

GAHC040015442023



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

Case No. : WP(C)/535/2023

Tagang Jerang
S/o Shri Tagom Jerang, Present address Camped at Boleng Town, P.O/P.S Boleng,
District Siang, Arunachal Pradesh and Residence Pasighat Town, P.O and P.S
Pasighat, District East Siang, Arunachal Pradesh. Mobile No. 8974720487

VERSUS

The State of AP and 5 Others
represented by the Chief Secretary, Govt. of Arunachal Pradesh, Itanagar 791111

2:The Commissioner (Agriculture)

Age: 0

Occupation :

Govt. of Arunachal Pradesh

Itanagar 791111

3:The Director (Agriculture)

Age: 0

Occupation :

Govt. of Arunachal Pradesh

Naharlagun

791110

4:Shri Tate Jamoh

Age: 0

Occupation :

(retained as DAO Boleng) P.O/P.S Boleng

District Siang

Arunachal Pradesh.

5:Shri Ojing Tasing
Age: 0
Occupation :
MLA 35 Assembly Constituency
MLA Cottage
Itanagar
P.O/P.S Itanagar
District Papum Pare
Arunachal Pradesh.

6:Shri Tage Taki
Age: 0
Occupation :
(Minister Agriculture)
Arunachal Pradesh
Civil Secretariat
Itanagar
P.O/P.S Itanagar
District Papum Pare
Arunachal Pradesh

Advocate for the Petitioner : Tabit Tapak

Advocate for the Respondent : GA (AP)

-BEFORE-

HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

-O R D E R-

15.11.2023

Mr. TT Tara, learned counsel appears on caveat for respondent No. 4. Accordingly, the caveat stands discharged.

2. Heard Mr. T Tapak, learned counsel for the petitioner and Ms. G Ete, learned GA and Mr. L Perme, learned standing counsel, Agriculture Department.

3. The present application is filed assailing an order of partial modification dated 07.11.2023, whereby the order of transfer and posting

dated 03.10.2023 was modified relating to the transfer and posting of the petitioner and respondent No. 4. By the said order a modification, the respondent No. 4 was retained at his original place of posting.

4. The facts pleaded and document annexed to the writ petition discloses that by the order dated 03.10.2023 issued by the Commissioner (Agriculture), as many as 20 Group A Officers including the petitioner and respondent were transferred and posted at different places. The petitioner, who was holding post of IC, District Agriculture Officer (DAO), Yingkiong, Upper Siang District was transferred and posted as I/C, DAO Boleng, Siang District vice the respondent No. 4, who was posted as I/C, DTO, FTC, Pasighat, East Siang District.

5. Pursuant to the aforesaid order of transfer, the petitioner was released by the Deputy Commissioner, Upper Siang District on 11.10.2023 to enable him to join at his new place of posting at Boleng, Siang District. Subsequently, as claimed, the petitioner submitted his joining report before the Deputy Commissioner, Siang District, Boleng on 12.10.2023. According to the petitioner as the respondent No. 4 was not giving the petitioner formal charge, an ex-parte charge of DAO was taken by the petitioner on 27.10.2023, on the basis of an Office Memorandum dated 13.02.2007, which enables such ex-parte charge. Thereafter, according to the petitioner by annexure- VIII, the petitioner was even paid the current salary at Boleng.

6. It is the case of the petitioner that pursuant to a request of the local MLA dated 11.10.2023 (annexure-IX), made to the Hon'ble Minister, Agriculture to retain the petitioner as DAO, Boleng, the impugned order has been issued. It is the case of the petitioner that there is no public

interest involved in the case in issuing the impugned order inasmuch the same is result of colorable exercise of power.

7. Referring to the office notes (annexure-IX), the learned counsel for the petitioner contends that the impugned order has been issued only on the basis of such request and no independent application of mind of the department is available and therefore the impugned order is liable to be set aside inasmuch as the initial order dated 03.10.2023 was already implemented, there cannot be any question of modification of the same.

8. Per contra, Mr. Tara submits that this court should not exercise its power of judicial review to stall a transfer order inasmuch as the respondents cannot be faulted with for acting upon the request of the MLA.

9. Considered the argument advanced by the learned counsel for the parties. This matter needs further consideration.

10. Accordingly, issue a notice, returnable on 20.11.2023.

11. As parties are duly represented, no formal notice needs to be issued. However, extra copies of the writ petition in required numbers be furnished to the learned counsel for the respondents.

12. On the next date fixed, the learned standing counsel, Agriculture Department shall produce the records relating to the impugned order.

13. Considering the matter in entirety, more particularly the manner in which the impugned order has been issued, it is provided that till the next returnable date, impugned order dated 07.11.2023 and all subsequent actions pursuant thereto taken by the respondent authorities, shall remain suspended.

14. The learned standing counsel is permitted to forward a downloaded

copy of the order passed today to the respondent authorities.

JUDGE

Comparing Assistant