

IN THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH)

WRIT PETITION No.263 of 2019

Shri Nikbia Talom and 3 others

.....Petitioners

-Versus-

1. The State of Arunachal Pradesh and 34 others.

.....Respondents

- B E F O R E -

HON'BLE MR. JUSTICE NANI TAGIA

For the petitioners : Mr. A Bhattacharjee

For the State respondents : Mr. S. Tapin, learned Senior
Government Advocate

JUDGMENT & ORDER (ORAL)

22.10.2019

Heard Mr. A. Bhattacharjee, learned counsel for the petitioners and Mr. S. Tapin, learned Senior Government Advocate for the State respondents. None appears for the respondent Nos. 6, 7, 9 to 24 and 26 to 35 although counter affidavit have been filed on their behalf by the learned counsel Mr. S. Koyang.

2. This writ petition is directed against the notification dated 19.07.2019 issued by the Additional Deputy Commissioner, Tali, Kra-Daadi District, Arunachal Pradesh vide No. PIP/PR-01/2018/08 whereby the writ petitioners who were appointed as member in the Gram Pranchayat Level Interim Committee by a notification dated

11.06.2018 have been replaced by the respondent Nos. 06, 10, 24 and 30 respectively.

3. In pursuance to the notification dated 30.05.2018 issued by the Chief Secretary, Government of Arunachal Pradesh vide Memo No. PR-Election/478/2012/484, which provides for constitution of Gram Panchayat Level Interim Committee, the petitioners were appointed as a members of Gram Panchayat Level Interim Committee under Clause (d), thereof vide notification dated 11.06.2018, issued by the Circle Officer, Pipsorang vide Memo No. PIP/PR-01/2018/07. The petitioner No. 1 was appointed as member of the interim committee in respect of 9/78/Raha Gram Panchayat, the petitioner No. 2 was appointed as member of the interim committee of 9/85-Korapu Gram Panchayat, petitioner No. 3 was appointed as member of the interim committee of 9/76-Songio Gram Panchayat and petitioner No. 4 was appointed as member of the interim committee of 9/88-Sepaha Gram Panchayat.

4. According to the petitioners, the appointment of the petitioners as member of the Gram Panchayat Level Interim Committee being made in pursuance of the notification dated 30.05.2018 issued by the Chief Secretary, Government of Arunachal Pradesh which provides for continuation of the interim committee so constituted till the reconstitution of new Zilla Parishad and new Gram Panchayat, the petitioners could not have been removed or replaced until reconstitution of new Zilla Parishad and new Gram Panchayat. However, by the impugned order dated 19.07.2019 issued by the Additional Deputy Commissioner, Tali, Kra Daadi District (A.P) vide Memo No. PIP/PR-01/2018-8/ the petitioners have been removed from the membership of Gram Panchayat Level Interim Committee and in their place respondents No. 10, 24, 6 and 30 have been made as a member of Gram Panchayat Level Interim Committee. Although the impugned order

dated 19.07.2019 is stated to be issued on partial modification of the order dated 31.10.2018 and not in modification of the petitioners' appointment notified as member of Gram Panchayat Level Interim Committee dated 11.06.2019, yet the petitioners contends that they have been removed from the membership of Gram Panchayat Level Interim Committee and replaced by the respondents No. 10, 24, 6 and 30, respectively, inasmuch as, in terms of the notification dated 30.05.2018, issued by the Chief Secretary, Government of Arunachal Pradesh which provides for constitution of Gram Panchayat Level Interim Committee provides for composition of only 2(two) prominent persons of the area under Clause (d) thereof. And accordingly, as there could not be more than 2(two) prominent persons of the area as members after the appointment of respondents No. 10, 24, 6 and 30 by the impugned order dated 19.07.2019, the petitioners cannot be members of the interim committee of the respective Gram Panchayats any longer.

5. Assailing the correctness of the impugned order dated 19.07.2019, Mr. A. Bhattacharjee, learned counsel for the petitioners submits that notification dated 30.05.2018 issued by the Chief Secretary having provided for constitution of Gram Panchayat Level Interim Committee to remain in force till the new Zilla Parishad and new Gram Panchayats are reconstituted, the petitioners could not have been replaced by the private respondents indicated above.

