

GAHC020003892024

2025:GAU-NL:322



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

Case No. : WP(C)/136/2024

SHRI NINGSUKIU YIMCHUNGER
S/O LT TSAKIU YIMCHUNGER,
R/O JENTY VILLAGE,
P.O./P.S.-KIPHIRE, NAGALAND

VERSUS

THE STATE OF NAGALAND AND 4 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT
OF NAGALAND

2:THE COMMISSIONER AND SECRETARY

GOVERNMENT OF NAGALAND
DEPARTMENT OF AGRICULTURE
NAGALAND
KOHIMNA

3:THE DIRECTOR

DEPARTMENT OF AGRICULTURE
NAGALAND
KOHIMA

4:THE SUBDIVISIONAL AGRICULTURE OFFICER
PUNGRO
KIPHIRE
NAGALAND

5:SHRI THONGNIOW
S/O YESUMEW

MULTI-TASKING STAFF (MTS)
SUB-DIVISIONAL AGRICULTURE OFFICER
PUNGRO
KIPHIRE
NAGALAN

Advocate for the Petitioner : TAKA KICHU, JAMES NEWMAI

Advocate for the Respondent : GOVT ADV NL,

BEFORE
HON'BLE MRS. JUSTICE YARENJUNGLA LONGKUMER

ORDER

23.07.2025

The instant writ petition is filed by the petitioner praying for a direction to quash and set aside the impugned Administrative Approval dated 28.06.2024 in respect of the respondent no. 5 (R-5), and also the impugned Appointment Order dated 28.06.2024 appointing the private R-5 as Multi Tasking Staff (MTS) under the Sub-Divisional Agriculture Office, Pungro.

2. It is the case of the petitioner that the petitioner's grandfather and nine others were the original landowners where the present Potato Seed Farm, Pungro is situated. In the year 1965, a large portion of the land was donated by a group of 10 landowners, and among them the grandfather of the petitioner was also one of the landowners. The said land was donated to the State Government without claiming any compensation and a written agreement dated 27.10.1966 was executed between the 10 landowners and the State Government and it was agreed in good faith

that in *lieu* of the donated land preference would be given to the landowners for contract works and any other benefit etc,.

3. The Potato Seed Farm was only a farm under the administrative control of an Agriculture Field Assistant before the establishment of the Sub-Divisional Agriculture Office, Pungro in the year 2018.

4. Thereafter, the Sub-Divisional Agriculture Officer, Pungro had re-typed the agreement of 1966 on 27.07.2021 with more details with regard to the donation of the land and the present status specifically mentioning that no landowner has been appointed so far. The petitioner, upon receiving information from reliable source that one Grade-IV post of Mali was lying vacant due to the resignation of one Shri Yesumew under the establishment of the Sub-Divisional Agriculture Office, Pungro applied for the same on the basis of landownership with recommendation from the Pungro Village Council and the same was forwarded by the Sub-Divisional Agriculture Officer, Pungro to the Director of Agriculture vide Letter dated 06.03.2024.

5. That the petitioner, after submitting the application, learnt that there was an advertisement dated 26.02.2024 which was published in the official website of the Department and the last date of submission was closed on 05.03.2024 but the petitioner was allowed to submit his application.

6. The Director of Agriculture vide Order dated 13.03.2024 constituted a Departmental Screening Committee for recruitment of 19 MTS posts and

one post of Tractor Handyman headed by the Director of Agriculture as Chairman and the sitting was fixed on 27.03.2024. Thereafter, the Departmental Screening Committee forwarded the select list of applicants for different posts along with the Meeting Minutes to the Government for approval. Thereafter, the Government issued Administrative Approval for appointment of 19 MTS and one Tractor Handyman vide Letter dated 28.06.2024. The name of the R- 5 appears at Serial No. 16 in the impugned Approval List. The R-5 was accordingly appointed to the post of MTS on regular basis on the basis of approval given by the Government by the impugned Order dated 28.06.2024.

7. I have heard the learned counsel for the petitioner, Mr. Taka Kichu and learned Government Advocate, Ms. Inaholi for the State respondents.

8. Notice on the R-5 has been deemed served by an Order of this Court dated 23.09.2024. However, none appears for the respondent no. 5 when the matter is called.

9. It is the submission of the learned counsel for the petitioner that the R-5 has been appointed as MTS without considering the case of the petitioner on landowner basis and, therefore, the petitioner made a representation on 03.07.2024 before the State respondents stating that none of the landowners have been considered for appointment even after a lapse of 58 years from the date of signing the agreement. The petitioner states that the Government of Nagaland, by Notification No. LR/6-181/LIT/2015 dated 05.03.2018 has laid down a policy for appointment to Grade-IV posts on landowner basis. Clause 3(a) of the said Notification

provides that in cases prior to 26.07.2005 and subsequent to setting up of Administrative and Block Headquarters on freely donated land, where specific written agreement exists providing for employment to the landowner, the claim of landowner for employment should be settled in terms of such agreement. It is the case of the petitioner that he is squarely covered by this Office Memorandum of 05.03.2018.

