

GAHC040013302024



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

Case No. : WP(C)/442/2024

Smti Mongam Kamgo
Wife of Shri Lipak Kamgo, permanent resident of Wak Ragyi Village, PO and PS
Aalo, West Siang District, Arunachal Pradesh.

VERSUS

The State of Arunachal Pradesh and 6 Ors
represented by the Secretary, Department of Panchayati Raj, Govt of Arunachal
Pradesh, Itanagar.

2:The Director
Age: 0
Occupation :
Department of Panchayat Raj
Govt of Arunachal Pradesh
Itanagar.

3:The Deputy Commissioner
Age: 0
Occupation :
Aalo
West Siang District
Arunachal Pradesh.

4:The Circle Officer cum Member Secretary
Age: 0
Occupation :
30 Aalo West Panchayat Segment
West Siang District
Aalo
Arunachal Pradesh.

5:Jumnya Sora

Age: 0
Occupation :
Gram Panchayat Member 4/8/1 Wak Ragyi
permanent resident of Village Wak Ragyi
PO and PS Aalo
West Siang District
Arunachal Pradesh.

6:Gemo Ete
Age: 0
Occupation :
Gram Panchayat Member 4/8/2 Wak Ragyi
permanent resident of Wak Ragyi Village
PO and PS Aalo
West Siang District
Arunachal Pradesh.

7:Mugbin Kamnyi
Age: 0
Occupation :
Gram Panchayat Member 4/8/4 Wak Ragyi
permanent resident of Wak Ragyi Village
PO and PS Aalo
West Siang District
Arunachal Pradesh

Advocate for the Petitioner : Rintu Saikia, Idak Bam,Bomchi Taipodia,Limi Bam,Ligam Nochi

Advocate for the Respondent : Ajin Apang, Sr. Advocate, Maryum Sora,Nyai Loyi,Geli Taye,D
Ado,Kemo Lollen,S/C Election Commission,GA (AP)

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN**

ORDER

Date : 02-12-2024

Heard Mr. I. Bam, learned counsel for the petitioner. Also heard Mr. S. Tapin, learned Senior Government Advocate for the respondent Nos. 1 to 4 and Mr. K. Lollen, learned counsel for the respondent Nos. 5, 6 & 7.

2. Correctness or otherwise of the Minutes of the Meeting dated 05.09.2024, adopted by the Circle Officer-cum-Member Secretary, 4/8 Wak

Ragyi, West Siang District, Aalo, is challenged in this writ petition, under Article 226 of the Constitution of India.

3. It is to be noted here that vide impugned Minutes of Meeting dated 05.09.2024, all the 3 (three) Gram Panchayat Members (GPM, hereinafter) voted to remove the Chairperson, *Smti Mongam Kamgo* (the petitioner herein), owing to her incapacity to lead the team and the power to perform as Gram Chairperson was seized from her as per Section 63 (2) of *the Arunachal Pradesh Panchayat Raj Manual, 2018*.

4. The learned counsel for the petitioner submits that the petitioner was elected as one of the GPM of 4/8 Wak Ragyi, Aalo West Panchayat Segment, West Siang District Aalo as the only female GPM amongst other 3 (three) male GPMs of Wak Ragyi and while she was discharging her duties as GPM, the private respondents herein, lodged some false complaint against the present petitioner and thereafter, notice of intention to move a No Confidence Motion against her was submitted before the Member Secretary, 30-Aalo West Panchayat Raj, West Siang District, Arunachal Pradesh on 16.08.2024. Thereafter, the private respondents, in the notice dated 16.08.2024, it was alleged that the petitioner has no cordial relation with other GPMs (the private respondents herein) and the same adversely affected the work culture of the Panchayati Raj System of 4/8 Wak Ragyi Gram Panchayat Segment and pursuant to the notice of No Confidence Motion dated 16.08.2024, moved by the private respondents against the petitioner, the Member Secretary, vide notice No.WS/KMB/ELN/2024, dated 16.08.2024, fixed the date of hearing of No Confidence Motion, moved by the private respondents on 16.08.2024, against the petitioner on 05.09.2024.

