

GAHC020000932023



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

Case No. : WP(C)/36/2023

DR. THUNGBENI P. NGULLIE AND 14 ORS
H.NO. 109, DUNCAN BASTI, DIMAPUR NAGALAND

2: DR. ALONA SHIKHU
H.NO. 5
DUNCAN BASTI DIMAPUR
NAGALAND

3: DR. KETOULELHOU VIZO
VIZO DENTAL CLINIC
RV BUILDING
HIGH SCHOOL JUNCTION
KOHIMA NAGALAND

4: DR. KEVIDENO KEHIE
OIKING HOSPITAL
FIRST FLOOR
KOHIMA NAGALAND

5: DR. MYINGTHUNGO NGULLIE
SUNGRO STATION WOKHA NAGALAND

6: DR. THEJAKUO DANIEL PIENYU
P.KHEL KOHIMA VILLAGE
KOHIMA NAGALAND

7: DR. NEIKHOZO BELHO
T KHEL KOHIMA VILLAGE NAGALAND

8: DR. KEKHRIESEVOR B MEYASE
H.NO.001
BLOCK B
DAROGAPATHAR VILLAGE DIMAPUR NAGALAND

9: DR. AVEI PURO
DBS COLONY KOHIM NAGALAND

10: DR. VINEIKUO SOLO
UPPER AG KOHIMA NAGALAND

11: DR. LILOKA ASSUMI
H.NO. 188
BLOCK-5
THAHEKHU VILLAGE
DIMAPUR NAGALAND

12: DR. AOHELL LONGCHAR
H.NO. 182
NEAR IMOKONMEREN SPORTS COMPLEX
MOKOKCHUNG
NAGALAND

13: DR. ANOVILI CHISHI
OLD MINISTERS HILL
KOHIMA NAGALAND

14: DR. ANISHE I. KIBA
LHOMITHI VILLAGE DIMAPUR NAGALAND

15: DR. IMYANGLUBA
ADVANCED DENTAL AESTHETIC IMPLANT CLINI

VERSUS

THE STATE OF NAGALAND AND 3 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF
NAGALAND

2:THE COMMISSIONER AND SECRETARY

DEPT. OF HEALTH AND FAMILY WELFARE

GOVERNMENT OF NAGALAND

KOHIMA. NAGALAND

3:THE PRINCIPAL DIRECTOR

DIRECTORATE OF HEALTH AND FAMILY WELFARE

DEPARTMENT
KOHIMA

NAGALAND

4:THE NAGALAND PUBLIC SERVICE COMMISSION

REPRESENTED BY ITS SECRETARY
KOHIMA NAGALAN

Advocate for the Petitioner : IMTI LONGJEM

Advocate for the Respondent : GOVT ADV NL

Date of hearing and judgment : **14.05.2024**

BEFORE
HON'BLE MR. JUSTICE KAKHETO SEMA

JUDGMENT & ORDER (ORAL)

Heard Mr. Imti Longjem, learned counsel for the petitioner, Mr. Moa Imchen, learned Senior Government Advocate for the respondent No. 1 and Mr. N. Mozhui, learned counsel for respondent Nos. 2 & 3.

2. The present writ petition has been filed *inter alia* seeking for the following reliefs:-

"A. Quash and set aside the Notification No. HFW(A) COVID-19/APPT-13/17/2020/543 dated 02.11.2022 insofar as it concerns the posts of Junior Dental Surgeon.

B. Direct the State respondents to fill up the 5 posts of Junior Dental Surgeon through the Nagaland Public Service Commission strictly in accordance with the Nagaland Health Service Rules, 2006."

3. The learned counsel for the petitioner has submitted that by the Notification dated 02.11.2022, the Government of Nagaland, Health & Family Welfare Department has notified that the 5 (five) posts of Junior

Dental Surgeon shall be recruited through the NPSC by a Special Recruitment Drive. It is, however, submitted that the Notification issued by the Department to recruit the 5 (five) posts of Junior Dental Surgeon through NPSC by a Special Recruitment Drive is in violation of the rules framed by the Government under the Nagaland Health Service Rules, 2006.

3. Mr. N. Mozhui, learned counsel for respondent Nos. 2 & 3, referring to the affidavit-in-opposition filed on behalf of the respondent Nos. 2 & 3, submits that to strengthen acute shortage of medical personnels to tackle the COVID-19 pandemic the Cabinet, in its meeting held on 23.06.2020, created various posts in the Health & Family Welfare Department including the 3 (three) posts of Junior Dental Surgeons in CHCs. The minutes of the Cabinet meeting held on 23.06.2020 was brought out in the Memorandum dated 25.06.2020, issued by the Government of Nagaland, Cabinet Secretariat (Cabinet Cell). Thereafter, the Department issued the Notification dated 02.07.2020 on the creation of the various categories of posts under the Health & Family Welfare Department including the 3 (three) posts of Junior Dental Surgeons as brought out in the Memorandum dated 25.06.2020.

4. Today in the course of hearing of the case, Mr. N. Mozhui, learned counsel for the respondent Nos. 2 & 3, on instruction, submits that the Department will be making necessary corrections in the impugned Notification dated 02.11.2022, in so far as serial No. 4 relating to the 5 (five) posts of the Junior Dental Surgeon is concerned by notifying that only the 3 (three) posts which was created by the Cabinet in its meeting held on 23.06.2020, shall be notified for recruitment through NPSC by the

Special Recruitment Drive and the remaining 2 (two) posts of the Junior Dental Surgeon shall be recruited strictly in terms of Nagaland Health Service Rule, 2006. Mr. Imti Longjem, learned counsel for the petitioner is not averse to the submission made by Mr. N. Mozhui, learned counsel for respondent Nos. 2 & 3.

5. In view of the submissions made by the learned counsel for the parties, the present writ petition is disposed of with the direction to the State respondents, more particularly the respondent Nos. 2 & 3, to make necessary corrections in the Notification dated 02.11.2022 in respect of serial No. 4 and to notify only the 3 (three) posts of the Junior Dental Surgeons which was created by the Cabinet in its meeting held on 23.06.2020 be recruited through the NPSC by the Special Recruitment Drive. The remaining 2 (two) posts shall be filled up strictly in terms of the Nagaland Health Service Rules, 2006.

6. The writ petition stands disposed.

Sd/-
JUDGE

Comparing Assistant