GAHC020002822025 2026:GAU-NL:569

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

Case No. : WP(C)/92/2025

SHRI H. KIYEKHE SUMI
S/O HENIVI SUMI,
R/O H/NO 20,
NIHOTO VILLAGE,
PIN 797103, NIULAND, NAGALAND

VERSUS

THE STATE OF NAGALAND AND 5 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT
OF NAGALAND, KOHIMA, NAGALAND

2:THE COMMISSIONER AND SECRETARY
GOVT. OF NAGALAND
DIRECTORATE OF SCHOOL EDUCATION AND SCERT
NAGALAND
KOHIMA 797001

3:THE PRINCIPAL DIRECTOR
DEPARTMENT OF SCHOOL EDUCATION AND SCERT
GOVT. OF NAGALAND
NAGALAND
KOHIMA
PIN 797001

4:THE DISTRICT EDUCATION OFFICER
DIMAPUR
NAGALAND

5:THE DEPUTY COMMISSIONER
NUILAND
NAGALAND
PIN 798621

6:SHRI ANGUKAVI
R/O KUHUBOTO
C/O GOVERNMENT HIGH SCHOOL
NIHOTO VILLAGE
NIULAND DISTRICT
NAGALAN

Advocate for the Petitioner : HISINLO HIMB, PHILIP LORIN,LELIMTHONG P YIMCHUNGER

Advocate for the Respondent : GOVT ADV NL,

BEFORE
HON'BLE MRS. JUSTICE YARENJUNGLA LONGKUMER
ORDER

Date : 27.10.2026

1. By filing the instant writ petition under Article 226 of the Constitution of India, the Petitioner has prayed for consideration of his case for appointment to a Grade-IV post as Multitasking Staff (MTS), under the Government High School, Nihoto Village, Niuland on the basis of landownership. The Petitioner has also impugned the appointment order No. ED/EST/GR-IV/DEO-DMP/2022, dated 26.04.2023, by which the Respondent No. 6 (R-6) was appointed as MTS at the Government High School, Nihoto Village, Niuland.

2. Heard learned counsel for the Petitioner, Mr. Hisinlo Himb. Also heard learned Government Advocate, Mr. Mosemsa Longkumer, appearing for the State Respondent Nos. 1 to 5.

3. In respect of R-6, steps have been taken by the Petitioner, but the notice could not be served, and accordingly this Court by order dated 13.03.2026 granted permission to the Petitioner to serve notice upon the R-6 by dasti. Thereafter the Petitioner personally went to the residence of

R-6 on 13.04.2026 and served the notice. The Petitioner has also filed a compliance affidavit with regard to the service by dasti mode on the R-6 on 07.05.2026. By order dated 11.05.2026 this Court had observed that the service on R-6 is deemed to be complete. The matter was again listed on 25.05.2026, 29.05.2026, 26.06.2026, 27.07.2026, 11.08.2026, 01.09.2026, and 03.09.2026. However, none appeared on behalf of R-6 on those dates. Today also when the matter is taken up for hearing, R-6 is not represented.

4. The facts of the case as projected by the Petitioner in the present writ petition are that he is a nephew of one Dr. P. Nihoto Chishi, who is the founder of Nihoto Village under Niuland district in Nagaland. The Petitioner's uncle, i.e., Dr. P. Nihoto Chishi donated his plot of land to the Government of Nagaland for establishing the Government High School (GHS) at Nihoto Village under Niuland district. None of the family members of the land donor have availed appointment on landownership basis till date.

5. It is stated that the Petitioner's father was also appointed in the year 1984 as Chowkidar at the GHS, Nihoto Village. However, the appointment was made as a general category and not on the basis of landownership. The Petitioner's father has since retired on 31.10.2019.

6. After the retirement of the Petitioner's father, the Petitioner applied for appointment against the post vacated by his father by submitting his application dated 10.05.2023 which was forwarded by the Headmistress, GHS, Nihoto Village to the Principal Director, Department of School

Education, Nagaland. However, the Petitioner came to learn that the R-6 was appointed to the vacant post of MTS at GHS, Nihoto Village against the vacancy created by the retirement of the Petitioner's father.

