

**IN THE GAUHATI HIGH COURT  
(THE HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH)  
ITANAGAR BENCH  
WA 5 (AP) 2018**

1. *AmoliTatak,  
S/o Tamer Tatak,  
R/o Vill-Rampa,  
P.O.-Pessing, P.S.-Rumgong,  
Siang District, Arunachal Pradesh.*
2. *Sri Kukut Mize,  
S/o Sri Tahong Mize,  
R/o Village-Lorging, P.O.-Pessing,  
P.S. Rumgong, Siang District,  
Arunachal Pradesh.*
3. *Sri Ajay Gamoh, S/o Sri TajaGamoh,  
R/o Village-Rumgong, P.S. Rumgong,  
Siang District, Arunachal Pradesh.*
4. *Sri TalomMelong, S/o Sri TanyoMelong,  
R/o Village-Tarak, P.O. & P.S.-Pangin,  
Siang District, Arunachal Pradesh.*
5. *Miss Aroma Darung, D/o Sri LalchandDarung,  
R/o Village SikaToade, P.O./ P.S.-Sille,  
East Siang District, Arunachal Pradesh.*
6. *Miss Remi Mize, D/o Sri Tahan Mize,  
R/o Village-Lorging, P.O. Pessing,  
P.S. Rumgong, Siang District,  
Arunachal Pradesh.*
7. *Sri Kabom Mize, S/o Sri Taho Mize,  
R/o Village- Rumgong, P.O./ P.S. Rumgong,  
Siang District, Arunachal Pradesh.*
8. *Miss YasiGaru, D/o Sri MameGaru,  
R/o Village-Payum, P.O. Pessing, P.S. Rumgong,  
Siang District, Arunachal Pradesh.*
9. *Miss Anti Garu, D/o Sri MameGaru  
R/o Village-Payum, P.O. Pessing, P.S. Rumgong,  
Siang District, Arunachal Pradesh.*
10. *Miss YakePaming, D/o Sri Tai Paming,  
R/o Village Gaming, P.O. Payum,  
P.S. Rumgong,  
Siang District, Arunachal Pradesh.*
11. *Sri AtemSiram, S/o TagumSiram,  
R/o Village Molom, P.O./ P.S. Rumgong,  
Siang District, Arunachal Pradesh.*
12. *Sri January Taki, S/o Late Tatung Taki,  
R/o Village Pangin, P.O./P.S.-Pangin,  
Siang District, Arunachal Pradesh.*
13. *Miss OmangMoyong, D/o Sri ObangMoyong,  
R/o Village Pangin, P.O./P.S. Pangin,  
Siang District, Arunachal Pradesh.*
14. *Miss YagongMelong, D/o Sri TanyoMelong,  
R/o Village Tarak, P.O/ P.S. Pangin,*

*Siang District, Arunachal Pradesh.*  
15. *Sri OyarPaboh, S/o Sri TamokPaboh,*  
*R/o Village Yibuk, P.O./P.S. Boleng,*  
*Siang District, Arunachal Pradesh.*

.....Petitioner

-Versus-

1. *The State of Arunachal Pradesh, represented through the Chief Secretary, Govt. of Arunachal Pradesh, Itanagar.*
2. *The Deputy Commissioner, Siang District, Pangin, Arunachal Pradesh.*
3. *The Commissioner-cum-Secretary, General Administration, Govt. of Arunachal Pradesh, Itanagar.*
4. *Sri Daniel Eko, S/o Sri TahangEko, R/o Village Pangin, P.O./P.S. Pangin, Siang District, Arunachal Pradesh.*
5. *Miss NamumPerme, D/o Sri TaguramPerme, R/o Village Upper Boleng, P.O./P.S. Boleng, Siang District, Arunachal Pradesh.*

**::BEFORE::**

**HON'BLE MR JUSTICE MIR ALFAZ ALI**  
**HON'BLE MR JUSTICE NANI TAGIA**

Date of Hearing :25.01.2019.

Date of Judgment :29.01.2019.

By Advocates:

For the appellants : Mr. U. K. Nair, Sr. Advocate,  
Mr. K. Saxena, Advocate.

For the respondents : Ms. G. Ete, learned Addl. Sr. Govt. Advocate  
for R- 1, 2 & 3.

Mr. L. Perme, learned counsel for R-4 & 5.

