

GAHC040018592025

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

Case No. : WP(C)/531/2025

Arunachal University of Studies
through its Registrar Mr Divyanshu Goel, NH 52, Knowledge City, Namsai, Namsai
District, Arunachal Pradesh 79210

VERSUS

The State of AP and 3 Ors
represented by the Secretary Education, Department of Education, Ministry of
Education, Itanagar, Civil Secretariat, Block IV, 5th Floor, Itanagar, Arunachal
Pradesh 791111

2:The State of AP
Age: 0
Occupation :
represented by the Secretary Legal Affairs
Department of Legal Affairs
Ministry of Law and justice
Itanagar
Civil Secretariat
Itanagar
Arunachal Pradesh 791111

3:The Arunachal Pradesh Private Educational Institution Regulatory Commission
Age: 0
Occupation :
represented by Secretary
Arunachal Pradesh Private Educational Institution Regulatory Commission
APSCTE Building
Directorate of Higher Education Campus
ESS Sector
Itanagar
Arunachal Pradesh 791111

4:Tsering Naksang
Age: 0
Occupation :
presently working as Chairman of the Arunachal Pradesh Private Institution
Regulatory Commission
APSCTE Building
Director of Higher Education Campus
ESS Sector
Itanagar
Arunachal Pradesh 79111

Advocate for the Petitioner : Teto Taba, Punung Borang,Nang walika Jenow,Nimcha Hondique,C
Ering,Begi Taba

Advocate for the Respondent : , Tagum Jamoh,Mukbang Pertin,Karyom Dabi,Rimo Riba,GA
(AP),SC (Education)

BEFORE

HON'BLE MR.JUSTICE SANJAY KUMAR MEDHI

For the petitioner : Shri D.K. Das, Sr. Advocate;
Shri A.D. Verma, Advocate.
Shri N. Ratan, Addl. A.G., A.P.;;
Shri T. Jamoh, Advocate, R/3;
Shri R. Riba, Advocate, R/4.

Date on which judgment is : 06.04.2026.

Reserved.

Date of pronouncement of : 05.05.2026.

Judgment.

Whether the pronouncement : NA.
is of the operative part of the
judgment?

Whether the full judgment : Yes.
has been pronounced?

JUDGMENT & ORDER

The instant petition under Article 226 of the Constitution of India has been filed questioning the appointment of Respondent No. 4 as the Chairman of the Arunachal Pradesh Private Educational Regulatory Commission (hereinafter Commission), vide a notification dated 11.03.2024. Since the nature of the prayer would have a considerable impact on the adjudication process, it would be apposite to extract the prayer made in this petition which is as hereunder:

“In the premises aforesaid it is therefore prayed that your Lordships would be pleased to:

i) Issue a writ of quo warranto for direction to set aside the appointment of Shri Tsering Naksang, Chairman of the Arunachal Pradesh Private Institution Regulatory Commission being in contravention to Article 319(d) of the Constitution;

ii) For issue of a writ of mandamus directing the appointments of the Members, Secretary, Officers and Other Employees of the Arunachal Pradesh Private Educational Institutions Regulatory Commission made without the framing of rules, regulations are in violation of the constitutional mandate, as illegal, without jurisdiction and void from inception.

iii) Issue directions for declaring mode of authentication of the orders and decisions of the Commission and instruments issued by the Commission and Shri Tsering Naksang till date as illegal and without jurisdiction and void ab initio;

iv) Pass such other orders that may be just and necessary in the facts and circumstances of the case in favour of the Petitioner.

-AND-

In the interim it is prayed that till the decision of the writ petition all official acts of the Commission and Chairman officiated by Shri Tsering Naksang of the Arunachal Pradesh Private Institution Regulatory Commission be remain suspended.”

