



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
KOHIMA BENCH

Case No. : WP(C)/89/2024

SHRI MAONGSUNEP AO
S/O LONGRIYONGDANG AO
R/O KHENSA VILLAGE
MOKOKCHUNG NAGALAND

VERSUS

THE STATE OF NAGALAND AND 10 ORS
THROUGH THE CHIEF SECRETARY TO THE GOVT. OF NAGALAND
NAGALAND KOHIMA

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF
NAGALAND
P AND AR DEPT.
NAGALAND KOHIMA

3:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF
NAGALAND
DEPT. OF LEGAL METROLOGY AND CONSUMER PROTECTION
NAGALAND KOHIMA

4:THE SECRETARY
LAND REVENUE DEPT.
NAGALAND KOHIMA

5:THE ADDITIONAL CONTROLLER AND HOD
LEGAL METROLOGY AND CONSUMER PROTECTION
NAGALAND KOHIMA

6:THE ASSISTANT CONTROLLER
LEGAL METROLOGY AND CONSUMER PROTECTION

DIMAPUR NAGALAND

7:THE ASSISTANT CONTROLLER
LEGAL METROLOGY AND CONSUMER PROTECTION
MOKOKCHUNG NAGALAND

8:THE DEPUTY COMMISSIONER
MOKOKCHUNG NAGALAND

9:SMTI. TAKOSANGLA
WATCHMAN-CUM-CHOWKIDAR
O/O THE CONTROLLER OF LEGAL METROLOGY AND CONSUMER
PROTECTION DEPT.
NAGALAND KOHIMA

10:SMTI TAKOSANGLA
WATCHMAN-CUM-CHOWKIDAR
O/O THE CONTROLLER OF LEGAL METROLOGY AND CONSUMER
PROTECTION DEPT.
DIMAPUR NAGALAND

11:THE KHENSA VILLAGE COUNCIL
THROUGH CHAIRMAN
MOKOKCHUNG NAGALAN

Advocate for the Petitioner : I. IMTI LONGCHAR, OBANGNENLA
LONGCHAR,KAMONGLA LONGKUMER,VIKHONO KISO,JOHN WALLING

Advocate for the Respondent : GOVT ADV NL,

For the Petitioner : Mr. I. Imti Longchar.Advocate.
For the Respondents : Mr. V. Zhimomi, GA, Nagaland,
Mr. T. Pongener,
Ms. Remboni.
.....Advocates.

**BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN**

Date(s) of Hearing :- 23.01.2026

Date on which judgment is reserved :- 23.01.2026

Date of pronouncement of judgment :- 23.03.2026

Whether the pronouncement is of the operative part of the judgment? :- N/A

Whether the full judgment has been pronounced? :- Yes

JUDGMENT AND ORDER (CAV)

Heard Mr. I. Imti Longchar, learned counsel for the petitioner. Also heard Mr. V. Zhimomi, learned Government Advocate, appearing for the State respondent Nos.1—7, Mr. T. Pongener, learned counsel for the respondent No.9 and Ms. Remboni, learned counsel for the respondent No.11.

2. In this petition, under Article 226 of the Constitution of India, the petitioner, namely, Maongsunep Ao has challenged the office letter No.LM/CP-1/3/2023, dated 13.12.2023 of the Under Secretary to the Govt. of Nagaland, Department of Legal Metrology and Consumer Protection (LM&CP), Nagaland, Kohima, whereby approval for appointment of respondent No.9/10, Smt. Takosangla to the post of Watchman-cum-Chowkidar in the office of the Assistant Controller, LM&CP, Mokokchung, against the vacancy caused by the retirement of Shri Toshiwapang Ao was approved and also prayed for setting aside the office order No.CLMCP/Estt-16/2014/Vol-II/728-732, dated 14.12.2023 passed by the Additional Controller and Head of the Department, LM&CP, Nagaland, Kohima,

appointing the respondent No.9/10 Smt. Takosangla to the post of Watchman-cum-Chowkidar and also the office order No.CLMCP/Estt-16/2014/Vol-II/733-740, dated 14.12.2023, passed by the Additional Controller and HoD, LM&CP, Nagaland, Kohima, appointing the respondent No.9-10 Smt. Takosangla to the post of Watchman-cum-Chowkidar in the office of the Controller of the LM&CP, Nagaland, Kohima and also to direct the State respondents to consider the petitioner's application for being appointed to the post of Watchman-cum-Chowkidar in the office of the Assistant Controller, LM&CP, Mokokchung, on the basis of the DC, Mokokchung verification report, dated 06.10.2023 to the post of Watchman-cum-Chowkidar in the office of the Assistant Controller of the Legal Metrology and Consumer Protection, Mokokchung, Nagaland.

