



Case No.....

Serial No.	Date	Order (s) with Signature (s)
1	2	3
03.	30.09.10 (Dinakaran, CJ)	<p><b>BEFORE</b></p> <p><b>HON'BLE THE CHIEF JUSTICE</b>  <b>MR. JUSTICE P.D. DINAKARAN</b>  <b>HON'BLE MR. JUSTICE S. P.WANGDI, JUDGE</b></p> <p>Present: Mr. Jorgay Namka, Ms. Zola Megi and Ms. Denkila Bhutia, Advocates for the petitioners.</p> <p>Mr. J.B. Pradhan, Additional Advocate General with Mr. Karma Thinlay Namgyal, Govt. Advocate and Mr. S.K. Chettri, Asstt. Govt. Advocate for official respondents.</p> <p>...</p> <p>The writ petition stands disposed of, vide detailed judgment delivered in separate sheets.</p> <div style="display: flex; justify-content: space-around; align-items: flex-end;"> <div style="text-align: center;">               Judge              30.09.10         </div> <div style="text-align: center;">               Chief Justice              30.09.10         </div> </div> <p>Pm/jk</p>

**IN THE HIGH COURT OF SIKKIM AT GANGTOK**  
(CONSTITUTIONAL WRIT JURISDICTION)

**DATED : 30.09.2010**

**CORAM**

**HON'BLE MR. JUSTICE P.D. DINAKARAN, CHIEF JUSTICE**

**AND**

**HON'BLE MR. JUSTICE S.P. WANGDI**

**Writ Petition (C) No. 40 of 2010**

1. Shri Ganesh Kumar Pradhan,  
S/o Late Devi Bahadur Pradhan,  
Aged about 72 years,
2. Shri Netra Kumar Pradhan,  
S/o Ganesh Kumar Pradhan,  
Aged about 48 years,
3. Smt. Renuka Pradhan,  
W/o Netra Kumar Pradhan,  
Aged about 42 years,
4. Shri Dambar Kumar Pradhan,  
S/o Ganesh Kumar Pradhan,  
Aged about 43 years,
5. Smt. Sita Pradhan,  
W/o Dambar Kumar Pradhan,  
Aged about 41 years,
6. Shri Narendra Kumar Pradhan,  
S/o Late Devi Bahadur Pradhan,  
Aged about 66 years,
7. Shri Krishna Kumar Pradhan,  
S/o Narendra Kumar Pradhan,  
Aged about 42 years,



8. Shri Dilip Kumar Pradhan,  
S/o Narendra Kumar Pradhan,  
Aged about 41 years,
9. Smt. Chandra Kala Pradhan,  
W/o Dilip Kumar Pradhan,  
Aged about 41 years,
10. Shri Rabin Kumar Pradhan,  
S/o Narendra Kumar Pradhan,  
Aged about 37 years,
11. Smt. Geeta Pradhan,  
W/o Rabin Kumar Pradhan,  
Aged about 35 years,
12. Shri Rajesh Pradhan,  
S/o Narendra Kumar Pradhan,  
Aged about 33 years,

The above named Petitioner No.1 to 5 are:  
R/o Changeylakha,  
Rongli Sub-Division,  
East Sikkim &

The above named Petitioner No.6 to 12 are:  
R/o Rongli Bazar,  
Rongli Sub-Division, East Sikkim.

.... Petitioners

-Versus-

1. State of Sikkim,  
Through the Chief Secretary,  
Government of Sikkim,  
Gangtok,  
Sikkim.
2. The District Collector,  
Office of the District Collectorate,  
Gangtok, East Sikkim.
3. The Sub-Division Magistrate,  
Rongli Sub-Division,  
East Sikkim.





4. Shri Benu Prasad Sharma,  
S/o Rudra Prasad Sharma,  
R/o Changeylakha,  
East Sikkim.

....Respondents

- For the petitioner : Mr. Jorgay Namka, Ms. Zola Megi  
and Ms. Denkila Bhutia,  
Advocates.
- For the respondents : Mr. J.B. Pradhan, Addl. Advocate  
General with Mr. Karma Thinlay  
Namgyal, Government Advocate  
and Mr. S.K. Chettri, Asstt. Govt.  
Advocate.

### JUDGMENT

***Dinakaran, CJ***

1. Heard Mr. Jorgay Namka, learned counsel for the petitioners and Mr. J.B. Pradhan, learned Additional Advocate General for the State-respondents.

2.1 Mr. Jorgay Namkha, learned counsel appearing for the petitioners effectively contends that the impugned orders dated 30.10.2006 and 07.08.2008 passed by respondent No. 2 are liable to be quashed on the sole ground of violation of principles of natural justice as the authorities concerned, having relied upon the Report dated 24.12.2005 of the Vigilance Department and

the report dated 22.11.2005 of the Special Branch, Sikkim Police for cancelling the respective Certificates of Identification of the petitioners, ought to have furnished copies of the same to the petitioners during the enquiry, before passing the impugned orders dated 30.10.2006 and 07.08.2008. But the respondent had not furnished those Reports to the petitioners before holding the impugned enquiry.

2.2 On the other hand the learned counsel for the petitioners further contends that the said Reports relied upon by the authorities concerned was called for only after passing the respective impugned orders. However, we do not propose to go into these contentions because Mr. J.B. Pradhan, learned Additional Advocate General appearing for the State respondents fairly concedes that the Reports of Vigilance Department dated 24.12.2005 and Special Branch of Sikkim Police dated 22.11.2005 were not furnished to the petitioners during the enquiry and before passing the impugned orders dated 30.10.2006 and 07.08.2008 cancelling the Certificates of Identification of the respective petitioners. The learned Additional Advocate General further submits that the matter may be remitted to the respective authorities and they may be given liberty to furnish the copies of the Reports (i) dated 24.12.2005





of the Vigilance Department and (ii) dated 22.11.2005 of the Special Branch, Sikkim Police and to hold an enquiry and proceed further in the matter in accordance with law.

3. We do not think that the learned counsel for the petitioners will have any objection to the suggestion of the learned Additional Advocate General.

4. In view of the above submission of learned Additional Advocate General, the impugned proceedings dated 3.10.2006 and 07.08.2008 cancelling the Certificates of Identification of the petitioners are quashed, without going into the merits and demerits of the contentions of the petitioners, but on the sole ground that the impugned proceedings suffer from violation of principles of natural justice. The matter is consequently remitted to the respective competent authorities with the direction to furnish the copies of the Reports (i) dated 24.12.2005 of the Vigilance Department and (ii) dated 22.11.2005 of the Special Branch, Sikkim Police and any other documents that were relied upon by the respondents and to hold a fresh enquiry giving a fair and reasonable opportunity to the petitioners in compliance with the principles of natural justice and pass appropriate orders in



accordance with law. Till then there shall be an order to maintain status quo ante.

The writ petition is ordered accordingly, however, no cost.



(S.P. Wangdi, J)  
30.09.10



(P.D. Dinakaran, CJ)  
30.09.10

Index : Yes/No

Internet : Yes/No

Pm/jk