### **JUDGMENT AND ORDER (CAV)**

**(N. Tagia, J)**

This Writ Appeal has been filed by the appellants challenging the Judgment and order, dated 15.02.2018, passed in WP (C) 669 (AP) 2017, whereby, the selection process for the post of Upper Division Clerk (for short, 'UDC'), Lower Division Clerk (for short, 'LDC') and Multi-tasking Staffs (for short, 'MTS') held in pursuance of advertisement issued by the Deputy Commissioner, Siang District, Arunachal Pradesh vide Advertisement No. SD/Estt./ADVT/2017-18, dated 24.07.2017, has been set aside and quashed with further direction to conduct the examination afresh by allowing those candidates who had appeared in the written examination but have crossed the eligibility age in the circumstances. It may be relevant to mention herein

that the appellant Nos. 1, 2, 3 & 4 were the respondent Nos. 5, 4, 6 & 9 respectively in WP (C) 669 (AP) 2017 whereas appellant Nos. 5 to 15 were not a party in the WP (C) 669 (AP) 2017.

**2.** Heard Mr. U. K. Nair, learned Sr. counsel appearing for the appellants. Also heard Ms. G. Ete, learned Addl. Sr. Govt. Advocate appearing for State respondent Nos. 1, 2 & 3 and Mr. L. Perme, learned counsel appearing for respondent Nos. 4 & 5.

**3.** The facts leading to filing of this appeal be narrated herein briefly:- an advertisement, dated 24.07.2017, was issued by the Deputy Commissioner, Siang District, Arunachal Pradesh vide Advertisement No. SD/Estt./ADVT/2017-18 for recruitment of 12 posts of UDC, 8 posts of LDC and 23 posts of MTS. In pursuance of the aforesaid Advertisement, a selection process was conducted and the result of the written test conducted was published on 05.09.2017. However, a day before the publication of the result, on 04.09.2017 a complaint was lodged by the Students body called 'Siang Districts Students Union' to the Chief Secretary, Govt. of Arunachal Pradesh alleging malpractice, illegalities, discrepancies and corrupt practices being committed while the written examination was conducted and the answer papers evaluated. Amongst the host of the allegations made in the complaint, dated 04.09.2017, by the Students' body, one of the allegation was that Sri Rahul Singh, the Deputy Commissioner, Siang District allowed one of the candidate, namely, Ms. Rita Chetry bearing roll No. 474 along with one of her friend to stay in his official residence and engaged both of them in the evaluation of the answer sheets. As the complaint submitted by the Students' union, as indicated above, failed to yield any result, the petitioners filed the writ petition being WP (C) 669 (AP) 2017 praying for setting aside and quashing of the selection process undertaken in pursuance of the Advertisement, dated 24.07.2017. This Court by an order, dated 18.09.2017, passed in the writ petition, while directing not to proceed further with the selection process pursuant to advertisement, dated 24.07.2017 further directed the Commissioner/ Secretary, General Administration, Govt. of Arunachal Pradesh to cause an inquiry to the allegations made with regard to the discrepancies and illegalities committed in the recruitment process undertaken as above and to submit a report on the next date fixed.

4. As directed by this Court, the inquiry report, dated 30.01.2018, conducted by the Secretary, (Personal, AR &Trg.), Govt. of Arunachal Pradesh was submitted to this Court on 02.02.2018. On perusal of the aforesaid inquiry report, dated 30.01.2018 as submitted to the Court on 02.02.2018, the learned Single Judge found from the inquiry report that the questions and answer sheets were taken out during the examination period and also that unauthorized persons including a candidate were present at the place of evaluation of the answer sheets. These two facts, held the learned Single Judge, established by the inquiry conducted on the direction of this Court goes to show that the written examination and evaluation process were conducted in a most casual manner, if not, with ill intention, and therefore, cannot be fully trusted. On the above two premises, the learned Single Judge has come to a finding that purity and sanctity of the written examination has been compromised and accordingly, the written examination and the selection process so far undertaken for the posts of UDC, LDC, MTS were set aside and quashed with a further direction to re-conduct the examination afresh by also allowing those candidates who had appeared in the written examination but have crossed the eligibility age due to the circumstances obtaining in the case.

