

**IN THE HIGH COURT OF SIKKIM
CIVIL EXTRA ORDINARY JURISDICTION**

W. P. (C) No. 43 OF 2015

1. Tshering Keepa Bhutia,
D/o Late Phusigey Bhutia,
R/o Sang,
P. O. Sang, P. S. Singtam,
East Sikkim.
2. Narbada Regmi,
D/o B. P. Regmi,
R/o Tarethang, Mamring,
P. O. Tarethang, P. S. Pakyong,
East Sikkim.
3. Tshring Chomu Bhutia,
D/o Late Khendu Bhutia,
R/o Rongli,
P. O. & P. S. Tikjuk,
West Sikkim.
4. Zangmu Bhutia,
W/o Tshering Chopel Bhutia,
R/o Tikjuk,
P. O. & P. S. Tikjuk,
West Sikkim.
5. Dawkee Lepcha,
D/o Topden Lepcha,
R/o Khecheoperi,
P. O. & P. S. Tikjuk,
West Sikkim.
6. Nisha Chettri,
D/o Damber Kumar Chettri,
R/o Lower Arithang,
P. O. & P. S. Gangtok,
East Sikkim.
7. Sangita Chettri,
D/o T. K. Chettri,
R/o Martam, P. S. Kaluk,
West Sikkim.

8. Leela Devi Sharma,
D/o C. M. Sharma,
R/o Yangthang,
P. O. & P. S. Gyalshing,
West Sikkim.
9. Anita Kumari Rai,
D/o N. B. Rai,
R/o Sakyong,
P. O. Sakyong,
P. S. Gyalsing,
West Sikkim.
10. Monica Lepcha,
W/o Buddha Rai,
R/o Shingrithang Busty,
P. O. & P. S. Namchi,
South Sikkim.
11. Munna Sharma,
D/o T. B. Sapkota,
R/o Linkey,
P. O. Linkey,
P. S. Pakyong,
East Sikkim.
12. Dawa Choden Bhutia,
D/o N. T. Bhutia,
R/o Sang,
P. O. Sang,
P. S. Singtam,
East Sikkim.
13. Hishey Doma Bhutia,
D/o K. T. Bhutia,
R/o Pakyong,
P. O. & P. S. Pakyong,
East Sikkim.
14. Somit Lepcha,
D/o L. M. Lepcha,
R/o Mamring,
P. O. Tarethang,
P. S. Pakyong,
East Sikkim.

15. Sonam Doma Bhutia,
D/o Chung Chung Bhutia,
R/o Tathangchen, Gangtok,
East Sikkim. ----- Petitioners.

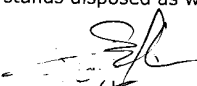
-VERSUS-

1. State of Sikkim,
Through the Chief Secretary,
Government of Sikkim,
Gangtok, East Sikkim.
2. Secretary,
Department of Personnel, ADM, Reforms
Training and Public Grievances,
Government of Sikkim,
Gangtok, East Sikkim.
3. Secretary,
Health Care, Human Services and
Family welfare Department,
Government of Sikkim,
Gangtok, East Sikkim.
4. Secretary,
Sikkim Public Service Commission,
Government of Sikkim,
Gangtok, East Sikkim. ----- Respondents.

PETITIONER
ADVOCATE (S)
FOR -----Mr. Zangpo Sherpa, Mr. Dewen Sharma Luitel,
Ms. Doma Lepcha, Mr. Sangay G. Bhutia, Ms. Mon
Maya Subba

RESPONDENT
ADVOCATE (S)
FOR -----Mr. J. B. Pradhan, Addl. Advocate General,
Mr. Karma Thinlay, Sr. Govt. Advocate, Mr. S. K.
Chettri and Ms. Pollin Rai, Asstt. Govt. Advocates.

Case No.....

