

GAHC020001692024



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

Case No. : I.A.(Civil)/49/2024

DR. R. ZECHANO EZONG AND 9 ORS
TIYI VIEW COTTAGE, MOLONSU COLONY, WOKHA, NAGALAND

VERSUS

THE STATE OF NAGALAND AND 2 ORS
REPRESENTED BY THE CHIEF SECRETARY
TO THE GOVT. OF NAGALAND

Advocate for the Petitioner : I IMCHEN

Advocate for the Respondent : GOVT ADV NL

Linked Case : WP(C)/289/2022

DR. R. ZECHANO EZONG AND 9 ORS
TIYI VIEW COTTAGE MOLONSU COLONY
WOKHA
797111

2: DR. RUUSIETUONUO
PEDUZHA COLONY
H.NO- 189
MEDZIPHEMA
CHUMUOKEDIMA

3: DR. ORENTSANI KIKON
H.NO. 315
SEPFUZOU COLONY
KOHIMA

4: DR. KEVINEILHOU NAKHRO
CHC MEDZIPHEMA TOWN
CHUMUKEDIMA

5: DR. VISINO NAKHRO
MEDZIPHEMA TOWN WARD NO. 8

6: DR. VISHETO SUMI
H.NO- 68
LOWER P.H. HILL COLONY
KOHIMA

7: DR. AVIKA P. JIMO
H.NO- 405
BLOCK NO.4
CHEKIYE VILLAGE
DIMAPUR

8: DR. TEMSUWAPANG
MEDICAL CENTRE CHANTONGYA
NEAR SBI
NH-61 AM ROAD CHANTONGYA TOWN

9: DR. I TOKUGHA
H.NO.- 265
INDUSTRIAL VILLAGE
RAZHUPHE DIMAPUR. 797112

10: DR. LANUYANGER JAMIR
KEVIJAU COLONY LANE 7
SIGNAL BASTI DIMAPUR
VERSUS

THE STATE OF NAGALAND AND 2 ORS
REPRESENTED BY THE CHIEF SECRETARY
TO THE GOVT OF NAGALAND

2:THE SECRETARY
DEPARTMENT HEALTH AND FAMILY WELFARE
NAGALAND KOHIMA

3:THE PRINCIPAL DIRECTOR
DEPARTMENT OF HEALTH AND FAMILY WELFARE
NAGALAND KOHIMA

Advocate for : C. T. JAMIR
SR. ADV

Advocate for : GOVT ADV NL
appearing for THE STATE OF NAGALAND AND 2 ORS

**BEFORE
HON'BLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

03.05.2024

Heard Ms. Asa Rutsa, learned counsel for the applicants and Mr. N. Mazhui, learned counsel for the opposite party nos. 2 & 3.

2. The instant interlocutory application is filed by the applicants seeking correction of typographical errors which are stated to have crept in inadvertently in the Judgment and Order dated 27.03.2024 passed in a writ petition, W.P.[C] no. 289/2022.

3. The applicants as the writ petitioners, had preferred the writ petition, W.P.[C] no. 289/2022 seeking certain reliefs. The writ petition was heard and disposed of by a Judgment and Order dated 27.03.2024 with certain directions given in paragraph 11 thereof.

4. The applicants-writ petitioners have submitted that at two places in paragraph 10 and paragraph 11 of the Judgment and Order dated 27.03.2024, a date has been mentioned inadvertently as '19.12.2019', instead of '18.12.2019'. The learned counsel for the parties have submitted that at paragraph 8 of the Judgment and Order, the date, '18.12.2019' has been correctly mentioned and as such, in paragraph 10 and in paragraph 11, the date, '19.12.2019' has crept in inadvertently instead of '18.12.2019'.

5. In order to appreciate the submissions of the learned counsel for the parties, it is apposite to refer to paragraph 8, paragraph 10 and paragraph 11 of the Judgment and Order dated 27.03.2024,

which read as under :-

8. *From the above, it is noticed that at present, there are altogether 21 nos. of posts of Medical Officer [AYUSH] in the State Service and the said posts have remained vacant. In the greater public interest, the vacancies in these 21 nos. of posts are required to be filled up in an expeditious manner. The materials on record go to indicate that the Government of Nagaland in the Health & Family Welfare Department has been deliberating with following two situations :-*

*Firstly, the Board constituted by the Health & Family Welfare Department after creation of 8 [eight] posts of Medical Officer [AYUSH] in its Meeting, held on **18.12.2019**, considering the situation faced by the AYUSH doctors in the State, resolved to forward a proposal for absorption of the group of over-aged senior AYUSH doctors in the then available 10 regular posts of Medical Officer [AYUSH] considering the facts that those Medical Officers [AYUSH] were appointed after a proper selection process and had till then, rendered more than 10 years of service. In the affidavit-in-opposition filed on behalf of the State respondents in this writ petition, a stand has been taken that in spite of such resolution of the Board, no concrete steps/decisions have been taken so far in the matter of absorption of the over-aged senior most AYUSH doctors in terms of the resolution taken by the Board on **18.12.2019**. In the Communication dated 15.11.2022 of the respondent no.*

