

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

W. P. (PIL) No.

11

OF 2016

Mr. Shamsheer Gurung
S/o Late Devi Prasad Gurung,
Permanent Resident of Tadong Bazaar,
P. O. Daragaon, Tadong,
East Sikkim.

----- Petitioner.

-VERSUS-

1. State of Sikkim,
Through Chief Secretary,
Government of Sikkim, Gangtok.
2. Secretary,
Department of Personal A. R and Training,
Public Grievances,
Government of Sikkim,
Gangtok, East Sikkim.
3. Secretary,
Home Department,
Government of Sikkim,
Gangtok, East Sikkim.
4. Mrs. Lakchung Sherpa,
W/o R. B. Subba,
Secretary of Legal,
Legislative & Parliamentary Affairs,
Government of Sikkim.

----- Respondents.

PETITIONER
ADVOCATE (S)
FOR ----- Mr. Doma T. Bhutia, Ms. Rachhitta Rai and Ms. Babita Rai.

RESPONDENT
ADVOCATE (S)
FOR -----

WP(PIL) No. 11/2016
Shamsher Gurung vs. State of Sikkim & Ors.

BEFORE
MR. JUSTICE SATISH K. AGNIHOTRI, CJ &
MRS. JUSTICE MEENAKSHI MADAN RAI, J.

01. 03.11.16 Present: Ms. (Dr.) Doma T. Bhutia, Ms. Rachhitta Rai and Ms.
(Agnihotri, CJ) Babita Rai, Advocates for the Petitioner.

Mr. J.B. Pradhan, Addl. Advocate General with Mr. Karma Thinlay, Sr. Govt. Advocate, Mr. Santosh Kr. Chettri and Ms. Pollin Rai, Assistant Government Advocates for State-Respondents.

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Learned Counsel appearing for the Petitioner has come up with this Petition by way of Public Interest Litigation petition, on the ground that it is a classic case of nepotism, wherein a person having resigned on 01.10.2016 was appointed as Secretary of Legal, Legislative and Parliamentary Affairs Department, Government of Sikkim, in exercise of the powers conferred by Sub-Section (1) of Section 3 of the Sikkim State Public Services Act, 2006.

It is further submitted that the Government of Sikkim (Allocation of Business) Rules, 2004, was amended on 05.10.2016, to accommodate Respondent No.4, Accordingly the appointment order was passed de hors the constitutional scheme of employment as enshrined in Articles 14 and 16 of the Constitution of India.

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Learned counsel further submits that the "person" defined under Clause (bb) of Section 2 of the Sikkim State Public Services Act, 2006, provides that an individual who is a senior citizen, social worker, former legislator or such person who is of eminence and who has made substantial contribution to the society and the State in any sphere of activities other than a sitting member of the State Legislative Assembly, is entitled to appointment under the provisions of the Act. In the case on hand, Respondent No.4 is neither a senior citizen nor a social worker.

Issue notice to all the Respondents, returnable in three weeks.

Having regard to the nature of dispute, it is proper for the Chief Secretary to file an affidavit responding to the averments made in the writ petition.

Call on 01.12.2016.

Sd/-

Judge

03.11.2016

Sd/-

Chief Justice

03.11.2016

jk/ds

Index : Yes / No
Internet : Yes / No