



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

Case No. : WP(C)/187/2024

DR. ABOLU N YEPTHO AND 15 ORS
MEDICAL OFFICER, PHC
SURUHUTO, ZUNHEBOTO, NAGALAND

2: DR. NUNGSANGZULU WALLING
SERVED AS MEDICAL OFFICER
PHC
ALONGKIMA
MNOKOKCHUNG NAGALAND

3: DR. SUPONGBENLA
SERVED AS MEDICAL OFFICER
CHC TULI AND PHC MERANGKONG
MOKOKCHUNG NAGALAND

4: DR. ETHRONGLI SANGTAM
SERVED AS MEDICAL OFFICER
PHC CHARE
TUENSANG NAGALAND

5: DR. N CHINGEI PHOM
SERVED AS MEDICAL OFFICER
PHC CHINGKHAO AND PHC SAKSHI
NAGALAND

6: DR. ALO A AYEYH
SERVED AS MEDICAL OFFICER
PANSO
TUENSANG NAGALAND

7: DR. VIKRUTO LCHO
SERVED AS MEDICAL OFFICER
PHC SAPTIQA AND CHESSORE

NAGALAND

8: DR. PANGKHAT KONYAK
SERVED AS MEDICAL OFFICER
DISTRICT HOSPITAL
MON NAGALAND

9: DR. JONGKOI KHIAMNIUNGAN
SERVED AS MEDICAL OFFICER
PHC THONOKNYU
TUENSANG NAGALAND

10: DR. MONGMEI
SERVED AS MEDICAL OFFICER
PHC BURA NAMSANG
LONGLENG NAGALAND

11: DR. IVIKALI ACHUMI
SERVED AS MEDICAL OFFICER
PHC SATAKHA AND DH ZUNHEBOTO
NAGALAND

12: DR ASHO ANGAMI
SERVED AS MEDICAL OFFICER
CHC MEDZIPHEMA
NAGALAND

13: DR. ONGCHU PHOM
SERVED AS MEDICAL OFFICER
DISTRICT HOSPITAL
LONGLENG NAGALAND

14: DR. IMJUNGBA NOKLANG
SERVED AS MEDICAL OFFICER
DR. IMKONGLIBA MEMORIAL DISTRICT HOSPITAL
MOKOKCHUNG NAGALAND

15: DR. TONOTO K YEPTHO
SERVED AS MEDICAL OFFICER
PHC ASUTO
ZUNHEBOTO
NAGALAND

16: DR. HITO JAKHALU
SERVED AS MEDICAL OFFICER
DISTRICT HOSPITAL
MOKOKCHUNG NAGALAN

VERSUS

THE STATE OF NAGALAND AND 3 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF
NAGALAND
NAGALAND KOHIMA

2:THE COMMISSIONER AND SECRETARY
HEALTH AND FAMILY WELFARE
NAGALAND KOHIMA

3:THE COMMISSIONER AND SECRETARY
P AND AR DEPT. NAGALAND KOHIMA

4:THE PRINCIPAL DIRECTOR
DIRECTORATE OF HEALTH AND FAMILY WELFARE
NAGALAND KOHIM

Advocate for the Petitioner : JOSHUA SHEQI, NAGALI SHOHE, CHINGMEI
KONYAK, MIKA H AYE, ATOKA, P MHONBENI EZUNG, KEDI KOSO, K LILY
SWU, KETHO SEKHOSSE, KEVI KIRE, YEKA SUMI, KIVITOLI SWU, R WONCHIBENI
TSANGLO, TUNATO YEPHOSSE, RUBICA KIHOSSE, VITO K SHOHE

Advocate for the Respondent : GOVT ADV NL,

Linked Case : WP(C)/239/2024

DR. JAPHETH THONO AND 57 ORS
F/NAME- LT SUNONYI THONO
R/O YIKHANU VILLAGE
TSAMINYU
NAGALAND

2: DR. KILITOLI CHOPHY
F/NAME- KHUKIYE CHOPHY
RESIDENT OF BANK COLONY
DIMAPUR
NAGALAND.

3: DR. VEKHU RHAKHO
F/NAME- THUVOTSOI RHAKHO
RESIDENT OF THUVOPISU VILL
CHOZUBA

PHEK
NAGALAND

4: DR. SEDEVILIE KEYHO
F/NAME- NEIZOKIE-O KEYHO
RESIDENT OF CHEDEMA VILLAGE
KOHIMA
NAGALAND.

5: DR. KUVELUZO CHIZO
F/NAME- HUPACHI CHIZO
RESIDENT OF BETHEL WARD
PHEK TOWN
NAGALAND.

6: DR. ZUPENTHUNG T KHUVUNG
F/NAME- THUNGTSUO KHUVUNG
RESIDENT OF LOWER PWD
KOHIMA
NAGALAND

7: DR. KAPE KHALO
F/NAME- NIKHROLO KHALO
RESIDENT OF NEW MINISTERS HILL
KOHIMA
NAGALAND

8: DR. POMEI GRACY KONYAK

F/NAME- W. HONJE KONYAK
RESIDENT OF CHEN MOHO VILLAGE
ABOI
MON
NAGALAND

9: DR. INOLU K YEPUTHOMI
F/NAME- KHUTOI YEPUTHOMI
RESIDENT OF HUKUTO VILLAGE
NIULAND
NAGALAND

10: DR. HUNGRUILAK
F/NAME- BANGDI
RESIDENT OF MBAUPUNGWA VILLAGE
PEREN
NAGALAND

11: DR. PELERIETO RURHIA

F/NAME- ROKOVOLIE RURHIA
RESIDENT OF KHONOMA VILLAGE
KOHIMA.

12: DR. LEEI EE KONYAK
F/NAME- MANFO KONYAK
RESIDENT OF CHEN MOHO VILLAGE
ABOI
MON
NAGALAND

13: DR. NUSEKHOLU NYEKHA
F/NAME- PUYO NYEKHA
RESIDENT OF CHESEZU VILLAGE
PHEK
NAGALAND

14: DR.MERIYANI R OVUNG
F/NAME- RENZAMO OVUNG
RESIDENT OF BLUE HILL COLONY
WOKHA TOWN
NAGALAND

15: DR. BEKA ACHUMI
F/NAME- MUGHATO ACHUMI
RESIDENT OF LHOMITHI VILLAGE
SIGNAL COLONY
DIMAPUR NAGALAND

16: DR. THEJASELIE KHRO
F/NAME- THEPFUWHETO KHRO
RESIDENT OF MEDZIPHEMA TOWN
WARD-1
CHUMOUKEDIMA
NAGALAND

17: DR. DAWN LIPIVI S YESCA
F/NAME- SHEWOTO YESCA
RESIDENT OF THILIXU BLOCK 3
DIMAPUR
NAGALAND.

18: DR. AKUMLONG LONGKUMER
F/NAME- TIAMEREN AO
RESIDENT OF FELLOWSHIP COLONY
DIMAPUR
NAGALAND

19: DR. NEIKHROTSO O KOZA
F/NAME- KODOKHA KOZA
RESIDENT OF KHEZHAKENO HQ
PHEK
NAGALAND

20: DR. MESANO PESEYIE
F/NAME- KHRIEELIE PESEYIE
RESIDENT OF JOTSOMA
KOHIMA
NAGALAND

21: DR. KEZHOLUTO RHAKHO
F/NAME- ZAKAMU RHAKHO
RESIDENT OF KHULAZU BASA VILLAGE
PHEK
NAGALAND

22: DR.KUMRIMONG T YIMCHUNGER
F/NAME- LT.LTOMUKAM YIMCHUNGER
RESIDENT OF V G KHEL
CHESSORI VILLAGE
SHAMATOR
NAGALAND

23: DR.NONGOTONU KOSO
F/NAME- V MATO KOSO
RESIDENT OF VISWEMA VILLAGE
KOHIMA
NAGALAND.

24: DR. KABOLI CHISHI
F/NAME- KHEVITO CHISHI
RESIDENT OF SITIMI VILLAGE
KIPHIRE
NAGALAND

25: DR. M KONOM PHOM
F/NAME- METMEI PHOM
RESIDENT OF POLICE COMPLEX
CHUMUOKEDIMA
NAGALAND

26: DR. NISSILE RENGMA
F/NAME- KENINLO RENGMA
RESIDENT OF THAHEKHU VILLAGE
DIMAPUR
NAGALAND

27: DR. TEYONGTANGLA IMSONG

F/NAME- ER. P I IMNA AO
RESIDENT OF PWD ROAD MIDLAND
DIMAPUR
NAGALAND

28: DR. ONSHONG B PHOM
F/NAME- BONGKAP PHOM
RESIDENT OF BURA NAMSANG VILLAGE
LONGLENG
NAGALAND

29: DR.TOKATO X YEPTHO
F/NAME- XUNITO YEPTHO
RESIDENT OF 4TH MILE
CHUMOUKEDIMA
NAGALAND.

30: DR. NUZOSALU NYEKHA
F/NAME- KUHUSAYI NYEKHA
RESIDENT OF BILLY GRAHAM ROAD
KOHIMA
NAGALAND

31: DR. THELICHUM M ANAR
F/NAME- LT. MOATEMSU ANAR
RESIDENT OF KUDA VILLAGE
DIMAPUR
NAGALAND

32: DR. MEDENO PESEYIE

F/NAME- KHRIELELIE PESEYIE
RESIDENT OF JOTSOMA
KOHIMA
NAGALAND

33: DR. ERIWETEU MERO
F/NAME- ZOTELHI MERO
RESIDENT OF REKU COLONY
PFUTSERO
PHEK
NAGALAND

34: DR. ROKOTHONO SAVINO

F/NAME- KEVITSOBI SAVINO
RESIDENT OF UPPER A.G COLONY
KOHIMA
NAGALAND

35: DR. WETSHO KAPFO
F/NAME- ANGU KAPFO
RESIDENT OF PFUTSEROMI VILLAGE
PHEK
NAGALAND.

