

GAHC040005772022



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

Case No. : PIL 12/2022

1:Tarh Gambo
S/o Shri Tarh Taro,
R/o Chimpu, PO/PS Itanagar 791112, Arunachal Pradesh.

VERSUS

1:THE STATE OF AP and 2 Ors.
Represented by the Chief Secretary, Govt. of AP, Civil Secretariat, Itanagar, AP, Pin
79111

2:The Home Commissioner
Department of Home
Govt. of Arunachal Pradesh
Itanagar 791111

3:The Union of India
Through its Secretary
Ministry of Home Affairs
North Block New Delhi - 11000

Advocate for the Petitioner : Sunil Mow

Advocate for the Respondent : GA (AP)

BEFORE
HONBLE MR. JUSTICE KALYAN RAI SURANA
HONBLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 29.11.2022
(K.R. Surana, J)

Heard Mr. S. Mow, learned counsel for the petitioner. Also heard Mr. R.H. Nabam, learned Additional Advocate General for the State, assisted by Ms. P. Pangu, learned Govt. Advocate for the respondent nos.1 and 2 and Mr. M. Kato, learned DSGI for the respondent no.3.

2. A very important issue has been raised in this PIL to bring to the notice of the Court that the State Human Rights Commission is not functioning properly in the State of Arunachal Pradesh because the Commission presently only has a Chairperson. It is projected that although one member was appointed by the Govt., but the said member was disinclined to take up the assignment and therefore, the post of all two members has remained vacant and not filled up. It has also come to the notice of the Court that apart from a part time Secretary, no staffs including driver and peon for the Chairperson have been appointed. Thus, for all purpose, the Commission is prevented from functioning.

3. The learned Additional Advocate General has referred to the affidavit-in-opposition filed by the respondent no.2 and it is submitted that an advertisement was issued on 09.02.2021, inviting applications for filling up the post of two members of the Arunachal Pradesh State Human Rights Commission and the proposal for appointment is under active consideration of the Govt.

Hence, it was submitted that some time be granted to the State to complete the process.

4. Having taken note of the fact that by virtue of notification issued on 24.01.2020, the Honourable former Judge of this Court was appointed as the Chairperson of the Arunachal Pradesh Human Rights Commission, but the Commission itself has remained a non-starter because both the posts of members within the meaning of Clause-b and Clause-c of Sub-section (2) of Section 21 of the Protection of Human Rights Act, 1993 has remained vacant. Moreover, no permanent staffs including driver, peon and other support staff of the Commission and for its Chairperson have been appointed so far.

5. Both sides have not been able to show any provision in the said Act by which a Chairman can validly function and discharge duty as the Arunachal Pradesh State Human Rights Commission in the absence of two members as required under section 21 of the said Act, or office staff.

6. It is noted with concern that although the advertisement for filling up the posts of two members was issued on 09.02.2021, the process has not yet been culminated. This *prima facie* shows the neglect and apathy on part of the State Govt. to have a functional Arunachal Pradesh State Human Rights Commission, which does not appear to be in public interest.

7. Under such circumstances, the Court is inclined to issue notice to the Chief Secretary to the Govt. of Arunachal Pradesh to file an affidavit in this PIL to disclose the steps taken by the State Govt. for appointment of two members of the Arunachal Pradesh State Human Rights Commission and its office staff

and driver and peon or support staff for the Chairperson and also to disclose the time limit within which the process of making appointments would be completed. If the said authority is unable to give any timeline, the Chief Secretary would also respond as to why the Court should not issue a direction on the State to act in accordance with the provision of section 22 of the Protection of Human Rights Act, 1993 by directing the State to empower the Secretariat of the Governor of Arunachal Pradesh to take up the matter of appointment of the members and staffs of the said Commission within a specified timeline.

8. The Court expects the affidavit to be filed within a period of 2 (two) weeks, failing which appropriate orders would be passed on the next date.

9. The learned Additional Advocate General is permitted to send a downloaded copy of this order to the Chief Secretary of the State of Arunachal Pradesh to bring the order to the notice of the said authority.

10. List on 16.12.2022.

JUDGE

JUDGE

Comparing Assistant