

**IN THE GAUHATI HIGH COURT**  
(THE HIGH COURT OF ASSAM, NAGALAND, MIZORAM &  
ARUNACHAL PRADESH)  
**ITANAGAR BENCH.**

**Contempt Cas (c) No. 06 (AP) / 2014**

Smti Trishna Saikia,  
W/o Sri Binet Hazarika,  
R/o Village- Chamua, PO-Borbali,  
PS- Bihpuria, District-Lakhimpur,  
Assam.

**Petitioner.**

**By Advocates:**  
Mr. RP Hazarika,  
Mr. A. Rajkhowa

**-VERSUS-**

1. Dr. Kartik Nishing,  
The Director of Health Services,  
Govt. of Arunachal Pradesh,  
Naharlagun, Dist-Papumpare,  
Arunachal Pradesh.
2. Dr. Kipa Tugti,  
The Chairman, District Transfer Posting Committee,  
Papumpare District, Yupia,  
Arunachal Pradesh.
3. Dr. Gyati Taku,  
The Joint Director, Director- Health Services  
(P&D) of Directorate of Health Service,  
District-Papumpare, Arunachal Pradesh.
4. Dr. S. Ronya,  
The District Medical Officer,  
Papumpare District, Yupia,  
Arunachal Pradesh.
5. Dr. Tag Kaku, Medical Officer,  
Community Health Centre Balijan,  
Arunachal Pradesh, Papumpare.

**.....Respondents.**

**By Advocates:**  
Ms. G. Deka, Addl. Sr.GA for Resp. Nos. 1&3  
Mr. D. Boje, for Resp Nos. 2,4 & 5.

**BEFORE**  
**THE HON'BLE JUSTICE Dr. (MRS.) INDIRA SHAH**

Date of hearing : 20-08-2014

Date of Judgment & Order : 29-08-2014

**JUDGMENT & ORDER (CAV)**

This Contempt Petition under Section 12 of the Contempt of Courts Act, 1971 read with Article 215 of the Constitution of India has been filed by the petitioner for wilful violation and disobedience of the order dated 04-11-2013 passed by this Court in WP(C) 465 (AP) 2013 by the respondent authorities.

2]. I have heard Mr. A. Rajkhowa, learned counsel appearing on behalf of the petitioner as well as Ms. G. Deka, learned Addl. Sr. Govt. Advocate appearing on behalf of the respondent/contemnor Nos. 1 & 3 and Mr. D. Boje, learned counsel appearing for respondent/contemnor nos. 2,4 & 5.

3]. This Court while disposing the WP(C) 465 (AP) 2013, directed the respondent authorities to dispose of the representation filed by the petitioner within 10 days from the date of receipt of a certified copy of the order along with a copy of the representation of the petitioner. The respondent authorities were also directed that till disposal of the said representation, the salary and other allowances of the petitioner may not be stopped.

4]. It is alleged that the petitioner duly communicated the order passed by this Court on Court 04-11-2013 to the respondent authorities, on 11-11-2013 but the concerned authority has neither released her salary and other allowances till date nor her representation has been disposed of.

5]. On 24-12-2013, the petitioner filed another representation with a prayer to release her salary and other allowances as early as possible. The respondent No.3, who is Joint Director (P & D) in the Directorate of Health Services in his affidavit-in-opposition filed on 02-05-2014, has averred that he is not the person named as respondent No.3 and he has already handed over the charge of P & D to Dr. Hage Tabyo. Moreover, the transfer matter of the petitioner is dealt with by the District Medical Officer, Yupia and therefore, he is not at all a necessary party.

6]. The respondent no.2 i.e. Chairman, District Transfer and Posting Committee, Papumpare District, has alleged in his affidavit-in-opposition that the petitioner did not comply with the transfer order, she was not working to the satisfaction of the competent authority and therefore the transfer order was passed. It transpires from the affidavit-in-opposition, filed by the contemnor/respondent no.2 that no satisfactory reply has been given by the contemnors as to why they have not complied with the order of this Court. This Court in clear terms directed the respondent authorities to dispose of the fresh representation filed by the petitioner within a period of 10 days from the date of receipt of the order and till then, not to stop her salary and other allowances. Nowhere in the affidavit-in-opposition, filed by the respondent/contemnor no.2, is stated that the representation filed by the petitioner was disposed of and till disposal of the representation, her salary and other allowances were not stopped.

7]. Respondent No.1, the Director of Health Services, Govt. of Arunachal Pradesh, Naharlagun, in his affidavit-in-opposition, has averred that the transfer and posting of medical staff is done by the District Medical Officer, who has the authority to reshuffle the staff under his jurisdiction. Usually the transfer and posting of staff under

the jurisdiction of District Medical Officer is not interfered by the Director of Health Services. However, on receipt of the order dated 04-11-2013, passed by this Court, in WP(C) 465 (AP) 2013, the present respondent/contemnor immediately endorsed it to District Medical Officer, Yupia for compliance of the order. The District Medical Officer, Yupia vide his letter dated 22-11-2013 sought certain clarifications. This contemnor, in response/reply, issued instructions to the District Medical Officer, Yupia, highlighting the order of this Court and instructed him either to comply with the order or to file an appeal against the said order, if he is aggrieved. Therefore, this Contemnor has not violated the directions of this Court in any manner

**8].** It appears from the annexure-A/2 to the affidavit-in-opposition filed by the respondent/contemnor No.1 that the District Medical Officer, Yupia was clearly informed to comply with the order of this Court or to challenge the order by filing an appeal against the said order. The said Contemnor No.1 also instructed the said District Medical Officer to dispose of the representation filed by the petitioner immediately.

**9].** Thus, on perusal of the affidavit-in-oppositions, filed by the respondents/contemnors, it appears that the Contemnor No.4 i.e. District Medical Officer, Yupia, in spite of clear direction from the respondent/contemnor No.1 i.e. Director of Health Services, Govt. of Arunachal Pradesh, Naharlagun, has violated the order of this Court. The respondent/Contemnor No.4, in his affidavit-in-opposition, has put forth so many allegations against the petitioner but nowhere has he averred that the representation filed by the petitioner was disposed of and till then, her salary and other allowances was not stopped.

**10].** In view of the above facts and circumstances, the respondent/contemnor No.4, i.e. District Medical Officer, Yupia, is hereby held responsible for violation of this Court order dated 04-11-

2013 passed by this Court in WP(C) 465 (AP) 2013. Therefore, he is liable to pay a penalty of Rs.1000/- as cost to the petitioner immediately and also to comply with the order of this Court dated 04-11-2013 within a period of 7 days from the date of receipt of a certified copy of this order to avoid further penalty and other legal action as per law.

20]. With the above directions, this Contempt Petition stands disposed of.

**JUDGE**

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