

**IN THE HIGH COURT OF MANIPUR**

**AT IMPHAL**

**W.A. No. 32 of 2006**

**Shri Sorokhaibam Bishembhar Singh**, resident of Charangpat Village, P.S. P.O. & District: Thoubal, Manipur.

***... Appellant***

***-Versus-***

1. The Secretary (Education – U) to the Govt. of Manipur, Secretariat, Education Department (U), Manipur.
2. The State of Manipur.
3. The Director of Education (U), Manipur, Imphal.
4. Smt. N. Bimorani Devi.
5. Shri L. Rameshwar Singh
6. Md. Abdul Latif.
  - Appointed as Lecturers in Tamenglong College, C/o Respondent No. 1.

***... Principal Respondents***

7. Shri Nahakpam Tejendro Singh, resident of Yairipok Yambem Village, P.S. - P.O. Yairipok, Thoubal District.
8. Shri Thangjam Noor Singh, resident of Charangpat Village, P.S. - P.S. District: Thoubal, Manipur.

***... Proforma Respondents***

**IN WRIT PETITION (C) NO. 259 OF 2001**

1. Shri Nahakpam Tejendro Singh, resident of Yairipok Yambem Village, P.S. - P.O. Yairipok, Thoubal District.
2. Shri Thangjam Noor Singh, resident of Charangpat Village, P.S. - P.S. District: Thoubal, Manipur.
3. Shri Sorokhaibam Bishembhar Singh, resident of Charangpat Village, P.S. P.O. & District: Thoubal, Manipur.

***... Petitioners***

***- Versus -***

**W.A. No. 32 of 2006 With  
W.A. No. 33 of 2006**

*Contd.../-*

1. The Secretary (Education-U) to the Govt. of Manipur,  
Secretariat Education Department (U), Imphal.
2. The State of Manipur.
3. The Director of Education (U), Manipur, Imphal.
4. Smt. N. Bimorani Devi.
5. Shri L. Rameshwar Singh.
6. Md. Abdul Latiff.
  - appointed as Lecturers in Tamenglong College, C/o  
Respondent No. 1.

**... Respondents**

*With*

**W.A. No. 33 of 2006**

1. Shri Nahakpam Tejendro Singh, resident of Yairipok Yambem  
Village, P.S. – P.O., Yairipok, Thoubal District.
2. Shri Thangjam Naor Singh, resident of Charangpat Village,  
P.S. – P.O. District Thoubal, Manipur.

**... Appellants**

**-Versus-**

1. The Secretary (Education-U) to the Govt. of Manipur,  
Secretariat Education Department (U), Imphal.
2. The State of Manipur.
3. The Director of Education (U), Manipur, Imphal.
4. Smt. N. Bimorani Devi.
5. Shri L. Rameshwar Singh.
6. Md. Abdul Latiff.
  - appointed as Lecturers in Tamenglong College, C/o  
Respondent No. 1.
7. Shri Sorokhaibam Bishembhar Singh, resident of  
Charangpat Village, P.S. P.O. District Thoubal, Manipur.

**.... Proforma Respondent**

**IN CIVIL RULE NO. 87 OF 1997**

1. Shri Nahakpam Tejendro Singh, resident of Yairipok Yambem  
Village, P.S. – P.O., Yairipok, Thoubal District.

2. Shri Thangjam Naor Singh, resident of Charangpat Village, P.S. – P.O. District Thoubal, Manipur.
3. Shri Sorokhaibam Bishembhar Singh, resident of Charangpat Village, P.S. P.O. District Thoubal, Manipur.

... **Petitioners**

**-Versus-**

1. The Secretary (Education-U) to the Govt. of Manipur, Secretariat Education Department (U), Imphal.
  2. The State of Manipur.
  3. The Director of Education (U), Manipur, Imphal.
  4. Smt. N. Bimorani Devi.
  5. Shri L. Rameshwar Singh.
  6. Md. Abdul Latiff.
- appointed as Lecturers in Tamenglong College, C/o Respondent No. 1.

