

GAHC010027242021



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

Case No. : WA/61/2021

1: STATE OF SIKKIM AND 7 ORS. THROUGH THE CHIEF SECRETARY,
TASHILING SECRETARIAT, GANGTOK, EAST SIKKIM.

2: HOME DEPARTMENT THROUGH THE SECRETARY
GOVT. OF SIKKIM GANGTOK EAST SIKKIM.

3: DEPARTMENT OF PERSONNEL THROUGH THE SECRETARY
GOVT. OF SIKKIM GANGTOK EAST SIKKIM.

4: LAND REVENUE AND DISASTER MANAGEMENT DEPARTMENT
THROUGH THE SECRETARY GOVT. OF SIKKIM GANGTOK EAST SIKKIM.

5: THE DISTRICT COLLECTOR,
EAST DISTRICT GANGTOK.

6: THE DISTRICT COLLECTOR,
SOUTH DISTRICT NAMCHI.

7: THE DISTRICT COLLECTOR,
WEST DISTRICT GYALSHING.

8: THE DISTRICT COLLECTOR,
NORTH DISTRICT MANGAN

VERSUS

1: YOGEN GHATANI AND 20 ORS.
S/O- AMRIT KUMAR, R/O- RHENOCK, EAST SIKKIM.

2: BIBEK TAMANG
S/O- PEMBA TAMANG R/O- RHENOCK EAST SIKKIM.

3: ANUPAMA SUBBA
D/O- ANTHONY SUBBA R/O- PAKYONG EAST SIKKIM

4:TAPAN RAI
S/O- BASANT RAI R/O- DIESEL
POWER HOUSE ROAD GANGTOK EAST SIKKIM.

5:BHAWESH GAZMER
S/O- PRAKASH SINGH GAZMER R/O- TADONG
NEAR COLLEGE AREA GANGTOK EAST SIKKIM.

6:SUSHAN RAI
S/O- LATE BHARAT RAI R/O- JORETHANG BAZAR SOUTH SIKKIM.

7:ENISHA CHETTRI
D/O- BHAKTA CHETTRI R/O- TATHANGCHEN GANGTOK SIKKIM.

8:ABINASH CHETTRI
S/O- BHANU BHAKTA CHETTRI
R/O- TATHANGCHEN GANGTOK EAST SIKKIM.

9:BISWAS CHETTRI
S/O- BHANU BHAKTA CHETTRI
R/O- TATHANGCHEN GANGTOK EAST SIKKIM.

10:SAMIR RAI
S/O- RAJ BAHADUR RAI
R/O- LOWER SICHEY GANGTOK SIKKIM.

11:NORGAIN LEPCHA
S/O- NAMGYAL LEPCHA
R/O- DIESEL POWER HOUSE ROAD GANGTOK EAST SIKKIM.

12:TEJASWI RAHAPAL
S/O- SANJAY SINGH RAHAPAL
R/O- DIESEL POWER HOUSE ROAD GANGTOK SIKKIM.

13:MEENAKSHI GAZMER
D/O- PRAKASH SINGH GAZMER
R/O- NEAR SIKKIM GOVERNMENT COLLEGE TADONG
GANGTOK EAST SIKKIM.

14:LALITA TAMANG
D/O- LATE NAR BAHADUR TAMANG
R/O- TATHANGCHEN GANGTOK EAST SIKKIM.

15:RUDRA TAMANG
S/O- LATE NAR BAHADUR TAMANG
R/O- TATHANGCHEN GANGTOK EAST SIKKIM.

16:YOGESH VERMA

S/O- LATE TEK CHAND VERMA
R/O- NATIONAL HIGHWAY GANGTOK EAST SIKKIM

17:HEM KUMAR PRADHAN
S/O- LATE SAN BAHADUR PRADHAN
R/O- CHUJACHEN EAST SIKKIM.

18:MOHAN LALL RAI
S/O- RAJ LALL RAI
R/O- UPPER BURTUK GANGTOK EAST SIKKIM.

19:NAR BAHADUR GURUNG
S/O- PADAM BAHADUR GURUNG
R/O- DIESEL POWER HOSE ROAD GANGTOK EAST SIKKIM.

20:JOSEPH TAMANG
S/O- LATE BIRDHOJ TAMANG
R/O- DIESEL POWER HOUSE ROAD GANGTOK EAST SIKKIM.

21:NAMGYAL LEPCHA
S/O- WANGDEN LEPCHA
R/O- DIESEL POWER HOUSE ROAD GANGTOK EAST SIKKIM

For the Appellant(s) : Mr. S.S. Dey, Sr. Advocate, assisted by Mr. D.J. Kapil and Mr. Z. Sherpa, Advocates.

For the Respondent(s) : Ms. S. Chakravarty, Advocate.
Ms. P. Sarma, Advocate.

- B E F O R E -
HON'BLE THE CHIEF JUSTICE
HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

28.09.2023

Arguments have been concluded by Mr. S.S. Dey, learned senior counsel representing the appellants.

The respondents' side was called upon to make their submission. Ms. S. Chakravarty, learned counsel states that she is led by Mr. K.N. Choudhury, learned senior counsel, who is not available to argue the matter.

At this stage, Mr. Dey, learned senior counsel representing the appellants pointed out that I.A. (Civil) No.1075/2023 was preferred by the appellants before this Court seeking stay of the impugned judgment dated 20.02.2020 passed by the learned Single Judge of Sikkim High Court in WP(C) No.66/2016 apprehending that inspite of pendency of this writ appeal, questioning the legality and validity of the aforesaid judgment, the respondents herein may press for contempt proceedings against the State officials. Mr. Dey submits that the a contempt petition has been filed before the Hon'ble Single Bench of the Sikkim High Court, wherein the respondents herein are pressing for compliance of the order passed by the learned Single Judge and the next date fixed in that proceeding is 19.10.2023. He thus urges that on the one hand, the arguments on behalf of the respondents are being deferred on account of absence of the learned senior counsel for the respondents and, at the same time, the respondents are trying to prosecute the State officials for contempt. He thus prays that it is a fit case warranting stay on the impugned judgment of the learned Single Judge.

Having considered the submissions advanced by Mr. Dey, learned senior counsel for the appellants and after taking into account the prevailing facts and circumstances, we feel that as the hearing of this appeal, wherein the judgment rendered by the learned Single Judge is assailed, has commenced, it is not proper for the respondents herein to persist upon the contempt application seeking compliance of the impugned judgment. Thus, we give liberty to the learned counsel for the appellants to place a copy of this order before the Hon'ble Single Judge of the Sikkim High Court with a prayer to defer the contempt proceedings till final disposal of the writ appeal.

List on **07.11.2023** for arguments on behalf of the respondents.

Copy of this order be placed before the learned Single Judge hearing the contempt proceedings.

JUDGE

CHIEF JUSTICE

Comparing Assistant