

GAHC040006852024



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

Case No. : WA/16/2024

Chathong Lowang and 2 Ors
D/o Shri Wangham Lowang, Qtr No.I, Type IV, industry Colony, Near DRDA Office,
Khonsa, Tirap District, Arunachal Pradesh 2: Tediap Hallang
Age:
Occupation :

3: Ms Sarah Wanglat
Age:
Occupation

VERSUS

The Deputy Commissioner and 3 Ors
Tirap District, Khonsa, Arunachal Pradesh 2:Smti Ira Singhal
IAS
Age: 0
Occupation :

3:The Member Secretary
Age: 0
Occupation :

4:Smti Wiram Matey
Age: 0
Occupation

Advocate for the Petitioner : Rinchin Ledo Thungon

Advocate for the Respondent : GA (AP)

BEFORE
HONBLE MR. JUSTICE KALYAN RAI SURANA
HONBLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 29.05.2024
(K.R. Surana, J)

Heard Mr. R.L. Thungon, learned counsel for the appellants as well as Mr. S. Tapin, learned Senior Govt. advocate, appearing for respondent nos. 1 to 3.

2. It may be mentioned that the learned counsel for the appellants has submitted that he had intended to serve a copy of memo of appeal to Mr. C.W. Mantaw, learned counsel for the private respondent no.4, who was the petitioner in the connected WP(C) 195(AP)/2024. However, the said learned counsel had refused to accept the copy of memo of appeal. If there is any correctness in the said submission, we strongly deprecate the refusal of the learned counsel for the writ petitioner to accept a copy of the memo of appeal because under Explanation- (c) of Order III, Rule 4 CPC, the mandate of appointment of a counsel in proceeding would deem to be continued in appeal. The corresponding provision is also contained in Rule 782 of the Civil Courts Rules and Orders of the Gauhati High Court.

3. By filing this intra-court appeal, the appellants have assailed the order dated 17.05.2024, passed by the learned Single Judge in WP(C) 195(AP)/2024. The appellants are aggrieved by the interim order passed therein by virtue of which the operation of the order dated 29.04.2024 passed by the Deputy Commissioner, Tirap District, Khonsa was suspended till the next returnable date. Assailing the grant of stay, the learned counsel for the appellants has

submitted that interim order was passed by assigning two reasons, firstly, it was held that the grounds by which the writ petitioner was disqualified appeared to be not genuine and secondly, the order of disqualification was in violation of principles of natural justice.

4. By referring to the provisions of Section 3, 5 and 6 of the Arunachal Pradesh Local Authorities (Prohibition of Defection) Act, 2003, it was submitted that the under the shame of the said provisions, there is no express provision for providing an opportunity of compliance of natural justice. It was submitted that under sub-Section (2) of Section 6 of the said Act, it is provided that on a complaint received by the Member Secretary of the concerned local authority under sub-Section (1), within 24 hours, the matter is required to be referred to the Deputy Commissioner, who is required to decide the question within 30 days after the receipt of the reference by him.

5. The learned Senior Govt. advocate has submitted that although the learned Single Judge has recorded his submission, but the said submission was not considered while passing the impugned order.

6. Be that as it may, we find that as per the impugned order dated 17.05.2024, the notice issued to the respondents were made returnable within two weeks. Therefore, estimated returnable date would be on 31.05.2024. We have also considered that if this writ appeal is admitted for hearing, there is every likelihood that there may be delay in the disposal of the writ petition, which may prejudice the interest of both sides.

7. Upon such consideration, we are of the considered opinion that instead of entertaining this intra-court appeal, ends of justice would be met to request the learned Single Judge to make an endeavour to hear and dispose of

the writ petition as early as possible by curtailing unnecessary adjournments.

8. We also make it clear that as we have not examined the issues raised by the learned counsel for the appellants on merit, all issues are left open to be decided by the learned Single Judge in accordance with law.

9. On a prayer made by the learned counsel for the appellants, we grant liberty to the learned counsel for the appellants to make a mention before the learned Single Judge for the listing of the matter on 31.05.2024.

10. With the aforesaid observation, this appeal stands closed.

JUDGE

JUDGE

Comparing Assistant