



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

Case No. : WP(C)/137/2022

MR. P. YANGTHSASE SANGTAM @ YANGTHASE SANGTAM
AGED ABOUT 38 YEARS
S/O LATE PIOSE SANGTAM @ PEOSE SANGTAM
R/O KIPHIRE TOWN
KIPHIRE
NAGALAND

VERSUS

THE STATE OF NAGALAND AND 6 ORS
THROUGH THE CHIEF SECRETARY TO THE GOVERNMENT OF NAGALAND
NAGALAND
KOHIMA

2:THE COMMISSIONER AND SECRETARY

DEPARTMENT OF ENVIRONMENT
FOREST AND CLIMATE CHANGE
NAGALAND
KOHIMA

3:THE PRINCIPAL CHIEF CONSERVATOR OF FOREST AND HEAD OF FOREST
FORCE

NAGALAND
KOHIMA

4:THE DIVISIONAL FOREST OFFICER

KIPHIRE DIVISION
KIPHIRE

NAGALAND

5:THE DEPUTY COMMISSIONER

KIPHIRE
NAGALAND

6:MISS C. CHOLILA SANGTAM

D/O MR. CHOTSASE SANGTAM

R/O YINGPHIRE VILLAGE
KIPHIRE
NAGALAND

7:MR. YANGTHSASE SANGTAM

S/O MR. THEOPI SANGTAM

R/O D.C. WARD
KIPHIRE TOWN
KIPHIRE
NAGALAND

Advocate for : TSALI SANGTAM

Advocate for : GOVT ADV NL appearing for THE STATE OF NAGALAND AND 6
ORS

BEFORE
HON'BLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 04.11.2024

Heard Mr. Sentianger, learned counsel for the petitioner. Also heard Mr. N. Angami, learned Senior Government Advocate for the State respondent.

2. By way of this petition under Article 226 of the Constitution of India, the petitioner is assailing the appointment order dated 16.06.2022 issued in favour of

the respondent nos. 6 and 7.

3. The case of the petitioner is that on 14.03.1986, an agreement was executed in the form of sale deed between the Forest Ranger and the father of the petitioner that the affected land owners/donors will be appointed in grade- IV post in the Department as and when such vacancy utilized.

4. It is the further case of the petitioner that respondent no.4 by Advertisement dated 25.07.2018 invited application for filling up 4 (four) grade-IV post and called documents supporting land owner claim etc. The petitioner accordingly applied for the said post on land ownership basis.

5. After completion of the selection, the respondent authorities by order dated 02.06.2022 appointed respondent nos. 6 and 7 to the said post.

6. Aggrieved by the aforesaid appointment, the present writ petition has been filed.

7. Mr. Sentianger, learned counsel for the petitioner submits that the petitioner in terms of the notification dated 05.03.2018, issued by the Chief Secretary to the Government of Nagaland, Land Revenue Department, is entitled to employment against the subject land of the petitioner being taken over by the State Government.

8. He further draws the attention of this court to the advertisement dated 25.07.2018, wherein the authorities while inviting applicants from the interested indigenous

candidates for recruitment to the subject post had sought for relevant documents, amongst others, documents supporting land owners claim of Forest Colony, Kiphire before its out-right purchase by Forest Department.

9. He accordingly submits that the appointment of the respondent nos. 6 and 7 by ignoring the petitioner's case is totally illegal.

10. He further submits that the subject land of the petitioner has been taken over by the State Government without following the provisions as contained under the Nagaland Land (Requisition and Acquisition) Act, 1965.

11. Per contra Mr. N. Angami, learned Senior Government Advocate submits that the Notification dated 05.03.2018 is not applicable to the case of the petitioner.

12. He further submits that in order for an indigenous person to be entitled for employment under the notification dated 05.03.2018, the pre-conditions i.e. freely donated land and an agreement wherein it is agreed to provide employment to the land owner/donor must exist.

13. He submits that in the present case neither land has been donated freely nor there is an agreement for providing employment to the petitioner.

14. I have heard the learned counsel for the contesting parties and perused the material available on record.

15. In order to appreciate the contentious issues raised

in the instant writ petition, let me first refer to the sale deed in relation to the subject land which has been entered on 14.03.1986 between father of the petitioner and State Government (Annexure-8) to the writ petition. Apparent that the land was purchased by the State Government at the rate of Rs. 2,000/- only per acre.

16. It further appears that in terms of the Advertisement dated 25.07.2018, the petitioner applied for the grade-IV subject post on the basis of the petitioner's land being purchased by the State Government and accordingly participated in the selection.

