



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

Case No. : COP(C)/2/2022

THE VILLAGE GUARD ASSOCIATION OF NAGALAND
REPRESENTED BY ITS VICE PRESIDENT, SHRI. TONGKAM, AND ITS
EXECUTIVE CHAIRMAN, SHRI. M. LASETSU

VERSUS

SHRI. J.ALAM, IAS AND 9 ORS
CHIEF SECRETARY TO THE GOVERNMENT OF NAGALAND 2:SHRI.
SENTIYANGER IMCHEN
IAS

ADDITIONAL CHIEF SECRETARY AND FINANCE COMMISSIONER TO THE
GOVERNMENT OF NAGALAND
AND CHAIRMAN EXPERT COMMITTEE TO EXAMINE AND DETERMINE THE
PAYMENT/ENTITLEMENT OF THE VILLAGE GUARDS IN NAGALAND
KOHIMA

3:SHRI. ROUVILATUO MOR
IAS

COMMISSIONER OF NAGALAND
AND COMMANDANT GENERAL
VILLAGE GUARDS
NAGALAND
KOHIMA

4:SHRI. ABHIJIT SINHA
IAS

HOME COMMISSIONER
NAGALAND
KOHIMA

5:SHRI. R. RAMAKRISHNAN
IAS

PRINCIPAL SECRETARY TO THE GOVERNMENT OF NAGALAND
DEPARTMENT OF P AND AR
NAGALAND
KOHIMA

6:SHRI. SATYENDRA GARG
IAS

JOINT SECRETARY(NORTH EAST DIVISION)
TO THE GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
NORTH BLOCK
NEW DELHI - 110001

7:SHRI T. MHABEMO YANTHAN
IAS
COMMISSIONER OF NAGALAND AND COMMANDANT GENERAL

VILLAGE GUARDS
NAGALAND

KOHIMA
MEMBER
EXPERT COMMITTEE

8:SHRI V. KEZO

COMMISSIONER AND SECRETARY

FINANCE DEPARTMENT

NAGALAND/COMMISSIONER AND SECRETARY
DEPARTMENT OF HEALTH AND FAMILY WELFARE
MEMBER

EXPEERT COMMITTEE
NAGALAND

CIVIL SECRETARIAT
KOHIMA
NAGALAND

9:SHRI IMTIAKUM

ADDITIONAL SECRETARY
JUSTICE AND LAW DEPARTMENT
MEMBER

EXPERT COMMITTEE
NAGALAND CIVIL SECRETARIAT

KOHIMA
NAGALAND

10:SHRI ARUN K. DHAYANI

DIRECTOR (NORTH EAST- DIVISION)

MEMBER
EXPERT COMMITTEE

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
NORTH BLOCK
NEW DELHI 11000

Advocate for the Petitioner : TAKA MASA, SR. ADV, ALEM WAPANG
AO,ARENLONG, TIAKUMLA, SENTILONG

Advocate for the Respondent : ,

BEFORE
HON'BLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 05-11-2024

Heard Mr. Arenlong, learned counsel for the petitioner. Also heard Mr. T.B. Jamir, learned counsel for the respondent No.2, Mr. L.T. Sangtam, learned Addl. A.G for the respondent Nos. 7 and 8, Mr. Imti Imsong, learned Addl. A.G. for respondent Nos. 4 and 9, Mr. N. Angami, learned Sr. Govt. Advocate for respondent No.1 and Mr. C. Phom, learned counsel for respondent No.10.

2. By filing this application under section 11 and 12 of the Contempt of Courts Act, 1971, read with Contempt of Courts

(Gauhati High Court) Rules, 1977 and Article 215 of the Constitution of India, the petitioner is seeking initiation of civil contempt proceeding against the respondents for alleged violation of the judgment and order dated 29.1.2021 passed in W.A 1(K)/2018.

3. The facts of the case is that the petitioner had filed W.P.(C) 33(K)/2017 seeking enhancement/revision of their pay on the ground of equal pay for equal works which was allowed by the learned Single Judge. Being aggrieved, the State Government has filed W.A.1/2018 against the aforesaid judgment and order of the learned Single Judge.

4. The learned Division Bench by judgment and order dated 29.1.2021 modified and set aside the judgment and order of the learned Single Judge passed in the aforementioned writ proceeding with a direction to constitute an expert committee within a period of 3(three) weeks and the committee should complete the process of examining the matter of enhancement of the honorarium and other allowances of the VGs as expeditiously as possible but not later than 4(four) months from the date it is constituted.