... **Respondents**

**B E F O R E**

**HON'BLE THE CHIEF JUSTICE MR. RAMALINGAM SUDHAKAR**  
**HON'BLE MR. JUSTICE KH. NOBIN SINGH**

For the Appellants/ Petitioners :: Shri N. Ibotombi, Sr. Advocate:  
Shri H.S. Paonam, Sr. Advocate

For the Respondents :: Shri Athouba Khaidem, GA;  
Shri N. Surendrajit, Advocate.

Date of Order :: 28-02-2019

**O R D E R**

***Kh. Nobin Singh, J.***

[1] Heard Shri N. Ibotombi, Senior Advocate for the appellant in WA No.32 of 2006; Shri H.S Paonam, Senior Advocate for the appellants in WA No.33 of 2006; Shri Athouba Khaidem, learned Government Advocate for the State respondents and Shri N. Surendrajit, learned counsel appearing for the private respondents.

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**W.A. No. 33 of 2006**

*Contd.../-*

[2] Since both the writ appeals have arisen out of the same similar set of facts, the same are being disposed of by this common order.

[3] Both the writ appeals are directed against the common judgment and order dated 22-06-2006 passed by the learned Single Judge of the then Gauhati High Court, Imphal Bench in CR No. 87 of 1997 dismissing it with the direction to the State respondents to refer the cases of the appellants/ petitioners and the private respondents to the S.P.(Vigilance) for investigation and to take necessary action accordingly. The said writ petition being CR No.87 of 1997 was dismissed on the inter-alia grounds that there was a serious disputed question of fact as regards their initial appointments and that both the appellants/ petitioners and the private respondents concealed material facts.

[4.1] The case of the appellants as narrated in their writ petition which was recorded in the judgment and order of the learned Single Judge, was that they were appointed for the first time as Lecturers in the erstwhile Government Aided Tamenglong College, Tamenglong (hereafter referred to as “**the College**”) vide order dated 10-05-1995 issued by the Chairman, Governing Body of the college. Although the respondent Nos. 4 and 6 never served at the College, the respondent No.5 served at the college on voluntary basis for a short period w.e.f. 14-03-1989 but as he did not appear before the DPC held on 10-02-1991, he was not appointed as Lecturer at the college. At the time when a proposal for taking over the College was made by the State Government, the Chairman, Governing Body of the College submitted a list of teaching and non-teaching staff for absorption in which the names of the appellants also appeared.

**[4.2]** The College was taken over by the Government vide order dated 16-03-1996 and consequently, the State Government issued an order dated 06-06-1996 appointing 29 teaching staff of the College in the service of the Government of Manipur w.e.f. 01-04-1996 subject to the final absorption on fulfillment of the terms and conditions mentioned therein. Two persons - Shri Thiyam Premchand Singh and Md. Yusuf Ali who never served in the College, were also appointed in the service of the Government of Manipur, when the appellants were denied such appointment. Being aggrieved by the order dated 06-06-1996, the appellants filed a writ petition being CR No.498 of 1996 which was dismissed by the learned Single Judge vide its order dated 24-06-1995 but a writ appeal being WA No.110 of 1996 preferred against it, was allowed by the High Court vide its order dated 24-06-1996 with a direction to the State Government to consider the cases of the appellants for appointment as Lecturers in their respective discipline. In compliance with the court's order, the appellants were appointed vide orders dated 11-08-1999 and 01-03-2000 issued by the State Government.

