GAHC020001862026

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

Case No. : WP(C)/34/2026

SMTI. CHULILA PFITHU
D/O SIPIRU PFITHU, AGE ABOUT 34 YEARS, R/O HUTSU VILLAGE, MELURI DISTRICT, NAGALAND

VERSUS

THE STATE OF NAGALAND AND 4 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF NAGALAND, KOHIMA 2:THE COMMISSIONER AND SECRETARY

DEPARTMENT OF HEALTH AND FAMILY WELFARE
NAGALAND
KOHIMA

3:THE PRINCIPAL DIRECTOR

DIRECTORATE OF HEALTH AND FAMILY WELFARE
NAGALAND
KOHIMA

4:THE CHIEF MEDICAL OFFICER

PHEK DISTRICT
PHEK
NAGALAND.

5:SHRI WHICHIRU PFITHU
S/O SIPICHU
C/O PRIMARY HEALTH CENTER
HUTSU
MELURI
NAGALAN

Advocate for the Petitioner : A. SOPHIE, RADE KEZO,PHENIANG

LUSHING,MEDOKERHE

Advocate for the Respondent : GOVT ADV NL,

BEFORE
HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 08.10.2026

Heard Mr. A. Sophie, learned counsel for the petitioner. Also heard Mr. M. Longkumer, learned Government Advocate for the State respondents Nos. 1, 2, 3 and 4 and Mr. Limawapang, learned counsel appearing for the respondents No. 5.

2. The petitioner, by way of instituting the present writ petition, has presented a challenge to an order dated 09.12.2024, appointing respondent No.5, herein, as Multitasking Staff at PHC Hutsu, under the establishment of the Chief Medical Officer, Phek, by considering him to be a descendant of a land donor. The petitioner has further prayed for a direction upon the respondent authorities for consideration of her case as being an heir of a land donor, for appointment against a Grade-IV post.

3. The facts in brief requisite for adjudication of the issue arising in the present writ petition are noticed as under:

The petitioner has contended that the Primary Health Centre, Hutsu, was set up on a plot of land donated to the Department of Health & Family Welfare by the land owners of five villages. The father of the petitioner was one of the land donors of the land, wherein, the said medical institution is presently

established.

On a vacancy arising in the post of Multi Tasking Staff, pursuant to the retirement of one Shri Sipichu, the petitioner submitted her application for consideration of her case for appointment against the said post along with relevant documents to establish her claim of being an heir of a land donor.

4. It is projected that the concerned authorities had submitted no-objection certificates for the appointment of the petitioner against the said post. However, on the matter being referred to the Government, the Government proceeded to grant approval for the appointment of respondent No. 5 against the said post. Accordingly, basing on the said approval as granted on 19.11.2024, the respondent No. 5 was appointed as Multitasking Staff at the said Public Health Centre vide order dated 09.12.2024.

Being aggrieved, the petitioner has instituted the present writ petition.

5. Mr. A. Sophie, learned counsel for the petitioner, reiterating the facts noticed, hereinabove, has submitted that the petitioner was entitled to have her case considered for appointment against the post of MTS worker becoming vacant on the retirement of Shri Sipichu. He submits that the application submitted by the petitioner was complete in all respects and, accordingly, the case of the petitioner was required to be considered on its merits for appointment against the said vacant post. However, he submits that the respondent authorities, in a most illegal manner, proceeded to consider the case of respondent No. 5, and he was appointed against the said vacant post vide order dated 09.12.2024.

6. Mr. Sophie further submits that respondent No. 5 was so appointed by considering him to be the heir of a land donor. However, the post against which he was appointed was held by his father, Shri Whichiru Pfithu, who was also appointed as a Grade-IV employee by considering him to be a land donor or heir of the land donor. It is submitted that the family of respondent No. 5, having already been granted an appointment in lieu of the land donation made, in terms of the Office Memorandum dated 16.08.2018, more particularly, Clause 3(b) thereof, such facility to a land donor cannot be permitted to be extended in perpetuity.

