

GAHC040012522024

2024:GAU-AP:1128



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

Case No. : IA(C)/171/2024

The Arunachal Pradesh University and 2 Ors
Pasighat, represented by its Vice Chancellor, PO and PS Pasighat, East Siang District,
Arunachal Pradesh

2: The Vice Chancellor Age: Occupation : Arunachal Pradesh University Pasighat
PO and PS Pasighat East Siang District Arunachal Pradesh

3: The Registrar Age: Occupation : Arunachal Pradesh University Pasighat
PO and PS Pasighat East Siang District Arunachal Pradesh

VERSUS

Havel Taloh and Anr Son of Shri Takir Taloh, Village Bilat, Bamin, PO and PS
Pasighat, East Siang District, Arunachal Pradesh

2:The State of Arunachal Pradesh Age: 0 Occupation : represented by the Chief
Secretary Govt of Arunachal Pradesh Itanagar

Advocate for the Petitioner : Tamar Gadi,
Advocate for the Respondent : Kago Taja,

Linked Case : WP(C)/305/2024

Havel Taloh Age: 28 Occupation : Address:Son of Shri Takir Taloh
Village Bilat Bamin PO and PS Pasighat East Siang District Arunachal Pradesh

VERSUS

The State of Arunachal Pradesh and 2 Ors Age: 0 Occupation :
Address:represented by the Chief Secretary Govt of Arunachal Pradesh
Itanagar PO and PS Itanagar Papumpare District Arunachal Pradesh

2:Arunachal Pradesh University Age: 0 Occupation : Address:Pasighat
represented by its Vice Chancellor PO and PS Pasighat East Siang District

Arunachal Pradesh

3:The RegistrarAge: 0 Occupation : Address:Arunachal Pradesh University
Pasighat PO and PS Pasighat East Siang District Arunachal Pradesh

Advocate for : Kago Taja

Advocate for : GA (AP) appearing for The State of Arunachal Pradesh and 2 Ors:

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

Date of hearing : 12.12.2024

Date of Judgment : 12.12.2024

Judgment & Order(Oral)

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Heard Mr. Tamar Gadi, learned standing counsel, Arunachal Pradesh University, Pasighat, appearing on behalf of the applicants. Also heard Mr. Kago Taja, learned counsel, appearing on behalf of Respondent No. 1; and Mr. Subu Tapin, learned Senior Government Advocate, appearing on behalf of Respondent No. 2.

2. The present interlocutory application has been instituted by the applicant, herein, praying for vacation and/or modification of the order, dated 08.08.2024, passed in the connected writ petition being WP(c)305(AP)2024.

3. The aforesaid writ petition being WP(c)305(AP)2024, was instituted by the Opposite Party No. 1, as petitioner, inter alia, challenging the Advertisement, dated 19.01.2024, issued by the Registrar, Arunachal Pradesh University, Pasighat, for recruitment to various posts including ministerial posts available in the said University.

4. The challenge to the said Advertisement, dated 19.01.2024, as projected in the said writ petition, is to the effect that the Arunachal Pradesh University, Pasighat, being an autonomous University created by the State; the recruitment to the Group-C posts figuring in the said University, is to be so conducted in terms of the "Arunachal Pradesh Staff Selection Board Act, 2018", by the Arunachal Pradesh Staff Selection Board and the said University, in view of the provisions of the said Act, would not have any power to initiate process of recruitment for the Group-C posts figuring in the Arunachal Pradesh University, Pasighat, and accordingly, it is submitted that the Advertisement, dated 19.01.2024, insofar as it relates to the recruitment to the Group-C posts so put up for recruitment; would call for an interference by this Court.

5. This Court, vide order, dated 08.08.2024, passed in the connected writ petition being WP(c)305(AP)2024, while issuing notice in the matter, was pleased to pass an interim direction to the effect that till consideration of the issue arising in the said writ petition; the authorities of the Arunachal Pradesh University, Pasighat, may proceed with in terms of the Advertisement, dated 19.01.2024, however, no final result shall be published without leave of the Court. It was further observed that without prejudice to the claim made by the petitioner(Opposite Party No. 1, herein) in the said writ petition; the petitioner, therein, may also participate in the selection process.

6. Being aggrieved; the authorities of the Arunachal Pradesh University, Pasighat, have instituted the present interlocutory application praying for vacation and/or modification of the interim order, dated 08.08.2024, passed in the connected writ petition being WP(c)305(AP)2024.

7. The applicant Arunachal Pradesh University, Pasighat, in this

interlocutory application, have contended that the said University is the sole State University of the State of Arunachal Pradesh and was established on 01.07.2022 under the "Arunachal Pradesh University Act, 2012". It is also contended that in terms of the provisions of the said Act; the University has the power to create administrative/ministerial and other posts and to make appointments thereto, by also determining their conditions of services in accordance with the statutes. It is further contended that the University had made provisions for recruitment of non-teaching staff and other academic posts and the advertisement, in question, was so issued, in terms of the provisions so made by it.