3, it has been apprised that the proposal for regularization, as recommended by the Board, has remained without further progress due to onset of Covid-19 pandemic and the said recommendation of the Board for regularization is required to be brought back on track. The respondent no. 3 has urged to initiate the process for regularization of 10 seniormost AYUSH doctors in 10 vacancies of Medical Officer [AYUSH] which were existing prior to emergence of Covid-19 pandemic and which process was withheld during the Covid-19 pandemic.

Secondly, the Health & Family Welfare Department, Government of Nagaland by the Notification dated 02.11.2022, has informed of the decision that the vacancies in 21 nos. of posts of Medical Officer [AYUSH] are to be filled up through a Special Recruitment Drive, to be conducted by the NPSC and the Nagaland Staff Selection Board.

* * * * *

*10. Having regard to the facts that [a] the petitioners herein have the requisite qualification to be appointed as Medical Officer [AYUSH]; [b] they have rendered services on contractual basis for more than 17 years since 2015-2016; and [c] the petitioners were appointed twice as Medical Officer [AYUSH] on contractual basis only after selection processes; and also the fact that the proposal initiated on **19.12.2019** by the Board has not*

*been brought to its logical conclusion in one way or the other till date, this Court taking note of the fact that it is also necessary, at the same time, to fill up the vacancies existing in 21 nos. of posts Medical Officer [AYUSH] expeditiously, is of the considered view that the Competent Authority in the Health & Family Welfare Department, Government of Nagaland is required to bring the proposal, initiated on **19.12.2019** and highlighted by the respondent no. 3 in its Communication dated 15.11.2022, to a logical conclusion by taking a decision as to whether the 10 nos. of posts of Medical Officer [AYUSH] should be filled up by way of regularization or by undertaking a recruitment process as indicated in the Notification dated 02.11.2022.*

11. Having regard to such fact situation obtaining in the case in hand, this Court is of the considered view that this writ petition can be disposed of with the following directions :-

*[i] The Competent Authority in the Health & Family Welfare Department Government of Nagaland shall bring the proposal, initiated on **19.12.2019** and highlighted by the respondent no. 3 in its Communication dated 15.11.2022, to a logical conclusion by taking a decision as to whether the 10 nos. of posts of Medical Officer [AYUSH] should be filled up by way of regularization or by undertaking a recruitment process as indicated in the Notification dated 02.11.2022. Such decision shall be*

taken as expeditiously as possible, preferably within a period of 6 [six] weeks from the date of submission of a certified copy of this order at his office by the petitioners. It is accordingly ordered.

[ii] The Competent Authority in the Health & Family Welfare Department, Government of Nagaland is, however, at liberty to initiate a recruitment process to fill the remaining 11 nos. vacancies in the post of Medical Officer [AYUSH] out of existing 21 nos. of posts, in the meantime.

[iii] The Court while issuing notices to the respondents on 09.12.2022, had passed an interim order to the effect that the respondents shall not advertise 10 posts of Medical Officer [AYUSH] and the said interim order is in operation till date. It is observed that such interim order will be in operation till the final decision is taken by the Competent Authority, as directed in Para [i] above.

[iv] The final decision, as directed in Para [i] above, shall be in the form of a speaking order. After passing of the speaking order the same is to be communicated to the petitioners forthwith thereafter. The interim order shall abide by the final decision taken in the speaking order.

[emphasis supplied in bold]

6. The Minutes of the said Meeting of the Board, constituted by the Health and Family Welfare Department, Nagaland and held on

18.12.2019, is found annexed as Annexure-L to the writ petition.

7. From a combined reading of paragraph 8, paragraph 10 and paragraph 11 of the Judgment and Order dated 27.03.2024, extracted above, and Annexure-6 to the writ petition, it is found that the date appearing at three places in paragraph 10 and paragraph 11 of the Judgment and Order dated 27.03.2024 as '19.12.2019' ought to have been '18.12.2019' in conformity with the date, '18.12.2019' mentioned in paragraph 8 thereof. Since the same are only typographical errors which have inadvertently crept in in the Judgment and Order dated 27.03.2024, the instant interlocutory application is to be allowed and it is accordingly allowed. It is clarified that for all intents and purposes, the date '19.12.2019' appearing at three places in paragraph 10 and paragraph 11 of the Judgment and Order dated 27.03.2024 shall be read as '18.12.2024'. This order is to be read as part and parcel of the Judgment and Order dated 27.03.2024.

Sd/-
JUDGE

Comparing Assistant