2. The petitioner in this case is the Arunachal University of Studies which is a self-sponsored private University established and incorporated under the Arunachal University of Studies Act, 2012 (hereinafter as the Act of 2012). The said University claims to have been instituted for providing high quality education supplemented with industrial internship and professional training in various areas in compliance with the laws. The State of Arunachal Pradesh had thereafter enacted an Act, namely, the Arunachal Pradesh Private Educational Institutional Regulatory Commission Act, 2017 (hereinafter as the Act of 2017) and as per the same, a body was created vide notification dated 11.03.2024. In the said body, the Respondent No. 4 has been appointed as the Chairman for 3 years.

3. The primary challenge to such appointment is on the ground of violation of Article 319 of the Constitution of India. It is contended that the aforesaid Article prohibits any reappointment of a former member of the Public Service Commission under the Central or State Government.

4. I have heard Shri D.K. Das, learned Senior Counsel assisted by Shri A.D. Verma, learned counsel for the petitioner. I have also heard Shri N. Ratan, learned Addl. Advocate General, A.P.; Shri T. Jamoh, learned counsel for the respondent no. 3 whereas Shri R. Riba, learned counsel appears for the respondent no. 4.

5. Shri Das, the learned Senior Counsel has submitted that it is not in dispute that the respondent no. 4 was a former member of the Arunachal Pradesh State Public Service Commission for the period 13.02.2017 to 12.02.2023 immediately before his appointment as the Chairperson of the present Commission. By drawing the attention of this Court to Article 319 of the Constitution of India, he has submitted that the aforesaid Article prohibits any reappointment of a former member of the Public Service Commission under the Central or State Government. He has submitted that there is an objective behind the framing of Article 319 so that it could be ensured that such Commission remains independent and impartial. He has submitted that the objective is also to prevent conflict of interest and executive influence. Under Article 319(d) of the Constitution of India, a member, other than the Chairman of a State Public Service Commission is prohibited from any other employment either under the Govt. of India or under the any State Government on ceasing to hold office. He has, therefore, questioned the order dated 11.03.2024 whereby respondent No. 4 has been appointed as the Chairperson of the Commission for three years.

6. In support of his submissions, the learned Senior Counsel has relied upon the decision of the **Hon'ble Jharkh and High Court** in the case of **Alok Kumar Sengupta Vs. State of Jharkhand & Ors.**, reported in **(2018) to JLJR 79** and the following observations have been pressed into service:

“9. The services of the petitioner as Members of the State Police Complaints Authority has been cancelled by invoking under Article 319 of the Constitution of India. It would be apposite to refer Article 319 (d) of the Constitution of India which is quoted hereinunder:-

"319 (d) A member other than the Chairman of a State Public Service Commission shall be eligible for appointment as the Chairman or any other member of the Union Public Service Commission or as the Chairman of that of any other State Public Service Commission, but not for any other employment either under the Government of India or under the Government of a State"

The bar of Article 319 (d) of the Constitution of India pertains to member (Chairman of the Public Service Commission) to hold any post under the State level after demitting the office. On perusal of the resolution relating to the State Police Complaint Authority it is quite apparent that the State Government is competent to nominate the member of State Police Complaint Authority (State Committee) to refer functions from time to time to the State Committee and to remove any independent member of the State Committee and thus the State Police Complaints Authority (State Committee) is under control of the State Government. Therefore, holding of the office by the petitioner as a member of State Police Complaints Authority is violative of Article 319 of the Constitution. Accordingly, his nominations by the Member of the State Police Complaint Authority has been cancelled under the provisions of Article 319 of the Constitution.

So far as the decision cited by the learned counsel for the petitioner i.e. and 2009 (2) Kerala Series 597 the facts in those cases are different and the said decision are not applicable to the case in hand. The Hon'ble Apex Court in the case of Hargovind Pant Vs. Dr. Raghukul Tilak and Ors., (1979) 3 SCC 458 has been pleased to observe thus:-

"The word 'employment' in Article 319(3) if understood to mean the relationship of employer and employee does not include the office of Governor because the Governor is the head of the State and holds a high constitutional office which carries with it important constitutional functions and duties. Even if the term employment is widely construed, the element of control by the Government must be shown."

and also in the case of Sreenivasan Venu Gopalan Vs. Honble Sri M.M. Pareed Pillai and another, 2009 2 Kerala Series 597 the question that was post for consideration as to whether in view of Section 24 (3) of the Human Rights Act, 1993 would apply to the post of Lok Ayukta. The Hon'ble Court has been pleased to hold that the post of Lok Ayukta is an independent statutory post and is not an employment under the Government. The Hon'ble Court negated the contentions that Lok Ayukta being the post under the Government, as per Section 24(3) of the Protection of Human Rights Act, 1993. Since, the aforesaid cases pertain to bar of appointment to the post of Governor and Lok Ayukta, the same decision is not applicable.

