

GAHC020006342023

2025:GAU-NL:525



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

Case No. : WP(C)/269/2023

SHRI CHOTRISE L SANGTAM
S/O LENNY S
R/O KIPHIRE VILLAGE, KIPHIRE NAGALAND

VERSUS

THE STATE OF NAGALAND AND 4 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF
NAGALAND, NAGALAND KOHIMA

2:COMMISSIONER AND SECRETARY
DEPARTMENT OF RURAL DEVELOPMENT
NAGALAND KOHIMA

3:THE DIRECTOR
DEPARTMENT OF RURAL DEVELOPMENT KOHIMA NAGALAND

4:BLOCK DEVELOPMENT OFFICER
R D BLOCK KIPHIRE
NAGALAND

5:SHRI THINKLI K SANGTAM
MULTI TASK STAFF
UNDER THE ESTABLISHMENT OF RURAL DEVELOPMENT OFFICER
RD. BLOCK KIPHIRE
NAGALAN

Advocate for the Petitioner : TOSHITEMJEN PONGENER,

Advocate for the Respondent : GOVT ADV NL,

Linked Case : I.A.(Civil)/133/2024

SHRI THINKLI SANGTAM
MULTI TASK STAFF
UNDER RURAL ESTABLISHMENT OF RURAL DEVELOPMENT
OFFICER
RD BLOCK KIPHIRE
NAGALAND

VERSUS

THE STATE OF NAGALAND AND 4 ORS
REPRESENTED BY THE CHIEF SECRETARY
NAGALAND KOHIMA

2:COMMISSIONER AND SECRETARY DEPT.
RURAL DEVELOPMENT
NAGALAND KOHIMA

3:THE DIRECTOR
DEPT. OF RURAL DEVELOPMENT
NAGALAND KOHIMA

4:BLOCK DEVELOPMENT OFFICER
R D BLOCK
KIPHIRE
NAGALAND

5:SHRI CHOTRISE L. SANGTAM
S/O LENNY S
R/O KIPHIRE VILLAGE
KIPHIRE
NAGALAND

Advocate for : PFOSEKHO PFOTTE
Advocate for : GOVT ADV NL appearing for THE STATE OF NAGALAND
AND 4 ORS

**BEFORE
HON'BLE MRS. JUSTICE YARENJUNGLA LONGKUMER**

Advocates

For the Petitioner : Mr. Toshitemjen Pongener
For the State Respondents : Mr. Mosemsa Longkumer (GA)
For the Respondent No. 5 : Mr. Pfosekho Pfotte

Date of Hearing : 03.11.2025
Date of Judgment : 03.11.2025

J U D G M E N T & O R D E R (O R A L)

Heard learned counsel for the petitioner, Mr. Toshitemjen Pongener as well as Mr. Mosemsa Longkumer, learned Government Advocate appearing for the State respondents. Also heard Mr. Pfosekho Pfotte, learned counsel appearing for the respondent no. 5 (R-5).

2. The petitioner, by filing this writ petition under Article 226 of the Constitution of India has challenged the appointment of the R-5 as MTS under the establishment of the Rural Development Officer, Rural Development, Kiphire, Nagaland. The petitioner is also aggrieved by his non-appointment on the basis of landownership against the said post.

3. The contention of the petitioner in the present writ petition is that in the year 2010, the petitioner's father had donated the plot of land for the construction of Office of the Rural Development Block, Kiphire, Nagaland. It is also stated that at the time of donating the land, the landowner and the Rural Development Department, Government of Nagaland had agreed orally for appointment of a Grade-IV post and during that time the Department was asked to ratify/verify the real owner of the land and had written a Letter dated 09.06.2023 to the Deputy Commissioner, Kiphire to verify and to issue landownership certificate to the father of the petitioner.

The Extra Assistant Commissioner, Kiphire, Nagaland vide Letter dated 19.06.2023 had written a Letter to the Department of Rural Development directing them to produce the Letter of Agreement signed between the Department and the land donor.

