

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP(C) No. 1116 of 2022

Thokchom Manoj Meitei.

...Petitioner

- Versus -

State of Manipur & 2 Ors.

...Respondents

**B E F O R E
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA**

ORDER

11-09-2025

[1] Present Ms. S. Jotibala, learned counsel for the petitioner; Mr. Th. Sukumar, learned Government Advocate on behalf of State respondent Nos. 1 & 2; and Mr. H.S. Paonam, learned senior counsel assisted by Mr. A. Arunkumar, learned counsel on behalf of respondent No. 3.

[2] By the present writ petition, under Article 226 of the Constitution of India praying a relief in the nature of quo warranto, the petitioner is challenging the regularization order dated 29-11-2016 passed by the Commissioner (Art & Culture), Government of Manipur regularizing the contractual appointment of respondent No. 3 as Assistant Curator, INA, Moirang on the recommendation of State Cabinet.

[3] Ms. S. Jotibala, learned counsel for the petitioner, submits that Assistant Curator, INA is a Class II post and therefore, the order dated 25-06-1987 stipulated for constitution of DPC for appointment to Class II posts —

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| (1) | Chairman/Member, MPSC | - | Chairman |
| (2) | Commissioner/Secretary (DP),
Govt. of Manipur | - | Member |
| (3) | Commissioner/Secretary
(GAD), Govt. of Manipur | - | Member |

[4] It is pointed out that while regularizing the contractual service of respondent No. 3 by the impugned order dated 29-11-2016, no Class II DPC was constituted for the purpose of regularization. Hence, it is prayed that regularization of respondent No. 3 vide impugned order dated 29-11-2016 be quashed.

[5] Mr. Th. Sukumar, learned Government Advocate for the State respondents, has pointed out that respondent No. 3 was appointed as Assistant Curator, INA, Moirang by an open advertisement and on the recommendation of duly constituted DPC. Later on, on the recommendation of State Cabinet, the contractual service of respondent No. 3 was regularized by the impugned order dated 29-11-2016 as Assistant Curator, INA, Moirang and hence, there is no violation of any order or recruitment rules in the regularization of respondent No. 3, as the contractual appointment of respondent No. 3 as Assistant Curator was in pursuance of open advertisement and on the recommendation of duly constituted DPC in terms of the relevant rules. It is submitted that the writ petition may be dismissed as not maintainable.

[6] Mr. H.S. Paonam, learned senior counsel for respondent No. 3, has pointed out that respondent No. 3 was earlier appointed as Assistant Curator, INA on contractual basis and on the basis of duly constituted DPC upon open advertisement, her service was regularized by the impugned

order dated 29-11-2016 on the recommendation of the State Cabinet and with the concurrence of Finance Department. Learned senior counsel for respondent No. 3, has pointed that subsequently respondent No. 3 was promoted to the post of Curator vide order dated 18-11-2021 on the basis of duly constituted DPC. Learned senior counsel for respondent No. 3 further draws the attention of this Court that the writ petition is filed in the year 2022 challenging the initial regularization of respondent No. 3 to the post of Assistant Curator when she was promoted to the post of Curator on regular basis in the year 2021 and prior to the filing of the writ petition. The writ petition challenging the initial regularization without challenging further promotion to the post of Curator is not maintainable in the eyes of law. Learned senior counsel has also pointed to the contents of para 10 of the writ petition where it is specially pleaded that by the regularization of respondent No. 3 to the post of Assistant Curator, INA has deprived the fundamental rights of the petitioner and it shows that the petitioner is filing the writ petition in the nature of certiorari under the guise of quo warranto. It is also pointed out that the petitioner has failed to show that respondent No. 3 is not eligible for appointment to the post of Assistant Curator, INA nor the appointment was in contravention of any relevant rules and the appointing authority was not a competent person to make such appointment. It is prayed that the writ petition be dismissed as not maintainable.

[7] This Court has perused the material on record and considered the submissions made at the Bar. In the present writ petition filed praying for a relief in the nature of quo warranto, the petitioner prays for setting aside the regularization of respondent No. 3 to the post of Assistant Curator, INA. The

sole ground pleaded in the writ petition is that no DPC for Class II post was constituted at the time of regularization. Apart from this, no other ground has been pleaded in the writ petition such as the ineligibility of respondent No. 3 as well as incompetence of appointing authority. It is settled proposition of law that a writ of quo warranto is to be filed by a public spirited person while a public post is usurped by a person who is not eligible as per the rule. Another condition is that the appointment is dehors the rules and the appointing authority is not competent to make such appointment. It is not the case of the petitioner that respondent No. 3 is ineligible or the appointment is in contravention of the relevant rules or the appointing authority is incompetent. The sole ground is non-constitution of Class II DPC. It has been rightly pointed out by the learned Government Advocate that the initial appointment of respondent No. 3 as Assistant Curator, INA on contractual basis was on the basis of open advertisement and on the recommendation of duly constituted DPC and her regularization was in pursuance of the Cabinet decision as a policy matter. Even in the case of **Uma Devi, 2006(4) SCC 1**, the State has a right to make a policy decision for regularization of the contractual staff if the initial contractual appointment is not in contravention of the rules. In the present case, the initial appointment of respondent No. 3 as Assistant Curator on contract basis was through open advertisement and on the recommendation of duly constituted DPC as per law. Since the eligibility of respondent No. 3 for appointment to the post of Assistant Curator, INA is not seriously questioned by the petitioner and also the competency of the appointing authority, this Court is of the opinion that the basic ingredients of granting a relief in the nature of quo warranto is not

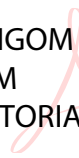
satisfied in the present writ petition. Moreover, the present writ petition has been filed after promotion of respondent No. 3 to the post of Curator and the appointment made in the year, 2021 is not challenged in the writ petition filed in the year, 2022. In the circumstances, this Court does not find any merit in the case so as to warrant a relief in the nature of quo warranto.

[8] Accordingly, the writ petition is dismissed.

JUDGE

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