5. The learned counsel for the petitioner further submits that the petitioner could not remain present in the said hearing as she was under medical treatment and she left for Itanagar on 03.09.2024, for further medical treatment and she had submitted one representation on 03.09.2024, to the Member Secretary for extension of date of hearing, which was scheduled on 05.09.2024, but the same has not been entertained and to the utter shock and dismay of the petitioner, the Circle Officer-cum-Member Secretary, 30-Aalo West Panchayat Raj Segment has illegally and arbitrarily passed the impugned Minutes of Meeting, No. WS/RAG/ELN/2024/260-65, dated 05.09.2024, whereby, the power to perform as Chairperson by the petitioner has been seized and she was removed from the post of Chairperson, in violation of Section 63(3) of *the Arunachal Pradesh Panchayat Raj Act, 1997* and in contravention to the principles of natural justice. The learned counsel for the petitioner, therefore, contended to allow this petition by setting aside the impugned Minutes of Meeting dated 05.09.2024 and to afford an opportunity of being heard to her and thereafter, to take a fresh decision by the Circle Officer-cum-Member Secretary.

6. Mr. S. Tapin, learned Senior Government Advocate for the respondent Nos. 1 to 4, however, submits that the petitioner was given notice before conducting hearing on 05.09.2024, but the petitioner remained absent on that day and though some medical documents were enclosed with her representation, which she had filed for extension of time, the said documents does not indicate that she was suffering from any ailment and she has preferred this writ petition after 30.09.2024 and there is no document to suggest that she has left for further treatment at Itanagar and

that no provision of *the Arunachal Pradesh Panchayat Raj Act, 1997*, has been violated by the respondents herein and therefore, Mr. Tapin, learned Senior Government Advocate contended to dismiss the present petition.

7. Mr. K. Lollen, learned counsel for the private respondent Nos. 5, 6 & 7 also adopted the submissions so advance by Mr. Tapin, learned Senior Government Advocate.

8. Having heard the submissions of the learned Advocates of both the parties, I have carefully gone through the petition and the documents placed on record and also perused the Minutes of Meeting, dated 05.09.2024.

9. It is not in dispute that on 05.09.2024, the petitioner remained absent. Further, it appears from the documents placed on record that she had filed one representation for extension of date of hearing, enclosing some medical documents. But, the same has not been considered by the respondent authority and without giving a chance, the respondent authority has passed the Minutes of Meeting dated 05.09.2024, removing the petitioner from the post of Chairperson.

10. It is to be noted here that Section 63 of *the Arunachal Pradesh Panchayat Raj Act, 1997* provides for motion of no confidence and Sub-Section 3 to the said Section, provides that notwithstanding anything contained in this Act, the Chairperson of a Gram Panchayat or Zilla Parishad shall not preside at a meeting in which a motion of no-confidence against him is under discussion, but he shall have the right to speak or otherwise take part in the proceedings of such meeting.

11. Admittedly, in the present case, the petitioner was not given an

opportunity of being heard as she remained absent on that day, on account of ailment and treatment thereof. The decision was taken behind the back of the petitioner and as such, it violates the principle of natural justice. She has also shown cause for her failing to appear on the date fixed. Thus, having examined the impugned Minutes of Meeting, in the light of the given facts and circumstances of the record and also in the light of submissions of the learned Advocates of both sides as well as taking note of the provision of Sub-Section 3 to Section 63 of *the Arunachal Pradesh Panchayat Raj Act, 1997*, this Court is of the considered opinion that the impugned Minutes of the Meeting, dated 05.09.2024, passed by the Circle Officer-cum-Member Secretary, 4/8 Wak Ragyi, West Siang District, Aalo, is arbitrary and illegal and on such count, the same fails to withstand the legal scrutiny and accordingly, the same stands set aside and quashed.

12. The respondent authorities shall give fresh notice to the petitioner, giving minimum 7 (seven) days' time and the petitioner shall appear before the respondent authority on that day without fail and thereafter, the respondent authority shall proceed to hear and dispose of the matter in accordance with law.

13. The respondent authority shall also give notice to the private respondents, in view of the interim order passed by this Court on 01.10.2024.

14. In terms of above, this writ petition stands disposed of.

JUDGE

Comparing Assistant