

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

**ITANAGAR PERMANENT BENCH**  
**(NAHARLAGUN)**

**WP(C) 15 (AP)/2013**

**1. Shri Kage Ado,**

S/o Late Rek Ado,  
Head Gaon Burah, village Rigo, Along (Sadar) Circle,  
District West Siang, Arunachal Pradesh.

.....petitioner.

**-VERSUS-**

**1. The State of Arunachal Pradesh,**

Represented by the Secretary (District Administration)  
Government of Arunachal Pradesh, Itanagar.

**2. The Deputy Commissioner,**

District West Siang, Aalo, Arunachal Pradesh.

**3. Mrs. Dongam Bagra,**

W/o Nyaki Bagra,  
P.O. & P.S.- Aalo, District West Siang, Arunachal Pradesh.

.....respondents.

**BEFORE  
HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI**

Advocate for the Petitioners : Shri K. Saxena

Advocate for the Respondents : Ms. G. Ete, learned Additional Senior Government

Advocate for State Respondents

Shri D. Panging, learned counsel for respondent No. 3

Date of hearing and Judgment : **30.05.2019**

**JUDGEMENT & ORDER(ORAL)**

**1.** An order dated 13.01.2012 and the subsequent notification dated 24.05.2012 issued by the Deputy Commissioner, West Siang District are the subject matter of challenge in this writ petition.

**2.** The case in hand has a chequered history. The petitioner is the Head Goan Burah of Rigo Village and is aggrieved of the bifurcation of his village and creation of new village Jimar which is the subject matter of the impugned notification. Earlier in the year 2002, Jimar village was notified to be a Government approved village vide the notification dated 25.02.2004. The said action was the subject matter of challenge in WP (C) 388 (AP)/2004 and the aforesaid writ petition was disposed of vide the order dated 03.12.2008 by quashing the notification and remanding the matter back to the Government to re-examined the issue of creation of the village. Pursuant to such remand, the matter was examined and an order dated 13.01.2012 was issued by the Deputy Commissioner for the approval of the Government. On such approval dated 11.05.2012 of the Government, the formal notification dated 24.05.2012 has been issued for creation of the Jimar village. It is these exchange which are the subject matter of challenge in this writ petition.

**3.** I have heard Shri K. Saxena, learned counsel for the petitioner. I have also heard Ms. G. Ete, learned Additional Senior Government Advocate, Arunachal Pradesh for the official respondents and Shri D. Panging, learned counsel for respondent No. 3.

4. Shri Saxena by referring to the guidelines holding the field which has been annexed to the writ petition submits that there is a requirement of taking No Objection Certificate (NOC) from amongst others, the nearby village Head Gaon Burah. However, such guidelines have not been followed in the instant case and no such NOC has ever been asked for from the petitioner. Shri Saxena, learned counsel submits that the area in question constituting Jimar Village is actually a portion of Rigo Village of which petitioner is the Head Goan Burah and it is incumbent upon the Government to take NOC from him. The action of creating a new village by carving out an area from existing village is also otherwise detrimental to the interest of the Goan Burah who is entrusted and vest with certain powers and duties concerning the village. The learned counsel however fairly submits that such guidelines are non statutory in nature but are generally followed and in absence of adhering to such guidelines, the impugned action cannot be sustained.

5. Ms. Ete, learned Additional Senior Government Advocate, Arunachal Pradesh submits that a writ Court do not look into the correctness of the decision but would only examine the decision making process and in the instant case, the impugned notification and the preceding order would only reflect proper application of mind wherein reasons have also been attached. She further submits that a writ Court would not look for the adequacy or sufficiency of reasons and in absence of any allegation of *mala fide* coupled with availability of reasons, no interference is normally made by a writ Court. Referring to the order dated 13.01.2012 of the Deputy Commissioner, the learned State Counsel submits that all the relevant factors have been taken into consideration and the order is passed by *bona fide* exercise of power. The said order being duly approved by the Government, the formal notification was issued on 24.05.2012.

6. Endorsing the submissions of the learned State Counsel, Shri D. Panging submits that when it is an admitted case of the petitioner that the guidelines in question are non statutory, the petitioner cannot come up for its enforcement before a writ Court. The guidelines including the one regarding requirement of NOC from the Head Gaon Burah of the nearby village is only directory in nature and that by itself cannot render the action as nugatory.

7. The rival submissions of the learned counsel for the respective parties have been duly considered and the materials before this Court has been carefully examined. Ms. Ete, the learned State Counsel has also produced the records of the case.

8. The guidelines holding the field appears to be directory in nature and as admitted by the petitioner in paragraph 29 of the writ petition, no legal sanctity can be attached to such guidelines. Gaon Burah of a particular village cannot be said to have suffered any legal injury by mere carving out of another Government village from the area which is the part of the policy of the Government. It is the established principle of law laid down in a catena of judgments pronounced including the case of *Sidheswar Sahakari Sakhar Karkhane Ltd Vs. Union Of India* reported in *AIR (2005) SC 1399* that policy decision unless can be demonstrated to be wholly unreasonable, patently arbitrary and capricious are not matters for interference by this Court.

9. In this case, this Court has also noticed that no enforceable right of the petitioner has been violated and the only short coming in this exercise is not taking the NOC from the petitioner who is the Head Goan Burah of the Rigo village. However, that by itself cannot vitiate the action which is the subject matter of challenge.

10. Accordingly, the writ petition is held to be devoid of merits and the same stands **dismissed**. It is however left to the authorities that since the present case appears to be mere ego clash, a post facto consent may be taken from the petitioner. However, it is made clear that said remark is only an observation and will not have any legal bearing on the issue before this Court.

**JUDGE**

*J.Bam*