

GAHC020007342023



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

Case No. : WP(C)/326/2023

SHRI. VITHONGULIE AND 45 ORS
S/O LATE ROKO ANGAMI
R/O NAGA BAZAR, KOHIMA SARDAR
PREVIOUS ALLOTTED ROOM NO. A-49

2: SHRI LHOULALIE-II SUOHU
R/O BAPTIST HIGH MISSION COMPOUND
KOHIMA NAGALAND
PREVIOUS ALLOTTED ROOM NO.A-71

3: SMTI VISHELENUO RULHO
D BLOCK
KOHIMA NAGALAND
PREVIOUS ALLOTTED ROOM NO.C-3

4: SMTI ANNE JAMIR
R/O H/NO-6
OLD MINISTERS HILL-II
KOHIMA NAGALAND
PREVIOUS ALLOTTED ROOM NO.B-25

5: SMTI KHRIEKEYIEU SALE
R/O UPPER PWD COLONY KOHIMA NAGALAND

6: SMTI NEIVOZONUO KIRE @ ABE-U KIRE
AGAINST THE NAME OF HER LATE HUSBAND NEITHO KIRE
R/O D KHEL KOHIMA NAGALAND

7: SHRI KEWENGULO @ KEWENGULO LASUSHE
R/O D BLOCK COLONY
SECTOR B
KOHIMA NAGALAND

8: SMTI BANUO CHUZO @ BANO CHUZH0

R/O PHUSACHODOU VILLAGE
PHEK NAGALAND

9: SMTI DUONEI-U @ DUONEIU KIRE
R/O MISSION ROAD KOHIMA VILLAGE NAGALAND

10: SMTI NEISIELIE-U @ NEISALIEU KIRE
R/O MISSION ROAD
KOHIMA VILAGE NAGALAND

11: SMTI. KEHOUKHRIEU KELIO @ NHIEBOU-U
R/O G.RIO SCHOOL
KIKHA AREA
KOHIMA SARDAR
NAGALAND

12: SMTI THEJAVIZONUO @ THEJAVIZONUO KELIO
R/O HIGH SCHOOL KOHIMA NAGALAND

13: SMTI VISANEINUO
R/O NORTH D BLOCK III
KOHIMA NAGALAND

14: SMTI RUOVITUONUO @ RUOVITUONUO KIEWHUO
R/O PEZIELIETSIE
KOHIMA NAGALAND

15: SHRI TONIHO YEPHO
R/O PHUSHITO COLONY
AGHUNATO HQ
ZUNHEBOTO NAGALAND

16: SMTI ACHUNTHOI KAMEI
R/O NAGA BAZAR
KOHIMA NAGALAND

17: SMTI SHURHONUO SEKHOSE @ K.V. MEDO
R/O D BLOCK
KOHIMA NAGALAND

18: SMTI KELHOUSEU SEKHOSE @ VILANUO
R/O KITSUBOZOU COLONY
KOHIMA NAGALAND

19: SMTI KENGU-U @ KENGUU
R/O H.NO. 93
MERIEMA VILLAGE
KOHIMA NAGALAND

20: SMTI VIZOVONUO @ VIZOVONUO ANGAMI
R/O DAKLANE ROAD
KOHIMA NAGALAND

21: SHRI KHETOI YEPHO
R/O MIDLAND COLONY
KOHIMA NAGALAND

22: SHRI TSEILETUO SEKHOSE @ TSEIU SEKHOSE
R/O KITSUBOZOU
KOHIMA NAGALAND

23: SHRI KESALHOULIE SEKHOSE @ KESA ANGAMI
OLD MINISTERS HILL COLONY
KOHIMA NAGALAND

24: SHRI KETHONGULIE AMOS SEKHOSE @ AMOS SEKHOSE
R/O OLD MINISTERS HILL COLONY KOHIMA NAGALAND

25: SHRI RUOKUOZELIE YIESE@ ROKOUZELIE YIESE
R/O KOHIMA SARDAR KOHIMA NAGALAND

26: SHRI KITOLU AWOMI @ MIGHITO SEMA
R/O MOUNT OLIVE COLLEGE
DAKLANE COLONY
SECTOR-1
KOHIMA NAGALAND

27: SMTI AKALI AWOMI @ AKALI SEMA
