GAHC020004622023

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

Case No. : WP(C)/183/2023

DR SENDIMEREN AONOK AND 50 ORS
ANESTHESIA AND CRITICAL CARE CONSULTANT, NAGA HOSPITAL AUTHORITY KOHIMA

2: DR. TALIKABA LONGKUMER
GENERAL SURGERY
MEDICAL OFFICER
PHC LONGSA
MOKOKCHUNG

3: DR. SHIKATO SEMA
GENERAL SURGEON
DISTRICT HOSPITAL
ZUNHEBOTO

4: DR. KANATO
MEDICAL OFFICER
DISTRICT HOSPITAL
ZUNHEBOTO

5: DR. SEZO
ORTHOPAEDIC SURGEON
NAGA HOSPITAL AUTHORITY
KOHIMA

6: DR. ROKOLIEBI KHATE
CONSULTANT (ORTHO).
DISTRICT HOSPITAL
DIMAPUR

7: DR. C. WATHSUTHO NYUTHE
MEDICAL ONCOLOGY
SENIOR SPECIALIST
NAGA HOSPITAL AUTHORITY
KOHIMA

8: DR. PANGERTEMSU
GYNAECOLOGIST
JUNIOR SPECIALIST
DISTRICT HOSPITAL
PHEK

9: DR. KEHOUSETUE KUOTSU
SENIOR SPECIALIST (ORTHO)
NAGA HOSPITAL AUTHORITY
KOHIMA

10: DR. IMLISENBA
JUNIOR SPECIALIST (PAEDIATRIC
IMKONGLIBA MEMORIAL DISTRICT HOSPITAL
MOKOKCHUNG

11: DR. ABI K. ANGAMI
CONSULTANT (OBST AND GYNE)
NAGA HOSPITAL AUTHORITY
KOHIMA

12: DR. S. KUOTSUTHO
CONSULTANT (OBST AND GYNE)
DISTRICT HOSPITAL
DIMAPUR

13: DR. SEYIECHUTUO SOLO
SENIOR SPECIALIST (PATHO)
NAGA HOSPITAL AUTHORITY
KOHIMA

14: DR. H. MLATO SHIKHU
SENIOR MEDICAL OFFICER
DISTRICT HOSPITAL
DIMAPUR

15: DR. YETOVI TUCCA
CONSULTANT (OBGY)

DISTRICT HOSPITAL
DIMAPUR

16: DR. PFUKROLO KOZA
SENIOR SPECIALIST (DENTIST)
NAGA HOSPITAL AUTHORITY

17: DR. KEDOZETO PUNYU
CONSULTANT (ENT)

NAGA HOSPITAL AUTHORITY
KOHIMA

18: DR. TEMJENSUNEP
JUNIOR SPECIALIST
ORTHOPAEDICS
CHC
MEDZHIPHEMA

19: DR. THEPFUSANO
CONSULTANT (RADIOLOGY)

NAGA HOSPITAL AUTHORITY
KOHIMA

20: DR. CHIKROZHO KEZO
CONSULTANT (PSYCHIATRIST)
DISTRICT HOSPITAL
WOKHA

21: DR. RUUTUOU SORHIE
CONSULTANT
PAEDIATRICS
NAGA HOSPITAL AUTHORITY
KOHIMA

22: DR. KEVEDUYI THEYO
CHIEF MEDICAL OFFICER
TUENSANG

23: DR. WEMERI KNUTSOH
SENIOR SPECIALIST
ANAESTHETIST
DISTRICT HOSPITAL
PHEK

24: DR. NOUNENUO TERHESE
JUNIOR SPECIALIST
OBST AND GYNAE
NAGA HOSPITAL AUTHORITY
KOHIMA

25: DR. ALBERT T. POCHURY
JUNIOR SPECIALIST
MEDICINE
NAGA HOSPITAL AUTHORITY
KOHIMA

26: DR. K. AKAHO SEMA
DEPUTY CHIEF MEDICAL
ZUNHEBOTO

27: DR. CHUMDEMO KIKON
JUNIOR SPECIALIST
DISTRICT HOSPITAL
KOHIMA

28: DR. KITAKA SUKHATO WOTSA
JUNIOR SPECIALIST

DISTRICT HOSPITAL
DIMAPUR

29: DR. GWALOZ THONG
ORTHOPEDIC SURGEON
DISTRICT HOSPITAL
LONGLENG

30: DR. TOHITO H. ACHUMI
ORTHOPEDIC SURGEON
DISTRICT HOSPITAL
ZUNHEBOTO

31: DR. MHALEVILIE
JUNIOR SPECIALIST
NAGA HOSPITAL AUTHORITY
KOHIMA

32: DR. R. ZHIMATHO
SENIOR SPECIALIST (ENT)
DISTRICT HOSPITAL
PHEK

33: DR. BONGAU PHOM
JUNIOR DENTAL SURGEON
DISTRICT HOSPITAL
LONGLENG

34: DR. AMAN KONYAK
SR. SPECIALIST (OBG)
DISTRICT HOSPITAL
MON

35: DR. KUOTHO T. NYUWI
SURGERY
NAGA HOSPITAL AUTHJORITY

KOHIMA

36: DR. WUNGYONG KONYAK
DPO/ DIC
MON

37: DR. Y. IMLONGCHABA
JUNIOR SPECIALIST
DERMATOLOGY VENEREOLOGY AND LEPROLOGY
DISTRICT HOSPITAL
PEREN

38: DR. KHRIEMENUO KOZA
SENIOR SPECIALIST (PAEDS)
NAGA HOSPITAL AUTHORITY
KOHIMA

39: DR. MARTSUDEN
SENIOR SPECIALIST (ORTHO)