7. It is further stated in the writ petition that upon learning about the appointment of R-6, the Nihoto Village Council vide letter dated 12.05.2023 wrote to the Principal Director, Department of School Education, Nagaland praying for termination/cancellation of the appointment of R-6. The aforesaid letter dated 12.05.2023 was also served on the Chief Secretary, Government of Nagaland informing about the discrepancies in the appointment of R-6, who was not a landowner in the establishment of the GHS, Nihoto Village.

8. On 29.08.2024, the Sub-Divisional Officer (Civil), Kuhuboto, Niuland was deputed to conduct a spot verification to ascertain the real landowner of the GHS, Nihoto Village and after verification, the SDO(C), Kuhuboto, Niuland vide letter dated 29.08.2024 forwarded his verification report to the Deputy Commissioner, Niuland with a remark that the GHS, Niuland is constructed on the land which was donated by Late Dr. P. Nihoto Chishi and also stating that the recommendation of the Petitioner is a unanimous resolution of the Village Council.

9. After receiving the verification report, the Deputy Commissioner, Niuland, Nagaland forwarded the matter to the Principal Director, Department of School Education vide letter dated 03.09.2021 with a report that the Petitioner is the son of Shri Henivi Sema and the grandson of Dr. P. Nihoto Chishi, who was the original land donor of the GHS, Nihoto

Village. The said report was further forwarded to the Commissioner & Secretary, Government of Nagaland, Department of School Education.

10. Thereafter, the Deputy Secretary to the Government of Nagaland vide letter dated 21.10.2024, wrote a letter to the Principal Director, Department of School Education to conduct a verification for the second time regarding landownership of the GHS, Nihoto Village. Upon receiving the letter, the Principal Director vide letter dated 12.12.2024 wrote to the Deputy Commissioner, Niuland for another verification of the landownership. On completion of the second verification, the SDO(C), Kuhuboto, Niuland vide letter dated 24.01.2025, forwarded his report with a remark that Shri Henivi Sema, (Retired MTS) was not appointed on the basis of landownership at GHS, Nihoto Village.

11. Further, the District Education Officer, Dimapur, Nagaland, vide letter dated 24.01.2025 also forwarded his report to the Deputy Commissioner, Niuland stating that Shri Henivi Sema, MTS, retired on 31.10.2019 and as per his appointment order there is no mention of landownership in the order. Upon receiving the report from the SDO(C), Kuhuboto, Niuland and the District Education Officer, Dimapur, the Deputy Commissioner, vide letter dated 03.02.2025 forwarded the verification report to the Principal Director, Department of School Education, Nagaland. Thereafter, the report was forwarded to the Commissioner& Secretary, Government of Nagaland, Department of School Education.

12. Subsequently, by a letter dated 11.03.2025, the Under Secretary to the Government of Nagaland, Department of School Education had

directed the Principal Director, Department of School Education, Nagaland to transfer the R-6 to another school where there is requirement for MTS and additionally the Principal Director was requested to propose the appointment of the candidate recommended by the Village Council of Nihoto Village against any available vacancy under Dimapur/Niuland. However, according to the Petitioner, no steps have been taken by the Principal Director, School Education/R-3 pursuant to the letter dated 11.03.2025. Being aggrieved, the Petitioner has come before this Court.

13. Learned counsel for the Petitioner has submitted that his appointment has been duly recommended by the original land donor, Dr. P. Nihoto Chishi by a certificate dated 10.05.2023 wherein he has requested the concerned authorities to appoint the Petitioner against a clear vacancy of Chowkidar at the GHS, Nihoto Village. The said Dr. P. Nihoto Chishi has also stated that the Petitioner is the landowner's recommendation. In addition to the certificate of the original land donor, Dr. P. Nihoto Chishi issued on 10.05.2023, the Nihoto Village Council has also issued similar certificate dated 10.05.2023 recommending for appointment of the Petitioner against the retirement vacancy on the basis of the land donor's recommendation.