36: DR. JELIVI H CHISHI
F/NAME- HUQHETO CHISHI
RESIDENT OF OLD TOWN COLONY
ZUNHEBOTO
NAGALAND

37: DR. KENEIZIENGUNUO JOICE RUTSA
F/NAME- ZELUZOLIE RUTSA
RESIDENT OF P KHEL
KOHIMA
NAGALAND

38: DR. MONGYANGER LONGKUMER
F/NAME- ATU LONGKUMER
RESIDENT OF PURUNA BAZAR
DIMAPUR
NAGALAND

39: DR. NEIZELHOUNUO SUOKHRIE
F/NAME- MENUO ANGAMI
RESIDENT OF THEMEZHIE
KOHIMA
NAGALAND

40: DR. LIMUGHA S KIHO
F/NAME- LT. SHIKAHO KIHO
RESIDENT OF LANDMARK COLONY
DIMAPUR
NAGALAND

41: DR. ANGUMJUNGLA L LONGKUMER
F/NAME-LIMANUNGSANG LONGKUMER
RESIDENT OF ARKONG WARD
MOKOKCHUNG
NAGALAND.

42: DR. ALISH MECH

F/NAME- KAILASH MECH
RESIDENT OF PURUNA BAZAR
DIMAPUR
NAGALAND

43: DR. VINENO YHOSHU
F/NAME- MENOKHRIELIE YHOSHU
RESIDENT OF LOWER PR HILL
KOHIMA
NAGALAND

44: DR. AKINA P JIMO
F/NAME- PHOTOSHE JIMO
RESIDENT OF OFFICERS HILL
KOHIMA
NAGALAND

45: DR. KETUVINO PUNYU
F/NAME- NEIKHOSA PUNYU
RESIDENT OF KHONOMA VILLAGE
KOHIMA
NAGALAND

46: DR. KAIMEDINLUNG
F/NAME- GENGBUI
RESIDENT OF JALUKIE B
JALUKIE
PEREN
NAGALAND.

47: DR. IMSUONEN
F/NAME- MARYANGER
RESIDENT OF LONGPAYINSEN VILLAGE
MOKOKCHUNG
NAGALAND.

48: DR. MOAYANGERLA PONGEN
F/NAME- IMLISAMA PONGEN
RESIDENT OF TONDENTSUYONG WARD
MOKOKCHUNG
NAGALAND

49: DR. MUZILU RHAKHO
F/NAME- RUKUSAYI RHAKHO
RESIDENT OF OFFICERS HILL KOHIMA
NAGALAND

50: DR. MOARENBA I PONGEN

F/NAME- IMSUMEREN PONGEN
RESIDENT OF HIGH SCHOOL COLONY
KOHIMA
NAGALAND

51: DR. HENOTO K YEPTHO
F/NAME- KIHETO YEPTHO
RESIDENT OF CHEKIYE VILLAGE
CHUMUKEDIMA
NAGALAND

52: DR. NEIPHREVONUO KEYHO
F/NAME- MESILIEO KEYHO
RESIDENT OF CHEDEMA VILLAGE
KOHIMA
NAGALAND.

53: DR. CHAIWANG P KONYAK
F/NAME- PANGWAI KONYAK
RESIDENT OF MON TOWN
NAGALAND

54: DR. RHONBENI JUNGI
F/NAME- MHONRAO JUNGI
RESIDENT OF LOWER AGRI COLONY
KOHIMA
NAGALAND

55: DR. WATHOCHU NYUWI
F/NAME- NYUMARHU NYUWI
RESIDENT OF MELURI VILLAGE
PHEK
NAGALAND

56: DR. LOINOLI X YEPTHO
F/NAME- XUNITO YEPTHO
RESIDENT OF 4TH MILE
CHUMOUKEDIMA
NAGALAND

57: DR. WETOU T KHAPE
F/NAME- T. KHAPE
RESIDENT OF TOULAZOUMA VILLAGE
DIMAPUR
NAGALAND

58: DR. Y NOKYAT
F/NAME- C YEANGKIM KONYAK

RESIDENT OF JAIL COLONY
MON TOWN
NAGALAND.
VERSUS

STATE OF NAGALAND AND 100 ORS
REPRESENTED BY THE CHIEF SECRETARY
GOVT. OF NAGALAND
NAGALAND KOHIMA

2:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
NAGALAND
DEPARTMENT OF HEALTH AND FAMILY WELFARE
NAGALAND- KOHIMA.

3:THE PRINCIPAL DIRECTOR

DEPARTMENT OF HEALTH AND FAMILY WELFARE
NAGALAND- KOHIMA.

4:DR. RUOKUZOTUO MEZHU
MEDICAL OFFICER
DISTRICT HOSPITAL PHEK
C/O MEDICAL SUPRENTENDENT
PHEK.

5:DR. VIJOHO SAKHRIE

MEDICAL OFFICER
JAKHAMA PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
KOHIMA.

6:DR. HOLIBA ANAR
MEDICAL OFFICER
DISTRICT HOSPITAL KIPHIRE
C/O MEDICAL SUPERINTENDENT
KIPHIRE.

7:DR. NUTALU SWURO
MEDICAL OFFICER KHUZA PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
PHEK.

8:DR. RUKUTO TETSEO
MEDICAL OFFICER DUNGKI PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER

PHEK.

9:DR. ROSEMARY SEMA

MEDICAL OFFICER NUILAND PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
DIMAPUR.

10:DR. MHAJAN KIKON

MEDICAL OFFICER ENGLAN PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
WOKHA.

11:DR. KEZHALETUO KIRE

MEDICAL OFFICER PARA MEDICAL TRAINING INSTITUTE
KOHIMA
C/O CHIEF MEDICAL OFFICER
KOHIMA.

12:DR. SUNGTIKUMBA I IMCHEN

MEDICAL OFFICER PARA MEDICAL TRAINING INSTITUTE
KOHIMA
C/O CHIEF MEDICAL OFFICER
KOHIMA.

13:DR. KEVISEVOLIE SEKHOSÉ

MEDICAL OFFICER DZULHAMI PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
PHEK.

14:DR. TIKEYA KEZ

MEDICAL OFFICER TSEMINYU COMMUNITY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
KOHIMA.

15:DR. KAILI Z SWU

MEDICAL OFFICER MOLVUM PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
DIMAPUR.

16:DR. KHUMRILA SANGTAM

MEDICAL OFFICER RUZAPHEMA PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
DIMAPUR.

17:DR. LEMSUMEREN LEMTUR

MEDICAL OFFICER MANGKOLEMBA COMMUNITY HEALTH CENTRE

C/O CHIEF MEDICAL OFFICER
MOKOKCHUNG.

18:DR. IMTIMONGLA KICHU
MEDICAL OFFICER DISTRICT HOSPITAL KIPHIRE
C/O CHIEF MEDICAL OFFICER
KIPHIRE.

19:DR. N. CHUMBENTHUNG EZUNG
MEDICAL OFFICER YIMPANG PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
WOKHA.

20:DR. EMMANUEL CHANG
MEDICAL OFFICER DISTRICT HOSPITAL TUENSANG
C/O MEDICAL SUPERINTENDENT
TUENSANG.

21:DR. KHRIEZOVOII SOLO
MEDICAL OFFICER JALUKIE COMMUNITY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
PEREN.

22:DR. ITOLU TUNYI
MEDICAL OFFICER KIKHRUMA PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
PHEK.

23:DR. IHUBE
MEDICAL OFFICER DISTRICT HOSPITAL PEREN
C/O MEDICAL SUPERINTENDENT
PEREN.

24:DR. SHOLONGBA T. JAMIR
MEDICAL OFFICER UNGMA PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
MOKOKCHUNG.

25:DR. TOHOLI G.CHISHI
MEDICAL OFFICER KIMIPFUPHE PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
KOHIMA.

26:DR. WANGBA KONYAK W
MEDICAL OFFICER CHINGKHAO PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER

MON.

27:DR. VICTORIA SEB
MEDICAL OFFICER TESOPHENYU PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
KOHIMA.

28:DR. HETILE MAGH
MEDICAL OFFICER JALUKIE COMMUNITY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
PEREN

29:DR. MEDOZHANUO SOLO
MEDICAL OFFICER NAGA HOSPITAL AUTHORITY KOHIMA
C/O MANAGING DIRECTOR
NHAK.

30:DR. SUKHAI ZHIMOMI
MEDICAL OFFICER AKULUTO PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
ZUNHEBOTO

31:DR. KEYIREUSAP NDANG
MEDICAL OFFICER MBAULVA PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
PEREN.

32:DR. KEYIESEITUONUO LIEZIETSU
MEDICAL OFFICER TOUPHEMA PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
KOHIMA.

33:DR. SULITO H. CHISHI
MEDICAL OFFICER PUGHUBOTO COMMUNITY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
ZUNHEBOTO.

34:DR. VIVI SWU
MEDICAL OFFICER IGHANUMI PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
ZUNHEBOTO

35:DR. S. KAIBAH KONYAK
MEDICAL OFFICER DISTRICT HOSPITAL DIMAPUR
C/O MEDICAL SUPERINTENDENT
DIMAPUR.

36:DR. RENJAMO N. OKHYOPVUI

MEDICAL OFFICER DISTRICT HOSPITAL ZUNHEBOTO
C/O MEDICAL SUPERINTENDENT ZUNHEBOTO

37:DR.KHRIETSEITUONUO TERESA YHOME
MEDICAL OFFICER BOTSIA PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
KOHIMA.