**[4.3]** The private respondents whose names did not appear in the list submitted by the Chairman, Governing Body of the College, were appointed illegally and arbitrarily w.e.f. 01-04-1996 vide Government orders dated 02-07-1996 and 22-07-1996 and being aggrieved by the said Government orders, the writ petition being CR No. 87 of 1997 came to be filed by the appellants. Counter affidavit was filed denying the averments made in the writ petition and the stand of the private respondents as indicated in their affidavit, was that they were initially appointed as

**[6]**

lecturers in the College vide orders dated 10-12-1992 and 15-06-1995 and after the College being taken over by the State Government, they were appointed in the service of the State Government vide orders dated 02-07-1996 and 22-07-1996. The stand of the private respondents was refuted by the appellants stating that since the private respondents submitted their applications to the then Hon'ble Chief Minister, Manipur for considering their appointment as lecturers only on 04-06-1996, the question of their appointment vide orders dated 10-12-1992 and 15-06-1995 did not arise at all. In support of their contention, the copies of the said applications dated 04-06-1996 were produced by the appellants before the Court and on top of that, the appellants produced an affidavit sworn to by the Chairman, Governing Body stating that the names of the private respondents were not there in the list submitted by him.

**[5]** After having perused and considered the averments made in the writ petition, counter affidavit and additional affidavits filed by the parties, the learned Single Judge of the Hon'ble Gauhati High Court, Imphal Bench was of the view that there was a disputed question of fact for the reason that the parties failed to present their cases clearly and material facts were suppressed by them, which according to the court, was unfortunate. Following the ratio laid down by the Hon'ble Supreme Court in a catena of decisions, the learned Single Judge opined that the appellants were not entitled to the relief sought for in the writ petition which deserved dismissal. Accordingly, the writ petition was dismissed with the direction that the cases of both the appellants and the private respondents be referred to the SP (Vigilance) to find out the persons responsible for issuing different

appointment orders in respect of them and that appropriate action be taken against them.

[6] Being aggrieved by the judgment and order of the learned Single, these two writ appeals were preferred by the appellants. In WA No.32 of 2006, the grounds on which it was filed by the appellant, were that he never claimed that he was appointed prior to 1995; that his consistent stand was that he was appointed vide order dated 10-05-1995 and that the question of disputed fact did not arise in his case. So far as the WA No.33 of 2006 is concerned, the stand taken by the appellants before the learned Single Judge, was reiterated in a modified form and in addition thereto, it had been contended that the conclusion of the learned Single Judge that there was a disputed question of fact as regards their initial appointment, was highly illogical and was contrary to records and that irreparable loss and injury would be caused to them for no fault of theirs.

[7] On 30-10-2006 when the writ appeals came up for consideration, the Hon'ble Gauhati High Court, Imphal Bench, while issuing notice to the respondents, admitted the same and by way of interim measure, it was directed that the judgment and order dated 22-06-2006 should remain stayed until further orders. Thus, these appeals had been pending for consideration for quite some time and on 21-02-2019 when these matter came up for consideration, Shri H.S Paonam, Senior Advocate appearing for the appellants in WA No.33 of 2006 sought for some time to seek instructions from them, which was duly granted by this court. On 28-02-2019 when these appeals were listed again, Shri Athouba Khaidem, **W.A. No. 32 of 2006 With**  
**W.A. No. 33 of 2006**

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**[8]**

learned Government Advocate submitted that both the appellants and the private respondents are still in service being posted at different Colleges as shown in the letter dated 27-02-2019 addressed to him by the Special Secretary (Hr. & Tech. Edn.), Government of Manipur. Shri H.S Paonam, Senior Advocate submitted on instruction that the private respondent Nos. 4 & 6 had been absorbed and so far as the appellants and the respondent No.5 are concerned, they are yet to be absorbed but since the MPSC has recommended for their absorption, the concurrence of the Finance Department is being awaited by them.

**[8]** In view of the submission made by Shri H.S Paonam, Senior Advocate that they are being considered by the State Government for absorption, this court is of the opinion that there is no point of these appeals being kept pending and accordingly, the same stand disposed of. The interim order, if any, stands vacated.

**JUDGE**

**CHIEF JUSTICE**

FR/NFR

*Devananda*