3. The background facts leading to filing of the present petition are briefly stated as under:-

"The Government of Nagaland took possession of a plot of land measuring 10.90 acres by executing a Memorandum of Agreement, dated 18.12.1972, signed between Yangar (i.e. three sub clans) and the Government of Nagaland where the office of the LM&CP, Mokokchung, Nagaland is one of the establishments in the said land. In the said Memorandum, it is stated that the land belongs to Yangar (i.e. comprising of three sub-clans), namely, (i) Takachuchang, (ii) Mokoksangba and (iii) Neken. In the said agreement some facilities to the landowners were given and the same are (a) post such as ministerial staff, (b) contract works to be allotted without inviting tender and (c) without the knowledge of the landowners, any contract work must not be given to outsiders. Thereafter, a post of Watchman-cum-Chowkidar fell vacant in the office of the Assistant Controller, LM&CP, Mokokchung, due to retirement of one Toshiwapang Ao on 31.08.2023 and being aware of the

same, the petitioner herein filed an application to the Additional Controller & HoD, LM&CP, Nagaland, Kohima, on landownership ground/basis accompanied with Yangar landowner recommendation dated 04.09.2023 and the respondent No.9/10 Smt. Takosangla also applied to the post on 11.07.2023 and one Shri Zulutemjen Kichu also filed an application for being appointed to the said post. Thereafter, the Additional Controller and HoD, LM&CP, Nagaland, Kohima, by office letter No.CLMCP/Estt-16/2014/Vol-II/492, dated 13.09.2023, written a letter to the Secretary to the Govt. of Nagaland, Department of LM&CP informing that on retirement of Shri Toshiwapang, three applications have been filed by three petitioners, namely, (1) Smt. Takosangla – recommended by the Hon'ble Speaker, Nagaland Legislative Assembly, (2) Shri Maongsunep Ao – recommended by Khensa Village Council and (3) Shri Zulutemjen Kichu – recommended by Hon'ble Minister Metsubo Jamir.

Thereafter, the Deputy Secretary to the Government of Nagaland, LM&CP Department, vide his letter dated 21.09.2023 written to the Deputy Commissioner, Mokokchung, Nagaland, for verification of landownership. Thereafter, the Chairman of Khensa Village Council, vide his letter dated 27.09.2023 recommended the name of the petitioner, stating inter alia in the same that the land was donated by Yangar (three sub clans) and his sub clan has not availed any job opportunity till date though the land has been donated by his sub clan through Memorandum of Agreement dated 18.12.1972 and that he is the only legitimate member from the landowner and applying for the post of Watchman-cum-Chowkidar and that the Khensa Village has no objection for appointment of the petitioner.

Thereafter, Head Dobashi, Office of the Extra Assistant

Commissioner, Ongpangkong, Mokokchung, has also reported that he conducted verification along with the Dobashis of Ongpangkong on 25.09.2023 in respect of the petitioner Shri Maongsunep Ao of Khensa Village seeking appointment to the post of Watchman-cum-Chowkidar and his case was found to be genuine. Thereafter, based on the certificate of Chairman, Khensa Village Council and the verification report of Head Dobashi, Ongpangkong, dated 27.09.2023, the Extra Assistant Commissioner, Ongpangkong, Mokokchung, written to the Deputy Commissioner, Mokokchung, Nagaland, vide his letter dated 27.09.2023, stating that the land occupied by the office of the Assistant Controller, Legal Metrology and Consumer Protection, Mokokchung, originally belongs to three sub clans, namely, Takachuchang, Mokoksangba and Neken and the land was purchased by the Government in the year 1972 and accordingly, an agreement was signed with the landowners and on verification it has been found that the applicant Mr. Maongsunep Ao is a genuine landowner belonging to Neken sub-clan and he has been recommended by three sub-clans as well as the Village Council. Thereafter, the verification report was forwarded to the Secretary, Legal Metrology and Consumer Protection, Nagaland, Kohima, vide letter dated 06.10.2023 by the Additional Deputy Commissioner, Mokokchung.