38:DR. TALIWAPANG JAMIR
MEDICAL OFFICER TSURANGKONG PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
MOKOKCHUNG

39:DR. THOMAS MERO
MEDICAL OFFICER KHEZHAKENO PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
PHEK.

40:DR. MUGHALU ACHUMI
MEDICAL OFFICER DISTRICT HOSPITAL ZUNHEBOTO
C/O MEDICAL SUPERINTENDENT ZUNHEBOTO

41:DR. GIHUKA V.CHISHI
MEDICAL OFFICER ATOIZU PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
ZUNHEBOTO

42:DR. DZUVA DOMEH
MEDICAL OFFICER DISTRICT HOSPITAL TUENSANG
C/O MEDICAL SUPERINTENDENT ZUNHEBOTO

43:DR. FOINA H.AYEMI
MEDICAL OFFICER AT SINGRIJAN PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
DIMAPUR

44:DR. A. NAROLA
MEDICAL OFFICER KUHUBOTO PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
ZUNHEBOTO

45:DR. ZHOSE VERO
MEDICAL OFFICER DISTRICT HOSPITAL PHEK
C/O MEDICAL SUPERINTENDENT
PHEK

46:DR. Y. SAOTAKUM CHANG
MEDICAL OFFICER NOKSEN COMMUNITY HEALTH CENTRE

C/O CHIEF MEDICAL OFFICER
TUENSANG

47:DR. T. HANGSHA KONYAK
MEDICAL OFFICER ABOI COMMUNITY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
MON

48:DR. YIZEHLI THUPITOR
MEDICAL OFFICER PHOR PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
PHEK

49:DR. IGUNPEULIE THOU
MEDICAL OFFICER DISTRICT HOSPITAL MON
C/O MEDICAL SUPERINTENDENT
MON

50:DR. BENDANGTEMSU N. CHANG
MEDICAL OFFICER MOPONG PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
TUENSANG

51:DR. PANGJONG KONYAK
MEDICAL OFFICER TOBU COMMUNITY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
MON

52:DR. ZERILA SANGTAM
MEDICAL OFFICER DISTRICT HOSPITAL TUENSANG
C/O MEDICAL SUPERINTENDENT
TUENSANG.

53:DR. SHETOLI ZHIMOMI
MEDICAL OFFICER SATAKHA PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
ZUNHEBOTO

54:DR. HOLITOLI SHOHE
MEDICAL OFFICER SATOI PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
ZUNHEBOTO

55:DR. TOSHIYANGER LKR
MEDICAL OFFICER LONGCHEM PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
MOKOKCHUNG

56:DR. TSAKATO ZHIMO
MEDICAL OFFICER SAPTIGA PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
ZUNHEBOTO

57:DR. AKHOVI TASE
MEDICAL OFFICER CHANGLANGSHU PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
MON

58:DR. AYO THA-O
JR. SPECIALIST VISWEMA PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
KOHIMA

59:DR. LUNGKEUDING PAME
JR. SPECIALIST DISTRICT HOSPITAL KIPHIRE
C/O MEDICAL SUPERINTENDENT
KIPHIRE

60:DR. LIPOK PHOM
JR. SPECIALIST DISTRICT HOSPITAL LONGLENG
C/O MEDICAL SUPERINTENDENT
LONGLENG

61:DR. RONGSEANGLA
MEDICAL OFFICER DISTRICT HOSPITAL PEREN
C/O MEDICAL SUPERINTENDENT
PEREN.

62:DR. AKABA LONGKUMER
MEDICAL OFFICER NAGA HOSPITAL AUTHORITY KOHIMA (NHAK)
C/O MANAGING DIRECTOR
NHAK

63:DR. VISASIELHOU MEPFHII-O
MEDICAL OFFICER NAGA HOSPITAL AUTHORITY KOHIMA (NHAK)
C/O MANAGING DIRECTOR
NHAK

64:DR. B.SASHI JAMIR
MEDICAL OFFICER UP-GRADATION PRIMARY HEALTH CENTRE
DUNCAN
C/O CHIEF MEDICAL OFFICER
DIMAPUR

65:DR. ESHENTHUNG LOTH
MEDICAL OFFICER SANIS COMMUNITY HEALTH CENTRE

C/O CHIEF MEDICAL OFFICER
WOKHA

66:DR. BOTOHO SUMI
MEDICAL OFFICER MEDZHIPHEMA COMMUNITY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
DIMAPUR

67:DR. MENANGTONGZUK
MEDICAL OFFICER TENING PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
PEREN

68:DR. C. ARRBA
MEDICAL OFFICER ATHIBUNG PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
PEREN

69:DR. AKUMTEMJEN
MEDICAL OFFICER SAPANGYA PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
MOKOKCHUNG

70:DR. THONLO KENT
MEDICAL OFFICER DISTRICT HOSPITAL PHEK
C/O MEDICAL SUPERINTENDENT PHEK

71:DR. KEKHRUNGOLI ANGAMI
MEDICAL OFFICER NAGA HOSPITAL AUTHORITY KOHIMA (NHAK)
C/O MANAGING DIRECTOR
NHAK

72:DR. TEWEKHURU LOSOU
MEDICAL OFFICER POOL (DIRECTORATE)
C/O PRINCIPAL DIRECTOR
KOHIMA

73:DR. LINGSHAU JAMES P. PHOM
MEDICAL OFFICER YACHEM PRIMARY HEALTH CENTRE
C/O CHIEF

74:DR. VIZOVOTUO LOHE

MEDICAL OFFICER JOTSOMA PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
KOHIMA

75:DR. KHUMSUTHUNG R. KHUVUNG

MEDICAL OFFICER POOL (DIRECTORATE)
C/O PRINCIPAL DIRECTOR
KOHIMA

76:DR. A CHINGYEN
MEDICAL OFFICER WAKCHING PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
MON

77:DR. RUOKUOZHALHOU LINYU
MEDICAL OFFICER AT DISTRICT HOSPITAL KIPHIRE
C/O MEDICAL SUPERINTENDENT KIPHIRE

78:DR. THEJANUO ANGELINA SOLO
MEDICAL OFFICER MELURI COMMUNITY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
PHEK

79:DR. IMSUTEMJEN LONGKUMER
MEDICAL OFFICER BHANDARI COMMUNITY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
WOKHA

80:DR. KIPITO N.AWOMI
MEDICAL OFFICER AGHUNATO PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
ZUNHEBOTO

81:DR. AZHIE MERO
MEDICAL OFFICER DISTRICT HOSPITAL PHEK
C/O- MEDICAL SUPERINTENDENT
PHEK

82:DR. BENTILO KATH
MEDICAL OFFICER ANGANGBA PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
TUENSANG

83:DR. MHATHUNG L.NGULLIE
MEDICAL OFFICER SHAMATOR PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
TUENSANG

84:DR. IMLIYATET OZUKUM
MEDICAL OFFICER DISTRICT HOSPITAL TUENSANG
C/O CHIEF MEDICAL OFFICER
TUENSANG

85:DR.RUYANGULIE PAPHINO
MEDICAL OFFICER MEZOMA PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
KOHIMA

86:DR. ANGKE KONYAK
MEDICAL OFFICER TOBU COMMUNITY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
MON

87:DR. PAOKHOTINLEN SINGSON
MEDICAL OFFICER POLWA PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
PEREN

88:DR. KAVOTO RHAKHO
MEDICAL OFFICER PUNGRO COMMUNITY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
KIPHIRE

89:DR. MICHEAL TETSEO
MEDICAL OFFICER JALUKIE COMMUNITY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
PEREN

90:DR. KELELO PRADIA
MEDICAL OFFICER MELURI COMMUNITY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
PHEK

91:DR. BANGLAU PHOM
MEDICAL OFFICER YONGHYAH PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
LONGLENG

92:DR. MOINAN M. PHOM
MEDICAL OFFICER DISTRICT HOSPITAL TUENSANG
C/O MEDICAL SUPERINTENDENT TUENSANG

93:DR. ZASHEYEYI CHURHAH
MEDICAL OFFICER WAZEHO PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
PHEK

94:DR. IMLIWAPANG PONGENER
MEDICAL OFFICER THONOKNYU PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
TUENSANG.

95:DR. KISHEKA V. ACHUMI
MEDICAL OFFICER PUNGRO COMMUNITY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
KIPHIRE.

96:DR. TOKAITO N.AYE
MEDICAL OFFICER KILOMI PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
ZUNHEBOTO

97:DR. RENATHUNG N. KITHAN
MEDICAL OFFICER WOZHURO PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
WOKHA

98:DR. WOBENTHUNG M. KITHAN
MEDICAL OFFICER CHUKITONG PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
WOKHA

99:DR. MUGHAKA SUMI
MEDICAL OFFICER V.K. TOWN PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
ZUNHEBOTO

100:DR. EMMANUEL Y. PATTON
MEDICAL OFFICER
KUISAM PRIMARY HEALTH CENTRE
C/O CHIEF MEDICAL OFFICER
KIPHIRE.

101:DR. IMLISANEN JAMIR
MEDICAL OFFICER DISTRICT HOSPITAL KIPHIRE
C/O MEDICAL SUPERINTENDENT KIPHIRE.

