

IN THE HIGH COURT OF SIKKIM
ORIGINAL EXTRA ORDINARY JURISDICTION

W. P. (PIL) No.

04

OF 2016

1. Pahalman Subba,
S/o Late Ran Bahadur Subba,
R/o Diesel Power House,
P. O. & P. S. Gangtok - 737 101
East District of Sikkim.
2. Nawin Kiran Pradhan,
S/o Harka Bahadur Pradhan,
R/o Sisa Gelai, 10 N. H Way,
P. O. & P. S. Gangtok - 737 101
East District of Sikkim.
3. Sonam Pintso Bhutia,
S/o Samduk Bhutia,
R/o Samdong House, Upper Lingdum,
P. O. Dhajey Dara & P. S. Gangtok. ----- Petitioners.

-VERSUS-

1. The State of Sikkim,
through the Chief Secretary,
Government of Sikkim,
Having his office at Manan Kendra,
Gangtok - 737 101.
2. The Chief Secretary,
Government of Sikkim,
Having his office at Manan Kendra,
Gangtok - 737 101.

3. Department of Home,
Government of Sikkim,
Through the Secretary to the Home Department,
Government of Sikkim,
Having office at Manan Kendra,
Gangtok – 737 101.
4. Department of Law & Parliamentary Affairs,
Government of Sikkim,
Through the Secretary,
Law & Parliamentary Affairs Department,
Government of Sikkim,
Having office at Gangtok – 737 101.
5. Sikkim Legislative Assembly Secretariat,
Through the Secretary to the Sikkim Legislative Assembly,
Having office at Sikkim Legislative Assembly
Secretariat at Gangtok – 737 101.
6. Shri Bikram Pradhan,
Hon'ble Government of Chief Whip,
Through the Chief Secretary,
Government of Sikkim,
Having office at Manan Kendra,
Gangtok – 737 101.
7. Shri Danorbu Sherpa,
Hon'ble Parliamentary Secretary,
Tourism & Civil Aviation Department,
Government of Sikkim,
Through the Secretary Tourism & Civil Aviation
Department, Government of Sikkim,
Having Office at Tadong – 737 102.
8. Shri Karma Sonam Lepcha,
Hon'ble Parliamentary Secretary,
Road & Bridges Department,
Government of Sikkim,
Through the Secretary Road & Bridges Department,
Government of Sikkim,
Having Office at Nirman Bhawan, Gangtok – 737 101.

9. Smt. Tilu Gurung,
Hon'ble Parliamentary Secretary,
Energy & Power Department,
Government of Sikkim,
Through the Secretary
Energy & Power Department,
Government of Sikkim,
Having Office at Power Secretariat,
Gangtok - 737 101.
10. Shri Sonam Dadul Bhutia,
Hon'ble Parliamentary Secretary,
Rural Management & Development Department,
Government of Sikkim,
Through the Secretary
Rural Management & Development Department,
Government of Sikkim,
Having Office at Gangtok - 737 101.
11. Shri Ugen Nedup Bhutia,
Hon'ble Parliamentary Secretary,
Health Human Care & Family Welfare Department,
Government of Sikkim,
Through the Secretary
Health Human Care & Family Welfare Department,
Government of Sikkim,
Having Office at Gangtok - 737 101.
12. Shri Shyam Pradhan,
Hon'ble Parliamentary Secretary,
Human Resources Development Department,
Government of Sikkim,
Through the Secretary
Human Resources Development Department,
Government of Sikkim,
Having Office at Gangtok - 737 101.

13. Shri Hemendra Adhikari,
Hon'ble Parliamentary Secretary,
Forest, Environment & Wildlife Management Department,
Government of Sikkim,
Through the Secretary
Forest, Environment & Wildlife Management Department,
Government of Sikkim,
Having Office at Gangtok - 737 101.

14. Shri Gopal Baraily,
Hon'ble Parliamentary Secretary,
Building & Housing and Transport Department,
Government of Sikkim,
Through the Chief Secretary
Government of Sikkim,
Having Office at Manan Kendra,
Gangtok - 737 101.