4. In pursuance thereof, the Department and the land donor executed an agreement between the parties wherein in the said agreement the concerned Department had agreed to provide Grade-IV appointment to the land donor as and when vacancy arises. The Sub-Divisional Officer (Civil), Office of the Deputy Commissioner, Kiphire, Nagaland also certified that the petitioner's father is the donor of the land vide Letter dated 09.08.2023.

5. Upon learning that one Grade-IV post of MTS had fallen vacant under the establishment of BDO, Kiphire on the retirement one Shri Tsepongse Sangtam, the petitioner being the landowner approached the concerned Department for appointment on the basis of landownership by submitting all required documents and accordingly, the BDO, Kiphire forwarded the same to the Director, Rural Development, Nagaland, Kohima by Letter dated 16.05.2023.

6. The petitioner also submitted an application to the Department for appointment on the basis of landownership and the same was forwarded to the Director, Department of Rural Development by the BDO, Kiphire. However, instead of appointing the petitioner on the basis of landownership, the Department of Rural Development appointed the R-5 against the existing vacancy in violation of the policy which is followed in the State of Nagaland regarding Grade-IV appointments.

7. It is stated that the R-5 has been appointed in violation of the Office Memorandum No. AR-3/GEN-174/2007(Pt) dated 03.03.2022 which mandated that Group-D posts such as Chowkidar, Mali and Peon are filled up by landowners or on compassionate ground in the District, Sub-Division or Village level and, therefore, the condition of advertisement is dispensed with whenever such difficulties are faced by Department. The learned counsel for the petitioner, therefore, submits that only in cases of landowner appointment or compassionate ground appointment the condition of advertisement is dispensed with. And, therefore, the R-5 could not have been appointed without due advertisement.

8. The petitioner also states that none of the family members of the petitioner had been appointed on the basis of landownership. It is also stated that the case of the petitioner had been examined and recommended by the District Administration of Kiphire and as such the case of the petitioner falls under the purview of the landownership policy vide Notification No. LR/6-181/LIT/2015 dated 05.03.2018. The learned counsel for the petitioner, therefore, prays that the appointment of the R-5 as well as the Administrative Approval dated 13.11.2023 issued by the Deputy Secretary to the Government of Nagaland, Department of Rural Development be quashed and set aside and also prays that the petitioner may be appointed on the basis of landownership in the said vacancy of MTS in the Office of the BDO, Kiphire.

9. The learned counsel for the petitioner has relied on the case of **Smt. Imsunaro Versus The State of Nagaland and 6 Others** in a Judgment passed by a Coordinate Bench of this Court in **WP(C)/132/2023** wherein the Court

by Judgment dated 27.08.2025 had quashed and set aside the appointment of the private respondent, who had been appointed without following due process of law and the Court had directed the respondent authorities to fill up the vacant post of MTS by carrying out fresh selection procedures. It was also held that the claim of the petitioner for appointment on landownership basis shall be subject to scrutiny in terms of the Notification dated 16.08.2018.

10. Learned Government Advocate, Mr. Mosemsa Longkumer submitting on basis of the affidavit-in-opposition submits that the BDO, Kiphire does not have the authority to enter into an agreement on behalf of the Government of Nagaland. It is submitted that Section 12 of the Nagaland Rules for Executive Business, 2020 categorically states the list of Officers who can sign orders or instruments on behalf of the Government. The BDO, Kiphire was never authorized by the Government to enter into such a agreement and as such the agreement signed by the BDO, Kiphire is not valid. Moreover, it is stated that the father of the petitioner, Shri. S. Lenny Sangtam has already been appointed on landownership basis to the post of Peon under the establishment of the BDO, Kiphire vide Order dated 26.08.1997 and he is still in service. And as such, the question of appointment of the petitioner on landownership basis does not arise as it would be in violation of Section 3(c) of the Notification dated 05.03.2018. The learned Government Advocate, therefore, submits that the petitioner does not have *locus standi* to claim for appointment as a landowner nor to challenge the appointment of the R-5. The learned Government Advocate also submits that the Notification dated 05.03.2018 at Paragraph-1(a) has also laid down that any department which has entered into any agreement

with the landowners in deviation of the laid down policy on or after 26.07.2005 shall be treated as null and void. Paragraph-1(a) of the Notification dated 05.03.2018 being relevant is reproduced hereinunder:

