

GAHC020004592024

2026:GAU-NL:138



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

Case No. : WP(C)/164/2024

SHRI H. LONGNGO KONYAK
S/O SHRI HONGYING LKONYAK
PERMANENT R/O NGANGCHING VILLAGE
MON, NAGALAND

VERSUS

THE STATE OF NAGALAND AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVT. OF NAGALAND
DEPT. OF AGRICULTURE
NAGALAND KOHIMA

2:THE DIRECTOR
DIRECTORATE OF AGRICULTURE
GOVT. LOF NAGALAND
KOHIMA NAGALAND

3:THE SUB-DIVISIONAL AGRI OFFICER
SDAO OFFICE
ABOI
MON NAGALAND

4:THE DEPUTY COMMISSIONER
MON NAGALAND

5:SHRI MOBA E
C/O SUB-DIVISIONAL AGRI OFFICER (SDAO)
NAGALAN

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH

For the Petitioner(s) : Mr. Pakinrichapbo, Advocate
For the Respondent(s) : Mr. M. Longkumer, Government Advocate
: Mr. Tongpok Pongener, Advocate

- Date on which Judgment was reserved : N/A
- Date of Pronouncement of Judgment : **19.03.2026**
- Whether the pronouncement is of the Operative Part of the Judgment : No
- Whether the full Judgment has been Pronounced : Yes

JUDGMENT AND ORDER (ORAL)

Heard Mr. Pakinrichapbo, the learned counsel appearing on behalf of the Petitioner and Mr. M. Longkumer, the learned Government Advocate appearing on behalf of the State Respondents. I have also heard Mr. Tongpok Pongener, the learned counsel appearing on behalf of the Respondent No.5.

2. The present writ petition has been filed by the Petitioner being aggrieved by the inaction on the part of the Respondent Authorities to consider the case of the Petitioner in terms with the notification dated 05.03.2018 for appointment on land ownership basis and further appointing the Respondent No.5 without carrying out any advertisement.

3. The brief facts which led to the filing of the instant writ petition is that one Shri Toming Konyak who was working as a Chowkidar under the SDAO, Aboi retired upon completion of 35 years of service w.e.f. 30.11.2023.

4. The Petitioner who claims that his grandfather's elder brother had donated the land for setting up of the Office of the SDAO at Aboi, Nagaland submitted an application for being considered for appointment on land ownership basis. It is the specific case of the Petitioner that the land which was donated was on the basis of some oral agreement.

5. Be that as it may, the said application of the Petitioner along with the application of two other persons were duly taken into consideration for verification in terms with Clause 3(b) of the notification dated 05.03.2018.

6. The verification was conducted by the Additional Deputy Commissioner, Aboi, Mon District and it was opined that the claims so made were on the basis of verbal agreement was not based upon written records available in the Office of the Additional Deputy Commissioner, Aboi pertaining to the land agreement for establishment of the Aboi Headquarters with

two land donor villages or with individual land owners. Additionally, it was also mentioned that there was no written record available in the Office of the Additional Deputy Commissioner, Aboi regarding the land agreement with land donors of the SDAO, Aboi Office and the staff quarter land.

7. It further appears from the records that the matter was forwarded to the Land Revenue Department for advise by the Director of Agriculture, Nagaland.

8. The Deputy Secretary to the Government of Nagaland, Agriculture Department vide a communication dated 28.04.2025 observed that it would be better to wait for a decision from this Court taking into account that the writ proceedings are pending.

9. This Court enquired with Mr. M. Longkumer, the learned Government Advocate appearing on behalf of the State Respondents as to which proceedings the reference was made by the Agriculture Department vide the communication dated 28.04.2025. The learned Government Advocate submitted that the reference was made to the present proceedings.

10. Be that as it may, it appears that while the Respondent Authorities continued to arrive at a conclusion as to whether the Petitioner herein would be entitled to claim appointment on land ownership basis in terms with the notification dated 05.03.2018, the Respondent No.5 was appointed vide a communication dated 28.06.2024 to the post of Multi Tasking Staff at Sub-Divisional Agricultural Office, Aboi. It further appears from the records more particularly the affidavit-in-opposition filed by the Respondent Authorities that the Respondent No.5 was appointed without calling for any advertisement but on the basis of an Office Memorandum dated 03.03.2022.

11. This Court has duly heard the learned counsels appearing on behalf of the parties and also perused the materials on record.

12. During the course of the hearing, the learned counsel appearing on behalf of the Petitioner drew the attention of this Court to a judgment and order dated 27.08.2025 passed in WP(C) No.132/2023 (***Smti Imsunaro Vs. The State of Nagaland and 6 Others***) wherein this Court held that the appointment made without calling for an advertisement would be in violation to Article 14 and 16 of the Constitution.

13. The materials on record show that the Petitioner has claimed appointment on land ownership basis on the ground that his family has donated the land which led to the establishment of the Office of the SDAO, Aboi. On the other hand, a perusal of the affidavit-in-opposition filed by the Respondent Authorities as well as the affidavit-in-opposition filed by the Respondent No.5 reveals that the claim of the Petitioner for donation of the land was on the basis of a purported oral agreement which dates back to the year 1955 when the State of Nagaland was yet to be formed. It is also the case of the Respondent No. 5 that when the State of Nagaland was yet to be formed, the consideration of the application for appointments on land ownership on the basis of a purported oral agreement of the year 1955 does not arise.