IMKONGLIBA MEMORIAL DISTRICT HOSPITAK
MOKOKCHUNG

40: DR. AZO LOUIS KHARUTSO
SENIOR SPECIALIST (OBGYN)
NAGA HOSPITAL AUTHORITY
KOHIMA

41: DR. TOVIKA V. YEPTHOMI
SENIOR SPECIALIST
DISTRICT HOSPITAL
ZUNHEBOTO

42: DR. VISIETSOLIE VUPRU
ORTHOPAEDIC
SENIOR SPECIALIST
DISTRICT HOSPITAL
PHEK

43: DR. KRUNICHUNO RINO
ENT
SENIOR SPECIALIST
DISTRICT HOSPITAL
WOKHA

44: DR. KILANGWABANG PONGENER
SMO (MEDICINE)
IMKONGLIBA MEMORIAL DISTRICT HOSPITAL

MOKOKCHUNG

45: DR. CHUBASANEN
SENIOR SPECIALIST
DISTRICT HOSPITAL
DIMAPUR

46: DR. CHIKROZHO KEZO
CONSULTANT 9PSYCHIATRIST)
DISTRICT HOSPITAL
WOKHA

47: DR. ADEMLA TINU
CONSULTANT (OBG)
IMKONGLIBA MEMORIAL DISTRICT HOSPITAL
MOKOKCHUNG

48: DR. NIRIETHONO
CONSULTANT (MEDICINE)
DISTRICT HOSPITAL
DIMAPUR

49: DR. MOATHUNG ODYUO
SMO
DISTRICT HOSPITAL LONGLENG

50: DR. SUTSUNGKOKLA IMCHEN
JUNIOR SPECIALISR (SKIN)
DISTRICT HOSPITAL
DIMAPUR

51: DR. TALIWABA AO
SR. DENTAL SURGEON
IMKONGLIBA MEMORIAL DISTRICT HOSPITAL
MOKOKCHUN

VERSUS

THE STATE OF NAGALAND AND 3 ORS
THROUGH THE CHIEF SECRETARY TO THE GOVERNMENT OF NAGALAND,
NAGALAND, KOHIMA 2:THE COMMISSIONER
NAGALAND
KOHIMA

3:THE COMMISSIONER AND SECRETARY
TO THE GOVERNMENT OF NAGALAND
HEALTH AND FAMILY WELFARE DEPARTMENT
NAGALAND

KOHIMA.

4:THE PRINCIPAL DIRECTOR

DIRECTOTATE OF HEALTH AND FAMILY WELFARE
NAGALAND
KOHIM

For the petitioner (s) : Mr. Sentiyanger, Advocate

For the respondent (s) : Mr. N. Mozhui, Advocate

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
O R D E R

07.06.2024

The petitioners herein have invoked the jurisdiction of this Court challenging the Office Memorandum dated 31.07.2023 whereby the Commissioner and Secretary to the Government and Nagaland, Health and Family Welfare Department have issued various instructions thereby not permitting the in-service Government Doctors to engage in private practice as well as also directing all the private hospitals, clinics, nursing home not to engage in-service Government Doctors, Nurses, Technicians and Health Workers in the establishments.

2. This Court has duly taken note of that the said Office Memorandum dated 31.07.2023 is issued in terms with Section 3 read with Section 8 of the Nagaland Healthcare Establishment Act, 1997 (for short, 'the Act of 1997').

3. Mr. Sentiyanger, the learned counsel appearing on behalf of the petitioners submits that the said Office Memorandum

infringes the rights of the petitioners under Article 19 (1) (g) of the Constitution of India. Be that as it may, the learned counsel for the petitioners submits that the Office Memorandum dated 31.07.2023 has been issued in pursuance to the Act of 1997, and as such, without a challenge to the said Act of 1997, the petitioners would not be in a position to succeed in the instant writ petition. He therefore submits that he may be permitted to withdraw the instant writ petition with a liberty to file a fresh one by challenging the said Act of 1997 as well as also seeking other consequential reliefs.

4. Taking into account the above submission, this Court is of the opinion that without a challenge to the Act of 1997, the petitioners cannot succeed in the challenge to the Office Memorandum dated 31.07.2023.

5. Under such circumstances, this Court permits the petitioner to withdraw the instant writ petition and grants the liberty as sought for herein above.

6. Accordingly, the instant writ petition stands dismissed on withdrawal subject to the liberty given hereinabove.

Sd/-

JUDGE

Comparing Assistant