

IN THE HIGH COURT OF SIKKIM

CIVIL JURISDICTION

WP(C) No. 20 of 2012

Krishna Bahadur Chettri & Ors.

~~Appellants (s)~~
Petitioner (s)

Versus

State of Sikkim & Ors.

Respondent (s)
Opposite party (s)

~~Appellant~~

For Mr. Zangpo Sherpa
Petitioner
(Advocate (s))

Respondent

For Mr. J. B. Pradhan, Addl. Advocate General with
Mr. Karma Thinlay, Govt. Advocate and Mr. S. K.
Chettri, Asstt. Govt. Advocate
~~Opposite Party~~
(Advocate (s))

Serial No.	Date	Order (s) with Signature (s)
1	2	3
01.	25.05.2012	<p style="text-align: center;">BEFORE <u>HON'BLE MR. JUSTICE S. P. WANGDI, JUDGE</u></p> <p>Present : Mr. Zangpo Sherpa, Advocate for the petitioner.</p> <p>Mr. Karma Thinlay Namgyal, Govt. Advocate with Mr. S. K. Chettri, Asstt. Govt. Advocate for the respondents no.1, 2 and 3.</p> <p style="text-align: center;">*****</p> <p style="text-align: center;"><u>ORDER (ORAL)</u></p> <p style="text-align: center;">Heard.</p>



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		<p>The petitioners no.1, 2 and 3 are related as grandfather, father and grandson respectively, and the present Writ Petition has been filed primarily because the petitioner no.3, who got selected to the post of Sub-Inspector on 02.01.2012 was deprived of the position on being found that the Certificate of Identification ('COI' for short), on the basis of which he had been selected was found to be a false one. The impugned order dated 24.04.2012 is challenged as he had not been provided with the copies of the report conducted by the governmental agencies which formed the basis of the order and that it was passed exparte without giving him an opportunity of being heard.</p> <p>Mr. Zangpo Sherpa, the learned Counsel appearing on behalf of the petitioners, has drawn the attention of this Court to the portion of the order which he submits has greatly prejudiced him which is extracted below:-</p> <p>.....</p> <p>.....</p> <p>Now, with the above complaint received, this Court directed the Ranipool Police Station to re-verify the complaint and re-submit the report. Subsequently,</p>



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		<p>the reports from the Special Branch and also from the office of the Additional DGP/CID were collected. The findings of all the three reports establish the facts that Nanda Bdr. Chettri is the legal son and legal grand-son of Prem Bdr. Chettri and Krishna Bdr. Chettri respectively but Krishna Bdr. Chettri is not a legal and natural son of Lt. Ranga Bdr. Chettri who possess SSC bearing Serial No.14, Volume No.III, under Block Samdur.</p> <p>Further, the reports of the enquiry agencies submitted have also stated that Lt. Ranga Bdr. Chettri, a SSC holder had only one natural son Lt. Deo Bhakta Chettri and three (3) natural daughters. Out of the 3 daughters only one is alive. Shr Arjun Chettri is the only grand son of the SSC holder brone from his only son Lt. Deo Bhakta Chettri.</p> <p>....."</p> <p>It is submitted that the respondent no.2 while passing the impugned order has failed to take into consideration the representation dated 4.4.2012 filed as Annexure P-13 (colly) to the Writ Petition and that the letter of the Ward Councillor, the respondent no.4, referred to in the impugned order is dated 28.4.2012, when the impugned order itself is dated 24.4.2012, i.e., four days after. This as per the learned Counsel renders the impugned order quite suspect. In any case, the submission is that the principles of natural justice has been violated in the petitioners not having been given an opportunity of controverting the reports submitted by the governmental agencies as reflected in the portion of the impugned order extracted above and the failure</p>

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		<p>in providing them with an opportunity to cross-examine the persons responsible for submitting those reports.</p> <p>Mr. Karma Thinlay Namgyal, the learned Government Advocate appearing on behalf of respondents no.1, 2 and 3, fairly submits that the enquiry reports of the governmental agencies do not appear to have been supplied to the petitioners which is apparent from the impugned order itself, and, therefore, apparently there does not appear to be a reasonable opportunity provided to the petitioners for meeting the allegations contained in the report.</p> <p>Under this undisputed position which also is apparent from the records, this Court is of the view that no purpose would be served in getting the returns filed on behalf of the respondents no.1, 2 and 3 and that the matter can be disposed at this stage. Therefore, in the interest of justice, the matter is remanded back to the respondent no.2 for consideration of the matter afresh subject to the following conditions: -</p>

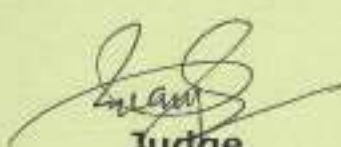


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		<p>(i) Copies of the enquiry reports of the governmental agencies as reflected in the impugned portion of the impugned order extracted above be provided to the petitioners.</p> <p>(ii) The petitioners shall be provided with an opportunity to controvert the findings contained in the above reports for which, if necessary and if so advised, they may be permitted to lead evidence.</p> <p>(iii) The impugned order No.44/PHQ/2012 dated 30.04.2012 (Annexure P-15) cancelling the appointment of the petitioner no.3 in the post of Sub-Inspector shall be subject to the enquiry to be conducted by the respondent no.2, in terms of this Order.</p> <p>It is hoped that till such time the enquiry is not completed and the matter finally settled, the vacant post resulting as a consequence of the Office Order dated 30.04.2012 (Annexure P-15) of the Additional Director General of Police, Police Headquarters,</p>



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		<p>Gangtok, Sikkim, shall not be filled up by the respondents no.1, 2 and 3.</p> <p>The writ petition is allowed in terms of the above. No order as to costs.</p> <p> Judge 25-05-2012</p> <p>Index : Yes/No Internet : Yes/No</p>

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