

GAHC020003252023



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

Case No. : WP(C)/130/2023

SHRI. TOSHIZEMBA
SR. TREASURY OFFICER, MOKOKCHUNG NAGALAND

VERSUS

THE STATE OF NAGALAND AND 3 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF NAGALAND
2:THE ADDL. CHIEF SECRETARY AND FINANCE COMMISSIONER
NAGALAND KOHIMA

3:THE PRINCIPAL DIRECTOR
TREASURIES AND ACCOUNTS
NAGALAND KOHIMA

4:THE NAGALAND LOKAYUKTA
REPRESENTED BY THE SECRETARY NAGALAND LOKAYUKTA
NAGALAND KOHIM

Advocate for the Petitioner : TONGPOK PONGENER

Advocate for the Respondent : GOVT ADV NL

**BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

22.02.2024

The instant writ petition has been filed challenging the orders of Upa Lokayukta dated 15.11.2021 and 11.05.2022

passed by the Upa Lokayukta of the State of Nagaland; for setting aside and quashing the show cause notice dated 18.12.2021; the notification dated 18.12.2021 as well as also the Memorandum of Charges dated 03.03.2023.

2. This Court has heard the learned counsel for the parties. It is well settled that the orders passed by the Lokayukta as well as Upa Lokayukta under the provisions of the Nagaland Lokayukta Act, 2017 are recommendatory in nature. Further to that, this Court has duly taken note of that on the basis thereof, the Departmental Proceedings have been initiated upon the petitioner and Memorandum of Charge was submitted to the petitioner on 03.03.2023. The learned counsel for the petitioner further submitted that in pursuance of the Memorandum of Charges, the petitioner had also submitted his statement of defence. However, the said enquiry proceedings have been prolonged and thereby the petitioner has been deprived of exercising his duties in true extent. The learned counsel for the petitioner further submitted that the said Departmental Proceedings have no basis in as much as the petitioner had acted in accordance with the provisions of law, more particularly the Central Treasury Rules which is applicable to the State of Nagaland.

3. This Court has put a pointed query upon Ms. S. Mere, the learned Government Advocate, Nagaland and more particularly the Disciplinary Authority as to how much time would be required for completion of the said Departmental Enquiry. The learned Government Advocate submitted that the same would be completed at the earliest.

4. Mr. T.B. Jamir, the learned counsel appearing on behalf of the respondent No.4 submitted that the initiation of the instant writ proceedings against the respondent No.4 is totally unwarranted in view of the fact that the orders which have been passed by the Upa Lokayukta are recommendatory in nature and as such no writ lies.

5. Taking into account that the orders of the Upa Lokayukta are recommendatory in nature and there is a Departmental Proceedings which are presently going on, it would not be proper on the part of this Court at this stage to interfere with the said Departmental Proceedings. However, for the ends of justice, this Court directs the respondent authorities to complete the Departmental Proceedings within a period of 4 (four) months from today. Further to that, this Court directs the Disciplinary Authority including the Enquiry Officer to decide the Departmental Proceedings on merit without being influenced by the orders dated 15.11.2021 and 11.05.2022 passed by the learned Upa Lokayukta, State of Nagaland in Case No.A.NLP-11/2021; Case No.A.NLP-8/2021 and Case No.A.NLP-10/2021.

6. With the above observations and directions, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant