



IN THE HIGH COURT OF SIKKIM

ORDER SHEET

Writ Petition (C)No. 21 of 2004

TSEWANG BHUTIA Petitioner / Appellant

Versus

STATE OF SIKKIM & OTHERS Respondent s

Serial No. of Order	Date of Order	Order with Signature	Office Note as to action (if any) taken on Order
1.	4.8.2004	<p>This matter is not in the list. Counsel for the petitioner submits that in view of the urgency the matter be taken up.</p> <p>This is a Division Bench matter. Hon'ble Shri Justice N. S. Singh is out of station and is not likely to attend the Court before 10.8.2004.</p> <p>Heard Shri Ahmad.</p> <p>Issue notice fixing 20.8.2004 for appearance and hearing.</p> <p>Prayer for stay is rejected.</p> <p>Put up before the Division Bench on the date fixed.</p> <p style="text-align: right;"><i>R.K.P.</i> (R. K. Patra) Chief Justice</p>	<p>Request filed on 9-8-04. Notice issued on 9-8-04.</p> <p style="text-align: right;"><i>hulcus</i> 9/8/04</p> <p>1. A D Card. recd. from the respdt. nos 1+2.</p> <p>2. Need the envelope per the A D Card. recd. from the respdt. no 3.</p> <p style="text-align: right;"><i>hulcus</i> 19/8/04</p>
2.	20.8.2004	<p>Heard Shri M. Z. Ahmed, learned Counsel for the petitioner.</p> <p>Shri Ahmed is permitted to add the President, Namok Swayem Gram Panchayat Unit as party No.4.</p> <p>Issue notice to the newly added party. Requisites be filed within a week.</p> <p>Put up for hearing on 9.9.2004.</p> <p style="text-align: right;"><i>R.K.P.</i> (R. K. Patra) Chief Justice</p> <p style="text-align: right;"><i>N.S.S.</i> (N. S. Singh) Judge</p>	<p>Request filed on 21-8-04. Notice issued on 21-8-04.</p> <p style="text-align: right;"><i>hulcus</i> 21/8/04</p> <p>A D Card recd. back</p> <p style="text-align: right;"><i>hulcus</i> 7/9/04</p>



Sl. No. of Order	Date of Order	Order with Signature	Office Note as to action (if any) taken on Order
3.	9.9.2004.	<p>In this writ petition the petitioner seeks quashing of the government notification no. 3/RDD/P dated 21.6.2004 made under section 33(1) of the Sikkim Panchayat Act, 1993 removing him from the post of Sachiva of Namok Sweyem Gram Panchayat Unit. The petitioner assails his removal as Sachiva on the ground that it was done without following the principles of natural justice.</p> <p>2. We have heard Shri M.Z. Ahmed learned counsel for the petitioner and Shri S.P. Wangdi, learned Advocate General for the respondents.</p> <p>3. Sub-section 1 of section 33 of the Sikkim Panchayat Act 1993 reads as follows:</p> <p>Removal of Sachiva. 33. (1) A Sachiva may, at any time, be removed from office by a resolution of the Gram Panchayat carried by the majority of the members of the Gram Panchayat present at a meeting specially convened for the purpose. Notice of such meeting shall be given to the prescribed authority.</p> <p>Learned Advocate General very fairly, submitted that before the petitioner was removed from the office of Sachiva, he was not given any opportunity of hearing and since his removal was in violation of the principles of natural justice, the impugned notification cannot be sustained. We have duly considered the matter and are of the opinion that the submission of the learned Advocate General in this regard is very correct and well-founded.</p> <p>4. In view of the admitted position that the petitioner was removed from the post of Sachiva in violation of the principles of natural justice, we have no hesitation to hold that the impugned notification at annexure-4 is liable to be quashed. We order accordingly.</p> <p>5. The writ petition is allowed but there shall be no order as to costs.</p>	<p>A copy of order forwarded to Chief Secy., and Secy. R. Manager, I.D. on 8-10-04.</p> <p><i>[Signature]</i> 5/10/04</p>
		<p><i>[Signature]</i> (N.S. Singh) Judge.</p>	<p><i>[Signature]</i> (R.K. Patra) Chief Justice.</p>