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

Case No. : WP(C)/215/2023

SHRI CHUBAONEN KICHU,
S/O SHRI TEMSUYANGER KICHU,
R/O KHENSA VILLAGE,
MOKOKCHUNG DISTRICT, NAGALAND

VERSUS

THE STATE OF NAGALAND AND 6 ORS
THROUGH THE CHIEF SECRETARY TO THE GOVERNMENT OF NAGALAND, KOHIMA

2:THE COMMISSIONER AND SECRETARY
TO THE GOVERNMENT OF NAGALAND
P AND AR DEPARTMENT
NAGALAND
KOHIMA

3:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF NAGALAND
DEPARTMENT OF ANIMAL HUSBANDRY AND VETERINARY SERVICES
NAGALAND
KOHIMA

4:THE DIRECTOR
DIRECTORATE OF ANIMAL HUSBANDRY AND VETERINARY SERVICES
NAGALAND
KOHIMA

5:THE CHIEF VETERINARY OFFICER

MOKOKCHUNG
NAGALAND

6:THE VETERINARY SURGEON
DISTRICT VETERINARY HOSPITAL
YIMYU
MOKOKCHUNG

7:SHRI SUPONGWAPANG
MEDICINE CARRIER
VETERINARY HOSPITAL MOKOKCHUNG
UNDER THE CHIEF VETERINARY OFFICE

MOKOKCXHUNG
NAGALAN

Linked Case : WP(C)/216/2023

SHRI LIMASUNEP KICHU
S/O SHRI PURTOSHI
R/O KHENSA VILLAGE
MOKOKCHUNG DISTRICT
NAGALAND

VERSUS

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KOHIMA

2:THE COMMISSIONER AND SECRETARY
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3:TEH COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF NAGALAND
DEPARTMENT OF ANIMAL HUSBANDRY AND VETERINARY SERVICES
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NAGALAND
KOHIMA

5:TEH CHIEF VETERINARY OFFICER
MOKOKCHUNG
NAGALAND

6:THE VETERINARY SURGEON
DISTRICT VETERINARY HOSPITAL
YIMYU
MOKOKCHUNG

7:SMTI. TALIRENLA PONGEN
MULTI TASKING STAFF
VETERINARY HOSPITAL MOKOKCHUNG
UNDER THE CHIEF VETERINARY OFFICE
MOKOKCHUNG
NAGALAND

Linked Case : WP(C)/217/2023

SHRI I. TONGPANG KICHU
S/O SHRI S. IMCHA KICHU
R/O YIMYU WARD
KHENSA VILLAGE
MOKOKCHUNG DISTRICT
NAGALAND

VERSUS

THE STATE OF NAGALAND AND 6 ORS
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6:THE VETERINARY SURGEON
DISTRICT VETERINARY HOSPITAL
YIMYU
MOKOKCHUNG

7:SHRI IMNANUKSHI
MULTI TASKING STAFF
VETERINARY HOSPITAL MOKOKCHUNG
UNDER THE CHIEF VETERINARY OFFICE
MOKOKCHUNG
NAGALAND

BEFORE

HON'BLE MR. JUSTICE MICHAEL ZOTHANKHUMA

Advocate for the petitioner : Supongwati Walling

For the respondent nos.1 to 6 : Ms. S. Chang, GA, Nagaland

For the respondent no.7 : Mr. Joshua Sheqi

Dates of hearing & judgment : 17.11.2025.

JUDGMENT AND ORDER

1. Heard Mr. Supongwati Walling, learned counsel for petitioners in all the three writ petitions. Also heard Ms. S. Chang, learned Government Advocate for the respondent nos.1 to 6 and Mr. Joshua Sheqi, learned counsel for respondent no.7 in all the three writ petitions.

2. All the three writ petitions are being disposed of by this common judgment.

3. The 3 petitioners' case is that they should be appointed to various Grade-IV posts under the District Veterinary Hospital, Yimyu Ward, Mokokchung, Nagaland on the basis of being landowners, inasmuch as, they are the bonafide landowners, on which the District Veterinary Hospital had been constructed.