Thereafter, instead of acting upon the verification report about the genuineness of the petitioner's claim, the Government vide impugned office letter dated 13.12.2023, written by the Under Secretary to the Govt. of Nagaland, LM&CP, Nagaland, Kohima to the Additional Controller & HoD, LM&CP, Nagaland, Kohima, gave approval for appointment of Smt. Takosangla, respondent No.9/10 to the post of Watchman-cum-Chowkidar in the office of the Assistant Controller, LM&CP, Mokokchung, and being aggrieved, the petitioner approached this Court by filing the present

petition.”

4. The respondents have filed their affidavit-in-opposition(s). In the affidavit-in-opposition filed by the respondent No.9/10, she stated that the policy regarding appointments on landownership basis is governed by Notification No.LR/6-181/LIT/2015, dated 05.03.2018 and Clause 3(c) of the said notification makes it clear that the employment of landowner, if permitted by a verifiable and valid agreement, is limited to the person first appointed as landowner to Government service and does not entitle his descendants for further employment on his retirement. From the Memorandum of Understanding dated 18.12.1972, it is ascertained that compensation of Rs.21,800/-, at the rate of Rs.2,000/- per acre was paid to the landowners for the land in question and the case of the petitioner is contrary to the Notification dated 05.03.2018 and the landowners have already availed two appointments on landownership and one Shri Rongsensangba, was appointed as Peon on 21.06.2016 and one Shri Toshiwapang, was appointed as Chowkidar on 04.09.2018 and they are the landowner's appointees and as such, as per the standing policy, the landowners have exhausted the right to appointment on landownership basis and in fact, the landowners have been appointed in excess of the single appointment policy laid down in the notification and as such, the petitioner has no locus standi to claim the right of appointment on landownership basis against the post to which she has been appointed.

5. It is also stated that Shri Toshiwapang, Watchman-cum-Chowkidar was initially appointed vide order dated 17.08.1988 and posted at Dimapur in the office of the Assistant Controller of Weights & Measures and was subsequently transferred to Mokokchung vide order dated 16.08.1991 and as such, the post held by him is one belonging to the office of the Assistant Controller of Weights & Measures, Dimapur and as such, the vacancy arose at Dimapur upon his

retirement and the petitioner cannot be considered for appointment on landownership basis against the post which arose at Dimapur and that though the petitioner has applied for the post, his candidature has not been considered as the vacancy belongs to the office of the Controller, LM&CP, Dimapur and there is no infirmity in the approval letter dated 13.12.2023 and the appointment letter dated 14.12.2023 and under the aforesaid circumstances, the petitioner has no right to claim appointment on landownership basis and even if it assumes that the post was meant for Mokokchung office, then also the landowners have already availed appointment in excess of the one-time appointment policy as laid down in the Notification dated 05.03.2018 and as such, the petition is liable to be dismissed.

6. The Secretary, Legal Metrology and Consumer Protection, Govt. of Nagaland, filed affidavit-in-opposition for the respondent Nos.1—7, wherein a stand has been taken that from the Memorandum of Agreement dated 18.12.1972 it is amply clear that the State respondents have paid full compensation amount to the landowners and moreover, the State respondents in pursuance to the approval of the Cabinet, vide O.M. No.CAB-2/2013, dated 13.12.2017 had formulated a policy with regard to appointments to Grade-IV posts on landownership basis by a Notification dated 05.03.2018, wherein in Clause 3(c) it is categorically stated that **“it is also clarified that it is not the policy of the Government to provide employment to the landowner in perpetuity. The employment of the landowner, if permitted by a verifiable and valid agreement, is limited to the person first appointed as landowner in Government service and does not entitle his descendants for further employment on his retirement from service. After the appointed landowner retires or vacates the post, the vacancy will be filled up through open advertisement in consonance with the existing policy giving**

