

High Court of Sikkim

Record of proceedings

WP(PIL) No.06 of 2015

Biraj Adhikari

Petitioner

VERSUS

State of Sikkim and Others

Respondents

Date : 03-12-2019

**CORAM : THE HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE
THE HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, JUDGE**

For Petitioner

Mr. Jorgay Namka, Advocate as Amicus Curiae.
Mr. Ganesh Man Chettri, Advocate on behalf of
Mr. Sudesh Joshi, Advocate.

For Respondents

R-1 to R-9

Mr. Vivek Kohli, Advocate General.
Mr. Thinlay Dorjee Bhutia, Government Advocate.
Mr. Thupden Youngda, Government Advocate.
Mr. S. K. Chettri, Assistant Government Advocate.
Ms. Pollin Rai, Assistant Government Advocate.

R-10

Mr. Karma Thinlay, Central Government Counsel.

ORDER

Rai, J.

On the request of Learned Advocate General, the matter be taken up at 02.00 p.m.

02.00 p.m.

In compliance to the Order of this Court dated 05-11-2019 the State-Respondents No.1 and 3 have filed an additional Affidavit today submitting *inter alia* that in view of the Report dated 18-08-2018 of the Commission and with a view to strengthen the process and procedure of Certificate of Identification and Residential Certificate, the Land Revenue and Disaster Management Department procured distinct Security Hologram from Holostik India Limited and has already issued distinct Security Hologram to the District Collectors vide letter dated 26-07-2017. These Holograms

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were to be pasted on the Certificate of Identification and Residential Certificates with immediate effect.

In this regard, it may be recalled that on 02-11-2018 a Report had been filed on behalf of the Respondents No.1 to 3 submitting *inter alia* that this Court vide Order dated 24-08-2017 had granted time to the State Government to consider appointment of an independent Agency under the Chairmanship of a retired High Court Judge for the purpose of verification of fake Sikkim Subject Certificates/Certificate of Identifications. Accordingly, the State Government constituted a Commission headed by Hon'ble Mr. Justice Malay Sengupta, retired Judge of this High Court vide Notification No.39/Home/2017, dated 04-09-2017. The terms of reference were to be;

- (i) to inquire into allegations of issue of doubtful/fake Certificate of Identification.
- (ii) to recommend issuance and digitization of Certificate of Identification in the smart card format containing of relevant information.
- (iii) the Commission will submit its report within three months from the date of issue of the notification constituting the Commission.
- (iv) the Commission may adopt its own procedure for performance of its functions.

The Commission so constituted completed its proceedings on inquiry into the allegations and report was submitted to the State Government on 01-09-2018 for further necessary approval. The State Government on 27-09-2018 approved the recommendations of the Commission. The Commission in its Report recommended as under;

"4.1. Therefore, it is the finding of the Commission that of the 33388 listed persons it is found that the list includes a number of unverified cases most of

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which may include genuine cases but on account of lack of verification by the person(s) concerned have been categorized as 'reported false cases'. The Commission thus concludes that in view of the fact that out of 8378 cases verified by the District Collectors so far, none were reported to be 'fake' as alleged.

4.2. The Commission is of the view that the issue of CoIs must be further strengthened and as pointed out by the Hon'ble High Court, the Commission recommends the issue of the CoIs in Smart Card format as the records have now been fully computerized. At the same time it is also necessary to continue to issue the hard copies of the CoIs and it is recommended that high security paper should be utilized instead of printing the same on plain paper as presently done. This need not be a onetime exercise and over a period of time all the existing CoIs should be replaced with Smart Cards and COIs printed on high security paper."

[emphasis supplied]

On 05-11-2019 the Learned Counsel for the Petitioner submitted that since the recommendations have been accepted by the Government, it is the duty of the Government to take appropriate steps to implement the recommendations. Hence, the Report of the Government *supra* filed today, i.e., 03-12-2019. In Paragraphs 4 and 5 of the Report it is averred as follows;

"4. The Land Revenue & Disaster Management Department has been in communication with the Holostik India Limited for High Security Holographic Certificate papers to be used for issuance of Certificate of Identification, however same is kept pending subject to final directions of the Hon'ble High Court in the WP(PIL) No.06 of 2015. Copy of the communication received from Holostik India Limited alongwith sample of High Security Holographic Certificate paper is marked and annexed hereto as **Annexure R-2**.

5. The Land Revenue & Disaster Management Department may require 1 (one) year to fully

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implement issuance of Certificate of Identification in High Security Holographic papers as recommended by the Commission constituted vide Notification No.39/HOME/2017, dated 04/09/2017. Further, the Department is in the process of digitising the issuance and record of the Certificate of Identification. The process involves the following procedures as under :-

- (i) Calling for Expression of Interest from the eligible companies/ registered firm for digitization of Certificate of Identification for development of Software.
- (ii) Scrutiny of expression of Interest.
- (iii) Acceptance of Bid.
- (iv) Issuance of work Order for development of Software for digitization.
- (v) Preparatory period required by the contractor for implement of the entire process of implementation."

Learned Amicus Curiae submits that the Report states that for the purposes of High Security Holographic papers steps are being taken by calling for Expression of Interest as extracted hereinabove. That, the same procedure ought to be adopted for the purposes of digitization.

Learned Advocate General assures this Court that such steps will be taken and all steps pertaining to the process of High Security Holographic papers and digitization will be in accordance with prevailing laws in Sikkim.

In this view of the matter, nothing further remains for adjudication herein.

The Writ Petition stands disposed of accordingly.

Judge

03-12-2019

Judge

03-12-2019