Advocate for : LIMAWAPANG
Advocate for : GOVT ADV NL appearing for STATE OF NAGALAND AND
100 ORS

BEFORE

HON'BLE MRS. JUSTICE YARENJUNGLA LONGKUMER

Advocates in W.P(C)/239/2024

For the Petitioner	: Mr. Limawapang, Adv
For the State Respondents	: Ms. V. Suokhrie. Addl. A.G
For the Respondent No. 19 to 23 And 25 to 101	: Mr. Taka Masa, Senior Adv. assisted by Mr. Sentilong Adv
For the Respondent Nos. 4 to 12	: Mr. C.T. Jamir, Senior Adv. assisted by Mr. I. Imchen, Adv
For the Respondent Nos. 13 to 18	: Mr. Moa Jamir, Adv
For the Respondent No. 24	: Mr. Toshi O. Longkumer, Adv

Advocates in WP(C)/187/2024

For the Petitioners	: Mr. Joshua Sheqi, Adv
For the State Respondents	: Ms. V. Suokhrie. Addl. A.G
Date of Hearing	: 22.07.2025
Date of Judgment	: 01.08.2025

JUDGMENT & ORDER (CAV)

In W.P(C)/239/2024, the petitioners are all Medical Graduates possessing MBBS degree from respective recognized universities. The petitioners have stated that as per the provisions prescribed under the Nagaland Health Service Rules 2006, (hereinafter referred as the Rules of 2006). The post of Junior Grade/Medical Officer has to be filled up 100% by direct recruitment through the Nagaland Public Service Commission, (NPSC for short) by candidates possessing the minimum qualification of

MBBS or equivalent degree of recognized universities.

2. The facts of the case as set out in the writ petition is that in order to tackle the Covid-19 Pandemic, the State Cabinet in its meeting held on 01.06.2020 had decided and approved that a formal proposal for requirement of medical personnel like Doctors, Nurses etc will be submitted by the Department of Health and Family Welfare (DoHFW for short), for approval of the competent authority. Accordingly, the proposal was submitted by the department and deliberated by the State Cabinet in its meeting held on 11.06.2020 and thereafter, by Memorandum dated 12.06.2020 approval was given for creation of 53 posts of specialist doctors for 11 Districts Hospitals in the State. Further, the State Cabinet in its meeting held on 23.06.2020 contemplated on a comprehensive proposal for creation of posts submitted by the Department of Health and Family Welfare and vide Memorandum No. CAB-2/2013 dated 25.06.2020 the Cabinet meeting minutes were forwarded conveying approval for creation of 44 posts of Medical Officers for the District Hospitals, Community Health Centers and Primary Health Centers amongst other posts. In the said Minutes dated 25.06.2020 it was prescribed that the Department should clearly indicate that this appointment will be temporary and regular recruitment shall be conducted through a special NPSC recruitment drive. Accordingly, the State Government vide Notification dated 02.07.2020 notified the creation of various categories of posts under the Department of Health and Family Welfare. By this Notification of 02.07.2020 the creation of 15 posts of Junior Specialist and 44 Medical Officers was also notified.

3. It is stated that as recommended by the State Cabinet vide CAB-

2/2013 dated 25.06.2020, the State Government vide Notification dated 05.07.2020 framed the basic guidelines for recruitment and service conditions of the Medical Officers, Nurses, Technicians and Others Para Medical staff. Clause 1 and 2 of the Notification dated 05.07.2020 stipulates that all the newly created posts is to be filled up by the Department within a months' time with proper advertisement. This appointment will be temporary/fixed and regular recruitment shall be conducted through a special NPSC recruitment drive for all posts coming under preview of NPSC. Accordingly, the Directorate of Health and Family Welfare, Nagaland issued Advertisement dated 04.08.2020 informing interested candidates to apply for temporary appointment against existing vacancies and the newly created posts. In the said advertisement, 15 post of Juniors Specialists and 168 (one hundred and sixty eight) posts of Medical Officers was advertised. As per the terms and conditions prescribed in the said advertisement the appointments were to be on temporary basis for a period of 12(twelve) months or direct recruitment through NPSC, whichever is earlier and the appointees would have no right to claim for regularization of the temporary service on any ground.

4. Pursuant to this advertisement dated 04.08.2020; the interview was conducted through virtual mode as restrictions were in place during the pandemic. Thereafter, the Directorate of Health and Family Welfare, Nagaland recommended the select list to the State Government and thereafter, the State Government vide order dated 12.11.2020 appointed 94 Medical Officers. Clause 2(i) of the order dated 12.11.2020 stipulates that the engagement shall be for a period of 12(twelve) months' only or till regular appointment is made through NPSC, whichever is earlier.

5. Subsequently by an order dated 12.11.2020, another 14 Medical Officers were engaged under the same terms and conditions. Further, on the recommendations of the select list, the State Government vide two orders dated 17.05.2021 engaged another 56 Medical Officers under the same terms and conditions. The private respondents Nos. 19-101 were thus engaged as Medical Officers by the aforementioned orders. After their initial appointment for 12(twelve) months, their services have been extended from time to time and they are still continuing in service.

6. The State Government thereafter, vide Notification No.HFW (A) COVID-19/APPT-13/17/2020 dated 02.11.2022 notified various posts under the Health and Family Welfare Department to be recruited through a Special Recruitment Drive (SRD for short). In the said Notification dated 02.11.2022 96 posts of Medical Officers and 41 posts of Junior Specialist was notified to be recruited through the SRD to be conducted by the NPSC. Further, it was also notified that 125 marks would be given as weightage for COVID-19 duties @ 25% for officers/staff serving on contract/engagement basis under NHM, NSACS, NHAK and State who have served the healthcare system during the pandemic as a one-time dispensation. The upper age limit was also relaxed up to 45 years. The Notification dated 02.11.2022 further stated that the allocation of marks shall be applicable only to those officers/staff who are serving on contract/engagement basis and contractual employees under NHAK, NHM, NSACS etc.

7. In pursuance to the Notification dated 02.11.2022 and a Cabinet Approval Letter dated 26.05.2022 the Principal Director, Directorate of Health and Family Welfare vide letter dated 13.12.2023 submitted to the

State Government a list of Medical Officers within the purview of the SRD. It can be ascertained from this letter that 17 Medical Officers appointed during the year 2012-2019 on contract basis were also included to be recruited through the SRD along with 83 Medical Officers who were appointed against newly created posts during the pandemic.

8. Thereafter, Department of Health and Family Welfare submitted a Cabinet Memorandum dated 01.08.2024 proposing for regularization of the services of the Covid-19 appointees, who are still in service, through a Departmental Screening Committee in relaxation of earlier approved procedure. A perusal of the Cabinet Memorandum dated 01.08.2024 reveals that the Special Recruitment Drive was referred to the NPSC, however, the NPSC expressed the view that it would not be appropriate for it to conduct exam of such nature, and instead conveyed that the process of regularization of Covid-19 appointees is within the mandate of the department. The aforesaid Cabinet Memorandum dated 01.08.2024 for regularization of Covid-19 appointees stated that it was a one-time measure to regularize the services of health workers who had risked their lives in the performance of their duties during the COVID-19 Pandemic through departmental screening committee. The Cabinet Memorandum was approved by the State Cabinet in its meeting held on 06.08.2024 and the Minutes was forwarded vide letter No.CAB-1/14/2023 dated 07.08.2024.

9. In pursuance of the aforementioned cabinet approval, the State Government vide letter dated 20.08.2024 directed the respondent No. 3 to make necessary arrangements for conducting written exam on 26.08.2024 and viva voce on 27.08.2024 and 28.08.2024 as a one-time dispensation

for SRD. Thereafter, the respondent No. 3 vide letter dated 20.08.2024 informed the Chief Medical Officers/Medical Superintendents to inform the respondent Nos. 4-101 to submit their forms on or before 22.08.2024 and to collect their admit cards personally, on 23.08.2024 and 24.08.2024. It was also informed that the doctors whose names were not included in the list need not apply.

10. In the meantime, the Combined Technical Association, the Naga Student Federation and the Nagaland Medical Student Association opposed the proposed SRD and therefore, the respondent No. 3 had deferred the proposed SRD for two weeks. The writ petitioners being aggrieved have come before this Court praying for a direction to quash and set aside the Cabinet decision dated 06.08.2024 and the letter dated 20.08.2024 and for a direction to the respondents to fill up the ninety eight posts of Medical Officers as per the procedure prescribed under the Rules of 2006.

11. I have heard learned counsel for the petitioner, Mr. Limawapang. Also heard Ms. V. Suokhrie, learned Additional Advocate General appearing on behalf of the State respondents, learned Senior Counsel, Mr. Taka Masa appearing on behalf of the respondent Nos. 19 to 23, and 25 to 101 , assisted by Mr. Sentilong, learned senior counsel Mr. C.T. Jamir, appearing on behalf of the respondent Nos. 4 to 12, assisted by Mr. I. Imchen, Mr. Moa Jamir, learned counsel for respondent Nos. 13 to 18 and Mr. Toshi O. Longkumer, learned counsel appearing for the respondent No. 24.

12. Learned counsel for the petitioner, Mr. Limawapang submits that the mode of recruitment to the post of Medical Officer is provided in Rules 7(a) and (b) and Schedule II of the Rules of 2006. In Schedule II of the

Rules, it is specifically provided that the post of Medical Officer which is a Junior Grade post shall be filled up 100% by direct recruitment. And the minimum qualification for direct recruitment shall be MBBS or equivalent degree of a recognized university. It is stated that the petitioners are all qualified to appear for direct recruitment to the post of Medical Officer. Learned counsel submits that when the 168 posts of Medical Officers were advertised by the advertisement dated 04.08.2020, the terms and conditions of the advertisement specifically stated that the appointment will be on temporary basis for a period of 12(twelve) months or direct recruitment through NPSC, whichever is earlier. It was also stated in the advertisement that the appointees shall have no right to claim for regularization of the temporary services on any ground whatsoever. Even in the appointment order of the private respondents dated 12.11.2020 and 17.05.2021, the orders contained the terms and conditions that the engagement is for a period of 12(twelve) months only or till regular appointment is made through NPSC, whichever is earlier. It was also provided in the appointment orders that the appointees shall have no right to claim for regularization of the engagement on contingency basis on any ground whatsoever. It is stated that the private respondents accepted these appointment orders for engagement on contingency basis and they were accordingly selected.