5. Assailing the correctness of the judgment and order passed by the learned Single Judge Mr. UK Nair, learned Sr. counsel submits that inquiry report, dated 30.01.2018, has not indicated conclusively that question paper was leaked prior to the examination conducted and that if at all the question paper was taken out from the examination hall, it was only after the examination was over. In this regard, Mr. Nair, learned Sr. counsel referring to the Additional affidavit filed by the appellants has drawn the attention of this Court that a P.S. Case No. 23/2017 under Section 420/193 of the IPC was registered at Pangin Police Station with regard to the leakage of the question paper and the I.O. of the case vide progress report of the investigation, dated 11.04.2018, revealed that there was no leakage of question papers from anywhere or examination Centre before the UDC exam was conducted at Pangin and Boleng on 19.08.2017 and therefore, Mr. Nair submits that the learned Single Judge has failed to take into account the findings of the inquiry report to the effect that there was no conclusive

evidence of proof of the leakage of the question paper and also the report of the investigating officer of the P.S. Case No. 23/2017 to the effect that there was no any leakage of question paper. The findings of the learned Single Judge with regard to the leakage of the question paper which is one of the premise for setting aside the recruitment process undertaken is unsustainable and bad in law.

**6.** With regard to the presence of unauthorized person, namely, Ms. Rita Chetty and her friend in the camp office where the evaluation of answer paper were going on, Mr. Nair by referring to the inquiry report, dated 30.01.2018 submits that although Ms. Rita Chetty and one of her friend have been found to be present in the camp office where the evaluation of answer sheets were going on yet Ms. Chetty who was herself a candidate in the said examination and her friend were not involved in the evaluation of the answer sheets. They were engaged by the Circle Officer in order to help out with bundling and unbundling of papers, lifting and packaging of paper bundles and reading out of data for data entry, etc., and other miscellaneous task. When Ms. Chetty and her friend were engaged to help in the miscellaneous activities, the Circle Officer did not know that Ms. Chetty was also one of the candidate who have appeared for MTS written examination, and the mistake was bonafide. On coming to know of the candidature of Ms. Rita Chetty as one of the candidate who had appeared for MTS written examination, a notice cancelling the candidature of Rita Chetty bearing Roll No. 474 (MTS) was issued on 30.08.2017 vide No. DCP/SP/Misc-01/2016-17. In view of the above finding in the inquiry report, dated 30.01.2018, that Ms. Rita Chetty although present in the place of evaluation of answer sheet was not all involved in any way in evaluation of the answer sheets, submits Mr. Nair, the finding of learned Single Judge that the presence of Ms. Rita Chetty one of the candidate in the said examination, has vitiated the sanctity and purity of recruitment process is unsustainable and the learned Single Judge ought not to have set aside the recruitment process undertaken as above.

**7.** Mr. L. Perme, learned counsel appearing for the respondent Nos. 4 & 5 has drawn the attention of this Court to the brief statement made on 23.12.2017 by Ms. Rita Chetty which is to be found at Page-166 of the appeal, wherein, Ms. Rita Chetty has stated that she was involved in the

examination process for miscellaneous work like binding of papers, reading out of Roll nos. for tabulation to the tabulator and serving tea and snacks to the Officials involved in the evaluation of answer sheets. By referring to the aforesaid statements made by Ms. Rita Chetty Mr. L. Perme, learned counsel submits that as Ms. Rita Chetty was involved in the reading out of Roll nos. for tabulation to the tabulator, a possibility of involvement of Ms. Rita Chetty in the process of evaluation of answer sheets cannot be ruled out. Mr. Perme further submits that presence of Ms. Rita Chetty in the camp office where the tabulation of answer sheets took place have been established beyond reasonable doubt by the inquiry report, dated 30.01.2018, as well as her statement made on 23.12.2017 which is at Page-166 of the appeal and therefore, Ms. Chetty herself being one of the candidate in the said examination, the purity and sanctity of the entire selection process have been gravely undermined and therefore, the learned Single Judge was correct in setting aside the selection process undertaken in pursuance to the advertisement, dated 24.07.2017. Accordingly, submits Mr. Perme, no fault can be found with the impugned Judgment and order, dated 15.02.2018, passed by the learned Single Judge in WP (C) 669 (AP) 2017.

**8.** Ms. G. Ete, learned Addl. Sr. Govt. Advocate appearing for State respondent Nos. 1 to 3 has submitted that selection process in pursuance to advertisement dated 24.07.2017 was undertaken in a most fair manner. There was no any leakage of any question paper as well as no involvement of any unauthorized person during the evaluation of answer papers and thus, no any illegality from anywhere was committed while undertaking the selection process mentioned above.

