

GAHC040006492022



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

**Case No. : WA/14/2022**

Gagam Moyong  
S/o Olem Moyong,  
Presently serving as Lower Division Clerk (LDC) in the establishment of the Deputy Commissioner, Pangin, Govt. of A.P, Dist. Siang, Pangin, PO/PS Pangin, A.P. and a permanent resident of Village Rasam (Balek), PO and PS Pasighat, District East Siang, Arunachal Pradesh.

VERSUS

Osi Kopak and 5 Ors.  
A Resident of Pangin, PO and PS Pangin, Siang Dist. AP 918414012127 2:THE  
STATE OF AP  
Age: 0  
Occupation :

3:The Secretary  
Age: 0  
Occupation :

4:The Deputy Commissioner  
Age: 0  
Occupation :

5:The Selection Board  
Age: 0  
Occupation :

6:The Assistant Public Information Officer  
Age: 0

Occupation

**Advocate for the Petitioner** : D Mazumdar, Sr. Advocate

**Advocate for the Respondent** : GA (AP)

**BEFORE**  
**HONBLE MR. JUSTICE SUMAN SHYAM**  
**HONBLE MR. JUSTICE KARDAK ETE**

**ORDER**

**Date : 19-03-2024**  
***(Suman Shyam, J)***

This writ appeal has been filed challenging the judgement and order dated 23-05-2022 passed by the learned Single Judge in W.P.(C) No. 597/2018 whereby, the appointment of the writ appellant in the post of LDC was set aside with a further direction to appoint the writ petitioner/ respondent No. 1 in the said post.

While addressing arguments Ms. N. Danggen, learned counsel for the appellant has primarily assailed the order of the learned Single Judge by referring to RTI reply dated 07-07-2022, which goes to show that answer scripts of the writ petitioner/ respondent No. 1 has gone missing. Notwithstanding the same, the learned Single Judge has accepted the RTI reply wherein the writ petitioner has been shown to have scored higher marks than the appellant. She submits that such documents and facts have come to the knowledge of her client after the impugned judgment was passed and therefore, the aforesaid plea could not be taken up on behalf of the writ appellant before the learned Single Judge.

It appears that the challenge to the impugned judgment and order dated 23-05-

2022 is based on the ground that answer scripts of the writ petitioner/ respondent No. 1 having gone missing, there was suspicious circumstances surrounding in RTI replies furnished to the writ petitioner. Ms. Danggen has, therefore, prayed for setting aside the impugned judgement and for ordering an enquiry into the circumstances under which, the answer scripts of the writ petitioner/ respondent No. 1 had gone missing.

After hearing the submission of Ms. Danggen, we are of the view that since those documents relied upon by her were not available before the learned Single Judge, no order can be passed on the basis of such documents, in this appeal, interfering with the impugned judgment.

Responding to the above, Ms. Danggen seeks leave of this Court to withdraw this writ appeal with a liberty to file a review petition, by bringing the subsequent facts/ documents on record of the Court, seeking review of the judgment and order dated 23-05-2022. The learned counsel also seeks an observation from this Court on the prayer of condonation of delay in preferring the review petition.

The prayer made by the learned counsel for the appellant has not been seriously objected to by Mr. D. Panging, learned counsel for the respondent No. 1 and Mr. S. Tapin, learned Sr. Govt. Advocate, Arunachal Pradesh appearing for the other respondents.

In view of the above, this W.A. stands disposed of on withdrawal with liberty as prayed for. The appellant may prefer an application for condonation of delay in preferring review application by furnishing sufficient explanation, if so advised.

**JUDGE**

**JUDGE**

GS

**Comparing Assistant**