equal opportunity to all applicants.” And that the State respondents have appointed one Shri Rongsensangba to the post of Peon and one Shri Toshiwapang to the post of Chowkidar in the establishment of the Assistant Controller, LM&CP at Mokokchung, Nagaland on landownership basis and since the landowners have already availed two appointments on landownership basis, then the appointment of the petitioner will be in contravention to Clause 3(c) of the Notification dated 05.03.2018 and that the respondent No.9 was appointed on 14.12.2023 upon being approved by the Government vide letter dated 13.12.2023 following due procedure of the appointment and there is no illegality in the administrative approval and under such circumstances, it is contended to dismiss the petition.

7. The petitioner has submitted his reply to the affidavit-in-opposition filed by the respondent Nos.1—10. It is stated that the vacancy arose in the office of the Assistant Controller of Legal Metrology and Consumer Protection, Mokokchung and as such, the verification of the petitioner was conducted at Mokokchung and the same is found to be genuine and the respondent authorities are bound by the said verification. And that the stand taken by the respondents in their affidavit-in-opposition are not tenable and the memorandum executed between the landowners and the Government way back on 18.12.1972 and the subsequent notification of the Government dated 05.03.2018 cannot supersede their own commitment and the same is barred by the principle of estoppel and under such circumstances, it is contended to allow this petition.

8. Mr. Longchar, learned counsel for the petitioner submits that in view of the Memorandum of Agreement entered into by the landowners and the Government on 18.12.1972, the petitioner is entitled to be appointed to the post that has arisen on account of the retirement of Toshiwapang Ao, who was

-serving as Watchman-cum-Chowkidar and that the vacancy arose in the office of the Assistant Controller, LM&CP, whereas the respondent No.9/10 was appointed in the said post and posted at Dimapur. Mr. Longchar also submits that the land in which the office of the Assistant Controller of Legal Metrology and Consumer Protection is situated in Mokokchung, originally belongs to the Yangar clan, who is comprises of three sub-clans, namely, Takachuchang, Mokoksangba and Neken and the members of two of the sub-clans have already been appointed and the sub-clan to which the petitioner is belonging, has not been appointed and that when the vacancy arose in the office of the Assistant Controller of Legal Metrology and Consumer Protection, Mokokchung, the petitioner has applied for the same and accordingly, verification was conducted by the Deputy Commissioner and the Deputy Commissioner reported that the claim of the petitioner is genuine and in spite of the same, the respondent No.9/10 was appointed on being recommended by the Speaker of the State Legislative Assembly, Nagaland and by appointing the respondent No.9/10, the respondent authorities have failed to keep its commitment in the memorandum executed on 18.12.1972 and though the Government has issued subsequent notification on 05.03.2018, the same cannot supersede the earlier notification on the principle of estoppel.

8.1. Mr. Longchar further submits that admittedly the respondent No.9/10 was appointed to the post without there being any open advertisement for filling up the said vacancy and the act of the respondent authorities in appointing the respondent No.9/10 is contrary to the Office Memorandum dated 03.03.2022, which is annexed with the petition as Annexure-16. He also submits that as per the said Office Memorandum, applications for recruitment to the post should be called through open advertisement, and since the respondent No.9/10 was not appointed through open advertisement, the same is liable to be set aside and quashed and the State respondents may be directed to appoint the petitioner to

the said post by setting aside the approval given to the respondent No.9/10 by the State respondents.

9. Per contra, Mr. Zhimomi, learned Government Advocate for the State respondent Nos.1—7 submits that two members of the landowners have already been appointed in the department and that the land in which the Office of the Assistant Controller, Legal Metrology and Consumer Protection is situated in Mokokchung, was purchased by the Government paying its price and even if it is accepted that in pursuance to the agreement between the landowners and the Government, the Grade-IV post has to be given to the landowners, yet, two of the members of the landowners have already been appointed and as per the Notification only one member has to be appointed and one is already appointed in excess and as such, the petitioner cannot claim any right over the said post. Mr. Zhimomi has also referred to Annexure-A, the Notification dated 05.03.2018, which is annexed with the affidavit-in-opposition and relying upon Clause 3(c), he submits that it is not the policy of the Government to provide employment to the landowners in perpetuity and employment of landowner is limited to the person first appointed as landowner in Government service and it does not entitle his descendants for further employment on his retirement from service and after the retirement of the said person, the post shall be filled up through open advertisement in view of the existing policy of the Government of equal opportunity to all the applicants and under such circumstances, Mr. Zhimomi submits that the present petition is devoid of merit and therefore, it is contended to dismiss the petition.