13. Learned counsel for the petitioners submits that the respondent Nos. 4 to 12 are serving on contract basis as Medical Officers against sanctioned posts, being appointed between 2012-2016. The respondent Nos. 4 to 12 on earlier occasion had approached this Court by filing WPC 172/2018 and WPC/70/2023. The Health and Family Welfare Department

had constituted a committee to conduct suitability test for regularization of eleven Medical Officers serving on contract basis in terms of the Government's Office Memorandum dated 04.08.2008 and 11.08.2016. The suitability test was conducted on 06.09.2017 and respondents 4 to 12 were successful in the said test. The department had submitted the report of the suitability test to the P&AR Department for onward submission to the screening committee. The screening committee had recommended for regularization of their contract service. However, their services were not regularized and therefore they approached this Court by filing WP(C)/172/2018. The writ petition was disposed of by this Court by order dated 04.09.2018 directing the State respondents to consider and dispose of their representation in terms of the Office Memorandum dated 04.08.2008. However, while their cases were pending for regularization the Covid-19 Pandemic struck the entire nation including the State of Nagaland, which compelled the State Government to make an emergency policy decision. Accordingly, the State cabinet took a decision to appoint new doctors and nurses by creating new posts as well as to regularize the services of 19 Medical Officers, serving on contract basis and 27 Medical Officers, who had been engaged for a period of one year. However, due to an agitation staged by employees of the National Health Mission the Cabinet revoked its decision to regularize the services of the existing contractual Medical Officers. On being aggrieved by these cabinet decisions, the respondents Nos. 4 to 12 approached this Court by filing WP(C)/70/2023. However, by Judgment and Order dated 13.02.2024, the said writ petition was dismissed. Therefore, the action of the State respondents proposing to regularize their contract service through a

departmental Screening Committee is not sustainable in the eye of law.

14. The learned counsel for the petitioner further submits that the Rule 8(a) of the 2006 Rules prescribes that whenever there is a vacancy to be filled up by direct recruitment to the service in accordance to Rules 7(a) (i) the head of the department shall send a requisition to the NPSC through the State Government. The NPSC shall advertise the posts specifying the terms and conditions as prescribed under the Rules. Further, Schedule II of the Rules of 2006 mandate that the post of Junior Grade/Medical Officer has to be filled up 100% by direct recruitment by candidates possessing the qualification of MBBS or equivalent degree of recognized universities. It is the submission of the petitioners that all the petitioners possess MBBS degree and they have successfully completed the compulsory rotating internship from their respective universities and therefore they are qualified and eligible to be appointed to the post of Junior Grade/Medical Officer under the Rules of 2006. It is submitted that the Rules of 2006 framed under Article 309 of the Constitution holds the field and the State Government cannot act contrary to such Rules, as it is a settled principle of law that the Statutory Rules cannot be overridden by executive orders or notifications. Therefore, the action of the State respondents to regularize the 98 posts of Medical Officer through the departmental screening committee is in violation of the provisions of the Rules of 2006. Hence, the cabinet decision dated 06.08.2024 and the subsequent orders and notifications are not justified in the eye of law.

15. It is submitted that the respondents Nos. 19-101 were initially appointed for a period of one year with specific condition that their engagement shall be for a period of twelve months only, or till regular

appointments is made through NPSC whichever is earlier. Therefore the action of the State respondents proposing to fill up the posts held by the respondents 19-101 through the departmental screening committee is contrary to the statutory rules.

16. Learned counsel further submits that the State respondents in their affidavit-in-opposition had stated that the proposals for Special Recruitment Drive was communicated to the NPSC by a letter dated 13.12.2023; the said letter dated 13.12.2023 had enclosed the format of requisition for Special Recruitment Drive, with the list of 17 medical officers serving on contractual basis and the list of 83 medical officers serving on engagement basis appointed during Covid-19. However, the government affidavit contends that the NPSC by its letter dated 10.11.2022 conveyed that the proposed Special Recruitment Drive cannot be conducted as the same is not in accordance with the recruitment Rules of the Commission. Accordingly, the NPSC wrote to the department to accord clearance to conduct the recruitment as per their Rules. The department of Health & Family Welfare therefore withdrew the requisitioned posts.

17. Learned counsel submits that since the department has already withdrawn the requisitioned posts because of the letter of the NPSC dated 10.11.2022, the earlier decisions of the cabinet dated 25.06.2020 and 26.05.2022 have become redundant as the Special Recruitment Drive could not be conducted and therefore the same have not been assailed in the present writ petition.

18. Learned Counsel submits that the impugned decision of the cabinet dated 06.08.2024 approving the regularization of service of Covid-19

appointees through a departmental screening committee is in violation of the Rules of 2006 as the Rules do not provide for regularization of services of Medical Officers. It is also submitted that the Government has to first amend the Rules of 2006, if they wish to adopt a different mode of recruitment other than that specified in the Rules of 2006.

19. Learned counsel for the petitioner submits that in total violation of the provision prescribed under the Rules of 2006, the cabinet in its meeting on 06.08.2024 has approved for regularization of service of the Covid-19 appointees through a departmental screening committee the petitioners are therefore before this Court praying for a direction to quash and set aside the aforementioned Special Recruitment Drive and to advertise the 98 posts of Medical Officers as per the provisions of the Rules of 2006.

The petitioner has relied on the following authorities:-

- i) ***2006 (3) GLT 236, Gol Gajairung & ors Vrs State of Manipur and Anr,***
- ii) ***(1998) 8 SCC 469, K.Kuppusamy & Anr Vrs State of T.N and others,***
- iii) ***2007 (9) SCC 337, Punjab State Warehousing Corpn Chandigarh Vrs Manmohan Singh & another and***
- iv) ***(2006) 4 SCC 1, Secretary, State of Karnataka & others Vrs Uma Devi (3) and others.***

20. Learned Additional Advocate General, Ms. V. Suokhrie appearing for the respondent Nos. 1, 2 and 3 relies on the affidavit filed on behalf of the State respondents and submits that during Covid-19 due to shortage of

Medical Personnel the State Cabinet took a decision for creation of different categories of posts under the Medical Department, namely; Medical Officers, staff nurses, dental doctors, Ayush doctors and technicians. It is stated that 120 posts were created by notifications dated 26.06.2020 and 02.07.2020 and the posts were advertised through an advertisement dated 04.08.2020. The private respondent Nos. 4-18 were already serving as Medical Officers' on contract basis and private respondents 19-101 were appointed against the newly created posts after they duly applied for the posts in pursuance of the advertisement dated 04.08.2020. The private respondents were thereafter, appointed vide orders dated 12.11.2020, 17.05.2021 and 16.07.2021. Since, there were already 48 vacancies of medical officers in the department during the time of advertisement the 48 vacant posts were also added to the newly created 120 posts making it a total of 168 posts.

21. Learned Additional A.G submits that the petitioners do not have the locus standi to file the instant writ petition because of the fact that the Special Recruitment Drive (SRD for short) is meant only for those medical personnel, who had served during the Covid-19 pandemic. She has submitted that the petitioner Nos. 1, 11 and 55 had already acquired MBBS degree and were qualified to apply in terms of the advertisement dated 04.08.2020, however they chose not to apply for the same and as far as the other petitioners are concerned they were still students and had not acquired MBBS degree when the posts were advertised on 04.08.2020.

22. Learned Additional A.G submits that the Government of Nagaland taking into consideration the sacrifices and services of the medical

personnel during the Covid-19 pandemic took a decision to relax the recruitment procedure for special recruitment of the health care workers. Accordingly, by Cabinet memorandum dated 13.05.2022 the department of Health and Family Welfare submitted a proposal for relaxation of the recruitment rules for the health care workers as a one-time measure and it was put up for cabinet approval, it was further proposed to relax the rules with regard to allocation of marks. In the proposal it was also stated that the contract health workers who had resigned during the Covid-19 pandemic or refused to accept the contractual appointment shall not be eligible for the relaxation made in the proposals. Further, the age for entry in the service was proposed to be condoned up to 45 years. This proposal was specifically for the contractual employees who had rendered their services during the Covid-19 pandemic and those employees, who satisfied the conditions laid down in the department letter No. H&FW-27/B-30/nCOV/2020(Pt) dated 22.05.2021. Thereafter the proposal was put up to the P&AR Department for its concurrence and the same was approved. The proposal was then sent to the Cabinet and the Cabinet in its meeting on 25.05.2022 approved the same. Thereafter, by Cabinet minutes No. CAB-2/2013 dated 26.05.2022 the State Cabinet approved the proposal for relaxation of recruitment Rules for special recruitment of health care workers. And thereafter, the notification dated 02.11.2022 was issued notifying the posts to be recruited through a SRD. This notification of 02.11.2022 included the 96 posts of medical officers.

23. Learned Additional A.G further submits that the Department of Health and Family Welfare, as per the initial Cabinet memorandum dated 25.06.2020; Cabinet memorandum 13.05.2020; and notification dated

02.11.2022 submitted a proposal for special recruitment drive through the NPSC, and the same was communicated to the NPSC. However, the NPSC by its letter dated 10.11.2022 replied that the proposed special recruitment drive could not be conducted by the NPSC as the same is not in accordance with the recruitment Rules of the Commission. Nevertheless, the NPSC in its opinion given vide U.O No. 478 dated 15.07.2024; conveyed the decision of the Commission that since the department has withdrawn the requisitioned posts, the proposed Special Recruitment Drive to be conducted by the Health and Family Welfare Department is within the prerogative of the Department/ Government.

24. Since the NPSC declined to conduct the SRD, keeping in view the selfless services and sacrifices rendered by the Covid-19 appointees and also other contract medical officers who had served during the Covid-19 pandemic, the department by Cabinet memorandum dated 01.08.2024 again proposed for regularization of the Covid-19 appointees as a one-time measure. The said cabinet memorandum was placed before the cabinet and the cabinet approved the said memorandum which was communicated vide impugned Minutes No. CAB-1/14/2023 dated 07.08.2024, to regularize the service of the Covid-19 appointees through departmental screening committee in relaxation of the earlier approved procedures.