15. Dr. Mechung Bhutia,
Hon'ble Parliamentary Secretary,
Food Security & Agriculture,
Horticulture & Cash Crops Development,
Animal Husbandry & Veterinary Services &
Fisheries and Irrigation & flood Control Departments,
Government of Sikkim,
Through the Chief Secretary
Government of Sikkim,
Having Office at Gangtok - 737 101.

16. Shri Pintso Chopel Lepcha,
Hon'ble Parliamentary Secretary,
Urban Development & Housing and Food,
Civil Supplies & Consumer Affairs Departments,
Government of Sikkim,
Through the Chief Secretary
Government of Sikkim,
Having Office at Gangtok - 737 101.

17. Shri Timothy William Basnett,
Hon'ble Parliamentary Secretary,
Social Justice, Empowerment & Welfare and
Water Security & Public Health Engineering Department,
Government of Sikkim,
Through the Chief Secretary
Government of Sikkim,
Having Office at Gangtok – 737 101.
18. Shri Bek Bahadur Rai,
Hon'ble Chairman,
Public Accounts Committee,
Sikkim Legislative Assembly,
Through the Secretary
Sikkim Legislative Assembly,
Having Office at Gangtok – 737 101.
19. Smt. Chandra Maya Subba,
Hon'ble Chairperson,
Estimates Committee,
Sikkim Legislative Assembly,
Through the Secretary
Sikkim Legislative Assembly,
Having Office at Gangtok – 737 101. ----- Respondents.

PETITIONER

ADVOCATE (S)

FOR ----- Mr. O. P. Bhandari.

RESPONDENT

ADVOCATE (S)

FOR ----- Mr. J. B. Pradhan, Addl. Advocate General, Mr. Karma
Thinlay, Sr. Govt. Advocate, Mr. Santosh K. Chettri and
Ms. Pollin Rai Asst. Govt. Advocate.

Case No.....

Serial No.	Date	Order (s) with Signature (s)
1	2	3
		WP (PIL) No. 04/2016 Pahalman Subba & Ors. vs. State of Sikkim & Ors. BEFORE MR. JUSTICE SATISH K. AGNIHOTRI, ACJ & MRS. JUSTICE MEENAKSHI MADAN RAI, J. 02. 29.08.16 Present: Mr. O.P. Bhandari, Advocate for the Petitioners. (Agnihotri, ACJ) Mr. A. Mariarputham, Advocate General with Mr. Karma Thinlay, Sr. Govt. Advocate, Mr. Santosh Kr. Chettri and Ms. Pollin Rai, Asstt Govt. Advocates for Respondents No. 1, 2, 3 and 4. ... Issue fresh notice to unserved Respondents No.5 to 19 subject to filing of requisites within three days. In addition, 'dasti' is permitted. On preliminary discussion, the following substantial questions of law are as to – (i) whether the Parliamentary Secretaries appointed under provisions of the Sikkim Parliamentary Secretaries (Appointment, Salaries, Allowances and Miscellaneous Provisions) Act, 2010 (for short "the Act of 2010"), are holding office of profit; (ii) if the answer of the first question is affirmative, whether they have incurred disqualification as Legislature under provisions of Article 191(a) of the Constitution of India; (iii) whether the Act of 2010 providing for appointment of Parliamentary Secretary is

Serial No.	Date	Order (s) with Signature (s)
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		violative of the provisions of Article 102 read with Article 191 of the Constitution of India and Section 9 of the Representation of the People Act, 1951; and (iv) Whether '<i>Explanation</i>' to the provisions of Article 102 with Article 191 of the Constitution of India may be expanded by the Sikkim Legislative Assembly Members (Removal of Disqualifications) Amendment Act, 2006. List on 23-09-2016.  Judge 29.08.2016  Acting Chief Justice 29.08.2016

pm/ds Index : Yes / No
Internet : Yes / No