

GAHC020004992020



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

Case No. : C. REVN/5/2020

KEVIZATHI SESA
S/O ZASETO SESA,
R/O WARD NO.11, CHUMUKEDIMA TOWN, DIMAPUR, NAGALAND

VERSUS

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

2:THE COMMISSIONER
NAGALAND
KOHIMA

3:THE DEPUTY COMMISSIONER
DIMAPUR
NAGALAND

4:SEBASTIAN ZAMVU
R/O SOVIMA VILLAGE
DIMAPUR
NAGALAND

5:THE VILLAGE COUNCIL
SOVIMA
REPRESENTED BY ITS CHAIRMAN
SOVIMA VILLAGE COUNCIL
DIMAPUR
NAGALAN

Advocate for the Petitioner : LIMAWAPANG, AREPLA CHANG,PFOSEKHO
PFOTTE

Advocate for the Respondent : GOVT ADV NL,

Linked Case : **C. REVN/16/2024**

SHRI SEYIEVINYU KESIEZIE
S/O LATE KEDUOSIEVE KESIEZIE
R/O TINPATI
PEZIELIETSIE COLONY
KOHIMA
NAGALAND 797001

VERSUS

THE STATE OF NAGALAND AND ANR.
REPRESENTED BY THE COMMISSIONER AND SECRETARY
LAW AND JUSTICE DEPARTMENT
GOVERNMENT OF NAGALAND
NAGALAND CIVIL SECRETARIAT
KOHIMA
NAGALAND
NAGALAND 797001

2:SHRI ALHOU KESIEZIE
S/O LATE KEDUOSIEVE KESIEZIE
R/O KHIKHA RULEIZOU
HIGH SCHOOL COLONY
C/O KISAN DIAMOND AND GOLD JEWELLERY
OLD NST
MAIN TOWN
KOHIMA
NAGALAND 797001

Advocate for : R. IRALU SR. ADV
Advocate for : GOVT ADV NL appearing for THE STATE OF NAGALAND AND ANR.

Linked Case : **C. REVN/6/2021**

KHRIELESIE NAGI
S/O LATE KESOLIE NAGI
PERMANENT R/O JOTSOMA VILLAGE
KOHIMA DISTRICT
NAGALAND

VERSUS

THE STATE OF NAGALAND AND ANR
REPRESENTED BY THE PRINCIPAL SECRETARY

DEPARTMENT OF JUSTICE AND LAW
GOVERNMENT OF NAGALAND
KOHIMA 797001

2:KEVI SOCIETY
REPRESENTED BY SHRI KEZHAKIELIE RINO
R/O JOTSOMA VILLAGE
KOHIMA DISTRICT
NAGALAND 797002

Advocate for : R. IRALU
SR. ADV

Advocate for : GOVT ADV NL appearing for THE STATE OF NAGALAND AND
ANR

Linked Case : **WP(C)/283/2024**

SHRI L. HAOLAI
S/O LT. THONGKHOSEI HAOLAI
H.NO. 17
VILLAGE- MOLVOM
PO/PS- MEDZIPHEMA
DIST- CHUMOUKEDIMA
NAGALAND

VERSUS

STATE OF NAGALAND AND 5 ORS
REPRESENTED BY THE CHIEF SECRETARY
GOVT. OF NAGALAND

2:THE DEPUTY COMMISSIONER
CHUMOUKEDIMA
NAGALAND

3:ADDITIONAL DEPUTY COMMISSIONER
MEDZIPHEMA
CHUMOUKEDIMA
NAGALAND

4:THE POLITICAL ASSISTANT TO THE DEPUTY COMMISSIONER
CHUMOUKEDIMA
NAGALAND

5:SHRI. VIZASHEL RHETSO
R/O VISWEMA VILLAGE
KOHIMA NAGALAND

6:SHRI. KENEIKRUL KOSO
R/O VISWEMA VILLAGE
KOHIMA NAGALAND

Advocate for : P. B. PAUL
Advocate for : GOVT ADV NL appearing for STATE OF NAGALAND AND 5 ORS

BEFORE
HON'BLE MR. JUSTICE MANISH CHOUDHURY
HON'BLE MR. JUSTICE BUDI HABUNG

ORDER

Date : 12.03.2025

[Manish Choudhury, J.]

Heard Mr. R. Iralu, learned Senior Counsel appearing for the petitioners in Criminal Revision no. 6/2021 & Criminal Revision no. 16/2024; Mr. Limawapang, learned counsel for the petitioner in Criminal Revision no. 5/2020; Mr. Medo Vero, learned counsel for the petitioner in W.P.[C] no. 283/2024; Mr. Imti Imsong, learned Additional Advocate General, Nagaland for the State respondents; Ms. K. Swu, learned counsel for the respondent nos. 5 & 6 in W.P. [C] no. 283/2024; Mr. M. Kasa, learned counsel for the respondent nos. 4 & 5 in Criminal Revision no. 5/2020; and Mr. A. Kire, learned counsel for the respondent no. 2 in Criminal Revision no. 6/2021.

2. It is submitted that one of the connected issues in this batch of petitions is applicability of Chapter IVA of the Rules for Administration of Justice and Police in Nagaland, 1937, as amended. Chapter IVA of Rules, 1937 is for constitution of Customary Courts.

3. Section 1[3] of the Rules for Administration of Justice and Police in Nagaland [Third Amendment] Act, 1984, which received the assent of the President of India on 04.03.1987, reads as under :-

[3] It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint and different

dates may be appointed for different provisions of the Rules contained in this Act.

Provided that the State Government may apply the provisions contained in Chapter IVA of the Act or part thereof with such supplemental, incidental or consequential modifications as may be considered necessary and specified in the notifications issued in that behalf and published in the Official Gazette either to the whole or any part of the State of Nagaland at one time.

4. Mr. Imsong, learned Additional Advocate General, Nagaland has submitted that a process is being undertaken by the State Government to operationalise the Customary Courts in terms of the proviso to Section 1[3] above. The matter has received the approval of the State Cabinet and a bill is going to be notified very soon.

5. Mr. Iralu, learned Senior Counsel has submitted that from the proviso, it is clear that since the Amendment Act, 1984 has already received the assent of the President, Chapter IVA of the Act, 1937 can be brought into force by issuance of a notification by the State Government in the Official Gazette without any further assent from the President. He has submitted that according to his information, the State Government is contemplating to obtain further assent from the President before bringing Chapter IVA of the Act, 1937 into force.

6. In view of such submission advanced at the Bar, Mr. Imsong, learned Additional Advocate General, Nagaland has sought for some time for obtaining instructions about the manner in which the State Government is contemplating to bring Chapter IVA of the Act, 1937 into operation.

7. From the contents of Rule 1[3] and the proviso thereto of the Third Amendment Act, 1984, it appears *prima facie* that to bring Chapter IVA of the Act, 1937, the State Government has to issue a notification and publish the same in the Official Gazette without any further assent from the President in

this connection.

8. Be that as it may, Mr. Imsong, learned Additional Advocate General, Nagaland, shall place instructions in writing as regards the manner in which the State Government is contemplating to bring Chapter IVA of the Act, 1937, as amended, into force.

9. As sought for by Mr. Imsong, list the cases after 4 [four] weeks to place instructions.

10. Interim orders, if any, passed earlier shall continue till the next date of listing.

JUDGE

JUDGE

Comparing Assistant