

GAHC010013962017



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

Case No. : Cont.Cas(C)/90/2017

SODOU ASOM JANA SHASTHYA ROKSHOK SONTHA
HEADED BY HITS SECRETARY NAMELY- SRI PHANI SARMAH S/O LT.
RATNESWAR SARMAH R/O VILL- METAPARA P.S. SIPAJHAR DIST.
DARRANG, ASSAM.

VERSUS

SAMIR KUMAR SINHA, I.A.S.
PRINCIPAL SECRETARY, HEALTH AND FAMILY WELFARE, DEPARTMENT,
GUWAHATI -6.

Advocate for the Petitioner : MR.P SARMA, MS. S NAZNEEN,MR.M AHMED

Advocate for the Respondent : MR. K M HASSAN, MR B GOGOI,SC, HEALTH

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 03-10-2024

Heard Ms. P. Roy, learned counsel appearing on behalf of Ms. S. Nazneen, learned counsel for the petitioner. Also heard Mr. A. Chaliha, learned Standing Counsel appearing for the respond Health & Family Welfare Department.

2. By way of this contempt petition under Article 15 of the Contempt of Court's Act read with Article 215 of the Constitution of India, the petitioner has drawn the attention of this Court to the alleged willful and deliberate violation of Order dated 26.02.2016 passed by this Court in W.P.(C) no. 847/2014.

3. In view of the submission of the learned Standing Counsel, Health Department on 06.10.2023 to the effect that a Committee of three members has been constituted and they are examining individual claims of the writ petitioners including the contempt petitioner, this Court adjourned the matter to enable the Health Department to apprise the Court as regards the progress of hearing before the Committee. It further appears that when this matter was listed thereafter on 29.01.2024, a submission was made on behalf of the Health Department that the three members Committee has already submitted a report which is under consideration before the Government in the Health Department.

4. Today when the matter is called, Mr. Chaliha, learned Standing Counsel, Health and Family Welfare Department places a letter dated 30.05.2024 issued by the Joint Secretary to the Government of Assam, Health and Family Welfare Department whereby it is informed that the Committee has examined the case of the petitioners including the contempt petitioner and after duly hearing the petitioners has passed appropriate Order.

5. Before proceeding further, apt to refer to paragraph no. 11 of the Judgment and Order dated 26.02.2016 passed in W.P.(C) no. 847/2014 against which this contempt petition has been filed, which is reproduced hereunder for ready reference :-

'11. Having heard learned counsel for the parties and on perusal of the materials

on record, including the order dated 05.04.2013, Court is of the view that the speaking order passed by the Director of Health Services, (FW) dated 05.04.2013 may not be the final word in the matter. In view of the communication of the Director himself dated 15.12.2008, it is necessary that the departmental authorities should verify the claim of the petitioner afresh following rejection of the same by the Director. To ensure a fair verification, Court is of the view that the Additional Chief Secretary to the Govt. of Assam, In-charge of Health and Family Welfare Department should constitute a three member committee to look into the above aspect of the matter. The members of the committee should be officers above the rank of Director. Let the committee be constituted within a period of 4 (four) weeks' from the date of receipt of a certified copy of this order. The committee shall examine the claim of the petitioner in the light of the departmental record and thereafter pass appropriate order(s) with regard to the individual claims. This shall be done within a period of 6 (six) months from the date of constitution of the committee. The committee may also give opportunity of hearing to the representatives of the petitioner society and the departmental authorities in the course of verification. The claimants would be entitled to produce all relevant documents in support of their claims.'

6. Apparent reading of the aforesaid paragraph that this Court had directed the respondents firstly to constitute a three members Committee to look into the claim of the petitioner afresh and examine the same in the light of the departmental record within a period of 6 (six) months after giving due opportunity of hearing to the representatives of the petitioner society.

7. Reading of the instruction dated 30.05.2024, it is apparent that a three members Committee was constituted by Notification dated 29.02.2024 consisting of the Secretary, Health and FW Department as the Chairperson, Additional Secretary, Health and FW Department as Member and Joint Secretary,

Health and FW Department as Member Secretary. The relevant portion of the Notification dated 29.02.2024 is reproduced hereunder for ready reference :-

BY ORDERS OF THE GOVERNOR
NOTIFICATION

Dated Dispur the 29th February, 2024

No. E-228631/64 : In compliance of the order dated 26/02/2016 passed by Hon'ble Gauhati High Court in WP (C) No. 847/2014 and in partial modification of the earlier committee constituted vide notification E-228631/25 dated 13-04-2023, a new committee is hereby constituted with the following members :

<i>1. Secretary, Health and FW Deptt.</i>	<i>- Chairper</i>
<i>2. Addl Secretary, Health and FW Deptt.</i>	<i>- Member</i>
<i>3. Joint Secretary, Health and FW Deptt.</i>	<i>- Member Secretary</i>

The committee will enquire into/verify the claims of the petitioner in WP(C) No. 847/2014 i.e. Sodou Asom Jana Shasthya Rokshok Sontha regarding the claim of payment of arrear honorarium for the period of 01/07/1986 till 31/03/2002, in the light of departmental record and give its report in a week's time. The Committee may invite any other official in the meeting as per need.

Commissioner & Secretary to the Govt. of Assam
Health & Family Welfare Department

Dated Dispur the 29th

8. The aforesaid constitution is in terms of the paragraph 11 of the said Judgment which mandated that the members of the Committee should be officers above the rank of Director.

9. Thereafter, it appears that the three members Committee had examined the claim of the petitioner wherein the members of the petitioner association was present and after duly hearing the Committee submitted its report which

after examination by the Government of Assam, was found that there was no instances of Male Village Health Guides having worked between 01.07.1986 and 31.03.2002.

10. Be that as it may it appears that the Order of this Court dated 26.02.2016 has been complied by the respondent authorities. That being so, nothing survives for adjudication in the instant contempt petition. Accordingly, the contempt petition stands closed.

11. A copy of the letter dated 30.05.2024 along with annexures is kept on record and marked as 'X'.

JUDGE

Comparing Assistant