10. On the other hand, Mr. Pongener, learned counsel for the respondent No.9/10, submits that since two members of the family of the landowners have already been appointed, though as per policy of the Government only one member of the landowners has to be appointed, and that one person has

already been appointed in excess of the said quota and as such the petitioner is not entitled to make any claim for the vacancy. Further, he submits that the memorandum of understanding was signed on 18.12.1972, and compensation of Rs.21,800/- was paid to the land owners and in that view of the matter, the claim of the petitioner is contrary to the Notification dated 05.03.2018. Mr. Pongener also submits that the petitioner has no locus standi to claim right of appointment on landownership basis and he also submits that the respondent No.9/10 was appointed on being recommended by Speaker of the Legislative Assembly.

10.1. Further Mr. Pongener submits that the vacancy to the post of Watchman-cum-Chowkidar was originally belongs to the Office of the Legal Metrology and Consumer Protection, Dimapur and one person, namely, Shri Toshiwapang Ao, was appointed to the said post and he was transferred to Mokokchung from where he retired on superannuation and since the post belongs to the Dimapur office, the respondent No.9/10 was appointed at Dimapur and as such, there is no infirmity in the appointment of the respondent No.9/10 in the office of the Dimapur.

10.2. He also submits that though the learned counsel for the petitioner has questioned the appointment of the respondent No.9/10, also on the ground that the post was filled up without advertisement and the same is contrary to the Government Notification, yet, the petitioner has not challenged her appointment on that ground and there is no averment in his petition and no such prayer is also being made on that ground and on such count, Mr. Pongener submits that there is no merit in this petition and therefore, it is contended to dismiss the same.

11. Ms. Remboni, learned counsel for the respondent No.11, has subscribed the submission of the learned counsel for the petitioner.

12. Having heard the submission of learned counsel for both the parties, this Court has carefully gone through the petition and the documents placed on record and also perused the Memorandum of Agreement signed between the landowners and the Government, dated 18.12.1972 and it appears that in Clause 3(c) of the said Memorandum of Agreement, it is stated that the Government has to give following facilities to the landowners – (1) Post such as ministerial staff, (2) Contract works to be allotted without inviting tender and (3) Without the knowledge of the landowners, any contract work must not be given to outsiders. It also appears that the Government has paid a sum of Rs.21,800/- to the landowners at the rate of Rs.2,000/- per acre.

13. It is not in dispute that the land belongs to Yangar community, which comprises of three sub-clans, namely, Takachuchang, Mokoksangba and Neken and two persons have already been appointed under the quota of landownership basis and the petitioner is the 3rd person, who has applied under the quota of landownership. But, a perusal of the Memorandum of Agreement, dated 18.12.1972, this Court finds that nowhere in the said Memorandum it is stated that if there are sub-clans in the clan of the landowner, then members of each of the sub-clan has to be appointed in Grade-IV post. In absence of any such clause in the Agreement, dated 18.12.1972, the claim of the petitioner appears to be rightly not considered by the state respondents.

14. Further, it appears that on 05.03.2018 the State respondents have issued one notification, wherein in Clause 3(c) it is stated that “it is also clarified that it is not the policy of the Government to provide employment to the landowner in perpetuity. The employment of the landowner, if permitted by a verifiable and valid agreement, is limited to the person first appointed as landowner in Government service and does not entitle his descendants for further employment on his retirement from service. After the appointed

landowner retires or vacates the post, the vacancy will be filled up through open advertisement in consonance with the existing policy giving equal opportunity to all applicants.” In view of the aforesaid clause of the Notification dated 05.03.2018, this Court is unable to record concurrence with the submission of Mr. Longchar, learned counsel for the petitioner.

