was directed to seek instruction and the matter was fixed today (**23.01.2024**) with a further observation that an endeavour would be made to dispose of the matter.

Such observation was made in view of the subject matter of the dispute and also the fact which was taken note of by this Court that similar matters were earlier dealt with and disposed of including an order, dated 07.09.2016.

It is the case of the petitioner that he is a Driver in the office of the Deputy Commissioner, Bomdila in the West Kameng District who is due to retire on attaining the age of superannuation on 31.01.2024. However, with regard to the issue of pension, the No Objection Certificate/ Vigilance Clearance have not been given to the petitioner on the ground that his wife has occupied a plot of Government land and there was an order dated 25.02.2020 by the

Commissioner (Vigilance) that encroachment of land done by the family will also be meant to be done by the Government employee. The learned counsel has submitted that there is a subsequent communication of 25.02.2020 as per which Vigilance clearance would not be given unless the Deputy Commissioner gives a report of non-encroachment by the petitioner or by any of his family members.

The learned counsel has submitted that the issue involved is no longer *res integra* in view of the law laid down by this Court in the earlier writ petition including an order, dated 07.09.2016 passed in WP (C) 476 (AP) 2016, wherein it has been laid down that NOC cannot be denied on such a ground. In the said order, earlier orders passed by this Court on the issue were also taken into consideration.

The learned State counsel who was granted time to obtain instruction has submitted that the action of the respondents is based on the earlier notifications. She, however, fairly submits that this Court had earlier passed judgment by interfering to such action.

In view of the above, this Court is of the considered view that the present writ petition be disposed of by interfering with the action of non-grant of NOC to the petitioner so as to enable himself to receive his post-retirement benefits including pension.

Such NOC is directed to be granted within a period of 3 (three) weeks from the date of submission of certified copy of this order.

Writ petition accordingly stands allowed.

JUDGE

Comparing Assistant