"1(a) It has been laid down vide Notification No. LR/4-3/KOH/2003 dated 26.07.2005 that no land shall be acquired free of cost and all land shall be acquired on payment of full compensation as determined by law. No further condition for employment in service or contractual works should be entertained. Therefore, in case any Department has entered into any agreement with the landowners in deviation of the laid policy on or after 26.07.2005, such agreement shall be treated as null and void. The Department shall take action accordingly to nullify such agreement."

11. The alleged agreement executed between the Rural Development Department and the petitioner's father was executed in the year 2023 for the land which was alleged to have been donated in the year 2010 and, therefore, the said agreement is in violation of the condition laid down in Clause 1(a) of the Notification dated 05.03.2018 and has to be treated as null and void. In view of the above submissions the learned Government Advocate submits that the petitioner has not made out a case for the interference of this Court and the petition should be dismissed.

12. Learned counsel, Mr. Pfosekho Pfotte appearing for the R-5 has also adopted the submissions made by the learned Government Advocate and submits that the petitioner's father has already availed the opportunity of being appointed on landownership as per the policy of the Government vide Notification dated 05.03.2018. He has also submitted that the petitioner, therefore, has no *locus* to challenge the appointment of R-5 as he has not been able to establish his right as a landowner supported by a valid agreement to provide employment.

13. This Court has considered the submissions of the learned counsels

for the parties and has perused the pleadings and the documents annexed thereto.

14. A perusal of the alleged land donation agreement dated 26.06.2023 reveals that an agreement had been made in the year 1974 between the grandfather of the petitioner and the Department of Rural Development. It is stated in the agreement that service benefits shall be extended to the donor referred to as Shri S. Lenny Sangtam. It is also reflected that the Department of Rural Development agrees to provide Grade-IV opportunity to the donor as and when vacancy arises. The Notification dated 05.03.2018 has specifically laid down that no land shall be acquired free of cost and all land shall be acquired on payment of full compensation. It is also laid down that no further condition for employment in service or contractual works should be entertained. And that any agreement in deviation of this policy after 26.07.2005 should be treated as null and void. Therefore, on the face of the records, the land donation agreement dated 26.06.2023 is invalid being in violation of Notification dated 05.03.2018 and has to be treated as null and void.

15. In respect of the oral agreement made in the year 1974, between the petitioner's grandfather and the Department of Rural Development, which is not denied by the State respondents, the petitioner's father has already been appointed by an Order dated 26.08.1997. He has been in the establishment of the Rural Development Block, Kiphire and he is still continuing in service.

16. In view of the above, it is seen that as the landowner has already been appointed; therefore, the candidature of the petitioner on the basis

of landownership could not have been considered in view of Clause 3(c) of the Notification dated 05.03.2018, which provides that employment to the landowner in perpetuity is not the policy of the Government. The employment of the landowner is limited only to the person first appointed as landowner in Government service and does not entitle his descendants for further employment on his retirement from service. The case referred by the petitioner can be differentiated from the present case in as much as in WP(C)/132/2023, the official respondents had not made any averments in the affidavit as to whether any member of the petitioner's family had been appointed on landownership basis. In the present case, it is the specific averment of the Government respondents supported by the Appointment Order of the petitioner's father that the appointment on the basis of landownership has already been provided to the petitioner's father.

17. In view of the observations made above, this Court is of the view that the petitioner has not been able to make out a case for the interference of this Court. The petitioner also has no *locus standi* to challenge the appointment of the R-5 as he has failed to establish his right to appointment as a landowner. The petition stands dismissed. No order as to cost.

18. The Interim Order dated 21.11.2023 stands vacated.

JUDGE

Comparing Assistant