

GAHC040013282024



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

Case No. : Crl.Petn./167/2024

Ringu Jacob
Son of Shri Ringu Rama, a permanent resident of Village Nyokilanghi, PO and PS
Nyapin, Kurung Kumey District, Arunachal Pradesh.

VERSUS

The State of AP
represented by the PP of AP

Advocate for the Petitioner : Uttam Deka, Tadar Bai, Nabam Chatum, Wanglat Khomrang, Maji
Dui, N Tania, Tame Rimi, K Gara, Chorpok Modi

Advocate for the Respondent : P P of AP,

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 25-10-2024

Heard Mr. Chorpok Modi, learned counsel for the petitioner and Mr. G. Tado, learned Additional Public Prosecutor for the State.

2. The petitioner who is a law graduate was engaged as legal counsel of "One Stop Centre" at Koloriang under Women & Child Department (WCD), Koloriang as a contractual staff under a Centrally Sponsored Scheme by the

Central Government. Be that as it may, he was asked to perform election duty in 21 Koloriang Constituency in the last Assembly Election of the Legislative Assembly of Arunachal Pradesh.

3. It is the case of the petitioner that though he was not under bounded duty to perform election duty procedure in view of his status and nature of work being a legal counsel, however, he was willing to serve the election process but due to his sudden illness, he could not attend the election duty. It is his specific stand that he had serious health problems and accordingly, he had to undergo treatment at Niba Hospital, Papu Nallah, Naharlagun and the same was duly informed to the authority i.e. District Election Officer (DEO), Kurung Kumey District, Koloriang by filing leave application on 09.04.2024 on medical ground. He was taking regular antibiotic injection at the aforesaid hospital due to his serious health problems.

4. Such stand of the petitioner gets support in the materials collected by the investigating officer. It is also on record that the District Election Officer, Kurung Kumey District, Koloriang filed an FIR on 17.04.2024 alleging that 23 persons named in the FIR has wilfully neglected and refused to discharge the election duty and responsibilities assigned to them and accordingly, regular case under Section 134 of Representation of Peoples Act, 1951 and under Section 166(a) of IPC was requested to be registered. Accordingly, Koloriang P.S. Case No. 04/2024 under Section 166(a) of the IPC read with Section 134 of the RP Act, 1951 was registered.

5. Now, the petitioner has assailed the aforesaid proceeding by way of the present petition.

6. This Court has perused the materials available on record including the

statement of the witnesses, the statement of the petitioner and the documents available on record. Perusal of the materials shows that the statement of the petitioner was recorded by the I.O. and after completion of the investigation, chargesheet was also filed being chargesheet No. 04/2024 under Section 166(a) of the IPC read with Section 134 of the RP Act, 1951.

7. If the materials so far collected by the I.O. is taken in its face value and is taken to be correct, it is seen that the petitioner has explained his inability to attend the election duty for the reason of his serious health condition inasmuch as the non-attendance was not deliberate one the petitioner could not attend the duty for reasons beyond his control.

8. In view of the aforesaid, in the considered opinion of this Court, charge would not have framed against the petitioner on the basis of materials collected, and accordingly, the present petition stands allowed by directing that the petitioners' name should be deleted as the accused in the chargesheet and he shall not be tried for the offence as alleged.

JUDGE

Comparing Assistant