14. The learned counsel for the Petitioner has also drawn the attention of this Court to an additional affidavit filed on behalf of the Petitioner on 23.06.2026, wherein a No Objection Certificate (NOC) has been enclosed signed by the Head GB of Nihoto Village, who is the brother of the land donor, late Dr. P. Nihoto Chishi. The said NOC also certifies that the family members of late Dr. P. Nihoto Chishi have no objection if a Grade-IV post

is given to the Petitioner and it is further declared that they will not make any claims against any Grade-IV post in the long run if the appointment of the Petitioner is considered.

15. Learned counsel submits that even if the Petitioner is not the land donor, his candidature has been recommended by the land donor and after his demise, the family members of the land donor have also recommended his appointment.

16. The learned counsel further submits that R-6 has been appointed through back-door without going through a selection process and, therefore, the appointment of R- 6 is liable to be quashed and set aside by this Court.

17. The Petitioner further submits that the only objection taken by the State Respondents in the instant writ petition by filing their counter affidavit is that the Petitioner is not a land donor in terms of the notification dated 05.03.2018. He submits that in the absence of any candidates from the land donors' immediate family, he is the only eligible person to be considered on the basis of landownership, duly recommended by the original landowner as well as by his brother, who is the present Head GB of the Nihoto Village and also by the Nihoto Village Council. It is, therefore, prayed that his case may be considered for appointment on the basis of the standing notification No. LR/6-181/LIT/2015 dated 05.03.2018.

18. The learned Government Advocate, Mr. Mosemsa Longkumer, relying on the affidavit-in-opposition filed by Respondent Nos. 1 to 5, submits

that the writ Petitioner has not established the fundamental fact that he is the *bona fide* landowner of the land where the GHS, Nihoto Village, is established, and therefore the Petitioner has failed to demonstrate that he has any legal enforceable right to claim employment on the basis of landownership.

19. It is also submitted that the State Government by notification No. LR/6-181/LIT/2015 dated 05.03.2018, has adopted a policy with regard to appointment to Grade-IV posts under the Government of Nagaland on landownership basis. The benefit of employment of landownership is available only to the actual landowner as established by a valid agreement, and that too limited only to the first person appointed as a landowner in the government service and does not entitle his descendants for further employment.

20. He, therefore, submits that the Petitioner has no *locus standi* to file the instant writ petition and the claim of the Petitioner for appointment on landownership basis is wholly unfounded.

21. Learned Government Advocate further submits that the affidavit of the SDO(C), Kuhuboto, Niuland has verified the status of the landowner on two occasions and on both occasions it has been categorically established that the landowner is Dr. P. Nihoto Chishi.

22. Learned Government Advocate, by relying on the judgment dated 27.02.2020 passed in WP(C)/254/2018 by a Coordinate Bench of this Court, has submitted that in the cited case, the Court had held that a perusal of the notification dated 05.03.2018 would show that the land

donor cannot recommend or nominate for appointment on the basis of landownership from outside the family of the land donor, and that the contention raised that the respondent no. 4 therein was appointed on the basis of recommendation made by the grandfather of the writ petitioner for employment on the basis of landownership cannot be accepted as the correct mode of appointment as prescribed in the notification dated 05.03.2018. He, therefore, submits that even in the instant case, the land donor could not have recommended or nominated the Petitioner for appointment on the basis of landownership.

23. With regard to the appointment of the private R-6, the learned Government Advocate has submitted that the Department of School Education had processed the file in a proper manner after observing all the codal formalities for employment in public service and that consequent upon an approval letter from the Government of Nagaland dated 17.01.2023, the R-6 was appointed by the notification dated 26.04.2023.

24. The Respondents, by filing another additional affidavit on 18.09.2026, have contended that the R-6 was appointed against the vacant post caused due to the retirement of the Petitioner's father at GHS, Nihoto village. However, since the Nihoto Village Authority refused to accept his joining report, the private Respondent is now presently attached to the office of the District Education Officer, Dimapur. Since the vacancy created by the retirement of the Petitioner's father has been filled up by the R-6, there is no vacancy at the GHS, Nihoto Village.

