GAHC020007612025

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

Case No. : WP(C)/231/2025

SHRI KELEKHOTO HENRY RHACHU
S/O VISASUL RHACHU,
R/O KIDIMA VILLAGE,
KOHIMA DISTRICT, NAGALAND

VERSUS

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

2:THE COMMISISONER AND SECRETARY
TO THE GOVERNMENT OF NAGALAND
DEPARTMENT OF HEALTH AND FAMILY WELFARE
NAGALAND
KOHIMA

3:THE DIRECTOR
(HoD)
DIRECTORATE OF HEALTH AND FAMLY WELFARE
NAGALAND
KOHIMA

4:THE CHIEF MEDICAL OFFICER
KOHIMA DISTRICT
KOHIMA
NAGALAND

5:SHRI MEDOKHOZO TASE
MEDICAL ATTENDANT
C/O CHIEF MEDICAL OFFICER
KOHIMNA
NAGALAN

Advocate for the Petitioner : A. SOPHIE, PHENIANG LUSHING,MEDOKERHE

Advocate for the Respondent : GOVT ADV NL,

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

ORDER

Date : 06-10-2026

Heard Mr. A. Sophie, learned counsel for the petitioner. Also heard Mr. N. Angami, learned Sr. Government Advocate for the State respondents No. 1, 2, 3 & 4 and Mr. V. Koza, learned counsel for the respondents No. 5.

2. The petitioner, by way of instituting the present writ petition, has assailed the appointment of the respondent No. 5 as Medical Attendant (Grade-IV) at PHC, Kezocha.

3. The petitioner has further prayed for a direction upon the respondent authorities for consideration of his case for appointment against a Grade-IV post by reckoning that he is a heir of a land donor.

4. The petitioner, in the writ petition, has projected that he is the grandson of one Smti. Tenovizole, who had donated land for setting up of the Public Health Centre at Kezocha.

5. The petitioner has projected that the family members of other land donors, who had donated land for setting up of the said medical unit, were extended with appointments against Grade-IV posts by reckoning their such status. However, the petitioner was not extended with the said benefit.

6. It is submitted that neither Smti. Tenovizole nor any of her descendants were appointed against a Grade-IV post by reckoning the land donation made in their respective cases.

7. The petitioner has projected that one Krosuvi Rikha, who was working as a Medical Attendant in the said medical unit, retired on reaching the age of superannuation with effect from 31.03.2024. Accordingly, the petitioner submitted his application for being considered against the said vacancy by reckoning the fact that he was a heir of a land donor.

8. It is projected that the respondent authorities, however, did not consider his case and proceeded to appoint the respondent No. 5 as Medical Attendant against the said vacant post.

9. The petitioner projects that the appointment of the respondent No. 5 as Medical Attendant was not preceded by any process of selection and, accordingly, it is submitted that the said appointment was so effected in clear violation of the provisions of Articles 14 and 16 of the Constitution of India.

10. The respondents have contested the claim of the petitioner and have projected, that land of Tenovizole was acquired by the Government for setting up of the said medical unit and adequate compensation was paid to her in the matter. Accordingly, it is projected that the petitioner cannot claim appointment against a Grade-IV post in terms of the policy holding the field and as contained in the Notification dated 05.03.2018, inasmuch as there was no donation of land by said Tenovizole, but her land was duly acquired by the respondents.

11. The said position is also reiterated by the learned counsel for

the respondent No. 5. The respondents accordingly, urge that no right has accrued to the petitioner to claim appointment by considering him to be a heir of a land donor.

12. The learned counsel for the respondents have further contended that no right having accrued upon the petitioner to claim appointment in terms of the Notification dated 05.03.2018, he would have no locus to assail the appointment effected in respect of the respondent No. 5, herein. Accordingly, it is submitted that the present writ petition would mandate to be dismissed.

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

14. In view of the stand taken by the State respondents, in the present proceedings, as well as it coming on record that the land, in question, was actually acquired from said Tenovizole, the learned counsel for the petitioner has submitted that he would not press for a direction upon the respondent authorities for consideration of his case for appointment against a Grade-IV, as a heir of a land donor.

15. The learned counsel for the petitioner, however, has submitted that the appointment of the respondent No. 5, being so effected without following a due process of selection, the said appointment would mandate an interference from this Court.