10. In view of the conclusion, reasons stated in the foregoing paragraphs, this Court is of the considered view that the office of the Members of the Police Complaint Authority is under the State Government and State exercises pervasive control over it therefore comes within ambit and scope of Article 319(d) of the Constitution of India and in that view of the matter the nomination of the petitioner as Members of the Police Complaint Authority cannot be held to be valid and, therefore, there is absolutely no infirmity or illegality by the respondents in passing the impugned order dated 26.09.2016 vide Annexure-6 to the writ

application and, therefore, this Court is not inclined to interfere with the aforesaid impugned order.”

7. He has also relied upon the case of ***Bindra Ban & Ors. Vs. Sham Sunder & Ors.***, reported in **AIR (1959) Punjab 83** which is on the aspect of the *locus* of the petitioner in instituting a writ petition. He has submitted that amongst others, a writ of *quo warranto* has been prayed for which requires a *bona fide* citizen to approach the Court. By referring and relying on the decision of the Hon’ble Supreme Court in the case of ***The Calcutta Gas Company (Proprietary) Ltd. Vs. The State of West Bengal & Ors.***, reported in **AIR 1962 SC 1044**, the learned Senior Counsel has submitted that when the writ of *quo warranto* is involved, the requirement of *locus* is to be relaxed. Reliance has also been placed on a decision of the **Hon’ble Himachal Pradesh High Court** in the case of ***Arvind Sharma Vs. State of H.P. & Ors.***, reported in **2003 2 CLJ (HP) 451** and the following observations have been pressed into service:

“24. Now coming to the objection raised by Mr. Sood regarding maintainability of this writ petition on the ground of delay and laches in filing the same. It may be noted here that notification appointing Respondent No. 3 as Chairperson of the Commission in question is dated 26.4.2001, whereas this writ petition was filed on 5.6.2002. Again for the reasons to be recorded hereinafter, we feel that the doctrine of delay, as also the right of the Petitioner to maintain this writ petition will not come in the way of this Court in deciding this writ petition. Admittedly, Respondent No. 3 is holding a public office for which the provisions have been made in the Act. As such, it is for Respondent No. 3 to satisfy this Court that he is holding the post of the Chairperson as per requirement of the Act and, therefore, no exception can be taken to his such appointment.

26. In *The University of Mysore and Another Vs. C.D. Govinda Rao and Another*, Constitution Bench of the Supreme Court of India while dealing with the issuance of a writ of quo warranto extracted from the Halsbury's Law of England 3rd Edition, Vol. II, P-145 which squarely negatives the plea of Mr. Sood, as to who can maintain the writ of quo warranto is concerned. For ready reference, this is extracted hereinbelow:

(7) As Halsbury has observed:

An information in the nature of a quo warranto took the place of the obsolete writ of quo warranto which lay against a person who claimed or usurped an office, franchise or liberty, to enquire by what authority he supported his claim, in order that the right to the office or franchise might be determined. Broadly stated, the quo warranto proceeding affords a judicial enquiry in which any person holding an independent substantive public office, or franchise, or liberty, is called upon to show by what right he holds the said office, franchise or liberty; if the inquiry leads to the finding that the holder of the office has no valid title to it, the issue of the writ of quo warranto ousts him from that office. In other words, the procedure of quo warranto confers jurisdiction and authority on the judiciary to control executive action in the matter of making appointments to public office against the relevant statutory provisions; it also protects a citizen from being deprived of public office to which he may have a right. It would thus be seen that if these proceedings are adopted subject to the conditions recognised in that behalf, they tend to protect the public from usurpers of public office; In some cases, persons not entitled to public office may be allowed to occupy them and to continue to hold a result of the connivance of the executive or with its active held, and in such cases, if the