6. Mr. S. Tapin, learned Sr. Govt. Advocate by referring to the counter-affidavit filed by the respondents No. 1, 2 & 3 submits that the petitioners does not have any legal right to continue in the post nor any of their legal rights have been violated. The mandatory continuance of the interim committee as provided under Section 142 of the Arunachal Pradesh Panchayat Raj (Amendment) Act, 2018 does not provide for particular period for its members to be

appointed nor any show cause is required. The persons appointed as member of the interim committee under Clause (d) may keep changing till reconstitution of new Panchayat body. The post(s) indicated in the composition of Gram Panchayat Level Interim Committee in the notification dated 30.05.2018 is fixed by virtue of the post(s) indicated but the prominent persons as provided under Clause (d) would keep changing till the re-constitution of the new Panchayat body and hence, the members appointed under Clause (d) cannot claim as a matter of right to continue as a member till the reconstitution of new Panchayat body.

7. Mr. Tapin, learned Sr. Govt. Advocate further submits that the Gram Panchayat Level Interim Committee was not properly functioning due to inaction on the part of the petitioners and accordingly, vide circular dated 03.07.2019 issued by the Deputy Commissioner, Kra Daadi District (A.P), steps were taken to replace the petitioners and accordingly, impugned order dated 19.07.2019 has been issued.

8. Respondent Nos. 6, 7, 9 to 24 and 26 to 35 have also filed their counter affidavits wherein the respondents have defended their case by adopting the line of defence the State respondents have taken in their counter affidavit.

9. I have considered the rival submissions advanced by the learned counsels for the respective parties and also perused the materials available on record.

10. On perusal of the notification dated 30.05.2018 issued by the Chief Secretary, Government of Arunachal Pradesh it is noticed that the same has been issued in exercise of power under Section 142 of the Arunachal Pradesh Panchayat Raj (Amendment) Act, 2018 which provides for vesting of function of Zilla Prarishad and Gram Panchayat, in the event of dissolution of the Panchayat, to a

competent authorities as may be determined by the Government to ensure that the interest of the public are protected during the transition period till the new Zilla Parishad and Gram Panchayat are reconstituted under the Act. It was in terms thereof that the Government had provided for constitution of Gram Panchayat Level Interim Committee comprising of the members indicated therein as the term of the last panchayat body had expired on 31.05.2018. It was in pursuance thereof that the petitioners came to be appointed as a member of the Gram Panchayat Level Interim Committee in their respective Gram Panchayat Segments.

11. On further perusal thereof, the notification dated 30.05.2018 further provides that the committee so constituted shall be in force during the transition period till the reconstitution of the new Zilla Parishad and the new Gram Panchayat in the State. The term of the last panchayat body is stated to have expired on 31.05.2018 and till date the same has not been reconstituted. The notification dated 30.05.2018 having provided for continuation of the Interim Committee till the new panchayat body is reconstituted, I am of the view that the writ petitioners could not have been replaced by the respondents named herein above by the impugned order dated 19.07.2019. The term of the last panchayat body having expired on 31.05.2018, the State Government is duty bound to take steps for reconstitution of the new panchayat body at the earliest. The Interim Committee constituted in terms of notification dated 30.05.2018 being in the nature of interim arrangement during the transition period of reconstitution of new panchayat body the same also cannot be allowed to continue for a long time by permitting replacement of the members therein from time to time. If such replacement of the members of the Interim Committee is permitted to be continued without any prompt further steps for reconstitution of the panchayat body, the same has the potential of virtually

replacing the panchayat body which would be contrary to the democratic principles of self governance as contemplated by the Panchayat Act.

12. In that view of the matter, the impugned order dated 19.07.2019 issued by the Additional Deputy Commissioner, Tali, Kra Daadi District Arunachal Pradesh vide No. PIP/PR-01/2018/08 so far as the appointment of respondent No. 10 as the member of Gram Panchayat Level Interim Committee in respect of 9/78-Raha Gram Panchayat, appointment of respondent No. 24 as Gram Panchayat Level Interim Committee in respect of 9/85-Korapu Gram Panchayat, appointment of respondent No. 6 as Gram Panchayat Level Interim Committee in respect of 9/76-Songio Gram Panchayat and appointment of respondent No. 30 as Gram Panchayat Level Interim Committee in respect of 9/88-Sepaha Gram Panchayat replacing the petitioners Nos. 1, 2, 3 and 4 respectively are hereby set aside and quashed.

13. The writ petition stands **disposed of** in terms above.

JUDGE

Jumbi