5. Despite the petitioner having approached the respondent authorities by filing various representations, the said Judgment and Order of this Court has not been implemented within the time frame fixed by this Court, the present contempt proceeding has been filed.

6. Mr. Arenlong, learned counsel for the petitioner submits that though a revised expert committee has been constituted and report has been submitted, however, the same is bias and is not in strict compliance of the order passed by this Court. He further submits that this Court earlier on 5.12.2022 upon coming to the opinion that the contents of the minutes of the meeting of the first expert committee not in terms of the directions given by the Court against which the contempt petition has been filed, directed the respondent No.1 to re-constitute the committee within a period of one month from that date. He further submits that the

current report of the re-constituted expert committee is also not as the direction given by this Court.

7. Per contra, Mr. T.B. Jamir, learned counsel for the respondent/contemner No.2 submits that the re-constituted expert committee has examined the issues and recommended in terms of the direction passed by this Court by order dated 29.1.2021. He accordingly submits that the order of the Court being complied, nothing survives for adjudication in the present contempt proceeding.

8. I have given my prudent consideration to the arguments made by the contesting parties and perused the materials available on record.

9. Apt to refer at the outset to the direction given by the Division Bench of this Court by order dated 29.1.2021

against which the present contempt petition has been filed. Paragraph 29 of the aforesaid judgment is reproduced hereunder for ready reference:-

"[29] In that view of the matter, we direct the State Government to constitute an expert committee to examine and determine the payment/entitlement of financial benefits of Village Guards in consultation with the Ministry of Home Affairs, Northeast Division, Govt. of India, New Delhi. The expert committee should include representatives from the Home Department, Department of Personnel & Administrative Reforms, Finance Department, at least 2 (two) members from the petitioner association, the representatives of the Ministry of Home Affairs, Northeast Division amongst others. The committee should be chaired by an Officer/Official who is not below the rank of Addl. Chief Secretary to the Govt. of Nagaland. The committee should be constituted as

directed herein above within a period of 3 (three) weeks from the date of receipt of a certified copy of this order and the committee should complete the process of examining the matter of enhancement of the honorarium and other allowances of the VGs expeditiously as possible and not later than within a period of 4 (four) months from the date it is constituted. While considering the matter of enhancement of honorarium and other allowances as directed herein above, the committee shall take into consideration the observation and direction given by the Apex Court at paragraph 39 in the case of Grah Rakshak Home Guard Welfare Association (supra). The recommendation made by the Committee shall then be forwarded to the State Government in

the Home Department and also to the Ministry of Home Affairs, Northeast Division for approval and further necessary action."

10. Reading of the aforesaid directions contained in the order of the Division Bench of this Court appears that the Division Bench directed the following:-

- i. To constitute an expert committee to examine and determine, the payment/entitlement of financial benefits of Village Guards in consultation with the Ministry of Home Affairs, Northeast Division, Govt. of India, New Delhi.
- ii. The expert committee should include representatives from the Home Department, Department of Personnel & Administrative Reforms, Finance Department, at least 2 (two) members from the petitioner association, the representatives of the Ministry of Home Affairs, Northeast Division amongst others. The committee should be chaired by an Officer/Official who is not below the rank of Addl. Chief Secretary to the Govt. of Nagaland.
- iii. The committee should be constituted as directed herein above within a period of 3 (three) weeks from the date of receipt of a certified copy of this order
- iv. The committee should complete the process of examining the matter of enhancement of the honorarium and other allowances of the VGs as expeditiously as possible and not later than within a period of 4 (four) months from the date it is constituted. While considering the matter of enhancement of honorarium and other allowances as directed herein above, the committee shall take into consideration the observation and direction

given by the Apex Court at paragraph 39 in the case of *Grah Rakshak Home Guard Welfare Association (supra)*.

v. The recommendation made by the committee shall then be forwarded to the State Government in the Home Department and also to the Ministry of Home Affairs, Northeast Division for approval and further necessary action.