4. The petitioners' counsel submits that the land for the District Veterinary Hospital, Yimyu Ward, Mokokchung, Nagaland, had been given by Sayangtsuba, Head of Batizar Clan of Khensa Village by way of an agreement dated 23.06.1978 on payment of land compensation on 23.06.1978, with the additional terms and conditions - (i) appointment of 4th Grade Staff should be offered to land owner and (ii) contract works should be given/awarded to the land owner.

5. The petitioners' counsel submits that instead of land owners having been given appointment as Grade-IV staff in the District Veterinary Hospital, Yimyu Ward, Mokokchung, Nagaland, the same has been given to the 3 different respondent no.7 in all the three writ petitions. He submits that the respondent no.7 in all the three writ petitions are not landowners and as such, their appointments should be cancelled and in their place, the petitioners in all the three writ petitions should be appointed as Grade-IV staff.

6. The petitioners' counsel submits that a perusal of the appointment orders of the respondent no.7 in all the three writ petitions show that their appointments had been made without any prior advertisement being issued for the post of Medicine Carrier [WP(C) 215/2023], Sweeper [WP(C) 216/2023] and Peon [WP(C) 217/2023]. He submits that in terms of the Office Memorandum dated 04.06.2016, the posts have to be filled up through an open advertisement and selection by a duly constituted Selection Committee. However, the petitioners who are eligible to be considered for the above three posts could not participate in the selection process, due to the respondents not issuing any advertisement for the same.

7. The learned Government Advocate for the State respondents submits that the land of the Clan of the petitioners had been bought by the State Government, on the basis of a Sale Deed executed on 23.06.1978, wherein all the right, title and interest of the land were transferred to the State Government. The sale price of Rs.22,320/- was given to the

landowner and a clan member (landowner) has already been appointed to a Grade-IV post.

8. The learned Government Advocate for the State respondents further submits that as per the Office Memorandum dated 05.03.2018, employment only can be limited to the first person appointed on landowner basis and does not entitle his descendents to claim further employment on the basis of being a land owner. She submits that though there is no condition in the Sale Deed dated 23.06.1978 requiring giving employment to the landowner, the same has been provided to one of the landowners. As such, the petitioners cannot claim appointment on the basis of being the landowner, as one person had already been appointed.

9. Mr. Joshua Sheqi, learned counsel for the respondent no.7 in all the three writ petitions submits that 2 persons (land owners) of the Batizar Clan have already been appointed as Grade-IV employees on the basis of the said Agreement executed on 23.06.1978. He further submits that as per letter No. MV/Legal/2023-2024/417 dated 01.11.2023 along with Annexure-II, issued by the Chief Animal Husbandry & Veterinary Officer, Mokokchung, Nagaland, from the five contract works that had been made on the land donated for the Veterinary Hospital, the Batizar Clan had collected 3% from the contractors bills. As such, all the terms and conditions of the Agreement had been executed and complied with by the State respondents. Thus, there was no question of appointing the present writ petitioners as landowners, especially when the Government Notification dated 05.03.2018, did not permit appointment on landowner

basis in perpetuity.

10. I have heard the learned counsels for the parties.

11. To a query made to the learned counsel for the respondent no.7 in all the three petitions, as to whether the appointment of the 3 respondent no.7s had been made on the basis of an open advertisement issued by the State respondents, he submits that no advertisement had been issued for the same. Mr. S. Chang, learned Government Advocate also submits that no prior open advertisement had been issued before appointment orders had been issued to the respondent no.7 in all the three writ petitions.

