

THE HIGH COURT OF SIKKIM : GANGTOK


Writ Petition (C) No. 27 of 2005


1. Shri Haray Ram Pradhan,
Son of late L.P. Pradhan,
Resident of Development Area,
P.O. & P.S. Gangtok, East Sikkim.
2. Shri C.B. Chettri,
Son of late T.B. Chettri,
Resident of Sichey,
P.O. & P.S. Gangtok,
East Sikkim.


... Petitioners.

-Versus-

1. The State of Sikkim
through the Chief Secretary
Government of Sikkim
Gangtok, Sikkim.
2. The Secretary,
Ministry of Law & Justice,
Government of India,
New Delhi.
3. Shri Ran Bahadur Subba, MLA,
Chairman, State Trading Corporation
of Sikkim, Government of Sikkim,
Gangtok.
4. Shri T.T. Bhutia, MLA, Chairman,
Power Advisory Board,
Government of Sikkim,
Gangtok.
5. Sri N.K. Subba, MLA, Chairman,
Denzong Agriculture Cooperative
Society, Gangtok.
6. Shri N.K. Pradhan, MLA, Chairman,
State Bank of Sikkim and Sikkim
State Corporation Bank, Gangtok.
7. Shri B.M. Ramudamu, MLA, Chairman,
Sikkim Distilleries Limited,
Rangpo, East Sikkim.

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8. Shri S.G. Lepcha, MLA, Chairman, Industries, Trade and Commerce Development Board, Gangtok.
 9. Shri B.B. Goroong, Press Advisor to Chief Minister, Government of Sikkim, Gangtok.
 10. Shri S.M. Limboo, Political Advisor to Chief Minister, Government of Sikkim, Gangtok.
 11. Shri O.T. Lepcha, Political Secretary to Chief Minister Government of Sikkim, Gangtok.
 12. Shri Kunga Zangpo Bhutia, MLA, Chairman, Sikkim Nationalised Transport Gangtok.
 13. Shri Deepak Gurung, MLA, Chairman. Sikkim Time Corporation, Gangtok.
 14. Ms. Nimthit Lepcha, MLA, Chairperson, Sikkim Marketing Federation (SIMFED), Gangtok.
 15. Shri B.P. Dhungel, MLA, Chairman, Agriculture/Horticulture Board, Gangtok.
 16. Smt. Manita Thapa, MLA, Chairperson, Tourism Development Board, Gangtok.
 17. Shri C.B. Karki, MLA, Chairman, Sikkim Scheduled Caste, Scheduled Tribe & Other Backward Classes Development Corporation, Gangtok.
 18. Shri Norzang Lepcha, MLA, Chairman, Khadi & Village Industries Board, Gangtok.
 19. Shri Dewcho Lepcha, MLA, Chairman, Sikkim Industrial Development & Investment Corporation, Gangtok.
 20. Shri Gyatso Lepcha, Chairman, Poultry Development Board, Gangtok.

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21. Shri G.M. Bhujel, Chairman,
Land Use & Environment Board,
Gangtok.
 22. Shri C.K. Mohra, Chairman,
Scheduled Caste Welfare Board,
Gangtok.
 23. Shri Passang Rinzing Sherpa,
Chairman, Scheduled Tribe Welfare Board,
Gangtok.
 24. Shri I.B. Gurung, Chairman,
Juvenile Justice Board, Gangtok.
 25. Ms. Bina Rai, Chairperson,
Other Backward Classes Board,
Gangtok.
 26. Smt. C.C. Sangderpa, Chairperson,
Sikkim Consumers' Cooperative
Society Ltd., Gangtok.
 27. Shri Gagan Rai, Chairman,
Tea Board, Temi, South Sikkim.
 28. Dr. D.P. Kharel, Advisor,
Energy & Power Department,
Government of Sikkim, Gangtok.
 29. Shri K.B. Rai, Advisor,
Roads & Bridges Department,
Government of Sikkim, Gangtok.
 30. Shri Gopal Sharma, Advisor,
Transport Department,
Government of Sikkim, Gangtok.
 31. Shri T.P. Pradhan, Advisor,
Food Security & Agriculture Development
and Horticulture & Cash Crops Development
Government of Sikkim, Gangtok.
 32. Smt. R. Ongmu, Advisor,
Rural Management & Development Department,
Government of Sikkim,
Gangtok.
 33. Shri B.S. Pant, Advisor,
Tourism Department,
Government of Sikkim, Gangtok.