jurisdiction of the courts to issue writ of quo warranto is properly invoked, the usurper can be ousted and the person entitled to the post allowed to occupy it. It is thus clear that before a citizen can claim a writ of quo warranto, he must satisfy the court, inter alia, that the office in question is a public office and is held by usurper without legal authority, and that necessarily leads to the enquiry as to whether the appointment of the said alleged usurper has been made in accordance with law or not.

This decision was relied upon by Mr. Sood in support of his contention that this Writ petition is not maintainable. But that is not the situation.

30. In Moti Ram Vs. Union of India (UOI) and Others, while dealing with the question as to who can maintain a writ of quo warranto, what was observed and is relevant to the present was as under:

42) A preliminary objection, that the Petitioner has no locus standi to file the writ petition as none of his constitutional or legal rights has been infringed by the provisions of Section 54 of the Government of Union Territories Act, was taken. But this objection was not pressed at the time of arguments. The objection does not appear to be well founded.

Respondent Nos. 3 to 47 are holding office of a public nature, in Himachal Pradesh by virtue of the provisions of the Government of Union Territories Act enacted by Parliament, and being enforced by Respondent Nos. 1 and 2. The Petitioner a resident of Himachal Pradesh was entitled to challenge, by a writ petition under Article 226 of the Constitution, whether Respondent Nos. 3 to 47 were validly holding their offices irrespective of the fact whether his personal

right had been infringed or not. It was observed in The Calcutta Gas Company (Proprietary) Ltd. Vs. The State of West Bengal and Others, that though the existence of a legal right and its infringement is the foundation of the exercise of jurisdiction under Article 226 of the Constitution, yet this rule may have to be relaxed or modified in the case of a writ of quo warranto. The question, whether a person whose right has not been infringed is entitled to file a writ petition for the issue of a writ of quo warranto was considered in Rajendar Kumar Chandanmal Vs. Government of State and Others, it was held that:

For the issue of a writ of quo warranto, no special kind of interest in the relator is needed nor is it necessary that any of his specific legal right be infringed. It is enough for its issue that the relator is a member of the public and acts bona fide and is not a mere pawn in the game having been set up by others.”

The learned Senior Counsel accordingly submits that the impugned appointment of the respondent no.4 as the Chairperson of the Commission be interfered with and the writ petition be allowed.

8. *Per contra*, Shri Ratan, the Addl. A.G. has clarified that though the respondent no. 4 was earlier a member of the State Public Service Commission, he had resigned and thereafter was appointed as the Chairperson of the present Commission. By drawing the attention of this Court to Article 319(d) of the Constitution of India, the learned State Counsel has submitted that the restriction is against ‘employment’. He has submitted that the present assignment of the respondent no.4 is not an ‘employment’ under the Government and rather, it is an appointment under a Statute.

The learned Addl. A.G. has submitted that under the said Statute, there is a provision of vesting powers which are independent of the functioning of the State Government and cannot be dictated by the State.

9. In this connection, he has relied upon the case of the Karnataka High Court in the case of ***Y.N. Nagaraja Vs. State of Karnataka & Anr.***, reported in **AIR 2009 (Kar) NOC 1921** and the observations made in paragraphs 11.1 and 11.2 are pressed into service which are as follows:

“11.1. Therefore, the question that arise for our consideration is whether the office of the "State Chief Information Commissioner" or "State Information Commissioner" is an `employment' within the meaning of that expression in clause (d) of Article 319?. Semantically, the word `employment' is not a word with a single fixed meaning but it has many connotations.