12. The extract of the Agreement dated 23.06.1978 which was relied upon by the petitioners, states as follows :

> "*A plot of Land measuring 11.16 acres, belonging to Sri Sayangtsuba (Head of Clan) Batizar Clan of Khensa Village, located at Ongpamgkong Compound (Yimyu) was allotted to Veterinary & A.H. department for construction of Veterinary Dispensary on payment of Land compensation on 23/06/1978, with the following Terms and Conditions :-*
>
> *1. Appointment of IV grade staff should be offered to Land owner.*
>
> *2. Contract works should be given/awarded to the land owner."*

13. The Sale Deed dated 23.06.1978 relied upon by the State respondents, by which the land has been sold by the landowner to the

Government does not speak of any appointment to be given to the landowner to a Grade-IV post. It also does not speak of any contract work being required to be given/awarded to the landowner.

14. As can be seen from the above two paragraphs, the petitioners' stand that an Agreement had been made on 23.06.1978, is not in consonance with the stand of the State Government, as a Sale Deed has been executed without any conditions for appointment to a Grade-IV post or for contract works to be awarded. The above contradiction clearly shows that there is a disputed question of fact. However, there is no dispute that the land had been sold by the landowner to the State Government and payment made.

15. If we consider the Sale Deed dated 23.06.1978 to be the genuine document, nothing needs to be said further, as the cost of the land has been paid by the Government. If the Agreement dated 23.06.1978 is to be considered to be a genuine document, then the issue raised by the petitioners would have to be considered. Accordingly, these cases are being decided on the assumption that the Agreement dated 23.06.1978 is the original and correct document, by which the land had been sold, on which the District Veterinary Hospital, Yimyu Ward, Mokokchung, Nagaland has been constructed.

16. The fact that the compensation amount for the land had been given to landowner is an admitted fact. The second issue is whether any

landowner, i.e, a member of the Batizar Clan who earlier owned the land was given appointment to a Grade-IV post. The affidavit of the State Government states that one landowner had already been appointed as a Grade-IV post and Annexure-II to the letter dated 01.11.2023 issued by the Chief A.H & Veterinary Officer, Mokokchung, Nagaland shows that one Karinungba, M/C of Village-Khensa was appointed as landowner on 12.10.2011.

17. With regard to whether the contracts had been awarded to the landowners, Annexure-II to the above letter dated 01.11.2023 shows that the Batizar Clan had collected 3% of the contract bills, from the contractors in respect of the of the construction works on the Veterinary Hospital land. In any event, this condition is not a question/issue raised by the petitioners in the 3 writ petitions.

18. The above facts thus clearly go to show that the terms & conditions of the Agreement dated 23.06.1978 have been substantially complied with by the State respondents.

19. The only question that remains to be answered is whether the petitioners, who are belonging to the Batizar Clan and children of the original landowners are to be appointed on landowner basis, after one person had already been appointed on landowner basis. The Notification No. LR/6-181/LIT/2015 dated 05.03.2018 issued by the Government of Nagaland Land Revenue Department provides at paragraph 3(a) and 3(c) at as follows:

"3(a) In other cases prior to 26.07.2005 and subsequent to setting up of Administrative and Block headquarters on freely donated land, where a specific written agreement exists providing for employment to the landowner, the claim of landowner for employment should be settled in terms of such agreement.

……..

3(c) It is also clarified that it not the policy of the Government to provide employment to the land owner in perpetuity. The employment of landowner, if permitted by a verifiable and valid agreement, is limited to the person first appointed as land owner in the Government service and does not entitle his descendants for further employment on his retirement from service. After the appointed landowner retires or vacates the post, the vacancy will be filled up through open advertisement in consonance with the existing policy giving equal opportunity to all applicant."

20. Paragraph-3(a) provides that in cases prior to 23.06.1978 and subsequent to setting up of a building by the Government on freely donated land, where a specific written agreement exists providing for employment to the landowner, the claim of landowner for employment should be settled in terms of such agreement. The contents of paragraph-3(c) provides that it is not the policy of the R Government to provide employment to the landowner in perpetuity. The employment of landowner, if permitted by a verifiable and valid agreement, is limited to the person first appointed as landowner in the Government service and does not entitle his descendants for further employment on his retirement from service. After the appointed landowner retires or vacates the post, the vacancy will be filled up through open advertisement in consonance

with the existing policy giving equal opportunity to all applicants.

