

17

IN THE HIGH COURT OF SIKKIM

WRIT PETITION NO. 72 OF 2000

Registrar,
High Court of Sikkim,
Gangtok.

... Petitioner.

- V E R S U S -

1. Chief Secretary,
Government of Sikkim,
Gangtok.
 2. Principal Secretary,
Finance Department,
Government of Sikkim,
Gangtok.
 3. Secretary,
Law Department,
Government of Sikkim,
Gangtok.
 4. Secretary,
Printing & Stationary Department,
Government of Sikkim,
Gangtok.
 5. Director,
Printing & Stationary Department,
Government of Sikkim,
Gangtok.
 6. Works Manager,
Printing & Stationary Department,
Government of Sikkim,
Gangtok.
- ... Respondents.



18

Coram:
The Hon'ble Mr. Justice Anup Deb, Judge.

Present: Mr. S.P. Wangdi, Advocate General with Mr. N.B. Khatiwada, Addl. Advocate General and Mr. J.B. Pradhan, Govt. Advocate for the State.

Mr. Tashi Wangdi, Joint Secretary and Joint Legal Remembrancer, Law Department, Government of Sikkim for respondent No. 3 in person.

*Date on which Judgment is reserved : 04.10.2001.
Date of Decision : 12.10.2001*

J U D G M E N T

DEB. J.

By filing this application under Article 226 of the Constitution of India on the 23rd December 2000, the Registrar, High Court of Sikkim made prayers for issuing direction upon the Secretary, Printing & Stationary Department, Government of Sikkim, respondent No. 4, Director, Printing & Stationary Department, Government of Sikkim, respondent No. 5 and Works Manager, Printing & Stationary Department, Government of Sikkim, respondent No.6 for printing of Sikkim Law Journal for the years 1998 and 1999 containing Judgments which were ready with head notes within a period of one



month and also sought direction upon respondent No. 4, respondent No. 5 and respondent No. 6 to take back the judgments from the Law Department which were returned by the Printing & Stationary Department (Government Press) expressing its inability to print Sikkim Law Journal for the years 1998 and 1999. The Registrar, High Court of Sikkim further made prayers for direction upon the Secretary, Law Department, Government of Sikkim, respondent No.3 not to process the matter till further order of this Court, direction upon the Principal Secretary, Finance Department, Government of Sikkim, respondent No.2 to allocate necessary funds to the Law Department for publication of any supplementary issue of Sikkim Law Journal for the years 1998 and 1999, if required, to include such other judgments, if considered to be published for the years 1998 and 1999. This petition was treated as a Public Interest Litigation. During pendency, with the prayer of the parties, questions of publication of Old Laws of Sikkim, Customary Laws and Usages of Sikkim, Sikkim Acts from 1992 onwards, publication of Judgments, Orders and important directions of Sikkim High Court from 2000 onwards, important notifications of the State Government came up for consideration although no specific prayer has been made in the writ petition.



2. Vide order dated 26th December 2000, this Court issued the following directions: -

“Henceforth, Sikkim Law Journal shall be published at least once in a year. The High Court while forwarding the copy of the judgments, orders, decisions of the High Court, shall prepare the same in the computers and the judgments etc. alongwith floppy thereof shall be forwarded to the Law Department. The Department of Finance, Govt. of Sikkim is directed not to raise any objection for releasing fund for printing of judgments, orders, etc. in Sikkim Law Journal. Every citizen has right to know law of the land particularly law of the State and they have also right to know the decisions rendered by the High Court in various cases. The citizens have also right to know the important orders passed by the High Court. In future, efforts should be made by the State Govt. to translate the decisions of the High Court in different local languages, namely, Nepali, Bhutia and Lepcha languages.

The High Court shall transmit the copy of the decisions twice in a year, first set by 31st August and the second set by 31st January. This practice shall first be followed from August 2001.”