17. However, the petitioner having not been successful in getting an employment under the aforesaid advertisement, the petitioner filed the instant writ petition assailing the appointment of the private respondent nos. 6 and 7.

18. The prayer as contained in the writ petition is reproduced hereunder for ready reference:-

“In the premises aforesaid, it is most respectfully prayed that your Lordship may be pleased to admit this petition, call for the records, issue rule calling upon the Respondents to show cause as to why a Writ as prayed for should not be issued. Further call upon the Respondents to show cause as to why the impugned Appointment Order dated 16/06/2022 of Respondent No. 6 & 7 should not be set aside and quashed, and upon cause or causes being shown and after perusing the records and hearing the parties, your Lordship may be pleased to set aside and quashed the impugned Appointment Order dated 16/06/2022 of Respondent No. 6 & 7 and direct the Respondent authorities to appoint the Petitioner to the said Grade-IV post in issue. And/or be further pleased to pass such other order or orders as your Lordship may deem fit and proper.”

19. A bare perusal of the prayer indicates that the relief

sought for by the petitioner is for appointment of the petitioner to the subject grade-IV post on the basis of the pleadings to the effect that his land has been taken over by the State Authorities and hence in terms of notification dated 05.03.2018, the petitioner is entitled for employment.

20. Apt to refer to the notification dated 05.03.2018 at this stage, which is reproduced hereunder for ready reference:-

“In pursuance of approval of the Cabinet vide O.M No. CAB-2/2013 Dt. 12.17, the Governor of Nagaland is pleased to notify the following policy with regard to appointments Grade-IV posts under the Government of Nagaland on landownership basis.

It has been laid down vide Notification No. LR/4-3/KOH/2003 dated 26.07.2005 that no land shall be acquired free of cost and all land shall be acquired on payment of full compensation as determined by law. No further condition for employment in service or contractual works should be entertained. Therefore, in case any Department has entered into any agreement with the landowners in deviation of the laid down policy on or after 26.07.2005, such agreement shall be treated as null and void. The Department concerned shall take necessary action accordingly to nullify such agreement.

In case the Department concerned is of the view the agreement should not be declared null and void, it shall refer it with relevant details giving justification to the Department of Land Revenue for examination and advice in consultation with P&AR and Justice & Law Departments and thereafter submit the matter for consideration and decision of the Cabinet,

Old cases where Administrative headquarters and Block headquarters were set up in various parts of the State on lands donated freely by individuals, villages or people of that area should not be reopened for compensation or for employment in consonance with the policy brought out vide Memorandum No. LR/2-135/76 dated 20.06.1977.

In other cases prior to 26.07.2005, and subsequent to setting up of Administrative and Block headquarters on freely, donated land, where a specific written agreement exists providing for employment to the landowner, the claim of landowner for employment should be settled in terms of such agreement.

If there is any claim for providing employment as a result of oral agreement, the Department concerned shall refer the matter to the Deputy Commissioner of the

District concerned who shall examine such claim carefully including whether any employment or any other facility including contract or supply order has been given in the past. Written statements from the witnesses, that is, Government officials of the concerned department and the District Administration and village functionaries present at the time of such oral agreement should be taken by the Deputy Commissioner. The recommendation of the Deputy Commissioner should be referred with relevant documents to the Department of Land Revenue for advice in such cases by the Department concerned.

It is also clarified that it is not the policy of the Government to provide employment to the landowner in perpetuity. The employment of landowner, if permitted by a verifiable and valid agreement, is limited to the person first appointed as landowner in Government service and does not entitle his descendents for further employment on his retirement from service. After the appointed landowner retires or vacates the post, the vacancy will be filled up through open advertisement in consonance with the existing policy giving equal opportunity to all applicants."

21. Apparent reading of the above notification that it is in the case where a land has been freely donated and where a specific written agreement exist for providing employment to the land owner, the said land owner is entitled to be considered for employment.

22. Admittedly, in the present case, firstly, the petitioner's land has not been donated freely. Secondly, there is no condition stipulated therein to provide employment to the petitioner.

23. Thus, the notification dated 05.03.2018 is not applicable to the case of the petitioner. Hence, the instant writ petition fails.

24. However, the petitioner is at liberty to approach the respondent authorities with a representation in respect of the subject land sought to be taken over by the State Government and in the event, such representation is filed,

the same shall be disposed of by the respondent authorities in accordance with law within a period of 2 (two) months from the date of the receipt of the such representation.

25. With the above observation and direction, this writ petition stands disposed of.

JUDGE

Comparing Assistant