

GAHC020002082024

2024:GAU-NL:514



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

Case No. : WP(C)/67/2024

SHRI MULUNUYI NYEKHA
R/O CHESEZU VILLAGE
PHEK NAGALAND

VERSUS

THE STATE OF NAGALAND AND 4 ORS
THROUGH THE CHIEF SECRETARY TO THE GOVT. OF NAGALAND,
KOHIMA

2:THE COMMISSIONER
NAGALAND KOHIMA

3:THE DEPUTY COMMISSIONER
PHEK NAGALAND

4:THE ADDITIONAL DEPUTY COMMISSIONER
CHOZUBA
PHEK NAGALAND

5:THE EXTRA ASSISTANT COMMISSIONER
CHETHEBA
PHEK
NAGALAND

Advocate for the Petitioner : N. LONGKUMER,
XAVIOR KENT,
NISUKA CHISHI,
KIM PIENYU,
MANBO WANGSHU,
REBECCA,

LUCY WEO

Advocate for the Respondent : GOVT ADV NL,

**BEFORE
HON'BLE MR. JUSTICE KAKHETO SEMA**

JUDGMENT

Date : 20-09-2024

Heard Mr. N. Longkumer, the learned counsel for the petitioner and Ms. Inaholi, learned Government Advocate for the State respondents.

By the letter dated 14/06/2001 issued by the Government of Nagaland, Office of the Commissioner, Nagaland, Kohima, the petitioner was elected/selected as the Village Council Member (VCM) of Chesezu village under Phek district for the period 2021-2026. The petitioner was thereafter appointed as the Village Council Chairman for the said period. While functioning as the village council chairman, the Audit Committee of the village submitted the complaint to the Extra Assistant Commissioner Chetheba, Phek (respondent No.5) alleging misappropriation of 2-lane fund against the VCMs, GBs and VDB of Chesezu village and for dissolution of the village council.

The meeting dated 08/12/2022 was conveyed in the office of the respondent No.5 to discuss the alleged misappropriation, and during which, the village council chairman, village council members and VDB members of Chesezu village were found guilty of corruption and misappropriation of community funds thereby attracting disqualification under the Nagaland Village and Tribal Council Act, 1978. It was therefore decided that the matter for dissolving the village council will be taken up with the Government.

Subsequent thereto, the Addl. Deputy Commissioner (Hq.), Office of the Commissioner, Nagaland, Kohima, wrote the letter dated 25/08/2023 to the Deputy Commissioner, Phek, Nagaland, to initiate action to terminate 7(seven) GBs of the village who were alleged to have received the misappropriate amount/funds and 5(five) village council members for alleged misappropriation of the fund. The Deputy

Commissioner, Phek was also asked to issue the termination order of the petitioner from the post of the village council chairman.

Consequent thereto, the Deputy Commissioner, Phek, issued the order dated 21/09/2023 terminating the petitioner from the post of VCC of Chesezu village on the ground of corruption and misappropriation of community fund.

Against the order dated 21/09/2023, the petitioner has submitted the representation dated 17/10/2023 to the Commissioner, Nagaland, Kohima, to review and set aside the order dated 21/09/2023, however as no action was taken on the representation dated 17/10/2023, the petitioner has again submitted the representation dated 22/11/2023 to the Chief Secretary to the Government of Nagaland, for redressal of the petitioner's grievance. As the representation submitted by the petitioner to the Commissioner, Nagaland, Kohima, and to the Chief Secretary to the Government of Nagaland did not evoked any response, the present writ petition has been filed.

In the writ petition, the petitioner has, inter-alia, sought for a direction to set aside and quash the impugned order dated 21/09/2023 passed by the Deputy Commissioner, Phek, and to dispose the representations submitted by the petitioner by a speaking order within a specific period of time.

Mr. N. Longkumer, the learned counsel for the petitioner submits that, even without entering into the merit of the case, the writ petition may be disposed of with a direction to the Commissioner, Nagaland, Kohima, to dispose the representation dated 17/10/2023 and to the Chief Secretary to the Government of Nagaland to dispose the representation dated 22/11/2023, both submitted by the petitioner.

Ms. Inaholi, the learned Government Advocate, on the other hand submits that, she has received the instructions from the State respondents and may therefore, be allowed some time to file the affidavit-in-opposition.

Heard the learned counsel for the parties. Since the submission made by the learned counsel for the petitioner is only with a limited prayer to dispose the representations submitted by the petitioner to the respondent No.1 and 2, the interest

of the Government, in the considered opinion of this Court, will not be adversely affected, even if such a direction is passed.

In view of the observation made above, the writ petition is disposed at the admission stage with a direction to the Commissioner, Nagaland, Kohima (respondent No. 2) and the Chief Secretary to the Government of Nagaland (respondent No.1) to dispose of the representation dated 17/10/2023 and 22/11/2023 submitted by the petitioner, by a speaking order, within a period of 60(sixty) days from the date of passing of this order. Any action taken on the representation, shall be forthwith, communicated to the petitioner.

Writ petition disposed.

JUDGE

Comparing Assistant