3. Further direction was given vide order dated 26th December 2000 that for the purpose of preparation of head notes of these judgments and orders, a computer shall be provided to the Law Department and the Principal Secretary, Finance Department, Government of Sikkim was directed to release fund to the Law Department. For purchase of computer, the Law Department shall



21

submit the revised budget to the Finance Department for inclusion of the cost of computer in the budget. Publication of old laws is also linked with the publication of the Sikkim Law Journal. Therefore, all the old laws, orders and notifications of Sikkim so far and traced out shall be published. The Law Department was directed to publish all the old laws, orders and notifications having force of law prior to merger of Sikkim with India by 31st March 2001. The Joint Secretary and Joint Legal Remembrancer, Law Department was directed to process the matter so that the State Government takes the decision for publication of old laws, orders, notifications by 31st January 2001. Time was sought for from time to time and it is confirmed by the Joint Secretary and Joint Legal Remembrancer, Law Department, Government of Sikkim on 24th September 2001 that Sikkim Law Journal containing Judgments, Orders etc. for the years 1998 and 1999 and Sikkim Code Volume III containing some of the old laws have been printed.

4. Direction was given vide order dated 17th January 2001 to the Law Department for publication of judgments, orders and decisions for the year 2000 by the 31st December 2001 and to make proposal to the Finance Department, Government of Sikkim for providing funds



23

Printing presses in view of pre-occupation of Government Printing Press in the public interest.

6. Though it has been informed to the Court by the Joint Secretary and Joint Legal Remembrancer, Law Department that Sikkim Law Journals for the years 1998 and 1999 and the Sikkim Code Volume III containing some of the old laws have been printed, but a number of old laws collected subsequently have not been published. By filing a report on 3rd October 2001, the Secretary, Law and Legal Remembrancer submitted that the materials in respect of Customary Laws and Usages of Nepali communities have been collected by the Law Commission which are ready for printing and thereafter, the same will be circulated. Due to inability of the Printing Department to print the reports and materials on Customary Laws and Usages of Nepali communities, the Law Department floated quotations through Sikkim Herald and local newspapers. So far as Sherpa community is concerned, process is on to constitute a Committee from the Sherpa community for ascertaining and collecting materials in respect of customary laws and usages of the aforesaid Community. It is further stated that the Law Department has already sent letters to some well-known and knowledgeable people of Sherpa community to find out

for printing of judgments, orders and decisions for the year 2000 in the budget of 2000-2001 and that the Judgments, orders and decisions for the year 2001 onwards shall be sent along with floppy by 31st August and by 31st January every year.

5. It is very unfortunate that the State Law Department has failed to publish Old Laws so far traced, Customary Laws and Usages of Sikkim even after 25 years of merger of Sikkim with India. They have also failed to publish Sikkim Acts from 1992 onwards, statutory rules and important notifications. Every citizen has right to know the local laws, Customary Laws and the current laws of Sikkim. It appears that the Government Printing Press may not be able to cope with such voluminous works due to pre-occupations for printing Government Gazette and other Governmental jobs which can not be entrusted to private presses. It is stated by the State Counsel that there are provisions for engaging private presses as per prevailing rules and the aforesaid Old Laws, Customary Laws and Usages of Sikkim, current Sikkim Acts, Judgments, Orders and directions of Sikkim High Court from 2000 onwards shall be published from Private



27

whether they are willing to be members of Committee for ascertaining the customary laws and usages of Sherpa community. In the Status Report dated 3rd October, 2001, it has been further stated that the State Government has accorded approval for constitution of the Committee for the purpose of ascertaining and collecting materials in respect of customary laws and usages of Bhutia and Lepcha Communities.

7. It was observed in the order dated 2nd March 2001 that there is consistent demand to the Law Commission from various circles in Sikkim that Law Commission should undertake publications of judgments, final orders, important interlocutory directions, and orders having far-reaching impact, as many as possible for information of the members of the bar, litigants, judicial officers, Government officers and public at large.