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34. Shri N. Gyaltshen, Advisor,
Ecclesiastical Department,
Government of Sikkim, Gangtok.
 35. Shri B. R. Rai, Advisor,
Water Security & Public Health Engineering Department,
Government of Sikkim, Gangtok.
 36. Shri S. W. Tenzing,
Advisor to the Government,
Government of Sikkim,
Gangtok.
 37. Shri Tashi Topden,
Advisor to the Government,
Government of Sikkim, Gangtok.
 38. Shri T. W. Barfungpa,
Advisor to the Government,
Government of Sikkim, Gangtok.
 39. Shri T. R. Sharma, Advisor,
Forest, Environment & Wildlife Management Department,
Government of Sikkim, Gangtok.
 40. Shri D. B. Subba, Advisor,
Irrigation and Flood Control Department,
Government of Sikkim, Gangtok.
 41. Shri K. T. Bhutia, O.S.D.,
Agriculture Department,
Government of Sikkim, Gangtok. ... Respondents.

For the Petitioners : Petitioners in person.

For the State Respondents: M/s S.P. Wangdi, Advocate General with J.B. Pradhan and Karma Thinley, Government Advocates

**PRESENT: HON'BLE MR. JUSTICE AJOY NATH RAY, CHIEF JUSTICE
AND
HON'BLE MR. JUSTICE N. SURJAMANI SINGH, JUDGE**

DATE OF JUDGMENT : 06TH MARCH, 2007.




JUDGMENT

The Court: -

1. This is a Public Interest Litigation filed against the State Government and certain other Respondents by the President and General Secretary of an opposing political party.
2. The Petition is not filed in representative capacity. No independent non or apolitical citizen of the country is harbouring the cause of the public but only the two above Writ Petitioners.
3. The basic subject of their grievances is that the financial resources of the State are not being properly utilized by the Government in power. The Writ Petitioners would have us examine numerous details and give our opinion on whether the State Government expenditure is proper or not. This is not an appropriate subject of Public Interest Litigation. The Court cannot be converted into an accounting arena where an opposing political party can come, raise detailed questions about expenditure, force the Government to answer, and then flash the decision of the Court in newspapers and other public media for the purpose of furthering their political interest.
4. The Court has no politics, favours no particular political party and keeps itself clear of all political battles, which are to be fought out by creation of public opinion without the intervention of the Court. However, we recount some of the grievances of the Writ Petitioners which are as follows.
5. First, they submit that Respondent Nos. 9, 10, 11, 28, 29, 30, 31, 32, 33, 34 and 35 are doing Government work without any post being created

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for them. The State Respondents answer by saying that these persons are not themselves aggrieved; they do not want any specific service conditions; in these circumstances why should the Court be asked to foist any relief upon them. We are of the opinion that the Respondents' answer is good.


6. Secondly, it is said that Chairmen have been put by the State Government on various Boards like the Power Advisory Board, and these Boards have never been "created". In our opinion, the Writ Petitioners suffer from a misapprehension that an administrative board has to be created either by Legislation or by Gazette Notification. An executive fiat is quite enough for the purpose. In so far as they submit that these Chairmen, and also other Advisors to the State Government, have been appointed without any purpose and are being paid unnecessarily, we are of the opinion that the State Respondents' answer in this regard is correct, which is, that the policy of expenditure of the State Government and the necessity of obtaining advice and administrative control, as felt by the State Government, are matters for their decision, and the Court cannot interfere only because there can be two different opinions on the same issue.

7. It was thirdly made a point that Dasti (by hand) service on the Chairman of the Scheduled Tribes Board had to be effected after he could not be found in his Office six times when service was previously attempted. In our opinion this proves nothing. We do not know whether the Chairman of the Scheduled Tribes Board is to sit with a computer in his office all the time or go around for doing his work. This point shows lack of merit on the part of the Writ Petitioners.

8. It was fourthly urged that the Respondent No. 7 is a Chairman without the necessary shareholding qualification and since the Government

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holds only 47% share in this organization, the Respondent No. 7 should not have been appointed by the State. The Court cannot be called upon to enter into these detailed facts in what is called a Public Interest Litigation only.

9. It was fifthly urged that a certain qualified medical doctor is a Chairman in the Energy and Power Department. It was said that he could not be qualified for this Office simply because, one who is a medical man could not be the Chairman of a non-medical organization. The famous Doctor Bidhan Chandra Roy was the first Chief Minister of West Bengal and he is even now remembered for being as great a Chief Minister as he was a Doctor.

10. The State Respondents sought to justify the appointments by making reference to Act 9 of 2006 of this State but we are of the opinion that the grievances made by the Writ Petitioners do not class as a Public Interest Litigation. This is a politically interested litigation and the Court of Law is not a proper arena for it. Public interest does not mean the interest of rival political parties who want to be in power. The Court has nothing to do with this type of Writ Petition and the Writ Petition is dismissed with no order as to costs.



(Ajoy Nath Ray, CJ)



(N.S. Singh, J.)