

GAHC020002082024

2024:GAU-NL:514



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

Linked Case : WP(C)/68/2024

SHRI NGOTSUYI SWURO AND 5 ORS.
R/O CHESEZU VILLAGE
PHEK
NAGALAND

2: SHRI MUDISAH NIENU
R/O CHESEZU VILLAGE
PHEK
NAGALAND

3: SHRI VESUVOYI RINGA
R/O CHESEZU VILLAGE
PHEK
NAGALAND

4: SHRI MUDOVOYI NYEKHA
R/O CHESEZU VILLAGE
PHEK
NAGALAND

5: SHRI BEDULHU NYEKHA
R/O CHESEZU VILLAGE
PHEK
NAGALAND

6: SHRI VEPHUYI KHESOH
R/O CHESEZU VILLAGE
PHEK
NAGALAND
VERSUS

THE STATE OF NAGALAND AND 4 ORS

REPRESENTED BY THE CHIEF SECRETARY
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 : N. LONGKUMER
Advocate for : GOVT ADV NL appearing for THE STATE OF NAGALAND
AND 4 ORS

BEFORE
HON'BLE MR. JUSTICE KAKHETO SEMA

JUDGMENT

Date : 20-09-2024

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

The petitioners were all chosen as the Village Development Board Management Committee by the Village Council of Chesezu village in terms of Section-4(b) of the 'Village Development Model Rules, 1980'. While functioning as the Managing Committee of the VDB Chesezu village, 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 village council chairman and to dissolve the Village Development Board Members (VDB).

Consequent thereto, the Deputy Commissioner, Phek, issued the order dated 20/09/2023 dissolving the VDB of Chesezu village, with immediate effect, on the grounds of corruption and misappropriation of community fund.

Against the order dated 20/09/2023, the petitioners has submitted the representation dated 17/10/2023 to the Commissioner, Nagaland, Kohima, to review and set aside the order dated 20/09/2023, however as no action was taken on the representation dated 17/10/2023, the petitioners has again submitted the representation dated 22/11/2023 to the Chief Secretary to the Government of Nagaland, for redressal of their grievance. As the representation submitted by the petitioners 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 petitioners has, inter-alia, sought for a direction to set aside and quash the impugned order dated 20/09/2023 passed by the Deputy

Commissioner, Phek, and to dispose the representations submitted by the petitioners by a speaking order within a specific period of time.

Mr. N. Longkumer, the learned counsel for the petitioners 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 petitioners.

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 petitioners is only with a limited prayer to dispose the representations submitted by the petitioners 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 petitioners, 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 petitioners.

Writ petition disposed.

JUDGE

Comparing Assistant