8. Public interest will be best served by issuing the following directions and accordingly it is directed that -

- (a) The Chief Secretary shall constitute an Editorial Board with the Secretary, Law and Legal Remembrancer as the Chairman, the Registrar General, the Joint Secretary and Joint



27

Legal Remembrancer and the Joint Secretary, Law Department who had been a member of Sikkim Superior Judicial Service as members of the Editorial Board for publication of Sikkim Law Journal. The present Editorial Board shall be reconstituted by issuing a notification by 15th November 2001. It shall be the duty of the Editorial Board to prepare head-notes, index, etc. Head-notes, if any, are forwarded to the Editorial Board by the High Court Registry from time to time, the same shall be thoroughly scrutinised by the Editorial Board.

(b) The Secretary, Law and Legal Remembrancer shall publish Sikkim Law Journal 2000 by 31st December 2001 and Sikkim Law Journal 2001 by 31st March 2002.


(c) A list of old laws so far collected and not published shall be submitted by the Secretary, Law and Legal Remembrancer on or before 21st November 2001 by filing a Civil Misc. application and all efforts shall be made to publish the old laws so far collected in Sikkim Code by 30th April 2002. The Secretary, Law and Legal Remembrancer, if considered necessary, may get the Sikkim Law Journal, Old Laws of

26

Sikkim and Customary Laws and Usages printed by private printing presses after complying with relevant rules prescribed by the State Government. Notifications enforcing various Central Acts from 1975 till date, Current Sikkim Laws, important Notifications and Statutory Rules of Sikkim shall be published by the Secretary, Law Department by April 2002. Status Report in this regard shall be filed by 20th February 2002.

(d) Materials relating to Customary Laws and Usages of different communities shall be published by the Secretary, Law and Legal Remembrancer by June, 2002. The Law Secretary and Legal Remembrancer shall visit Delhi, Calcutta and North-Eastern States for consultation with various authorities for getting the customary laws of Sikkim finally published in a proper and valid manner.

(e) The Secretary, Law and Legal Remembrancer may appoint an Advocate as Research Officer with the approval of the competent authority, to assist the Secretary, Law on contract basis in order to publish Customary Laws and Usages which are

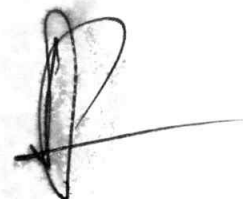


27

to be published by June 2002. Such Advocate shall be appointed for a period of one year and he shall not have any claim for regular appointment as Research Officer. A Progress Report shall be filed regarding publication of old laws and customary laws and usages by filing a Civil Misc. Application on behalf of Law Secretary, Law and Legal Remembrancer by 15th January, 15th March and 15th June 2002.

(f) The Secretary, Law and Legal Remembrancer shall submit proposal for funds for printing and publication of draft Customary Laws and materials regarding Customary Laws and Usages of various Communities to the Principal Secretary, Finance for inclusion in the Budget of the year 2002-2003.

(g) The Registrar General, High Court shall forward certified true copy of the judgments, final orders, important interlocutory orders and important interlocutory directions passed by the High Court till 30th June of every year along with floppy to the Secretary, Law and Legal Remembrancer by 31st August of the year for which the judgments, orders, interlocutory directions etc. are to be published and by 31st January of the following




28

year and judgments, orders and interlocutory directions of the previous year shall be published by the Law Department by 31st March of the succeeding year. Progress Report for making preparation for printing of judgments, orders, interlocutory directions upto 30th June shall be filed by 15th November of the year for which the same will have to be published and by 20th February of the succeeding year.

(h) The Principal Secretary, Finance shall provide at least Rs.2.50 lakhs in every year's Budget for publication of the judgments, orders, interlocutory directions passed by the High Court of Sikkim.

(i) The Principal Secretary, Finance is directed to sanction one time grant for publication of Old Laws of Sikkim, Customary Laws and Usages of Sikkim.

9. With these directions, this Writ Petition is disposed of.


(*Anup Deb*)
Judge
12-10-2001