11.2. On the one side it may bear the narrow meaning of relationship of employer and the employee and on the other, it may mean in its widest connotation any engagement or any work in which one is engaged. If the former be the sense in which the word `employment is used in clause (d) of Article 319, the office of "State in Information Commissioner" would certainly not be an employment, because the "State Information Commissioner" of a State is not an employee or servant of anyone. He occupies a high constitutional office with important constitutional functions and duties. It will be seen from this enumeration of the Constitutional powers and functions of the "State Information Commission" that he is not an employee or servant in any sense of the term. It is no doubt true that the "Information Commissioner" is appointed by the Governor which means in

effect and substance, by the Government of Karnataka, but that is only a mode of appointment and it does not make the "Information Commissioner" an employee or servant of the Government of India. Every person appointed by the Governor is not necessarily an employee of the Government of Karnataka. If, therefore, the word `employment would certainly not be an `employment' within the meaning of clause (d) of Article -319. But if we accept the wider meaning of the word `employment' as connoting any engagement or any work in which one is engaged, as in the expression `self employment", the office of "State Information Commission" would clearly be an employment' within the meaning of clause (d) of Article 319. However, the office of "State Information Commissioner" is not an office of profit and the same is not subject to the control of the Government of Karnataka. We are, therefore, of the considered view that the office of the "State Chief Information Commissioner" and "State Information Commissioner" is not an employment under the Government of Karnataka and it does not come within the prohibition of clause (d) of Article 319":'

10. He has submitted that two criteria are required to be taken into consideration, namely, whether the appointment is made by the Governor and whether the salary is paid by the State. He has submitted that such appointment will not automatically be construed to be that of a Government servant and it is to be seen whether the functioning is independent.

11. Supporting the learned Addl. A.G., Shri Jamoh, learned counsel for the respondent no. 3 has questioned the *locus* of the petitioner. He has submitted that the petitioner is not a citizen and only a legal person and the approach to this Court has

also been made after a considerable delay. He has submitted that while the appointment was made on 11.3.2024, the challenge was instituted in December 2025. He has also submitted that the present writ petition has been filed as a vengeance and out of personal grudges. He has informed that two writ petitions have already been filed against the action taken by the Commission against the petitioner University challenging the requirement of contribution of 1% fund from the total fee as stipulated under Section 8 of the Act. He has submitted that in the instant case, though a writ of *quo warranto* has been prayed for, it is not at the behest of any citizen but of a University which would not be permissible in law.

12. Supporting the case of the respondents, Shri Riba, learned counsel for the respondent no. 4 has also questioned the *locus* of the petitioner to institute the present challenge. He has submitted that there was no personal legal injury and the petitioner is only a legal person and no public interest is involved. He has submitted that on 26.12.2022 summons had to be issued to the petitioner for violation of Section 8 which deals with contribution to the fund and such action has been sought to be countered by filing the instant writ petition. He has submitted that the Commission is an independent statutory body where Article 319 will not have any role.

13. Shri Das, the learned Senior Counsel for the petitioner, in his rejoinder, has reiterated that when a writ of *quo warranto* is involved, the aspect of *locus* can be relaxed. He has also relied upon the case of the Hon'ble Supreme Court in the case of ***In Re; Mepung Tadar Bage, Member, Arunachal Pradesh Public Service Commission***, reported in **AIR 2025 SC 5103** and has placed stress on the

observations made in Paragraph 74 which reads as follows:

“74. In addition to the aforesaid, it is necessary to say that after the leakage of the question paper for Mains Examination came to light, the State made a reference to the Inquiry Committee. The Chairman and fellow members of the APPSC submitted their resignation on moral ground and for other reasons. Later, Major General Jarken Gamlin AVSM, SM, VSM (Retd.) was sworn in as State Chief Information Commissioner of Arunachal Pradesh and Mr. Tsering Naksang was appointed as Chairperson of the Arunachal Pradesh Private Educational Institutions Regulatory Commission. If the members of the APPSC who were allegedly collectively found involved in the paper leak as per the letter of Chief Minister, later resigned and got assignment of new post by the State, it is a question to ponder upon, which ought to be looked into by the State especially when Article 319(d) of the Constitution of India bars members of a State Public Service Commission from taking up any other employment either under the Government of India or under the Government of a State after they cease to be in office. In our view, if the members were collectively involved, the act of the State Government bequeathing responsibility upon such members, giving them assignment of posts having responsibilities, clearly goes to indicate that there was nothing against the Chairman or any Member of the Commission showing their indictment in a personal capacity of committing any act or omission which may prove misbehaviour on their part. In our view, the act of the State requesting the Hon'ble President of India to initiate the removal of the Respondent is arbitrary, unfair and discriminatory.”