Serial No.	Date	Order (s) with Signature (s)
1	2	3
02.	18.08.2015	WP (C) No.43/2015 Tshering Keepa Bhutia & Anr. Vs. State of Sikkim & Ors. BEFORE HON'BLE MR. JUSTICE S. P. WANGDI, JUDGE Present : Mr. Zangpo Sherpa, Advocate with Mr. Sangya Gurmey Bhutia, Ms. Mon Maya Subba, Mr. Jushan Lepcha and Ms. Palchenla Sherpa, Advocates for the Petitioners. Mr. J. B. Pradhan, Additional Advocate General with Mrs. Pollin Rai, Assistant Government Advocate for the State-Respondents. Ms. Neera Thapa, Legal Officer, Health, Department, Government of Sikkim. ----- This case has been taken up on being mentioned by Mr. Zangpo Sherpa, Learned Advocate for the Petitioners. He prays that the Petitioners be permitted to withdraw this Petition in view of subsequent developments which they have been taken up in WP(C) No. 50/2015. Mr. J. B. Pradhan, Learned Additional Advocate General, has no objection. The petition is, therefore, allowed as withdrawn with liberty to file afresh. The Writ Petition stands disposed as withdrawn.  Judge 18-08-2015 Index : Yes/No Internet : Yes/No

ds/to

**IN THE HIGH COURT OF SIKKIM
CIVIL EXTRA ORDINARY JURISDICTION**

C. M. Appl. No.
(In W.P.(C) No. 43 OF 2015)

194

OF 2015

1. Tshering Keepa Bhutia,
D/o Late Phusigey Bhutia,
R/o Sang,
P. O. Sang, P. S. Singtam,
East Sikkim.
2. Narbada Regmi,
D/o B. P. Regmi,
R/o Tarethang, Mamring,
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W/o Buddha Rai,
R/o Shingrithang Busty,
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South Sikkim.

11. Munna Sharma,
D/o T. B. Sapkota,
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P. O. Linkey,
P. S. Pakyong,
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P. O. Sang,
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D/o K. T. Bhutia,
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14. Somit Lepcha,
D/o L. M. Lepcha,
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P. S. Pakyong,
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15. Sonam Doma Bhutia,
D/o Chung Chung Bhutia,
R/o Tathangchen, Gangtok,
East Sikkim. ----- Applicants/Petitioners.

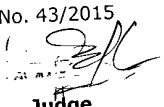
-VERSUS-

1. State of Sikkim,
Through the Chief Secretary,
Government of Sikkim,
Gangtok, East Sikkim.
2. Secretary,
Department of Personnel, ADM, Reforms
Training and Public Grievances,
Government of Sikkim,
Gangtok, East Sikkim.
3. Secretary,
Health Care, Human Services and
Family welfare Department,
Government of Sikkim,
Gangtok, East Sikkim.
4. Secretary,
Sikkim Public Service Commission,
Government of Sikkim,
Gangtok, East Sikkim. ----- Respondents.

PETITIONER
ADVOCATE (S)
FOR -----Mr. Zangpo Sherpa, Mr. Dewen Sharma Luitel,
Ms. Doma Lepcha, Mr. Sangay G. Bhutia, Ms. Mon
Maya Subba

RESPONDENT
ADVOCATE (S)
FOR -----Mr. J. B. Pradhan, Addl. Advocate General,
Mr. Karma Thinlay, Sr. Govt. Advocate, Mr. S. K.
Chettri and Ms. Pollin Rai, Asstt. Govt. Advocates.

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02.	18.08.2015	CM Appl No.194/2015 in WP (C) No.43/2015 Tshering Keepa Bhutia & Anr. Vs. State of Sikkim & Ors. BEFORE HON'BLE MR. JUSTICE S. P. WANGDI, JUDGE Present : Mr. Zangpo Sherpa, Advocate with Mr. Sangya Gurmey Bhutia, Ms. Mon Maya Subba, Mr. Jushan Lepcha and Ms. Palchenla Sherpa, Advocates for the Petitioners. Mr. J. B. Pradhan, Additional Advocate General with Mrs. Pollin Rai, Assistant Government Advocate for the State-Respondents. Ms. Neera Thapa, Legal Officer, Health, Department, Government of Sikkim. ----- This application stands disposed of in view of the order passed today in WP (C) No. 43/2015  Judge 18-08-2015 Index : Yes/No Internet : Yes/No

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**IN THE HIGH COURT OF SIKKIM
CIVIL EXTRA ORDINARY JURISDICTION**

W. P. (C) No.

50

OF 2015

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D/o Late Phusigey Bhutia,
R/o Sang,
P. O. Sang, P. S. Singtam,
East Sikkim.
2. Narbada Regmi,
D/o B. P. Regmi,
R/o Tarethang, Mamring,
P. O. Tarethang, P. S. Pakyong,
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13. Hishey Doma Bhutia,
D/o K. T. Bhutia,
R/o Pakyong,
P. O. & P. S. Pakyong,
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14. Somit Lepcha,
D/o L. M. Lepcha,
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P. O. Tarethang,
P. S. Pakyong,
East Sikkim.