21. The above paragraphs of the Notification dated 05.03.2018 clearly bars the claim of the petitioners for employment on landowner basis, especially when one of the Clan member had already been appointed on the basis of the sale deed made on 23.06.1978.

22. In the case of (i) ***Medoneituo Sere vs. State of Nagaland, represented by the Chief Secreary to the Govt. of N/L, Kohima & Others***, reported in ***2025 SCC OnLine Gau 2038***, (2) ***WP(C) 89/2023 (Shri Imtikumzuk vs. The State of Nagaland & 3 Others and*** (3) ***WP(C) 302/2017*** **(L. Tsukjemwapang vs. The State of Nagaland & 2 Others,** Coordinate Benches of this Court have held that in terms of paragraph-3(c) of the Government Notification dated 05.03.2018, the Government can appoint only one eligible landowner to a Grade-IV post on landowner basis, irrespective of the number of persons who are landowner/landowners. Keeping in view the decisions of the Coordinate Benches of this Court and the fact that the Notification dated 05.03.2018 is still in force, this Court is also of the view that there cannot be any claim for employment on landowner basis for all members of the family/clan or the descendants of the original landowners in perpetuity. There is a stop to the practice of employment being given on landowner basis beyond the first landowner, in terms of the policy/notification dated 05.03.2018 of the State Government. In view of the reasons stated above, the claim of the petitioners for appointment on landowner basis fails.

23. The next question to be decided is as to whether the appointment of the 3 respondent no.7, in all the three writ petitions, can be said to be fair and sustainable.

24. In the case of ***State of Orissa & Another vs. Mamata Mahanty***, reported ***in (2011) 3 SCC 436***, the Supreme Court has held that appointments made without issuance of any advertisement was violative of Article 14 and 16 of the Constitution, as it deprives candidates who are eligible for the post, from being considered. In the present case, the petitioners were not given the opportunity to be considered for the 3 posts to which the 3 respondent no.7 have been appointed.

25. Paragraph-35 and 36 of the above judgment are reproduced hereinbelow as follows :

> "*35. At one time this Court had been of the view that calling the names from employment exchange would curb to certain extent the menace of nepotism and corruption in public employment. But, later on, it came to the conclusion that some appropriate method consistent with the requirements of Article 16 should be followed. 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 thereto 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 of the said article of the Constitution.

36. Therefore, it is a settled legal proposition that no person can be appointed even on a temporary or ad hoc basis without inviting applications from all eligible candidates. If any appointment is made by merely inviting names from the employment exchange or putting a note on the noticeboard, etc. that will not meet the requirement of Articles 14 and 16 of the Constitution. Such a course violates the mandates of Articles 14 and 16 of the Constitution of India as it deprives the candidates who are eligible for the post, from being considered. A person employed in violation of these provisions is not entitled to any relief including salary. For a valid and legal appointment mandatory compliance with the said constitutional requirement is to be fulfilled. The equality clause enshrined in Article 16 requires that every such appointment be made by an open advertisement as to enable all eligible persons to compete on merit."

26. In view of the decision of the Supreme Court in the case of ***Mamata Mahanty (supra)***, the appointments of the three respondent no.7 in all the three writ petitions cannot be sustained, as the same is in violation of Section 14 and 16 of the Constitution. Their appointments as Medicine Carrier in WP(C) 215/2013, Sweeper in WP(C) 216/2013 and Peon in WP(C) 217/2013 are hereby set aside. The State respondents shall advertise the said posts for filling up the said posts as per rules. The petitioners, if eligible for consideration for the said posts as per rules and in terms of the Office Memorandum No. AR-3/GEN-174/2007(Pt) dated 04.06.2016 issued by the Government of Nagaland, Personnel & Administrative Reforms Department (Administrative Reforms Branch), Nagalan, Kohima, shall also be allowed to participate in the said selection

process.

27. The writ petitions are accordingly disposed of.

JUDGE

Comparing Assistant