14. On the aspect of delay and laches, the learned Senior Counsel has relied upon the case of ***K. Ragupathi Vs. Bachchu Singh***, reported in **(2020) 10 ADJ 522**.

15. The rival submissions have been duly considered and the materials placed before this Court, including the affidavits-in- opposition and the rejoinder affidavit have been duly considered.

16. The primary contention advanced in this petition to support the challenge to the order dated 11.03.2024 is Article 319(d) of the Constitution of India. For ready reference, the aforesaid provision is extracted herein below:

“319(d): a member other than the Chairman of a State Public Service Commission shall be eligible for appointment as the Chairman or any other member of the Union Public Service Commission or as the Chairman of that or any other State Public Service Commission, but not for any other employment either under the Government of India or under the Government of a State.”

17. However, before going to the controversy, it is required to answer the preliminary objection on the maintainability of the writ petition on the issue of *locus*. While there is no dispute to the proposition that while in a writ petition praying for a writ of *quo warranto*, the aspect of *locus* is to be relaxed, it is, however to be noted that in the instant petition, the petitioner is the Arunachal University of Studies which, admittedly is not a citizen but a legal person. In the affidavit, supporting the writ petition, the deponent is the Registrar of the University who, however describes himself to be the petitioner which, admittedly is incorrect. To dispel any doubts, this Court would like to place on record the description of the petitioner as given in the petition which reads as follows:

*“Arunachal University of Studies
through its Registrar Mr. Divyanshu Goel,
NH-52, Knowledge City, Namsai,
District Namsai, Arunachal Pradesh-79210”*

18. From the above, it clearly appears that it is the Arunachal University of Studies which is the petitioner and has prayed for, amongst others, a writ of *quo warranto*. With regard to the applicability or otherwise of the restriction under Article 319(d) of the Constitution of India, there have been rival submissions. While the petitioner has contended that the aforesaid Article would bar the appointment of the respondent no. 4 as the Chairman of the Commission on the ground that he was earlier member of the State Public Service Commission, the official respondents have argued that the present assignment is not an employment under the Government and is an appointment under a statute wherein there is an independent functioning. This Court has also noticed that the restriction is not an absolute one but only against 'employment' either under the Central or State Government.

19. This Court is of the view that while the aforesaid issue would be a matter of consideration in an appropriate petition, such issue cannot be raised by the present petitioner which is not even a citizen and only a legal person. Further it clearly appears that the instant case has been filed as a counterblast for the action taken by the Commission, more particularly, in terms of Section 8 of the Act which deals with fund whereby there is a requirement of contribution of 1% from the total fee collected. There is no dispute to the fact that writ petitions have been filed on this issue by the University.

20. This Court is of the view that the present writ petition could not have been instituted by the University questioning the appointment of the respondent no. 4 as the Chairperson as it appears that it is an offshoot of the earlier writ petitions instituted by the petitioner University. Though the writ of *quo warranto* is to be dealt with a relaxed norm with regard to *locus*, the same cannot be extended to mean that even an artificial body can approach a Court with a prayer for issuance of such writ. This Court is of the considered opinion that the University would not be the proper person to institute the present writ petition which is mainly on the aspect of issuance of a writ of *quo warranto* and on this aspect itself, the writ petition is dismissed.

21. It is, however, made clear that the dismissal is only on the *locus* of the present petitioner and may not be an absolute bar for an appropriate person to question the appointment of the respondent no.4 as the Chairperson of the Commission vide the order dated 11.03.2024.

22. The writ petition accordingly stands dismissed in terms of the observations made above.

23. No order as to cost.

JUDGE

Comparing Assistant