

**THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR, TRIPURA
MIZORAM AND ARUNACHAL PRADESH)
ITANAGAR PERMANENT BENCH
NAHARLAGUN**

Appeal from
Writ Petition (Civil)

WP@ No. 491 (AP) 2010

Shri Posi Gamlin
-Versus-
The Union of India & 30s

Appellant
Petitioner

Respondent
Opposite Party

Counsel for the Appellant
Petitioner

K. Ete
N. Ratan
M. Kato
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K. Tasso
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Counsel for the Respondent
Opposite Party

G.A (AP)

Noting by Officer or Advocate	Serial No.	Date	Office,note,reports,orders or Proceeding with signature
(1)	(2)	(3)	(4)

-AND-

IN THE MATTER OF:

Shri Posi Gamlin

S/o Late Mipo Gamlin, permanent resident of Lagi Gamlin village, P.O. & P.S. Yomcha, West Siang District, Arunachal Pradesh. Presently serving as ADEO/District Coordinator, Sarva Shiksha Abhiyan (SSA), West Siang District, Aalo, Arunachal Pradesh.

.....Petitioner

-Versus-

1. The State of Arunachal Pradesh represented by the Commissioner, Education, Govt. of Arunachal Pradesh.
2. The State Project Director, Sarva Shiksha Abhiyan Rajya Mission, Itanagar, P.O/P.S- Itanagar, Govt. of Arunachal Pradesh.
3. The Director, School Education, Govt. of Arunachal Pradesh, Itanagar.
4. Shri Taje Rida,
ADEO, P.O/P.S- Yomcha, West Siang District, Arunachal Pradesh.

...Respondents

The humble petition of the petitioner above named:

Contd....p-4

WP(C) 491 (AP) 2010

BEFORE

THE HON'BLE MR JUSTICE I A ANSARI

07-01-2011

Heard Mr. K. Ete, learned counsel for the petitioner, and Mr. R. H. Nabam, learned counsel appearing, on behalf of the respondent Nos. 1 to 3. Also heard Mr. R. Saikia, learned counsel for the private respondent No.4.

The petitioner, while working as Assistant District Education Officer (in short, "ADEO") was transferred by order, dated 02-11-2010, from Yomcha, West Siang district, to Aalo, as ADEO/District Coordinator, which also falls in West Siang district. The petitioner was accordingly released from Yomcha. The private respondent No.4, did not, however, hand over the charge to the petitioner; rather, he (the private respondent No.4) challenged the said transfer order, dated 02-11-2010, by filing a writ petition under Article 226 of the Constitution of India, which gave rise to WP(C) 430 (AP) 2010.

By order, dated 24.11.2010, the said writ petition was disposed of with direction to the respondents/ authorities concerned to consider the representation

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Rinto Saikia
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of the said writ petitioner (i.e., the private respondent No.4 herein) and dispose of the same within a period of 10 days from the date of receipt of a certified copy of the order along with a copy of the writ petition.

Having considered the private respondent's representation, respondent No.1 has made an order, on 10-12-2010, whereby the private respondent No.4 has been retained as ADEO /District Coordinator, at Adlo, till 31-03-2011. Aggrieved by the order, dated 10-12-2010, this writ petition has been filed, under Article 226, by the present petitioner seeking to get set aside and quash the order, dated 10-12-2010, aforementioned.

While considering the presently impugned order, dated 10-12-2010, it needs to be noted that judicial review of administrative decisions by the High Court, in exercise of its powers under Article 226 of the Constitution of India, cannot be in the manner of an appellate court. So long as an administrative decision takes into consideration all relevant factors and keep excluded from the purview of consideration all irrelevant factors, the administrative decision cannot be interfered with even if the writ Court takes the view that another view was more appropriate. Unless,

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therefore, an administrative decision or order is illegal, irrational or suffers from *mala fide*, an administrative order, such as the one, which stands impugned in this writ petition, cannot be interfered with.

In the backdrop of the above position of law, when I turn to the order, dated 10-12-2010, I notice that the respondent No.1, while passing the impugned order, dated 10-12-2010, has assigned cogent reasons for directing retention of the private respondent No.4 till 31-03-2011. The reasons read as under:

"1. That as per the school certificates obtained from the Principal, Govt. Hr. Sec. School, Aalo and the Principal, Marjum Memorial Public School, Aalo, Shri Taje Rida, District Coordinator, SSA has got two School going children of Class X & XI who are going to appear final examination after 3-4 months i.e. March/April 2011. Transfer & Posting of Shri Taje Rida, District Coordinator, in the mid session will seriously affect the education of his children.

2. That Shri Taje Rida, District Coordinator is dealing with all the schemes of intervention under SSA which is purely financial matter. His transfer in the financial fag end may invite confusion during closing of accounts in March ending.

3. That wife of Shri Taje Rida is reported to the chronic patient who requires regular medical checkup at General Hospital, Aalo.

Considering the above facts, the Governor of Arunachal Pradesh is pleased to order the retention of Shri Taje Rida, ADEO/District Coordinator, Aalo at Aalo and Shri Posi Gamlin, ADEO Yomcha at Yomcha till 31/3/2011. Accordingly, in pursuance to the order of

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Hon'ble High Court dated 25/11/2010, the reprsenation dated 02-11-2010 stands disposed off."

In the face of the reasons assigned by the respondent No.1, it cannot be said that the respondent No.1 has assigned no reason or that the reasons assigned are wholly irrational.

Considering, therefore, the matter in its entirety and in the interest of justice, while the impugned order, dated 10-12-2010, is not interfered with, it is hereby made clear that the respondent No.4 shall not be allowed to continue beyond 31-03-2011 at his present place of posting and pursuant to the order, dated 02-11-2010, aforementioned the petitioner herein shall be allowed to join as ADEO/District Coordinator at Aalo.

In view of the fact that the order, dated 02-11-2010, stands modified by the order, dated 10-12-2010, it is further directed that the petitioner shall be allowed to rejoin his place of posting at Yomcha and he shall be allowed to join the post of ADEO/District Coordinator at Aalo on 01-04-2011. The State respondents shall do the needful accordingly in order to ensure the pay and allowances of the present petitioner and his other dues, such as, travelling

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allowance, etc, are made available to him in accordance with law within the prescribed period.

With the above observations and directions, this writ petition stands disposed of.

No order as to costs.



JUDGE

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