16. As the petitioner has already given up his claim for being considered as a heir of a land donor for appointment against a Grade-IV post, the said issue is not being further considered by this Court.

17. This Court would now consider the selection and appointment effected in respect of the respondent No. 5 herein.

18. From the materials brought on record, this Court finds that on a vacancy arising in the post of Medical Attendant at Kezocha PHC on the retirement of Shri Krosuvi Rikha, with effect from 31.03.2024, many persons had submitted applications for consideration of their respective cases for appointment against the said post. The applications so received were compiled by the Principal Director, Directorate of Health and Family Welfare, Nagaland, and forwarded to the Commissioner & Secretary, Government of Nagaland, Department of Health & Family Welfare, for consideration of the same vide communication dated 20.08.2024. From the list of the applicants so referred, this Court finds that, therein, in the remarks column, it was mentioned that the applications so submitted were recommended by governmental authorities as specified, therein. Thereafter, the Government, on examination of the said applications so forwarded to it, vide the said communication dated 20.08.2024, proceeded vide communication dated 20.05.2025, to grant Administrative approval for the appointment of the respondent No. 5, herein, against the said post of Medical Attendant.

19. Consequently, basing on the said Administrative approval granted by the Government, the Director (HOD), Directorate of Health & Family Welfare, Nagaland, Kohima, proceeded vide order dated 26.05.2025, to appoint the respondent No. 5 against the post of Medical Attendant, PHC Kezocha.

20. On a perusal of the materials brought on record, this Court finds that prior to grant of the Administrative approval by the Government for the appointment of the respondent No. 5, against the said post of Medical Attendant, vide communication dated

20.05.2025, no process of selection was undertaken for determining the merit of the candidates in the fray who had submitted their respective applications for recruitment against the said post. This Court further finds that the Administrative approval granted for appointing the respondent No. 5 was not preceded even by issuance of an advertisement inviting applications from all eligible candidates for recruitment against the said post.

21. The respondent No. 5 in his affidavit has not spelt out, the manner in which, he was selected for appointment against the said post. As noticed, hereinabove, the materials brought on record also does not reveal that a due recruitment process was initiated for filling up of the said vacant post of Medical Attendant.

22. Accordingly, this Court finds that a fair and transparent process of selection had not preceded, the appointment of the respondent No.5 against the said post of Medical Attendant, vide issuance of the order dated 26.05.2025.

23. The respondent No. 5, admittedly, not being a landowner and/or a descendant of a landowner or not being so considered for recruitment on compassionate grounds, the post in question, could not have been filled up without initiating a due process of selection, after the post in question was duly advertised.

24. This Court, having not found any such process being undertaken prior to the issuance of the order dated 26.05.2025, is of the considered view that the appointment of the respondent No.5 being so effected without there being a due process of selection conducted prior thereto, the appointment effected in respect of the respondent No. 5, vide the order dated 26.05.2025, would not be

sustainable.

25. The approval granted by the Government for the appointment of the respondent No. 5 vide the communication dated 20.05.2025, would not validate his subsequent appointment effected vide the order dated 25.05.2026, inasmuch as, it has not been demonstrated that the respondent No.5 was selected for such appointment after following a due process of selection after the post, in question, was advertised.

26. In view of the above discussion, this Court is of the considered view that the order dated 26.05.2025, issued by the Director (HOD), Directorate of Health & Family Welfare, Nagaland, Kohima, cannot be sustained and accordingly, the said order dated 26.05.2025, along with the approval granted for effecting such appointment by the Government vide communication dated 20.05.2025, stands set aside.

27. The post of Medical Attendant as available in Kezocha PHC shall now be filled up by the respondents by adopting a due process of recruitment and by considering the cases of all eligible candidates so applying in pursuance to an advertisement now required to be issued.

28. The petitioner as well as the respondent No. 5 would be eligible to submit their respective applications on the advertisement being issued for recruitment against the post, in question.

29. Considering the submission made by the learned counsel for the petitioner that the petitioner, in the meanwhile, may become overaged for recruitment against a Government post, it is provided that in the event, on the advertisement being so issued, the

petitioner has crossed the upper age limit, it will be open to the petitioner to approach the competent authority of the department concerned, by way of submitting a representation, praying for condonation of his such overage. In the event of any such representation being filed by the petitioner, the competent authority of the department shall consider and dispose of the same strictly in accordance with law.

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

Sd/-

JUDGE

Comparing Assistant