11. It appears that in pursuant of the said direction given by the Division Bench, the Government of Nagaland by Notification dated 14.4.2021 constituted a committee consisting of the following persons:-

1. Shri Sentianger Imchen, IAS, Addl. Chief Secretary Govt. of Nagaland : Chairman
2. A representative of the MHA (NE Div) GOI, New Delhi

: Mem-

ber

3. Shri Abhijit Sinha, IAS, Principal Secy, Home:Member
4. Shri V. Kezo, Spl Secy, Fin. Deptt :Member
5. Shri R. Ramakrishnan, IAS, Pr. Secy, P&AR Deptt : Member
6. Shri Rovilatuo Mor, IAS, Commissioner, Nagaland : Member
7. Shri Ngamjok Konyak, Secy, Law & Justice Department : Member

: Member

8. President & General Secy, Nagaland Village Guards Association : Member.

In the Notification, the terms of reference is as here under:

Terms of reference

1. The Expert Committee shall examine and determine the payment/entitlement of benefits of the Village Guards.
2. The Committee shall take into consideration the observation and direction given by the Hon'ble Supreme Court at paragraph 39 in the case of Grah Rakshak Home Guards Welfare Association vs State of Himachal Pradesh and others reported in (2015) SCC 247 while considering the matter of enhancement of honorarium and other allowances of Village Guards.
3. The Committee shall submit its report within a period of 3(Three) months from the date of issue of this notification.

12. It further appears that this Court earlier when the matter had come up on 5.12.2022 upon hearing the counsels and examining the contents of the minutes of the meeting of the first committee was of the opinion that the same is not in accordance with the direction given by the Division Bench. However, this Court upon observing that the State respondents has taken some steps and they have not deliberately ignored or neglected compliance of the directions given, directed the respondent No.1 to re-constitute the expert committee in the light of the directions passed earlier by this Court. Paragraph 8 and 9 of the

aforesaid order dated 5.12.2022 passed by this Court in the present contempt petition is also reproduced hereunder for ready reference:-

"8. From what has been stated above and the contents of the minutes of the Meetings and the actions taken so far by the State respondents and the respondent No. 6, it appears that the directions given in the writ petition and the writ appeal have not been gone into in depth to understand the same and their implications. Further, from the steps taken so far and as may be seen from the meeting minutes it appears that there is lack of concern and whole-heartedness in dealing with the issue. The Appellate Court directed constitution of the Committee so that the issue/issues involved and the implications thereof are deliberated thoroughly so that the grievance of the Village Guards, whose service have been acknowledged and applauded by many including the President of India, may be settled in equitable and just manner. These are people as per the records, who have been awarded 1 (one) Class-I Ashok Chakra, 8 (eight) Class-II Ashok Chakras, and 5 (five) Class-III Ashok Chakras besides other awards. From the letter of the Ministry of Home it appears that the judgments passed in the two cases have not been perused at all and, therefore, have refused to grant any more benefit to them just on the ground of paucity of fund. Paucity of fund was never

an issue before the Writ Court and before the Division Bench. In any case, paucity of fund cannot be a reason for denying entitlement, especially to persons like Village Guards whose service have not been only acknowledged but applauded with so many awards and citations. People who are serving the country in difficult places and difficult times should be given their due because their services keep the people of the country safe and sound. It must also be remembered that people of this kind of group hardly bring their grievances to higher authorities for redressal. Most of the time they keep quiet, but only under compelling circumstances they come forward to plead their grievances. Therefore, people in authority who are concerned with the affairs of such persons should be more sensitive or sensitive

enough to attend to their grievances at the earliest without grieving them any further or without pushing them to the wall.

9. From the records as stated, it appears that the State respondents have taken some steps, therefore, this Court is of the

view that they have not at least deliberately ignored or neglected compliance of the directions given. Therefore the respondent No.1 is once again directed to reconstitute the Committee in the light of the submissions made by Mr. T.B. Jamir, and the other counsels representing the other parties within a period of one month from today. After being constituted, the Committee shall have their deliberation or deliberations and determine the benefits to be given to the petitioners in terms of the directions given in the writ petition and the writ appeal. The whole exercise should be completed within a period of four months from the date of the constitution of the Committee. The Chief Secretary/respondent No. 1, shall thereafter file a compliance affidavit."

13. What transpires from the above is that this court had already observed that the respondents are not deliberately or intentionally sitting over the matter. However, the minutes of the first expert committee being not in accordance with the direction

passed earlier, directed re-constitution of the second expert committee.