7. The learned counsel for the petitioner has further submitted that the appointment of respondent No. 5 was not preceded by any selection process and he was so appointed only by deeming him to be an heir of a land donor.

8. The learned counsel for the petitioner has further submitted that the respondents, in the affidavits filed by them, have contended that the petitioner, having married a non-Naga, had lost all her hereditary rights and, accordingly, would not be entitled to claim appointment as being an heir of a land donor.

9. Learned counsel for the petitioner submits that the said projection is clearly perverse, inasmuch as, the Village authorities as well as other competent authorities had submitted their respective no-objection certificates towards the appointment of the petitioner, and merely on the ground that the petitioner had married a non-Naga, her claim for appointment as the heir of a land donor would not stand extinguished.

10. Per contra, Mr. M. Longkumer, learned Government

Advocate appearing for respondent Nos.1 to 4, while admitting that respondent No. 5 was appointed against the vacancy caused on account of the incumbent therein, Shri Sipichu, proceeding on superannuation, has submitted that the petitioner's claim for appointment as an heir of a land donor was not considered as she had married a non-Naga and, accordingly, she cannot claim the hereditary right as part of the Pochury Naga tribe.

11. Mr. Longkumer, further submits that the candidature of respondent No.5, being found to be more suitable, and upon approval being granted for his appointment, against the said vacant post, by the Government, the respondent No.5, was appointed as MTS worker at PHC Hutsu. Accordingly, he submits that in the facts and circumstances of the case, the appointment of respondent No. 5 would not mandate any interference.

12. Mr. Limawapang, learned counsel for respondent No. 5, by reiterating the contentions made by the learned Government Advocate appearing for respondent Nos. 1 to 4, has submitted that the claim of the petitioner for being considered as a heir of a landowner for appointment against a Grade IV post being disputed on account of her subsequent marriage to a non-Naga, the claim of the petitioner would not mandate a consideration. He submits that the respondent authorities on finding the petitioner to have satisfied the requisite eligibility criteria for being considered for appointment against a Grade IV post, in terms of the policy in vogue, for extending such appointment to heirs of landowners, and/or their heirs, the appointment effected in respect of the respondent No. 5, vide the order dated 09.12.2024, would not mandate an interference from this Court.

13. I have heard the learned counsel for the parties and perused the materials available on record.

14. This Court, at the outset, would consider the challenge made by the petitioner in the present writ petition to the appointment of the respondent No. 5 against as MTS worker against a vacant post available at PHC Hutsu, Phek, in pursuance to the retirement of the incumbent, therein.

15. It is to be noted that the incumbent holding the said post was Shri. Sipichu, who is the father of the respondent No. 5. Admittedly, the family of the respondent No. 5 had donated land for setting up of the said medical institution, and from the materials brought on record, it is evident that the father of the respondent No. 5 was appointed against a Grade IV post by considering him to be a landowner/heir of a landowner.

16. With regard to the manner in which the appointments to land donors and/or their heirs is to be so regulated, the Government of Nagaland in the Land Revenue Department had issued a Office Memorandum dated 16.08.2018.

17. In terms of the provisions of Clause 3(b) of the said Office Memorandum, it is provided that the policy of the Government to provide employment or other facility to land donors, would not be a benefit which is to be extended in perpetuity.

18. It is further stipulates that such benefit, if permitted by a verifiable and valid agreement, is to be limited to the person first appointed as landowner in Government service and does not entitle his descendants for further employment or other facility on his retirement from service and/or on vacation of the post held by him.

It further provides that after the appointed landowner retires, or vacates the post, the vacancy is to be filled up through an open advertisement in accordance with the existing Government policy giving equal opportunity to all applicants.

