



# THE HIGH COURT OF SIKKIM: GANGTOK

(Civil Extra Ordinary Jurisdiction)

SINGLE BENCH: THE HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, JUDGE

## W.P. (C) No. 34 of 2021

Ms. Manju Chettri,  
W/o Shri Bishal Chettri,  
R/o Lower Sichey,  
P/O Gangtok,  
P.S. Sadar Thana, Gangtok,  
East Sikkim- 737102.

..... **Petitioner**

### **Versus**

1. State of Sikkim  
Represented by and through  
Chief Secretary,  
Government of Sikkim,  
Tashiling, Gangtok.  
East Sikkim – 737101.
2. Power Department,  
Represented by and through PCE-cum-Secretary,  
Government of Sikkim,  
Power Secretariat,  
Kazi Road, Gangtok,  
East Sikkim - 737101.
3. Teesta Urja Limited,  
Through the Managing Director,  
Local Office Near Manan Kendra,  
Pintsho Namgyal Building,  
Development Area,  
Gangtok, East Sikkim- 737101.
4. Manager HR & A  
Human Resource & Administration  
Teesta Urja Limited,  
East Sikkim – 737101.
5. Mr. Arvind Kumar,  
Executive Chairman and  
Nominee Director of Government of Sikkim,  
Local Office Near Manan Kendra,



Pintsho Namgyal Building,  
Development Area,  
Gangtok, East Sikkim – 737101.

..... **Respondents**

**Application under Article 226 of the Constitution of  
India.**

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**Appearance:**

Mr. J. B. Pradhan, Senior Advocate with Mr. Bhusan Nepal and Mr. D.K. Siwakoti, Advocates for the petitioner.

Mr. Sudesh Joshi, Additional Advocate General for the State-respondent nos. 1 & 2.

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**Date of hearing : 21.10.2021.**

**ORDER (ORAL)**

**Bhaskar Raj Pradhan, J.**

**1.** This writ petition is listed for admission hearing before issuance of notice. The learned Additional Advocate General is present on advance notice.

**2.** Aggrieved by the order of termination dated 09.09.2020 passed by the 3<sup>rd</sup> respondent discharging her contractual service with immediate effect the petitioner has preferred the present writ petition under Article 226 of the Constitution of India. The petitioner has prayed for a declaration that the order of termination is illegal and arbitrary and in violation of principles of natural justice. She has also prayed for reinstatement in service with all consequential benefits.



**3.** Mr. J. B. Pradhan, learned Senior Advocate representing the petitioner took this court through the writ petition, the order of termination, the appointment order dated 15.07.2015 and the representation made to the Hon'ble Chief Minister by the petitioner dated 13.09.2020 in which there is an endorsement to the Executive Chairman of the 3<sup>rd</sup> respondent to consider her case on special ground. It is submitted that in spite of the endorsement when the 3<sup>rd</sup> respondent failed to consider the petitioner's case she was compelled to approach this court.

**4.** This court has perused the writ petition and the documents attached therewith. Although the petitioner seeks a declaration that the order of termination is arbitrary and in violation of principles of natural justice she has failed to demonstrate how it is so. A perusal of the offer letter dated 16.06.2015 and the appointment order dated 15.07.2015 makes it evident that the petitioner's appointment was contractual. Contractual service is governed by the terms and conditions of the contract. Clause 2 of the letter of appointment provides that the probation is to be for an initial period of 6 months from the date of joining which could however, be extended depending upon her performance, at the sole discretion of the



management. It was further provided that the petitioner would continue to be on probation until and unless the completion of probation is confirmed in writing by the Management. Admittedly, there is no such confirmation in writing by the 3<sup>rd</sup> respondent.

**5.** Clause 9 provides for termination. The 3<sup>rd</sup> respondent has reserved their right to terminate the petitioner's service by giving one month notice in writing or one month pay in lieu thereof. The order of termination sought to pay one month pay in lieu of the notice in terms of clause 9 of the appointment letter dated 15.07.2015. Clause 16 of the letter of appointment provided that in case the terms and conditions of the offer letter are acceptable to the petitioner, the duplicate copy duly signed as a token of acceptance shall be returned to the 3<sup>rd</sup> respondent. The petitioner has signed on the duplicate copy of the offer letter dated 16.06.2015 as a token of acceptance of the offer which provided that the appointment letter with detailed terms and conditions would be issued subsequently on her joining. It is quite evident that the petitioner having served the 3<sup>rd</sup> respondent for a little more than 5 years had accepted the terms and conditions. The terms and conditions did not contemplate a hearing before issuance of the order of



termination. In the matter of this nature the scope is limited. A writ court under Article 226 is required to examine whether the petitioner's right conferred by part III of the Constitution of India or her statutory right has been violated by any action of the Government, authority or person. From what has been placed before this court, the act of the 3<sup>rd</sup> respondent is not violative of the rights conferred by part III of the Constitution of India or any other statutory rights. It is neither arbitrary nor illegal.

**6.** In view of the above, this court is of the considered view that the writ petition is not maintainable. It is accordingly dismissed. However, the petitioner is free to make such representation to the 3<sup>rd</sup> respondent, if she so desires, to consider her case sympathetically.

**( Bhaskar Raj Pradhan )**  
**Judge**

Approved for reporting: **Yes/No**  
Internet : **Yes/No**

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