14. This Court finds it very pertinent to take note of the notification dated 05.03.2018 and more particularly Clauses 3(a) and 3(b) of the said notification which are reproduced herein under:

“3(a) *In other cases prior to 26.07.2005 and subsequent to setting up of Administrative and Block headquarters on freely donated land, where a specific written agreement exists providing for employment to the landowner, the claim of landowner for employment should be settled*

in terms of such agreement.

3(b) *If there is any claim for providing employment as a result of oral agreement, the Department concerned shall refer the matter to the Deputy Commissioner of the District concerned who shall examine such claim carefully including whether any employment or any other facility including contract or supply order has been given in the past. Written statements from the witnesses, that is, Government officials of the concerned department and the District Administration and village functionaries present at the time of such oral agreement should be taken by the Deputy Commissioner. The recommendation of the Deputy Commissioner should be referred with relevant documents to the Department of Land Revenue for advice in such cases by the Department concerned."*

15. A perusal of the above quoted Clauses of the notification dated 05.03.2018 and more particularly Clause 3(a) do not limit as to when the land was donated if made prior to 26.07.2005. In addition to that, a perusal of Clause 3(b) reveals that a verification would be carried out by the Deputy Commissioner on the basis of written statement(s) from witnesses as well as records as to whether there existed any oral agreement for providing employment. The said aspect apparently has not been conclusively determined by the Deputy Commissioner inasmuch as, a perusal of verification report dated 25.11.2024 do not categorically mention as to whether the Petitioner herein is at all entitled to be

considered for appointment on land ownership basis or not.

16. It is the opinion of this Court that when Clause 3(b) of the notification dated 05.03.2018 mandates that the recommendation is to be made by the Deputy Commissioner, it includes that the Deputy Commissioner is required to give a finding as to whether there exist or not any oral agreement. This apparently has not yet been done.

17. It is very pertinent to mention that an appointment to a public post is required to be made by following the mandate of Article 14 and Article 16 of the Constitution. Appointments made on land ownership basis are not source of recruitment. It is based upon a policy of the State of Nagaland to honour the written or oral agreements made with the people of Nagaland to give one appointment to the family of the person(s) who have donated land for establishment of district headquarters or offices. Taking into consideration the said, it is the opinion of this Court that the person claiming appointment on land ownership basis, more particularly, in the case of oral agreement have to prove before the Deputy Commissioner the following:

(i) There existed an oral agreement that in lieu of land being donated a member of his/her family would be given an appointment in the services of the State of Nagaland.

(ii) That the oral agreement was made prior to 26.07.2005.

(iii) That no person in his or her family has been appointed on land ownership basis.

18. This Court further finds it relevant that the above aspect being proved by way of written statement of witnesses and based upon contemporary records maintained, the Deputy Commissioner is required to verify the claim as to whether the person is entitled to claim appointment on land ownership basis.

19. Be that as it may, in the instant case, it is seen that the Respondent Authorities have appointed the Respondent No.5. There was no advertisement thereby depriving all persons who were eligible to the post of Multi Tasking Staff. The said appointment of the Respondent No. 5 violates the very tenets of Article 14 and 16 of the Constitution. There is nothing shown in the affidavit filed by the Respondent Nos. 1 to 4 as to how the Office Memorandum dated 03.03.2022 upon which

the State Respondents rely at all can be made applicable in the facts of the instant case inasmuch as nothing has been mentioned as to what difficulties were faced by the Department to proceed with the selection of the Respondent No. 5 without an advertisement.

20. Apart from that, the Office Memorandum dated 03.03.2022 also mandates that there is a requirement of a fair and transparent eligibility criteria and process to be followed. Nothing has been shown in that regard as to why the Respondent No.5 was chosen for the post in exclusion of others. It is therefore the opinion of this Court that the appointment of the Respondent No.5 is required to be interfered with.

21. Accordingly, the instant writ petition stands disposed of with the following observations and directions:

- (i) The appointment of the Respondent No.5 vide the Notification bearing No. AGR/ESTT/PRO-1/2017/683-89 dated 28.06.2024 is set aside and quashed.
- (ii) The Respondent Nos. 2, 3 and 4 and more particularly the Respondent No.4 is directed to carry out the

verification as to whether the Petitioner's claim for appointment on the basis of land ownership is permissible or not. The Respondent No.4 is directed to decide on the Petitioner's entitlement for appointment on land ownership basis by taking into account the observation made in the instant judgment and more particularly at Paragraph Nos. 17 and 18 .

- (iii) This Court also duly takes note of that the Respondent No.5 was appointed as a Grade-IV employee. This Court though has set aside the appointment order made vide the Notification dated 28.06.2024, but it is observed that no recovery shall be made from the salary already paid to Respondent No.5, as it would be iniquitous to do so.
- (iv) This Court further directs that in the circumstance, the Deputy Commissioner is of the opinion that there was no oral agreement and the Petitioner is not entitled to claim appointment on land ownership basis, a Speaking Order be passed. The Respondents herein thereafter shall go ahead to fill up the vacant post by following the mandate of Articles 14 and 16 of the Constitution i.e. by way of advertisement.

- (v) The Deputy Commissioner shall carry out the verification in terms with the mandate of Clause 3(b) of the notification dated 05.03.2018 by taking into consideration the observations made hereinabove within a period of 3 (three) months from today.

- (vi) A copy of the instant judgment be served by the Registry upon Mr. M. Longkumer, the learned Government Advocate appearing on behalf of the Respondent Authorities so that the instant judgment can be duly communicated to the Respondent No.4 for necessary compliance. In addition to that, Mr. M. Longkumer, the learned Government Advocate shall also intimate the other official Respondents about the directions passed in the instant judgment by forwarding a copy of the same.

JUDGE

Comparing Assistant