25. Learned Additional A.G submits that the short listing of medical officers was done considering only the health care workers who are still in service till date, excluding those who had resigned and had gone for further studies. A total of 83 active in service Covid-19 appointees and 15 in service contractual medical officers who are still serving were shortlisted

for screening to appear before the departmental screening committee for regularization of their services as a one-time measure. The departmental while short listing the medical officers had also taking into consideration the attendance drive carried out by the department during the 2024 Lok Sabha elections, wherein, it was found that there are only 83 active in-service Covid-19 appointees.

26. Learned Additional A.G also submits that against the judgment & Order dated 13.02.2024 passed by this Court in WP(C)/70/2023, a Review petition had been filed being Review Pet/2/2024 and in the said Review. Pet/2/2024 the Court by order dated 16.02.2024 held that it is entirely up to the respondent authorities to grant the petitioners the relief of regularization. Hence the State respondents are at liberty to frame the policy for a SRD to regularize contract appointees who served during Covid-19 and who are still in service as a one-time dispensation.

27. Learned Additional A.G also submits that the State Government had consciously framed the special policy to regularize the services of 83 medical officers appointed during Covid-19 who are still in service and 15 in-service contractual doctors who had served during Covid by conducting the SRD through a department screening committee. And therefore, prays that this Court may not interfere with the policy decision of the State Government as it was a policy made in extra ordinary circumstances. Learned Additional A.G has relied on the cases of; **i) AYAAUBKHAN NOORKHAN PATHAN Vrs STATE OF MAHARASHTRA AND OTHERS** reported in **(2013) 4 SCC 465 and**
ii) STATE OF UTTARAKHAND Vrs SUDHIR BUDAKOTI AND OTHERS reported in **(2022) 13 SCC 256.**

28. Learned Senior Counsel, Mr. Taka Masa appearing for the respondent Nos. 19-23 and 25-101 has also submitted that the present writ petition is not maintainable inasmuch as the petitioners have no locus standi to challenge the SRD. He submits that the petitioner No. 1, 11 and 55 were already qualified MBBS graduates when the advertisement dated 04.08.2020 was issued however, they did not apply for the same. And the rest of the petitioners were still students at that point of time. Learned senior counsel submits that the petitioner Nos. 1, 11 and 55 were qualified doctors, but they were scared to risk their lives during the Covid-19 pandemic and after the pandemic is now over and forgotten, the petitioners are approaching this Court challenging the SRD which is a policy decision of the State Government made especially for those medical officers who had served during the Covid-19 pandemic by risking their lives. Learned Senior Counsel submits that the State Government in order to tide over the unprecedented war like situation during Covid-19 had to take certain extraordinary decisions and it was in such circumstances that the policy decision for a SRD was made. He has submitted that by the Cabinet decisions of 2020 and 2022 the State cabinet had decided to relax the recruitment rules and by the Cabinet decision of 07.08.2024, only the procedure was relaxed. However, the petitioner has not assailed the State Cabinet decision vide No. CAB-2/2013 dated 12.06.2020 nor has the petitioner assailed the cabinet decision vide No. CAB-2/2013 dated 26.05.2022. Learned counsel states that the 120 posts created during Covid-19 were created for special recruitment.

29. It is further submitted that the policy decision made by the State Government was arrived at pursuant to the recommendation of the

Ministry of Health and Family Welfare, Government of India, vide letter dated 03.05.2021 wherein, it was recommended by the Central Government to all the States and Union Territories to consider giving preference in regular Government appointments of Health professionals through the respective Public Service Commission/other recruitment bodies, for those Health Professionals under this special scheme, who complete a minimum of 100 days of Covid related duty. This was the basis for the State Government to conduct the SRD.

30. It is further submitted by learned Senior Counsel that the SRD is a special policy for the health workers who have sacrificed their lives during the Covid-19 pandemic and as such the petitioners who have not performed any Covid duty nor made such sacrifices cannot challenge the said SRD as a matter of right as the SRD is not in violation of constitutional provisions. In fact learned Senior Counsel has submitted that a Division Bench of this court vide Judgment & Order dated 05.06.2024 in Writ Appeal/15/2024 while examining the legality of identifying three posts of Junior Dental Surgeons for the SRD has not interfered with the decision of the State government to conduct the SRD.

31. The learned Senior Counsel has relied on the following cases to supplement his submissions:-

- i) ***Mukul Saikia & others Vs The State of Assam*** reported in **2009 (1) SCC 386**
- ii) ***Satya Dev Bhagaur & others Vs. State of Rajasthan & others*** reported in **2022 (5) SCC 314**
- iii) ***Amarjeet Singh & others Vrs Devi Ratan & others***, reported in **(2010) 1 SCC 417, and**

iv) *Krishnadevi Malchand Kamathia & others Vs Bombay Environment Action Group & others* reported in *2011 (3) SCC 363*

32. Relying on the aforementioned cases, the learned Senior Counsel submits that the petitioners being strangers cannot be permitted to meddle in any proceedings unless they can satisfy the Court that they fall within the category of aggrieved persons. If a person claiming relief is not eligible as per recruitment, then he cannot be said to be a person aggrieved. He also submits that the petitioners have assailed only the cabinet decision of 2024 and not the earlier cabinet decisions of 2020 and 2022 and therefore, challenging the consequential orders without challenging the basic order is not permissible as it is a continuing process from the year 2020. Learned senior counsel further submits that the court should be slow to interfere in policy matters unless the policy is found to be discriminatory and arbitrary. Learned counsel has drawn the attention of this Court to the prayer of the petitioners wherein, they have prayed only for quashing of the cabinet decision dated 07.08.2024 and the calling letters dated 20.08.2024. However, all the previous cabinet decisions of 2020, 2022 as well as the administrative approval dated 20.08.2024 given by the Government to conduct the written and viva voce of the SRD has not been assailed. In view of the submission made herein, learned senior counsel prays that the present writ petition may be dismissed as not maintainable and that the SRD does not warrant the interference of this Court.

33. Learned Senior Counsel, Mr. C. T. Jamir appearing on behalf of the respondent Nos. 4 to 12 has also made a preliminary objection regarding the maintainability of the present writ petition submitting that petitioners

are not aggrieved persons and that they have no locus standi to file the present writ petition. Learned Senior Counsel for the respondent 4 to 12 submits that they were appointed as medical officers on contract basis during the year 2012 to 2019 and their services have been extended from time to time. It is stated that the SRD is a policy decision of the State Government made as a special dispensation for the medical officers who had risked their lives during the Covid-19 pandemic. The respondents 4-12 had also served during the Covid-19 pandemic and hence their services are also sought to be regularized by the SRD undertaken by the State Government. Learned Senior Counsel also submits that in order to meet the extraordinary situation during the Covid-19 pandemic, the State Government was called upon to make the extraordinary decision for the SRD and having made a commitment to those doctors/respondents who had responded to the call of duty by serving during the Covid-19 pandemic, the present writ petitioners cannot challenge the aforementioned policy decision of the State Government. Learned Senior Counsel further submits that there is no violation of Article 14 and 16 of the Constitution of India as the question of equal opportunity for public employment would only be in reference to similarly situated persons. In the present case, the petitioners are not similarly situated persons as the SRD relates only to those medical doctors who had served during the Covid-19 pandemic in response to the advertisement for temporary appointment vide advertisement dated 04.08.2020 and those contractual medical officers who had also served during the Covid-19 pandemic, and are still in service and the recruitment drive is not for those medical graduates who did not apply and also not for students who were not

qualified when the advertisement dated 04.08.2020 was issued. It is submitted that the petitioners shall be eligible to apply as and when fresh advertisements are issued through the NPSC for vacancies which shall fall under the Rules of 2006. In the facts and circumstances, learned Senior Counsel submits that the petitioners have not being able to make out a case to warrant the interference of this Court under Article 226 of the Constitution.

34. Learned senior counsel further submits that many qualified MBBS Doctors did not apply when the advertisement dated 04.08.2020 was issued. In fact the petitioner Nos. 1, 11 and 55 were also qualified MBBS graduates, but they did not apply for fear of their lives. The cabinet decisions of 2020 and 2022 were taken during extraordinary circumstances and unprecedented times, and he submits that the special scheme/policy will lose its meaning if all MBBS graduates are allowed to participate. He further submits that the petitioner Nos. 1, 11 and 55 who did not appear for the recruitment in terms of the advertisement dated 04.08.2020 during Covid and the rest of the petitioners who were still students during the pandemic cannot question the decisions made by the State Government during the pandemic. He has submitted that allegations of discrimination can be made only among similarly situated persons. In the present case the petitioners and the private respondents are not similarly situated persons. Learned counsel has relied on the cases of;

i) ***CITY AND INDUSTRIAL DEVELOPMENT CORPORATION VRS DOSU AARSEHIR BHIWANDIWALA*** reported in ***(2009) 1 SCC 168*** and

ii) ***CENTRAL FOR PUBLIC INTEREST LITIGATION VRS UNION OF***

INDIA AND OTHERS reported in **SUPREME CASES (2016) 6 SCC 408**.

