

19.03.2021
ITEM NO. 9
Ct. No.1
AD & Saswata

WPA (P) 57 of 2021
With
IA No: CAN 1 of 2021
(Via video conference)
Dipendra Niraula
-vs-
The State of West Bengal & Ors.

Mr. Kallol Basu
Mr. Urgen Lama
Ms. Richa Lepcha
... for the petitioner

Mr. Kishore Datta, Ld. AG
Mr. Abhratosh Majumdar, Ld. AAG
Mr. Sayan Sinha
... for the State

Mr. Billawadal Bhattacharyya
Mr. Rajdeep Majumder
Mr. Mayukh Mukherjee
Mr. Rigen Lama
... for the respondent no.6

This writ petition is instituted raising the question as to whether respondent no.6 is entitled to hold the office in terms of his nomination as per Section 17 of The Gorkhaland Territorial Administration Act, 2011(hereinafter referred to as “the Act”).

We have heard the learned counsel for the petitioner, the learned Advocate General and the learned counsel appearing for the 6th respondent.

To put it briefly, the Act was made to provide for the establishment of a Gorkhaland Territorial Administration for the reasons stated in its preamble and an election was conducted leading to the

situation that could be referable to Section 17 of that Act. With the passage of time, the exercise of authority of the Gorkhaland Territorial Administration Sabha came to be with a person who was appointed as the administrator and designated so in terms of the second proviso to Section 17(1) of that Act.

After some time, there was a change and through a decision of the State Government issued in the name of the Governor, the 6th respondent was brought in as the administrator in lieu of the earlier person.

The allegation of the petitioner is that for different reasons the 6th respondent is not entitled to hold such office. It is attempted to be pointed out that the 6th respondent, Mr. Anit Thapa is neither the elected representative nor a neutral non-political administrator; he being the member of a political party, specifically, the break away faction of the Gorkha Janmukti Morcha. It is also the plea of the petitioner that the 6th respondent has his name enrolled in the electoral roll of the Election Commission of India as a voter from the Kurseong Assembly Constituency though there are materials to show that he is not “a legitimate citizen” in view of certain activities attributed to him on the basis of newspaper reports. Allegedly, he travelled to United Arab Emirates in 1995 under a passport issued by the

Nepal Government. This is focussed upon to say that materials tend to indicate that the 6th respondent is not an Indian citizen.

We do not see any ground for us to adjudicate on any of the issues raised hereinabove. The matter is entirely, within the domain of the State Government in view of the provisions of the Act and because the 6th respondent is holding office in terms of a decision of the Government as reflected through the Government notification. The only course that would remain for the petitioner is to seek that the State Government, through its competent authority, decides on a representation that the petitioner is stated to have been made before the State Government authorities. That representation is dated January 22, 2021. We are not persuaded to issue any order except to state that the State Government authorities will consider that representation dated January 22, 2021, taking into consideration the different submissions of the petitioner in that representation. Though the learned counsel for the petitioner persuasively requested that there may be an order to appoint an IAS Officer in lieu of the 6th respondent or to bring any other person as administrator under the Act, we are not impressed to issue any such order.

Accordingly, the writ petition being WPA (P) 57 of 2021 along with IA No: CAN 1 of 2021 is disposed of.

Since no affidavits have been called for, the allegations made in the writ petition are deemed not to be admitted.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon completion of requisite formalities.

(Thottathil B. Radhakrishnan, CJ.)

(Aniruddha Roy, J.)