



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

Case No. : WP(C)/138/2022

SHRI. ZUHOQHE SHEQI
PERMANENT R/O MISHILIMI VILLAGE,
PUGHOBOTO SUB-DIVISION, ZUNHEBOTO, NAGALAND

VERSUS

THE STATE OF NAGALAND AND 3 ORS
REPRESENTED BY THE COMMISSIONER, NAGALAND, KOHIMA, NAGALAND
2:THE CHIEF ELECTORAL OFFICER

NAGALAND
KOHIMA

3:THE DEPUTY COMMISSIONER

ZUNHEBOTO
NAGALAND

4:THE ADDITIONAL DEPUTY COMMISSIONER AND DISTRICT ELECTION
OFFICER

PUGHOBOTO
NAGALAN

Advocate for the Petitioner : JOSHUA SHEQI

Advocate for the Respondent : GOVT ADV NL

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

ORDER

29.02.2024

The instant writ petition has been filed by the petitioner seeking a writ in the nature of certiorari for setting aside and quashing the letter No.ELE/ESTT-49/2012-2022 dated 10.06.2022 wherein directions were given to hold an open recruitment for Grade-IV posts and further seeking directions upon the State respondents to honour the Agreement dated 30.06.1981 and appoint the petitioner against the sanctioned Grade-IV post.

2. The entire case of the petitioner as could be seen from a perusal of the writ petition and the enclosures thereto would show that an Agreement was entered into between the various Gaonburhas/VCMs/landowners with the Government on 30.06.1981 wherein the land was donated by the various landowners of Mishlimi Village for construction of the Sub-Divisional Headquarter, Pughoboto and for other development works. The said Agreement stipulated that the additional requirement of the land for the Sub-Divisional Headquarter was given free of cost to the Government and the land was given purely for Government development work. In addition to that, it was also stipulated that the landowners would be given facilities for Government contract works and Grade-IV post in various Departments at Pughoboto as per the Rules.

3. The record further reveals that one Kiyelho Sema (since

deceased) was working as the Office Peon in the establishment of the Additional District Commissioner and District Election Officer, Pughoboto. He expired on 20.04.2022 thereby creating a vacancy to the said post. Under such circumstances, the petitioner herein had submitted a representation on 05.05.2022 claiming that he should be granted the appointment to the said post on landowner basis. Irrespective of the said claim by the petitioner, the respondents, more particularly the respondent No.2 & 4 proceeded with an advertisement which has been assailed in the instant writ proceedings and seeking the reliefs as mentioned herein above.

4. To the said writ petition the petitioner has enclosed a landowner certificate issued by the Chairman, Mishlimi Village Council certifying that the petitioner is the son of Late Khashito Sheqi and is a permanent resident of Mishlimi Village and is the legal owner of the present District Election Office building at Pughoboto Town and further the said landowner has not availed any land compensation till date.

5. Upon the writ petition being filed, this Court vide an order dated 20.07.2022 issued notice and further directed the respondent authorities to proceed with the recruitment process initiated vide the impugned letter dated 10.06.2022, but the final result of the recruitment process so initiated shall not be declared without the leave of the Court.

6. In pursuance to the notice, the respondents have duly appeared before this Court and the respondent Nos.2 & 4

have filed an affidavit. In the said affidavit, it has been mentioned that the instant writ petition is not maintainable on various grounds. It was stated that vide an order dated 30.04.2001, the brother of the petitioner Shri Hoito Sheqi was appointed as an Office Peon under the Office of the respondent No.4 on the basis of landownership. Further to that, another cousin of the petitioner Shri Hosito Sema was appointed on 05.01.2012 as Dak Runner on landowner basis.

7. It is the specific case of the respondent Nos.2 & 4 in the said affidavit that in terms with the Notification dated 05.03.2018, and more particularly in Clause 3 (c), the policy of the Government to appoint on landowners basis is not a policy in perpetuity and is limited to the person first appointed as landowner in the Government Service and does not entitle descendants for further employment on his retirement from service. It was also the specific stand of the respondents in the affidavit that even if a person who has been appointed on landowner basis vacates the post on account of his death or retirement, the said post would be filled up through open advertisement in consonance with the existing policy giving equal opportunity to all the applicants.

8. To the said affidavit-in-opposition, the petitioner had submitted an affidavit-in-reply stating inter-alia that the Office of the District Election Officer and the Office of the Additional Deputy Commissioner are two different establishments/Departments. Till date, not even a single appointment of the family of the petitioner has been made against any Grade-IV post in the office of the DEO, Pughoboto.

Therefore, the objection raised by the State respondents of having appointed the family members of the petitioner in the Office of the ADC, Pughoboto has nothing to do with the present case. It was duly admitted in the said affidavit-in-reply that both the Office of the DEO and the ADC are constructed on the same land donated by the family of the petitioner. However, as the two Offices are different Departments, the petitioner herein is entitled to.

9. In the backdrop of the above pleadings, I have heard the learned counsel appearing on behalf of the petitioner as well as the learned counsel appearing on behalf of the respondents. Their submissions have been duly taken note of.

10. From the materials on record, it is an admitted fact that the land wherein the building stands is the land belonging to the family of the petitioner. There is no denial to the effect that the Office establishment of the Additional Deputy Commissioner as well as the Office establishment of the District Election Officer is one and the same and standing on the same plot of land. However, it is on the ground that both are separate establishments, the petitioner has claimed his right on the basis of the Notification dated 05.03.2018.

11. This Court having given an anxious consideration to the Notification dated 05.03.2018 and further taking into account that the brother of the petitioner as well as his cousin brother have been duly appointed in the said Office of the Additional Deputy Commissioner wherein the building stands on landownership basis, is of the opinion that the petitioner has

no right to claim appointment on landowner basis more particularly in view of Clause 3 (c) of the Notification dated 05.03.2018.

12. Under such circumstances, this Court finds no merit in the instant writ petition for which resultantly the instant writ petition stands dismissed. However, in the peculiar facts of the case, this Court is not inclined to impose any costs. The interim order dated 20.07.2022 stands vacated and the Respondents would be at liberty to take such steps as deemed fit for filling up of the vacant posts as per the extant law.

JUDGE

Comparing Assistant