R/O DAKLANE COLONY
KOHIMA NAGALAND

28: SMTI MENUOKHRIE-U SEKHOSE @ NEIBANUO
R/O KITSUBOZOU
KOHIMA NAGALAND

29: SHRI KUDECHO KHAMO @ KUDECHO KHAMO
R/O PFUTSERO
PHUSACHODU VILLAGE PHEK NAGALAND

30: SMTI KEVILENUO SOLO @ KEVILENUO
R/O T KHEL KOHIMA VILLAGE
KOHIMA NAGALAND

31: SMTI. SIVONUO@ SIVONUO THEUNUO
R/O MERIEMA VILLAGE KOHIMA NAGALAND

32: SHRI PAWAN KUMAR @ PAWAN MOHRA
R/O D BLOCK
KOHIMA NAGALAND

33: SMTI AKOLE TETSEO @ TSANINO AKOLE
R/O NEW MINISTERS HILL KOHIMA NAGALAND

34: SHRI KEWEKOLO JHALO@ AKHO KHALO
R/O NEW MINISTERS HILL COLONY KOHIMA NAGALAND

35: SMTI METHATHILU THELUO
R/O PWD COLONY KOHIMA NAGALAND

36: SHRI VIKETHOTULIE SEKHOSE @ V.S. ANGAMI
R/O KITSUBOZOU LOWER KOHIMA NAGALAND

37: SMTI NEISEZONUO @ NEISEZONUO THEUNUO
R/O P KHEL KOHIMA NAGALAND

38: SMTI VILANUO YIESE@VILA@VILIE@VILIE ANGAMI@ VILA ANGAMI
R/O NEW MARKET COLONY KOHIMA NAGALAND

39: SHRI TITUS SEKHOSE@ KECHANGULIE TITUS
R/O KITSUBOZOU COLONY
KOHIMA NAGALAND

40: SHRI KEKHRIEYITUO SEKHOSE
R/O PEZIELIETSIE
KOHIMA NAGALAND

41: SMTI NEIKEHENUO SEKHOSE
R/O PEZIELIETSIE
KOHIMA NAGALAND

42: SMTI MENUO @ MEDOHU
R/O PEZIELIETSIE
KOHIMA NAGALAND

43: SHRI. LHUVESAYI LOHE@ L. LOHE
R/O SCIENCE COLLEGE
JOTSOMA KOHIMA NAGALAND

44: SMTI KEZIENUO @ KEZIENUO THEUNUO
R/O H. NO. 30 FOREST COLONY
KOHIMA NAGALAND

45: SMTI NYHAU LIEZIETSU @ NYHA LIEZIETSU
L. KHEL

KOHIMA VILLAGE
KOHIMA NAGALAND

46: SHRI THEJAZHAZO SUOHU@ THEJAZHAZO
R/O MEDZIPHEMA HQ DIMAPUR NAGALAN

VERSUS

THE STATE OF NAGALAND AND 4 ORS
THROUGH THE CHIEF SECRETARY TO THE GOVT OF NAGALAND 2:THE
PRINCIPAL SECRETARY
URBAN DEVELOPMENT AND MUNICIPAL AFFAIRS DEPT
NAGALAND KOHIMA

3:THE COMMISSIONER AND SECRETARY
ADMINISTRATIVE HEAD OF URBAN DEVELOPMENT DEPT. NAGALAND
KOHIMA

4:THE DEPUTY COMMISSIONER
KOHIMA NAGALAND

5:THE ADMINISTRATOR
MUNICIPAL COUNCIL KOHIMA NAGALAN

Advocate for the Petitioner : V. THEYO

Advocate for the Respondent : GOVT ADV NL

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

ORDER

20.02.2024

46 writ petitioners have jointly filed the instant writ petition challenging the actions of the respondent authorities in not granting allotment to the petitioners in terms of the Memorandum of Understanding dated 1/8/2003.