8. Accordingly, the applicants University by projecting that the said Advertisement, dated 19.01.2024, being issued in terms of the provisions for recruitment so made by the University in exercise of powers vested in it, in this connection, had submitted that the University be permitted to take the recruitment process to its logical conclusion.

9. It is also submitted by the applicants University that the provisions of the Arunachal Pradesh Staff Selection Board Act, 2018, cannot be made applicable to the Arunachal Pradesh University, Pasighat, in-as-much as it is not an autonomous body of any Department of the Government and accordingly, the University would be outside the purview of the provisions of the said Arunachal Pradesh Staff Selection Board Act, 2018.

10. In support of his such submissions, Mr. Gadi, learned standing counsel, Arunachal Pradesh University, Pasighat, has also referred to the Arunachal Pradesh Public Examination(Measures for prevention of unfair means in recruitment) Act, 2024, and has contended that in the schedule thereof; in

addition to the Arunachal Pradesh Staff Selection Board being so specified; State funded Universities have been separately also shown as an examination authority. Accordingly, it is contended that the term "State funded University" would bring within its ambit; the Arunachal Pradesh University, Pasighat, and therefore, it has to be inferred that the power of recruitment is also vested in the authorities of the said University.

11. In the above premises; Mr. Gadi, learned standing counsel, Arunachal Pradesh University, Pasighat, has contended that the Arunachal Pradesh Staff Selection Board Act, 2018, cannot be made applicable to the said University and the recruitment process so initiated vide the said Advertisement, dated 19.01.2024, be permitted to be taken to its logical conclusion. The applicant University has further highlighted that in terms of the liberty granted by this Court vide order, dated 08.08.2024, passed in the connected writ petition being WP(c)305(AP)2024; the writ petitioner (Opposite Party No. 1, herein) had participated in the selection process and in support thereof; the attendance sheet of the writ petitioner/Opposite Party No. 1, has been brought on record.

12. Mr. Gadi, learned standing counsel for the applicant University, has submitted that there is an urgent necessity existing in the University for filling-up of the posts which have been put up for advertisement, vide Advertisement, dated 19.01.2024, and accordingly, the University authorities be permitted to take the process of recruitment so initiated, to its logical conclusion.

13. Per contra, Mr. Taja, learned counsel for the Opposite Party No. 1, has submitted that the Arunachal Pradesh Staff Selection Board Act, 2018, also

being made applicable to the autonomous bodies established/constituted by the State Government, the University being a creation of a statute framed by the State Legislature; the recruitment to Group-C posts in the Arunachal Pradesh University, Pasighat, would also come within the ambit of the provisions of the said Act of 2018, and accordingly, the Advertisement, dated 19.01.2024, would mandate an interference by this Court.

14. I have considered the submissions advanced by the learned counsels appearing for the parties and also duly perused the materials made available on record.

15. The issue as to whether the Arunachal Pradesh University, Pasighat, would have the power to carry-out a process of recruitment against the Group-C posts so created in the University and/or whether such recruitment has to be so made by the Arunachal Pradesh Staff Selection Board in terms of the provisions of the "Arunachal Pradesh Staff Selection Board Act, 2018", would require a detailed consideration and such consideration would be mandated to be so made in the connected writ petition.

16. However, prima facie being satisfied that the Arunachal Pradesh University, Pasighat, being so constituted under an Act of the State legislature and it having been conferred with the power to create administrative/ministerial and other posts and to make appointments thereto and also to determine the conditions of services in accordance with the statutes and it having been projected that the State Universities in compliance of the provisions of the said Act of 2018, having made appropriate provisions for recruitment against the non-teaching staff; the Opposite Party No. 1 also having participated in the said selection process; this Court is of the

considered view that the University authorities ought to be permitted to take the recruitment process as initiated vide the Advertisement, dated 19.01.2024, to its logical conclusion.

17. Accordingly, without opining anything with regard to the issue so raised in the connected writ petition, it is provided that the University authorities are permitted to take the recruitment process in pursuance of the said Advertisement, dated 19.01.2024, to its logical conclusion and to make appointments against the posts so advertised and to the said extent; the interim directions passed by this Court vide order, dated 08.08.2024, in the connected writ petition being WP(c)305(AP)2024; stands vacated.

18. However, it is directed that in the appointment letters that would now be issued to the candidates selected in pursuance of the recruitment process in pursuance of the Advertisement, dated 19.01.2024; a condition be incorporated therein, to the effect that such appointment, so effected, would be subject to the decision of this Court in the connected writ petition being WP(c)305(AP)2024.

19. With the above directions and observations, this interlocutory application stands disposed of.

JUDGE

Comparing Assistant