19. Applying the provisions of the Office Memorandum dated 16.08.2018, to the facts of this case, this Court finds that the father of the petitioner already having been extended with an appointment against a Grade IV post, by considering him to be a landowner/heir of a land donor, further appointment of his family members, including the respondent No. 5, was not permissible. Accordingly, the appointment effected in respect of the respondent No.5 vide the order dated 09.12.2024, admittedly against the post vacated by his father on his superannuation, this Court is of the considered view that the said appointment being in the teeth of the policy as set out in the Office Memorandum dated 16.08.2018, would mandate an interference from this Court.

20. Accordingly, the appointment of the respondent No.5, against the post of Multi-Tasking Staff effected vide the order dated 09.12.2024, along with the approval granted for the same by the Government vide communication dated 19.11.2024 stands set aside.

21. Having interfered with the appointment of the respondent No. 5, this Court would now examine the claim made by the petitioner for her appointment. The petitioner in the present writ petition has brought on record materials to demonstrate that she was a heir of a land donor and accordingly, she was entitled to an appointment against a Grade IV post becoming vacant in the establishment which was set up on the land donated by her

predecessors.

22. From the affidavit filed by the State respondents, this Court finds that a inquiry was also made in the matter to verify and ascertain the veracity of the claims made by the petitioner, and on such verification, nothing adverse had come on record against the petitioner with regard to the claim made by her. However, the claim of the petitioner was not further considered only on the ground that she had married a non-Naga and, accordingly, would not be entitled to any hereditary rights in terms of the customs of her tribe.

23. This Court finds from the materials brought on record, that the claim of the petitioner for being appointment against the post, in question, was supported by the concerned Village authorities as well as the departmental authorities, accordingly, only on the ground that the petitioner had married to a non-Naga, her such claim cannot be held to have been extinguished. Further, the respondents have not brought on record any material to demonstrate that only on account of marrying a non-Naga, the case of the petitioner was not permissible to be so considered. More so, when such claim of the petitioner is found to have the support of the village authorities.

24. In view of the above position coming on record and this Court having found that the case of the petitioner was not given a due and proper consideration, this Court directs the petitioner to submit a representation, within a period of 15 (fifteen) days from today, before the Secretary to the Government of Nagaland, Health & Family Welfare Department, staking a claim for being considered for appointment against the vacant post of MTS worker now

available in the Public Health Centre, Hutsu. The petitioner, in her said representation, shall enclose all relevant documents to establish her such claim.

25. The Secretary to the Government of Nagaland, Department of Health and Family Welfare, on receipt of such representation from the petitioner, shall consider the same in accordance with law, after causing a verification into the contentions made by the petitioner in the said representation. On such consideration being made, the Secretary to the Government of Nagaland, Department of Health and Family Welfare, shall dispose of the claim the representation of the petitioner by way of issuing a speaking order, within a period of 03 (three) months from the date of receipt of the representation, along with a certified, copy of this order, from the petitioner.

26. It is further provided that, in the event, the claim of the petitioner for being considered for appointment against a Grade IV post by reckoning that she is a heir of a land donor, is found to be not sustainable, the post in question, falling vacant on retirement of Sipichu, shall be filled up by instituting a due process of selection giving an opportunity to all eligible persons to apply against the same and to have their case fairly considered by the Committee to be so constituted in the matter.

27. At this stage, this Court would consider the submission made by the learned counsel for the respondent No. 5 that the respondent No. 5 be permitted to continue in his services till the process as involved in terms of the directions passed by this Court herein above is concluded.

28. The said prayer has been considered. This Court having

interfered with the appointment of the respondent No.5 effected vide the order dated 09.12.2024, there being no candidate as on date to occupy the said post, this Court directs the respondent authorities to allow the respondent No.5, to continue in his services, however, on ad hoc basis, till the process as required to be initiated, towards compliance of the directions passed, hereinabove, is taken to its logical conclusion. It is further clarified that no right shall accrue to the respondent no.5, on account of the direction passed by this Court, permitting the Respondent no.5 to continue in his services on Ad-hoc basis in the *interregnum*.

29. With the above observations and directions, the present writ petition stands disposed of.

Sd/-

JUDGE

Comparing Assistant