14. It appears that pursuant to the aforesaid direction, the second committee was re-constituted and the said committee has submitted its report on 4.7.2023. The members of the re-constituted committee are as hereunder:-

1. Shri. Sentianger Imchen, ACS :
Chairman
2. A representative of the MHA(NE-Div) GoI, New Delhi :
:
Member
3. Shri. Abhijit Sinha, Principal Secy, Home :Me
mber
4. Smti. Chubasangla Anar, IAS,
Commissioner & Secy, P&AR Deptt :Member
5. Shri. T. Mhabemo Yanthan, IAS,
Commissioner & Commandant General,
VGO, Nagaland : Member
6. Shri. V. Kezo, Commissioner & Secy, Finance deptt :
:
Member
7. Shri, Ngamjok Konyak, Secretary,
Justice & Law Deptt : Member
8. President & General Secretary,
Nagaland Village Guards Association : Member

Terms of reference of the second expert committee
are as under:-

TERM OF REFERENCE:

1. *The Committee shall examine the matters pertaining to the nature of duties and all the retirement matters of the village guards vis-à-vis Home Guards Nagaland.*
2. *The committee shall also examine and compare the pay and allowance of the VGs vis-à-vis Home Guards Nagaland in light of the directive given by the Hon'ble Supreme Court at paragraph 39 in the case of Grah Rakshak Home Guards Welfare Association vs State of Himachal Pradesh & Ors reported in (2015) 6SCC247.*
3. *The Committee shall deliberate and determine the benefits to be given to the petitioners in terms of the direction given in the Writ petition & writ Appeal filed by the concerned.*
4. *The committee shall submit its report within a period of 3 (three) months from the date of issue of this Notification.*
15. Accordingly, the second committee examined the matter upon thorough discussion and recommended as hereunder:-

Recommendation by the re-constituted Expert Committee:

- i. *Grant of rewards and awards for heroic deeds and achievements to those VGs on duties as acknowledgement, which should be specified to Law & Order, duties, & assignments, including ex-gratia.*
- ii. *As the Chief Minister's Health Insurance Scheme (CMHIS) has been introduced and is being implemented in the State from 2022 to which the VGs are also entitled to and are availing the scheme.*

- iii. *As for the pay and allowances of the VDF in other State, a detailed discussion was held after obtaining the guidelines on the roles, duties and functions, perks and allowances being paid to the VDF in Manipur. After much deliberation, the house came to a conclusion that the roles, duties and functions of the VDF in Manipur and the VGs in Nagaland are quite different and hence payment of honorarium to the State's VGs equivalent to that of the VDF in Manipur is not possible.*
- iv. *The members of the Expert Committee were of the opinion that the basic demand of the VG association relates mainly to enhancement of the Honorarium of the village Guards which is being paid by the Ministry of Home Affairs, GoI. The views and opinion of the members including that of the representatives of the VG association and especially that of the Ministry of Home Affairs Government of India which pays the honorarium of the VGs wherein ,they stated their regret, which has been reproduced at length in the foregoing para, the committee reiterates the views of the earlier committee that increase in the honorarium, of the VGs at this juncture is not recommended."*

16. Apparent from the above that the State Government has constituted an expert committee as directed by this Court earlier and the said committee has completed the process of examining the matter of enhancement of the honorarium and other allowances of the VGs.

17. It further appears that the re-constituted committee has examined and compared the pay and allowance of the VGs vis-à-vis Home Guards, Nagaland in terms of the decision of the Apex Court in the case of *Grah Rakshak Home Guard Welfare Association (supra)*.

18. Accordingly the re-constituted committee has submitted its report.

19. Thus, it appears that the order of this Court is complied.

20. That being so, nothing survives for adjudication in the present contempt petition. The submission of the learned counsel for the petitioner as regard the bias and the findings of the committee not being in accordance with the direction of this Court, the same are matters beyond the jurisdiction and power of the contempt court. It is a settled law that the role of the petitioner after filing the contempt petition comes to an end and thereafter, it is between the Court and the contemnor. The contempt Court is not an executing Court. The role of the contempt Court is limited to punish the contemnor for contempt of Court. Therefore, the contempt Court if is satisfied that the order of this Court is complied, nothing more is required to be gone into.

21. As stated above, this Court is satisfied that the judgment and order of this Court by order dated 29.1.2021 stands complied and hence nothing survives for adjudication. As such, the contempt petition stands closed.

22. It is needless to be clarified that in the event the petitioner is aggrieved by the recommendation made by the sec-

and expert committee, he is at liberty to approach the appropriate forum in accordance with law.

23. The contempt petition accordingly stands disposed of.

**Sd/-
JUDGE**

Comparing Assistant