35. Mr. Toshi O. Longkumer, learned counsel appearing on behalf of the respondent No. 24 has adopted the submissions made by the learned senior counsels, Mr. Taka Masa and Mr. C.T. Jamir. Additionally the learned counsel relies on the case of;

(i) **JAYRAJBHAI JAYRAJBHAI PATEL Vrs ANILBHAI NATHUBHAI PATEL AND OTHERS** reported in **(2006) 8 SCC 200** and

(ii) **Gaon Shiksha Samiti, Gram Sabha Sabhad, Auraiya and another Vrs State of U.P. and others** reported in **2003 SCC Online All 359**. Relying on the aforementioned judgments of the Hon'ble Supreme Court, learned counsel submits that the power of judicial review in administrative action is very limited. He has submitted that only in case of abuse or misuse of power, the court can interfere under Article 226 of the Constitution of India. Learned counsel submits that the decision made by the State Government to conduct a SRD for doctors who served during the Covid-19 pandemic is not arbitrary, unreasonable or an abuse or misuse of power.

36. Learned counsel, Mr. Moa Jamir appearing for the respondent Nos. 13 to 18 has also adopted the submissions made by senior counsels for the other private respondents. Moreover, the learned counsel submits that among the 17 medical officers appointed during 2012 to 2019, the respondents Nos. 13 to 18 are also included. Their initial appointments were not made pursuant to the advertisements issued on 04.08.2020. However, they served during the Covid-19 pandemic and are still in service, and therefore, in recognition of the services rendered by them

during the Covid-19 pandemic, the State cabinet in its meeting held on 06.08.2024 was pleased to approve the regularization of their services as a one-time special dispensation. The decision to regularize the respondents Nos. 13 to 18 was therefore based on their contribution and active involvement in managing the health crisis during the pandemic period. It is submitted that the recruitment rules were not bypassed arbitrarily, but were relaxed in a lawful manner and the policy decision of the State respondents is therefore legal and reasonable and not in violation of the constitutional scheme of equality. Learned counsel, Mr. Moa Jamir further submits that the impugned policy decision is based on the recommendation of the Government of India as reflected in the notification dated 03.05.2021 which encouraged the State Governments to consider appropriate measures for recognizing the services of health workers engaged during the Covid-19 pandemic. Therefore, learned counsel submits that the present petition being a challenge to a valid policy decision made in the exercise of executive discretion during an extraordinary situation is not maintainable and is liable to be dismissed at the threshold.

37. The court has given due consideration to the submissions made by the opposing parties, and also perused the pleadings and the authorities relied upon.

38. It is an admitted position that recruitment to the post of medical officer is governed by the Nagaland Health Services Rules, 2006, which has been notified by the State Government in exercise of the powers conferred under Article 309 of the Constitution of India. It is also an admitted position that as per schedule II of the Rules of 2006 the post of

medical officer is to be filled up 100% by direct recruitment and the minimum qualification for direct recruitment shall be MBBS or equivalent degree of a recognized university.

39. The Covid-19 Pandemic hit the entire world in the year 2019, and normal life, as we know, it came to a standstill and even family members were afraid to meet each other. It was an unprecedented time when the near and dear ones of deceased persons could not even see the bodies of their loved ones for the last rites.

40. Many health workers, including doctors and nurses were unwilling to risk their lives during the Covid-19 pandemic. It was in the midst of such extraordinary circumstances that the State Cabinet took a decision to create posts of medical officers in order to meet the urgent requirements of doctors and nurses in Nagaland. The State Cabinet in its meeting minutes dated 23.06.2020 approved for creation of 44 posts of medical officers for the district hospitals, CHCs and PHCs. Subsequently, by an advertisement dated 04.08.2020, applications were invited for filling up 168 posts of medical officers. It has been clarified by the Additional A.G. that these 168 posts of medical officers included the 44 newly created post and the remaining being regular vacancies which were already existing in the department. The respondents Nos. 19 to 101 submitted their applications in pursuance of the advertisement dated 04.08.2020, faced the interview and were duly selected and they were appointed by the orders dated 12.11.2020 and 17.05.2021. The services of the private respondents Nos. 19 to 101 were extended from time to time and they are still in service. On the other hand it is not denied by the petitioners that petitioner No. 1, 11 and 55 were already qualified MBBS graduates

when the advertisement dated 04.08.2020 was issued. But they did not apply for reasons best known to them. The rest of the petitioners could not apply as they were not qualified.

41. The State cabinet in its meeting on 25.05.2022 took another policy decision for relaxation of recruitment rules for special recruitment of health care workers who had performed Covid-19 duties. In the said cabinet meeting held on 25.05.2022, it was proposed that the recruitment rules would be relaxed as a one-time measure for a special NPSC recruitment drive for medical officers by giving weightage for Covid-19 duty and work experience and also approved for condonation of age up to 45(forty five) years for the serving officers who had been serving on contractual basis or on temporary engagements during the pandemic. In pursuance of the policy decision of the State cabinet on 25.05.2022 the government vide notification dated 02.11.2022 notified the 96 posts of medical officers to be recruited through a SRD.

42. As the NPSC expressed its inability to conduct the SRD, the State Cabinet in its meeting on 06.08.2024 approved a proposal for regularization of service of Covid-19 appointees through a departmental screening committee in relaxation of earlier approved procedures.

43. This Court has also taken note of the communication from the Ministry of Health and Family Welfare, Government of India dated 03.05.2021 wherein, the Government of India had recommended to all the State Governments and Union Territories to consider giving preference in regular government appointments of health professionals through the respective public service commission or other recruitment bodies for those health professionals under a special scheme for those who have

completed a minimum of 100 days of Covid duties. The State cabinet in its meeting held on 06.08.2024 considered the fact that a commitment had been made to the medical officers by the government for subsequent regularization of their services at the time of appointment and detailment of duty during the pandemic. In the cabinet decision on 06.08.2024, the proposal was approved to include the contractual doctors who had been appointed prior to the pandemic but who had performed duty during the pandemic and are still serving.

44. In pursuance of the cabinet decision of 06.08.2024, the government accorded administrative approval vide letter dated 20.08.2024 to conduct written and viva voce as one-time dispensation for a SRD. The exams were scheduled to be held on 26.08.2024, 27.08.2024 and 28.08.2024. Thereafter, calling letters had been issued to 98 medical officers who were appointed in pursuance of the advertisement dated 04.08.2020 and also medical officers on contract basis who had served during the pandemic. The recruitment process was suspended in view of the interim order granted by this court in the present case.

45. This Court has noted that the State cabinet had adopted a policy decision for a SRD for Covid-19 appointees as a one-time dispensation by relaxing the recruitment rules and the established procedures for those health care professional who had served during the Covid-19 pandemic by risking their lives for the people of the state.

46. The Supreme Court in the case of ***Centre for Public Interest Litigation, (supra)*** held that “minimal interference is called for by the courts, in exercise of judicial review of a government policy when the said policy is the outcome of deliberations of technical experts in the fields

inasmuch as courts are not well equipped to fathom into such domain which is left to the discretion of the executive". The Court also stated that "the *raison de'être* of discretionary power is that it promotes the decision maker to response appropriately to the demands of a particular situation. When the decision making is policy based, judicial approach to interfere with such decision making becomes narrower. In such cases, in the first instance it is to be examined as to whether the policy in question is contrary to any statutory provisions or is discriminatory/arbitrary or based on irrelevant considerations. If the particular policy satisfies these parameters and is held to be valid, then the only question to be examined is as to whether the decision in question is in conformity with the said policy".

47. In the case of ***Ayaubkhan Noorkhan Pathan (Supra)***, the Supreme Court has stated that, "under ordinary circumstances a third person having no concern with the case at hand cannot claim to have any locus standi to raise any grievances whatsoever". It was held that "it is a settled proposition that a stranger cannot be permitted to meddle in any proceedings unless he satisfies the court/authority that he falls within the category of an aggrieved person..... If a person claiming relief is not eligible as per requirement, then he cannot be said to be a person aggrieved regarding the selection or election of other persons". Further, in the case of ***Mukul Saikia & others (supra)***, the appellants had challenged a Cabinet Memorandum for regularization of 18 CDPOs/Probation officers and prayed for a direction to appoint the appellants in the vacant posts of CDPO/Probation officers on the ground that the policy decision taken by the State to regularize the services of the

private respondents was contrary to the recruitment rules and that the action of the State government would amount to giving backdoor entry to unsuccessful candidates into the State services. The Supreme Court held that the one-time policy decision taken by the cabinet to regularize the services of the private respondents could not be challenged by the appellants as the one-time measure was adopted by the State government under special circumstances and the regularization has not, in any manner caused any prejudice to the interest of the appellants.

48. In respect of judicial review in policy matters, the Supreme Court further held in the case of ***Satya Dev Bhagaur (supra)***, that, “unless a policy decision is demonstrably capricious or arbitrary and not informed by any reason whatsoever or it suffers from the vice of discrimination or infringes any statute or provision of the Constitution, the policy decision cannot be struck down. It should be borne in mind that except for the limited purpose of testing a public policy in the context of illegality and unconstitutionality, courts should avoid ‘embarking on uncharted ocean of public policy’”. The court further stated that “courts would be slow in interfering with matters of government policy except where it is shown that the decision is unfair, malafide or contrary to any statutory directions”.

49. This Court having gone through the decisions made by the State cabinet in its meetings dated 23.06.2020, 26.05.2022 and 06.08.2024 is of the view that these policy decisions were taken in view of the extraordinary situation which arose during the Covid pandemic. The Government can frame a policy to recruit in violation of service rules under certain exceptional circumstances, but such policy would be subject

to judicial scrutiny to ensure that it is reasonable, proportionate and does not violate Article 14 of the Constitution.

50. All the earlier cabinet decisions of 2020 and 2022 are part of the same process which led to the impugned cabinet decision dated 06.08.2024. The general proposition of law that executive instructions and administrative orders cannot supersede the statutory rules is not denied. However, when the policy decision of the State Government is made under such extraordinary circumstances and in an unprecedented situation like the Covid pandemic, this Court has to only see, whether the policy is discriminatory or arbitrary.

51. As submitted by learned counsels for the respondents, it is noted that most of the private respondents are now overaged for public employment as the upper age limit for recruitment during Covid-19 was relaxed up to 45 years.