15. Sonam Doma Bhutia,
D/o Chung Chung Bhutia,
R/o Tathangchen, Gangtok,
East Sikkim. ----- Petitioners.

-VERSUS-

1. State of Sikkim,
Through the Chief Secretary,
Government of Sikkim,
Gangtok, East Sikkim.
2. Secretary,
Department of Personnel, ADM, Reforms
Training and Public Grievances,
Government of Sikkim,
Gangtok, East Sikkim.
3. Secretary,
Health Care, Human Services and
Family Welfare Department,
Government of Sikkim,
Gangtok, East Sikkim.
4. Secretary,
Sikkim Public Service Commission,
Government of Sikkim,
Gangtok, East Sikkim. ----- Respondents.

PETITIONER
ADVOCATE (S)
FOR ----- Mr. Zangpo Sherpa, Mr. Sangay G. Bhutia,
Mr. Dewen Sharma Luitel, Ms. Doma Lepcha,
Ms. Mon Maya Subba, Mr. Tushan Lepcha and
Mr. Palchenla Sherpa

RESPONDENT
ADVOCATE (S)
FOR ----- Mr. J. B. Pradhan, Addl. Advocate General,
Mr. Karma Thinlay, Sr. Govt. Advocate, Mr. S. K.
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**IN THE HIGH COURT OF SIKKIM
CIVIL EXTRA ORDINARY JURISDICTION**

C. M. Appl. No. 214 OF 2015
(In W.P.(C) No. 50 OF 2015)

1. Tshering Keepa Bhutia,
D/o Late Phusigey Bhutia,
R/o Sang,
P. O. Sang, P. S. Singtam,
East Sikkim.
2. Narbada Regmi,
D/o B. P. Regmi,
R/o Tarethang, Mamring,
P. O. Tarethang, P. S. Pakyong,
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West Sikkim.
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West Sikkim.
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D/o Damber Kumar Chettri,
R/o Lower Arithang,
P. O. & P. S. Gangtok,
East Sikkim.
7. Sangita Chettri,
D/o T. K. Chettri,
R/o Martam, P. S. Kaluk,
West Sikkim.

8. Leela Devi Sharma,
D/o C. M. Sharma,
R/o Yangthang,
P. O. & P. S. Gyalshing,
West Sikkim.
9. Anita Kumari Rai,
D/o N. B. Rai,
R/o Sakyong,
P. O. Sakyong,
P. S. Gyalsing,
West Sikkim.
10. Monica Lepcha,
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South Sikkim.
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D/o T. B. Sapkota,
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P. O. Linkey,
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East Sikkim.
12. Dawa Choden Bhutia,
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D/o K. T. Bhutia,
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P. O. Tarethang,
P. S. Pakyong,
East Sikkim.

15. Sonam Doma Bhutia,
D/o Chung Chung Bhutia,
R/o Tathangchen, Gangtok,
East Sikkim. ----- Applicants/Petitioners.

-VERSUS-

1. State of Sikkim,
Through the Chief Secretary,
Government of Sikkim,
Gangtok, East Sikkim.
2. Secretary,
Department of Personnel, ADM, Reforms
Training and Public Grievances,
Government of Sikkim,
Gangtok, East Sikkim.
3. Secretary,
Health Care, Human Services and
Family Welfare Department,
Government of Sikkim,
Gangtok, East Sikkim.
4. Secretary,
Sikkim Public Service Commission,
Government of Sikkim,
Gangtok, East Sikkim. ----- Respondents.