**9.** Rival submissions advanced at the bar have received due consideration of this Court.

**10.** The learned Single Judge while setting aside the selection process so far undertaken for filling up 12 posts of UDC, 8 posts of LDC & 23 posts of MTS vide advertisement, dated 24.07.2017 for the establishment of Deputy Commissioner, Siang District, Arunachal Pradesh have found from the inquiry report, dated 30.01.2018, that the question and answer sheets were taken out during the examination period, and secondly, unauthorized persons including a candidate were present at the place of evaluation of answer

sheets. According to the learned Single Judge, the above two facts which have been established by the inquiry conducted on the direction of this Court goes to show that the written examination and the evaluation process were conducted in a most casual manner, if not, with ill intention, and therefore, cannot be fully trusted.

**11.** The premise on which the recruitment process undertaken in pursuance of the advertisement, dated 24.07.2017, has been set aside by the learned Single Judge is that the question papers were taken out during the examination period and unauthorized person including a candidate were present at the place of evaluation of answer sheets.

**12.** We have perused the inquiry report, dated 30.01.2018, submitted by the Secretary (Personal, AR &Trg), Govt. of Arunachal Pradesh. On perusal of the inquiry report, dated 30.01.2018, the presence of Ms. Rita Chetty, who was a candidate for MTS bearing Roll no. 474 along with one of her friend in the camp office where the evaluation of the answer sheets was going on have been conclusively established. Although, Ms. Chetty may not have been entrusted with the actual evaluation work of the answer sheets yet she was involved in a work relating to the evaluation of answer sheets from bundling and unbundling of papers to reading out of data for data entry as well as reading out of Roll numbers for tabulation to the tabulator. The inquiry report, dated 30.01.2018, have been accepted by all the parties of this writ appeal. None of the parties to the present writ appeal have challenged the correctness of the findings recorded in the inquiry report. The findings as recorded in the inquiry report, therefore, has to be taken to be correct as accepted by all the parties of this writ appeal. In view of the categorical finding of the presence of Ms. Rita Chetty, one of the candidate for the post of MTS bearing Roll No. 474 at the place where the answer sheets was evaluated, in the considered view of this Court, makes the entire circumstances surrounding the evaluation of answer sheets most suspicious. This Court is not of the view in any manner that the presence of Ms. Rita Chetty have led to any demonstrable illegality in the selection process undertaken. However, the presence of Ms. Rita Chetty, one of the candidate for the post of MTS, has the potential of casting a reasonable doubt in the minds of a reasonable person with regard to the fairness, impartiality, purity

and sanctity of the evaluation of answer sheets that had taken place, which, in the considered view of this Court could be a possible view to hold that the purity and sanctity of the selection process so far undertaken is not above board. Therefore, the view taken by the learned Single Judge in setting aside the selection process so far undertaken in pursuance of the advertisement, dated 24.07.2017, on the ground that the presence of Ms. Rita Chetry, one of the candidate herself, in the place of evaluation of answer sheets had undermined the purity and sanctity of the written examination is a possible view capable of being taken by the learned Single Judge in the peculiar facts and circumstances of the present case.

**13.** The writ appeal, unlike an appeal in general, is an appeal on principle and that is why, unlike an appeal in an ordinary sense, such as a Criminal Appeal or Civil Appeal, where the whole evidence on record is examined anew by the appellate Court, what is really examined in a writ appeal, is the legality and validity of the judgment and order of the learned Single Judge and it can be set aside or should be set aside only when there is a patent error on the face of the record or the judgment is against the established or settled principle of law. If two views are possible and a view, which is reasonable and logical, has been adopted by the Single Judge, the other view, howsoever appealing such a view may be to the Division Bench, it is the view adopted by the learned single Judge, which should, normally, be allowed to prevail. The view taken by the learned Single Judge in the present case having been held to be a possible view, capable of being taken by the learned Single Judge in the peculiar facts and circumstances of the present case, we are of the considered view that no interference is called for with the impugned judgment and order, dated 15.02.2018, passed in WP (C) 669 (AP) 2017.

The appeal is dismissed being devoid of merit. No costs.

**JUDGE**

**JUDGE**

*Talim*