

**WP (PIL) No. 02/2023**

JIT BAHADUR LIMBOO

PETITIONER (S)

VERSUS

THE STATE OF SIKKIM & ORS.

RESPONDENT (S)

For Petitioner : Mr. A. Moulik, Senior Advocate with Mr. Ranjit Prasad, Advocate.

For Respondents No. 1 and 2 : Dr. Doma T. Bhutia, Senior Advocate and Additional Advocate General with Mr. Yadev Sharma and Mr. S.K. Chettri, Govt. Advocates with Mr. Sujan Sunwar, Asst. Govt. Advocate.

For Respondent No.3 : Mr. Rinzing Dorjee Tamang, Advocate.

For Respondent No.4 : Mr. S. Prabhakaran, Senior Advocate with Mr. Amit Ved, Ms. Parvin Manger and Ms. Ranjita Kumari, Advocates.

For Respondent No.5 : None.

For Respondent No.6 : Mr. Girmey Bhutia, Advocate.

**Date: 18/05/2023**

**CORAM:**

**HON'BLE MR. JUSTICE BISWANATH SOMADDER, CHIEF JUSTICE  
HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE**

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**ORDER : (per the Hon'ble, the Chief Justice)**

Pursuant to our earlier order dated 11<sup>th</sup> April, 2023, respondents no.3 to 6 have been duly served.

The issue before this Court in the instant Public Interest Litigation centres around the appointment of private respondent no.6 as the Officer on Special Duty (OSD) to the Hon'ble Chief Minister, Government of Sikkim, in contravention to the provisions as contained under the Sikkim Public Services Act, 2006, particularly, section 3 thereof. It is the specific case of the petitioner that at the time of being engaged as the Officer on Special Duty (OSD) to the Hon'ble Chief Minister, Government of Sikkim, the private respondent no.6, namely, Sunil Saraogi, was practicing as an Advocate, being registered with the Bar Council of West Bengal. As such, he could not have

been engaged as an Officer on Special Duty (OSD) to the Hon'ble Chief Minister, Government of Sikkim, under the provisions of the Sikkim Public Services Act, 2006, while he practiced law and remained registered as an Advocate under the Bar Council of West Bengal. It was further submitted on behalf of the petitioner that even while holding the post of Officer on Special Duty (OSD), the private respondent no.6 was appointed as the Executive Chairman and Director of a public company substantially owned by the Government of Sikkim, namely, Teesta Urja Ltd. This appointment, also, is contrary to the relevant provisions as contained in the Sikkim State Public Services Act, 2006.

It is submitted by the learned Additional Advocate General representing the Government of Sikkim that at the time of the appointment of private respondent no.6 as the Officer on Special Duty (OSD) to the Hon'ble Chief Minister, Government of Sikkim, the State Government may not have been aware of the fact that he was a practicing lawyer, being registered as an Advocate under the Bar Council of West Bengal.

During the course of hearing before this Court, learned Senior Advocate representing Bar Council of India, being the respondent no.4, submitted that they have already initiated steps against the private respondent no.6 and a prohibitory order has been issued against him.

Learned Advocate appearing on behalf of the private respondent no.6, namely, Sunil Saraogi — against whom this Public Interest Litigation is centred around — submitted that his client desires to file a counter-affidavit in the matter.

After hearing the parties and after considering the issue involved in the instant Public Interest Litigation, we are of the view that there are primarily two aspects involved; one is with regard to the aspect of legality and the other is, propriety. *Prima facie*, it appears that on both scores, the private respondent no.6 is suspect. However, before we come to a final decision in the matter; purely in the interest of justice, we give an opportunity to

the respondents to file their respective counter-affidavits, which shall be filed within a period of fortnight from date. Reply thereto, if any, within a week thereafter.

We make it clear that pendency of the instant matter before this Court, will not prevent the Bar Council of India from proceeding and taking further steps against the private respondent no.6, in accordance with law.

List this matter on 08<sup>th</sup> June, 2023, under an appropriate heading for further consideration.

In the meanwhile, it will be open for the State Government to take such steps in the matter, which it may deem just and proper, considering the facts and circumstances of the instant case and, particularly, taking into consideration the observations made hereinabove.

**(Meenakshi Madan Rai)**  
**Judge**

**(Biswanath Somadder)**  
**Chief Justice**

jk/ds/avi