PETITIONER
ADVOCATE (S)
FOR ----- Mr. Zangpo Sherpa, Mr. Sangay G. Bhutia,
Mr. Dewen Sharma Luitel, Ms. Doma Lepcha,
Ms. Mon Maya Subba, Mr. Tushan Lepcha and
Mr. Palchenla Sherpa

RESPONDENT
ADVOCATE (S)
FOR ----- Mr. J. B. Pradhan, Addl. Advocate General,
Mr. Karma Thinlay, Sr. Govt. Advocate, Mr. S. K.
Chettri and Ms. Pollin Rai, Asstt. Govt. Advocates.

Case No.....

Serial No.	Date	Order (s) with Signature (s)
1	2	3
01.	18.08.2015	CM Appl No.214/2015 in WP (C) No.50/2015 Tshering Keepa Bhutia & Anr. Vs. State of Sikkim & Ors. BEFORE HON'BLE MR. JUSTICE S. P. WANGDI, JUDGE Present : Mr. Zangpo Sherpa, Advocate with Mr. Sangya Gurmey Bhutia, Ms. Mon Maya Subba, Mr. Jushan Lepcha and Ms. Palchenla Sherpa, Advocates for the Petitioners. Mr. J. B. Pradhan, Additional Advocate General with Mrs. Pollin Rai, Assistant Government Advocate for the State-Respondents. Ms. Neera Thapa, Legal Officer, Health, Department, Government of Sikkim. ----- This application has been preferred seeking for an order of stay of the Advertisement No.06 of 2015 dated 05.08.2015 issued by the Sikkim Public Service Commission, Gangtok, Respondent No. 4, for filling up 32 posts of Staff Nurse on temporary regular basis under the Health Care, Human Service and Family Welfare Department, Government of Sikkim, Respondent No.3. The Petitioners who are temporary employees serving as Staff Nurse in various Hospitals and Primary Health Centers under the Respdent No.3, are aggrieved by the impugned advertisement as it is their case that they are entitled to be regularised in the 50% of the vacancies in view of the Sikkim State Direct Recruitment (Special Provisions) Rules, 2008, published vide Notification No.137/GEN/DOP dated 08.07.2008 and, Office Memorandum No.1443/GEN/DOP dated 10.7.2008 issued under Sub-Rule (2) of Rule 5 thereunder. Mr. Zangpo Sherpa, Learned Counsel for the Petitioners, submits that these 32 posts are the very ones that were advertised in the year 2012 by the Respondent No.3 on the

Case No.....

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		first requisition as is apparent from the impugned advertisement issued by the SPSC, Respondent No.4. He further contends that as the Petitioners' category as 'temporary employee' defined under Clause (f) of Rule 2 of the Sikkim State Direct Recruitment (Special Provisions) Rules, 2008, stands settled in view of the undisputed and categorical finding of this Court in judgment dated 10.12.2014 in WP(C) No.03/2014. It is submitted that if the impugned advertisement is allowed to proceed uninterruptedly, they shall be deprived of the rights vested in them by the said Notification dated 8.7.2008 and Office Memorandum dated 10.7.2008. I have considered the submissions and am of the <i>prima facie</i> view that the Petitioners have successfully made out a case for intervention of this Court by an interim order as prayed for by them. It is, therefore, directed that while acting on the impugned advertisement, the Respondent shall not fill up 15 vacancies of the 32 posts of Staff Nurse advertised by the Respondent No.3, vide advertisement dated 05.08.2015 being Annexure P-32 to the Writ Petition (C) No.50 of 2015 and Annexure P-1 to this CM Appl, until further orders. It is needless to State that the Respondents are at liberty to approach this Court for modification, alteration or setting aside of this order, if so advised. Subject to this, they are directed to show cause as to why this order should not be made absolute. List on 16.09.2015.  Judge 18-08-2015 Index : Yes/No Internet : Yes/No

**IN THE HIGH COURT OF SIKKIM
CIVIL EXTRA ORDINARY JURISDICTION**

C. M. Appl. No.
(In W.P.(C) No. 43 OF 2015)

220

OF 2015

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1. State of Sikkim,
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PETITIONER
ADVOCATE (S)

FOR ----- Mr. Zangpo Sherpa, Mr. Dewen Sharma Luitel,
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FOR ----- Mr. J. B. Pradhan, Addl. Advocate General,
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