10. It is stated that between the year 1966 to 2023 few Grade-IV post vacancies had arisen in the office of the Sub-Divisional Agriculture Officer, Pungro but the case of the landowners were never considered. It is also stated that publishing the advertisement for appointment in the official website of the Department will not meet the requirement of Article 14 and 16 of the Constitution of India. Even assuming but not admitting that the advertisement can be published in the official website, allowing only 8 days time for submission of the application is illegal and arbitrary. It is submitted that administrative approval was issued by the Government without considering the case of the petitioner on landownership basis as it can be clearly seen from the records that the Departmental Screening Committee had not put up the candidature of the petitioner as a land owner candidate before the Government. Being aggrieved, the petitioner has approached this Court praying for quashing and setting aside of the impugned advertisement dated 26.02.2024, the Government Approval Letter dated 28.06.2024 and the impugned Appointment Order dated 28.06.2024 and also prays for a direction to consider the case of the petitioner for appointment to the post of MTS under the Sub-Divisional Agriculture Office, Pungro on landowner basis in accordance with the standing Government policy. Learned counsel also relied on the case of

State of Orrissa and Another Versus Mamata Mohanty reported in **(2011) 3 SCC 436** in order to support his contention that some appropriate method consistent with the requirement of Article 16 should be followed while issuing advertisements for recruitment. In other words there must be a notice published in the appropriate manner calling for applications and all those who apply in response thereto should be considered fairly. Even if the names of candidates are requisitioned from Employment Exchange, in addition it is mandatory on the part of the employer to invite applications from all eligible candidates from the open market by advertising the vacancies in newspapers having wide circulation or by announcement in Radio and Television as merely calling the names from the Employment Exchange does not meet the requirement Article 16 of the Constitution.

11. Learned Government Advocate, relying on the affidavit-in-opposition filed by the respondent nos. 1, 2, 3 and 4 has submitted that the so called agreement dated 27.10.1966 cannot stand the test of law as the agreement has not been signed by the appropriate authority. As per Rule 11 and 12 of the Nagaland Rules of Executive Business, 2020 (hereinafter referred to as the Rules of 2020), all orders or instruments made or executed by or on behalf of the Government of Nagaland shall be expressed to be made or executed in the name of the Governor of Nagaland. Moreover, such order or instrument of the Government made in the name of the Governor shall be signed by an Officer mentioned in Rule 2(I) or such other officer as may be authorized by the Government. Under Rules 2 (I) the officers mentioned are Chief Secretary, Additional Secretary, Principal Secretary, Commissioner & Secretary, Special Secretary, Secretary, Additional Secretary, Joint Secretary, Deputy and

Under Secretary. In the present case, the agreement of 1966 has been signed only by the Agricultural Inspector, Kiphire and the Circle Officer, Pungro, who are not authorized in view of Rule 11 and 12 of the Rules of 2020. Learned Government Advocate also states that even if the agreement is taken as a legal document the agreement does not have any conditions for consideration of landowners for appointment or employment. Therefore, no legal right has accrued to the petitioner for appointment on landowner basis from the agreement dated 27.10.1966.

12. Learned Government Advocate also submits that the selection was done after following due process. The advertisement was published on the official website of the Department and the Departmental Screening Committee was held on 27.03.2024. It was found that the petitioner's application was received after the last date of submission of applications and, therefore, invalid. The Minutes of recommendation of the Departmental Screening Committee was forwarded to the Government for necessary approval and the Government conveyed its approval vide Letter dated 28.06.2024 consequent upon which the R-5 was appointed by the impugned Order dated 28.06.2024.

13. Learned Government Advocate further submits that as per Clause 3(a) of the Notification dated 05.03.2018, it is mentioned that where a specific written agreement exists providing for employment of the landowner, the claim of landowner for employment should be settled in terms of such agreement. However, in the present case, the alleged agreement dated 27.10.1966 does not mention anything about providing employment to the landowner and, therefore, the Notification dated

05.03.2018 does not cover the petitioner's case. In view of the submissions made the learned Government Advocate submits that the petitioner has no *locus standi* to challenge the appointment of the R-5 and has no legal right to claim appointment on the basis of landownership.

14. Learned Government Advocate has placed reliance on a judgment passed by a Division Bench of this Court in WA/18(K)/2013 and WA/19(K)/2013. Vide Judgment and Order dated 26.06.2018, the Hon'ble Division Bench of this Court in the aforementioned Writ Appeals, while considering an agreement dated 14.02.1972, opined that no agreement was made with regard to giving appointment on the basis of landownership in the said agreement. The Court was also of the view that no right flows to the landowners who have donated the land as per the agreement dated 14.02.1972 to claim for any appointment on landownership basis for the lands donated by them free of cost. The Division Bench also held that Rule 11 and 12 of the Rules of 2020 has also been considered and on consideration of the same the Court was of the view that the agreement cannot be considered as an order or instrument of the Government of Nagaland and, therefore, has no legal validity in the eye of law. Learned Government Advocate submits that this present case is squarely covered by the observations made in the aforementioned Writ Appeals as the facts and circumstances are similar.

15. This Court has given due consideration to the submission of the petitioner as well as the learned Government Advocate. In order to challenge the appointment of the R-5 the petitioner has to first establish his right to challenge the same. In the present case the petitioner is

claiming his right as a landowner on the basis of the agreement dated 27.10.1966. A bare perusal of the agreement dated 27.10.1966 reveals that the same has not been signed by authorized officers of the Government of Nagaland in terms of Rule 11 and 12 of the Rules of 2020 in as much as the same were signed only by the Agricultural Inspector, Kiphire and the Circle Officer, Pungro. It is also seen that there is no provision in the agreement dated 27.10.1966 that employment shall be provided to the landowner. As submitted by the learned Government Advocate, the Division Bench of this Court in WA/18(K)/2013 and WA/19(K)/2013 has clearly held that when the agreement does not contain any provision with regard to giving appointment on the basis of landownership, no right flows to the landowner, who have donated the land to claim for any appointment on landownership basis. This Court is, therefore, of the view that the petitioner has no *locus standi* to challenge the appointment of R-5. The petitioner also has not been able to show any right which has accrued to him on the basis of the agreement dated 27.10.1966 to claim appointment on the basis of landownership.

16. Accordingly, the petition is dismissed.

JUDGE

Comparing Assistant