15. Another aspect of the matter, for which the case of the petitioner cannot be considered, is that originally the post belongs to the office of the Dimapur, where one person, namely, Toshiwapang Ao, was appointed and he was transferred to Mokokchung Office, from where he retired on superannuation. The petitioner has not controverted this fact in his reply affidavit to the effect that the post originally belonging to the Dimapur Office. And on such count also the petitioner cannot claim for being appointed to the said post on landownership basis. On this count also the appointment of the respondent No.9/10 in Dimapur, cannot be said to be illegal and arbitrary.

16. It is a fact that as pointed out by Mr. Longcher, the learned counsel for the petitioner, at the time of hearing, that though the petitioner has claimed for being appointed on landownership basis, to the post that fell vacant on account of Toshiwangpan Ao and to which the respondent No.9/10 was appointed, was not advertised though there was Office Memorandum dated 03.03.2022 in respect of filling up of Group-D posts in the department that the recruitment to the post should be through open advertisement only and that the respondent No.9/10 was appointed without any open advertisement, and as such her appointment is de hors the Rule and Office Memorandum, dated 03.03.2022, yet, as pointed out by Mr. Pongener, the learned counsel for the respondent No.9/10, her appointment has not been challenged on that count. Mr. Pongener, has also pointed out that no averment was made in his petition by

the petitioner, and as such, this Court cannot travel beyond the pleadings to set aside the appointment of the respondent No.9/10 on a ground that has not been pleaded in the petition. There appears to be substance in the submission of Mr. Pongener, learned counsel for the respondent No.9/10, and this Court is inclined to record concurrence to the same. And in doing so this court derived authority from a decision of Hon'ble Supreme Court in **Allahabad University Etc. vs. Geetanjali Tiwari (Pandey) & Others Etc. (Special Leave Petition (Civil) No. 4902-4905 of 2024)** wherein it has been held that-
“It is well-neigh impermissible for the writ court to conjecture and surmise and make out a third case not pleaded by the parties, based on argument advanced in the course of hearing.”
In the case of **Bharat Singh vs. State of Haryana** reported in (1988) 4 SCC 534, it has been held that “If facts are not pleaded or evidence in support of such fact is not annexed, the court will not entertain such a point.” Again, in the case of **Rani Laxmibai Kshetriya Gramin Bank vs. Chand Behari Kapoor** reported in (1998) 7 SCC 469, Hon'ble Supreme Court has held that “A party must plead its case and establish its right based on those pleadings.”

17. Thus, to recapitulate on the following grounds this writ petition cannot be allowed:-

- (i) In the Memorandum of Agreement, dated 18.12.1972, nowhere it is stated that if there are sub-clans in the clan of the landowner, then members of each of the sub-clan has to be appointed in Grade-IV post. In absence of any such clause, the claim of the petitioner cannot be considered. Moreover, two persons have already been appointed under the quota of landownership basis and as per the Agreement only one member has to be appointed and it is not in dispute that one person has already appointed in excess and as

such, the petitioner cannot claim any right over the said post. Further, in view of the Clause 3(c), of the Notification dated 05.03.2018, it is not the policy of the Government to provide employment to the landowners in perpetuity and employment of landowner is limited to the person first appointed as landowner in Government service. Indisputably, the petitioner is the 3rd person who applied to the post on land ownership basis and such claim is contrary to the Agreement and the existing Office Memorandum.

(ii) The post, from which Toshiwapang Ao retired on superannuation, was originally belongs to the Office of the Assistant Controller of Legal Metrology and Consumer Protection, Dimapur. After his appointment, said Toshiwapang Ao was transferred to Mokokchung Office, from where he retired on superannuation. The petitioner, having been hailed from Mokokchung District cannot successfully make a claim for being appointed to a post on land ownership basis, that arose in Dimapur Office.

(iii) Though the respondent No.9/10 was appointed without any open advertisement, and as such her appointment is de hors the Rule and Office Memorandum, dated 03.03.2022, yet, her appointment has not been challenged on that count. There was no averment in his petition to effect. As such this court cannot travel beyond pleading.

18. In the result, this Court finds no merit in this petition and accordingly, the same stands dismissed, leaving the parties to bear their own cost.

JUDGE

Comparing Assistant