25. Learned Government Advocate, by filing another affidavit on

24.06.2026, has also brought to the notice of the Court that with regard to the letter dated 11.03.2025 written by the Under Secretary to the Government of Nagaland, Department of School Education, before the Director of School Education could initiate the process for the transfer of the R-6 and the consideration of the Petitioner's appointment, the present writ petition was filed before this Court.

26. In view of the above submissions, learned Government Advocate submits that since the benefit of employment on landownership basis can be accorded only to the actual landowner in view of the policy of the State Government by notification dated 05.03.2018, the Petitioner is not eligible to claim appointment on landownership basis and, therefore, prays that the writ petition may be dismissed as not maintainable.

27. This Court has duly considered the submissions made by the learned counsel for the parties and also perused the pleadings and the documents relied upon by the parties.

28. There is no dispute that in the State of Nagaland, there is an existing policy with regard to appointment of land donors to Grade-IV post, and the State policy is governed by the terms and conditions as laid down in the notification dated 05.03.2018. In cases where the land is freely donated by the landowner, the landowner is eligible to be appointed to vacant Grade-IV post directly without any selection process and subject to the terms and conditions as laid down in the notification dated 05.03.2018.

29. It appears from the records that the Petitioner is not the original

land donor, as the two verification reports have revealed that one Dr. P. Nihoto Chishi is the original land donor who donated the land for the establishment of the GHS, Nihoto village. However, the Petitioner claims to be the nephew of the original land donor and has also produced the recommendation dated 10.05.2023 of the original land donor for his appointment, as well as the recommendation dated 10.05.2023 of the Nihoto Village Council.

30. This Court has also taken note of the letter dated 11.03.2025, written by the Under Secretary to the Government of Nagaland, Department of School Education, to the Principal Director, School Education, Nagaland. In the said letter dated 11.03.2025, the Government has directed the Principal Director, School Education, to transfer the R-6 to another school where there is a requirement for MTS. Additionally, the Principal Director was also requested to propose the appointment of the Petitioner, who has been recommended by the Nihoto Village Council, against any available vacancy under Dimapur/Niuland. The contents of this letter would go to show that the State Respondents are not averse to the appointment of the Petitioner. However, before steps could be taken in pursuance of this letter dated 11.03.2025, the instant writ petition has been filed. It is also not disputed that no appointment has been made on the basis of landownership at GHS, Nihoto Village.

31. This court has also examined the impugned appointment order of the R-6, dated 26.04.2026. There is nothing on record to show that the said appointment of the R-6 was made by following due process of law. As it is an admitted fact that the R-6 is not a land donor, he cannot be

appointed directly to a Grade-IV post without going through a proper selection process in accordance with applicable rules. The State Respondents, by filing affidavit have also not been able to show that any selection process had been initiated before appointing R-6 as MTS at GHS, Nihoto Village. It is evident, therefore, that the appointment of R-6 has been done in violation of Articles 14 and 16 of the Constitution of India, as other eligible candidates have not been given an opportunity to apply for the said post.

32. Accordingly, the appointment of R-6, vide appointment order No. ED/EST/GR-IV/DEO-DMP/2022 dated 26.04.2023 is quashed and set aside.

33. This writ petition is disposed of with a direction to the Respondents to consider the case of the Petitioner on the basis of landownership in the event that the Petitioner is able to produce a 'No Objection Certificate' and recommendation from the immediate family members and the descendants of the original land donor, Dr. P. Nihoto Chishi, within a period of 4 (four) months from the date of this order. The No Objection Certificate/recommendation of the immediate family member of the original land donor, Dr. P. Nihoto Chishi shall also state that the family of the landowner shall relinquish any rights of appointment on the basis of landownership in future if the writ Petitioner is appointed.

JUDGE

Comparing Assistant