2. The materials on record reveals that the petitioners herein are claiming to be tenants of the Super Market

established by the Kohima Municipal Council, Kohima. In the year 2003 a Memorandum of Understanding was executed between the Deputy Commissioner and the Local Traders Union, Super Market in the presence of witnesses incorporating various terms and conditions. This Memorandum of Understanding was entered into in view of the decision of the respondents to demolish the existing structure and construct a new building. The proposed building was completed after 19 years and there upon, the respondents took steps for granting allotment. It is the case of the petitioners that the said steps taken by the respondent authorities in finalizing the allotment was done without taking into account the Memorandum of Understanding entered into on 1/8/2003. It is further the case of the petitioners that they were not afforded reasonable opportunity for placing their documents before the Deputy Commissioner, Kohima and resultantly their cases were not considered which ought to be considered in terms of the Memorandum of Understanding dated 1/8/2003. Being aggrieved, a writ petition was filed by the Local Traders Union Super Market, a union of the earlier allottees of the building in question which was registered and numbered as W.P.(C) 169/2022. However, the said writ petition was withdrawn with liberty and there upon the present writ petition has been filed by the petitioners.

3. The record reveals that this Court by order dated 15/12/2023 had issued notice making it returnable on 12/3/2024. The Deputy Commissioner, Kohima was directed to file affidavit on merit and as well as also state as to what steps

have been taken pursuant to the representation filed by the petitioners.

4. The record reveals that the Deputy Commissioner, Kohima had filed an affidavit stating inter alia that in pursuant to the representation submitted by the petitioners dated 02/04/2022, a public notice was issued on 24.3.2022 and thereafter verification of previous tenants of Super Market complex Kohima was held from 4.4.2022 to 6.4.2022. It was specifically mentioned that out of 136 applications received, a total of 48 persons came for verification and out of which 30 persons were recommended for allotment of the rooms at the new Super Market complex and the remaining 18 persons were not recommended for various reasons/grounds. The said verification report was forwarded to the Principal Secretary Department of Urban Development & Municipal Affairs by communication dated 20/4/2022 for necessary action. In the said affidavit, various enclosures have been enclosed including the reports submitted to the Principal Secretary Department of Urban Development & Municipal Affairs. From the said communication dated 20/4/2022, it is seen that out of 136 applicants, 48 persons have appeared for verification. Out of 48 persons, 30 persons were recommended for allotment whereas 18 persons were not recommended for the following reasons:

1. In the case of 6 persons, the allottees/tenants has expired.
2. 10 of the such applicants were Government servant
3. 2 of the applicants were related to the recommended allottee being of the same family.

5. This Court have also taken note of Annexure-3 where the list of previous tenants who were allotted rooms at the new Super Market complex. From the materials available on record, it does not transpire as to whether the petitioners herein are amongst the 18 persons whose applications have been rejected. Be that as it may, this Court have duly taken consideration of the submissions made by the learned counsel for the petitioners and is of the opinion that as there was Memorandum of Understanding dated 1/8/2003 and the petitioners' specific stand is that they have not been granted the opportunity to place documents, it is the opinion of this Court that petitioners should be given an additional opportunity. Taking into account the above, this Court disposes of the writ petition by giving liberty to the petitioners to submit their documents before the Deputy Commissioner, Kohima on or before 20/3/2024 and if the petitioners duly submits such documents within the stipulated time herein, the Deputy Commissioner, Kohima shall consider the same and as per the extent laws and thereupon as on the basis of the said consideration submitted a report to the Principal Secretary, Department of Urban Development & Municipal Affairs for doing the needful. The said exercise be completed by 20/06/2024.

6. With the above observation, the writ petition stands disposed of.

Sd/-
JUDGE

Comparing Assistant