52. Extraordinary decisions need to be taken to meet extraordinary situations. The present case is one such extraordinary situation as it was the Covid-19 pandemic which compelled the State government to take a policy decision for the SRD. It also cannot be said that the policy decision for a SRD for those medical officers who served during the pandemic is discriminatory or arbitrary. The petitioners and the private respondents are not similarly situated persons as the classification made by the State government is based on reasonable basis and the court is unable to hold that there was malafide on the part of the State government in framing the policy for a SRD. In the case of ***State of West Bengal Vrs Anwar Ali Sarkar***, reported in ***(1952) 1 SCC 1***, the Supreme Court held that, "The principles underlying the guarantee in Article 14 is not that the same

rules of law should be applicable to all persons within the Indian territory or that the same remedies should be made available to them irrespective of differences or circumstances. It only means that all persons similarly circumstanced shall be treated alike both in privileges conferred and liabilities imposed". Also in the case of ***Sudhir Budakoti & others (supra)***, the Supreme Court held that there are certain permissible parameters for specifying a particular group. It held that when the differentiation is clearly distinguishable with adequate demarcation duly identified, the object of Article 14 gets satisfied. When there is a reasonable basis for adopting a classification for providing benefits to an identified group of persons, the court is not expected to insist on absolute equality by taking a rigid view. The Court further held that when there is a policy decision with permissible parameters for specifying a particular group, the court should not interfere when there is no illegality. In the case at hand there is a reasonable basis for differentiation, between those who served during the pandemic and those who did not, and between those in-service and those out of service.

53. This Court cannot be oblivious to the settled legal proposition that consequential orders cannot be challenged without challenging the basic order i.e., in the present case the basic orders being the cabinet decisions of 2020 and 2022. The petitioners have not assailed the cabinet decisions of 23.06.2020 and 26.05.2022. The petitioners have not assailed the administrative approval granted by the government dated 20.08.2024 to conduct the written exam and viva voce as a one-time dispensation for the special recruitment drive.

54. The law laid down in ***Umadevi Case (supra)***, is of no assistance to

the petitioners in the present set of facts and circumstances, so also the ratio laid down in ***Gol Gaijairung (supra), K.Kuppusamy & Anr (supra), and Punjab State Warehousing Corpn Chandigarh (supra)*** cannot be applied in the peculiar and extraordinary facts of the present case.

55. Having regard to the settled position of law as expounded by the Hon'ble Supreme Court regarding interference in policy decisions, and on going through the facts and circumstances of the present case, this Court holds that the petitioners have no locus standi to challenge the policy decision as they are not aggrieved persons and they have not been able to make out a case warranting the interference of this Court under Article 226 of the Constitution of India. As a result, the petition is dismissed. No orders as to costs.

56. The interim order dated 21.10.2024 stands vacated.

With W.P(C)/187/2024

1. The petitioners in WP(C)/189/2024 are doctors who were appointed during the Covid pandemic and who subsequently left the service and are undergoing post graduate studies.

2. Learned counsel for the petitioners, Mr. Joshua Sheqi at the outset submits that the petitioners Nos. 2, 3, 4, 5, 6, 8, 9, 10, 12 and 13 have already withdrawn from the writ petition and only petitioners Nos. 1, 7, 11, 14, 15 and 16 remains. The petitioners in this writ petition are aggrieved by the cabinet decision dated 06.08.2024 as their cases have not been included for the SRD. Learned counsel for the petitioner has

submitted that while submitting the list of medical officers the Department of Health and Family Welfare (DoHFW for short), had given a list of medical officers numbering 98 to participate in the SRD without including the names of the petitioners. Learned counsel submits that the petitioners are not aggrieved by the listing of the 98 medical officers, however, the petitioners are aggrieved for non inclusion of their names in the list and also for not according them the equal opportunity to participate in the SRD. It is the case of the petitioners' that they had also been appointed by the State respondents during the Covid-19 pandemic vide orders dated 27.05.2020, 12.11.2020 and 17.05.2021. Their services were extended from time to time and all of them have served for more than 100 days on duty during the Covid-19 pandemic which qualifies them to be included in the SRD. While serving on engagement basis, the petitioners' cleared the NEET-PG examination and are presently undergoing post graduate studies.

3. Learned counsel for the petitioners further submits that the petitioners' pursuing PG courses was based on the decision of the State respondents by way of incentive to give them preference to go for further studies for rendering at least 100 days on Covid duty and therefore, the State respondent are barred by the doctrine of approbation and reprobation by not allowing the petitioners to apply for the SRD after utilizing their services. It is submitted that the action of the State respondents in handpicking only 98 candidates has violated Article 14 and 16 of the Constitution of India by failing to provide equal opportunity to the petitioners who equally deserve to participate in the SRD.

4. The petitioners have prayed for modification/amendment or alteration of the Cabinet decision dated 06.08.2024 to accommodate the petitioners

in the SRD, to quash and set aside the letter dated 20.08.2024 which set out the selected list of 98 Medical Officers without the petitioners, and to prepare a fresh list including the petitioners to participate in the SRD.

5. Learned counsel for the petitioner has relied on the following authorities to support his contentions:-

i) Satyawati Sharma (Dead) By Lrs –Vs- Union of India & Anr reported in **(2008) 5 SCC 287**

ii) Hari Ram & Anr –vs- State of Haryana & Others reported in **(2010) 3 SCC 621**

iii) State of Bombay & Anr –Vs- F.N. Balsara reported in **1951 SCC 860: 1951 SCC Online SC 47**

iv) State of West Bengal –Vs- Anwar Ali Sarkar reported in **(1952) 1 SCC 1**

v) Jitendra Kumar & Ors –Vs- State of Haryana & Anr reported in **(2008) 2 SCC 161**

vi) State of Haryana & Ors –Vs- Mahabir Vegetable Oils Pvt. Ltd. reported in **(2011) 3 SCC 778**

vii) Joint Action Committee of Air line Pilots' Association of India (ALPAI) Vs. Director General Civil Aviation & Ors reported in **(2011) 5 SCC, 435**

viii) Bhagwat Sharan –Vs- Purushottam & Ors reported in **(2020) 6 SCC, 387**

6. The State respondents are represented by the learned Additional Advocate General Ms. V. Suokhrie, who submits on the basis of the affidavit-in-opposition filed on behalf of respondents Nos. 1, 2, 3 and 4. Learned Additional A.G has raised preliminary issues on the maintainability

of the writ petition. She has submitted that the petitioners have no locus standi to file the present petition. It is submitted that the petitioners are no longer in service as all of them are presently undergoing post graduate courses in different institutions and therefore, they are not aggrieved persons.

7. Learned Additional A.G submits that the cabinet decision dated 06.08.2024 was taken to regularize in-service Covid-19 appointees and contractual in-service medical officers who served during Covid through a departmental screening committee in relaxation of earlier procedures. When the petitioners are no longer in service the question of service regularization does not arise as persons who are not in service cannot be regularized.

8. Learned Additional A.G has also submitted that 120 posts of medical officers were created by the State government vide notifications dated 26.06.2020 and 02.07.2020 and these posts were advertised by the advertisement dated 04.08.2020. Since they were 48 resultant vacancies in the department during the time of advertisements, these resultant vacant posts were also added to the newly created 120 posts making it a total of 168 posts. The petitioners were also appointed against the newly created post by the orders dated 12.11.2020, 17.05.2021 and 16.07.2021 on temporary basis.

9. The learned Additional A.G submits that the petitioners Nos. 2, 3, 4, 5, 6, 8, 9, 12, 13 and 14 resigned from their respective posts and petitioners Nos. 1, 7, 10, 11, 15 and 16 did not resign but left the service without any information and are undergoing post graduate courses in different institutions and that none of the petitioners are in service as on date.

10. Learned Additional A.G has submitted that the short listing of 98 medical officers was done for those health care workers, who were appointed during the pandemic and who had served during the pandemic and who are still in service till date. The shortlisting was done excluding those who had resigned and those who had gone for post graduate studies as in the case of the petitioners. Learned Additional A.G submits that as on date there are 83 Covid-19 appointee doctors and 15 in-service contractual doctors who served during Covid-19 and who are still in service and therefore they have been shortlisted to undergo the SRD as a onetime measure for regularization of their service.

11. Learned Additional A.G further submits that the petitioners in W.P(C)/187/2024 are also not similarly situated with the shortlisted 98 medical officers and therefore, there is no discrimination on the part of the State respondents. Since, the petitioners are no longer in service their non inclusion in the list for regularization cannot be said to be arbitrary or in violation of Article 14 of the Constitution.

12. This Court upon consideration of the pleadings and the settled position of law is of the opinion that the present petition is not maintainable as the petitioners are not aggrieved persons and have no locus standi to file a petition praying for inclusion of their names in the shortlist inasmuch as they are no longer in service and cannot claim regularization of service.

13. This Court has already held in WP(C)/239/2024 that the policy decision of the State government through the cabinet decisions of 2020, 2022 and 06.08.2024 are decisions taken during an extraordinary situation to have a SRD for 98 in-service medical officers; and held that the

decisions are not arbitrary or discriminatory. The petitioners are not in-service and hence, cannot claim to be similarly situated with the 98 in-service medical officers. The ratio laid down in the authorities relied upon by the petitioners cannot be applied in the peculiar facts of the present case.

14. It is settled law that discrimination can only be alleged by similarly situated persons on the ground that similarly situated persons have been treated differently. However, in the present case the petitioners are not similarly situated with the 98 shortlisted medical officers. In the result, WP(C)/187/2024 is also dismissed.

WP(C)/187/2024 and WP(C)/239/2024 may be delinked from WP(C)/184/2024 and WP(C)/307/2024.

JUDGE

Comparing Assistant