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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. O.A.187/2007

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SECTION OFFICER (Judl.)

Bahla
05/10/17

CENTRAL ADMINISTRATIVE
TRIBUNAL, GUWAHATI BENCH

ORDER SHEET

1. Original Application No. 187/07

2. Misc Petition No. /

3. Contempt Petition No. /

4. Review Application No. /

Applicant (SIM. Balakrishna Ratty) vs. Union of India & Ors

Advocate for the Applicant(s) De-K. Naik

B. Sauma.....

Advocate for the Respondent(s) C.G.S.C. and Amil Sauma, advocate general
Sunitra Sauma Meghalaya

Notes of the Registry	Date	Order of the Tribunal
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This application is in form
is filed/C. F. for Rs. 50/-
deposited vide IPO/BD
No. 346650897

Dated 5-7-07

6.7.2007

While working as Divisional Forest

Officer (Wildlife), Khasi Hills Division,
Meghalaya, Shillong, the Applicant is
served with an impugned notification
dated 3.7.2007 (Annexure-5) whereby he is
transferred and posted as Divisional Forest
Office, Silviculture Division, Shillong with
effect from the date of his taking over
charge until further orders and Respondent
No.5 is transferred and posted in his place.
The case of the Applicant is that while
serving in the aforesaid capacity he was
doing a good job in the department and
his transfer order is absolutely on the
ground of political interference and the
same is not in administrative ground. The
Applicant further claimed that the
authority by whom the impugned order is
passed has no power to do so, since he
has already been transferred out of the
department in March, 2007 and he is no

Contd...

Petition is copied
for issue notices are
received with envelope.

Ph.D.

✓

Contd.
6.7.2007

Notice & order sent to
D/Section for issuing
to resp. nos. 2 to 5 i.e.
regd. A 10 post.

D/No- 690 to 693

07/7/07. Dt= 12/7/07.

more in the post and therefore, the order is void ab initio and cannot be acted upon.

Heard Mr.U.K.Nair, learned counsel for the Applicant. Ms.U.Das, learned ^{appeared} Addl.C.G.S.C/ for the first Respondent.

Considering the issue involved in this case I direct the Registry to issue notice to Respondents 2 to 5 and the Applicant will take process for the private Respondent.

Post the case on 9.8.2007. In the interest of justice by way of an interim order I direct the Respondents not to disturb the Applicant from his present posting i.e. Divisional Forest Officer (Wildlife), Khasi Hills Division, Meghalaya, Shillong till the next date.

It is made clear that if the Respondents are so desirous to vacate the stay they are at liberty to file petition for vacating the stay.

Vice-Chairman

/bb/

20.8.07.

Post the case pm 28.8.2007. Interim

order granted on 6.7.2007 will continue till the next date.

ll. comph.

Vice-Chairman

/bb/

22.8.07

WFS submitted
by Respondent Nos.
2 to 11.

① 8/8/07

WFS filed.

27.8.07.

WFS awaited from D. 185

28.8.07. Post the matter on 30.8.07 alongwith M.P.84 of 07

Vice-Chairman

lm

30.8.2007

Mr.A.Sarma, learned Advocate General, State of Meghalaya, was present today at 2 p.m. and submitted that the interim order dated 6.7.2007 is required to be vacated. Mr.B.Sarma, learned counsel for the Applicant, on the other hand, submitted that Respondents have not produced certain documents called for. Mr.A.Sarma submitted that they will put their efforts to produce the documents if available, if not, they will file affidavit to that effect before the next date of hearing. Mr.A.Sarma submitted that since the issue involved is of transfer, the matter can be heard once for all and decide the matter at the earliest. Mr.B.Sarma, learned counsel for the Applicant, also agreed to the said proposal. Therefore, this Court posts the matter on 10.09.2007 for final hearing. It is made clear that no further adjournment shall be granted thereafter. Interim order shall continue till such time. Pleadings over. O.A. admitted.

Vice-Chairman

/bb/

10.9.2007

Heard Mr.U.K.Nair, learned counsel for the Applicant and Mr.A.Sarma, learned Advocate General, State of Meghalaya in part. Records produced by the Respondents shall be shown to the learned counsel for the Applicant and thereafter the same will be taken back on record.

Contd.

OA: 187/07

WORKING DATE: 10.8.07, no return on 17.8.07. (OA: 188)

Contd.

RECORDED/001

10.9.2007

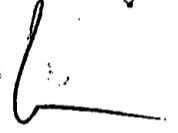
Mr. Nair submitted that Applicant has engaged a Senior counsel and he would like to advance the reply to the arguments advanced by the learned Advocate General, Meghalaya. For that purpose, the matter is adjourned and posted on 18.9.2007.


Vice-Chairman

/bb/

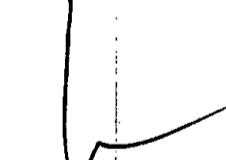
18.9.2007

At the request of Mr. U.K. Nair, learned counsel for the Applicant the case is posted on 19.9.2007 finally. No further adjournment shall be granted.


Vice-Chairman

/bb/

19.9.07. Heard learned counsel for the parties. Hearing concluded. Judgment reserved.


Vice-Chairman

lm

21.9.2007

C.C. has been collected by the Govt Adv. Meghalaya, and a copy of the same handed over to the L/Adv. for its action.

Received copy for R-1
Usha Das
Adelchur
08/11/07

Judgment pronounced in open

Court, kept in separate sheets.

The O.A. is dismissed in terms of the order. No costs. Interim order vacated.


Vice-Chairman

/bb/

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No.187 of 2007

DATE OF DECISION: 21.09.2007

Shri M.B.Reddy

.....Applicant/s

Mr.K.N.Choudhury, Sr.Advocate & Mr.U.K.Nair, Advocate

.....Advocate for the
Applicant/s.

- Versus -

U.O.I. & Ors

.....Respondent/s

Ms.U.Das, Addl. C.G.S.C for Respondent No.1 &

Mr.A.Sarma, A.G., Meghalaya

.....Advocate for the
Respondents

CORAM

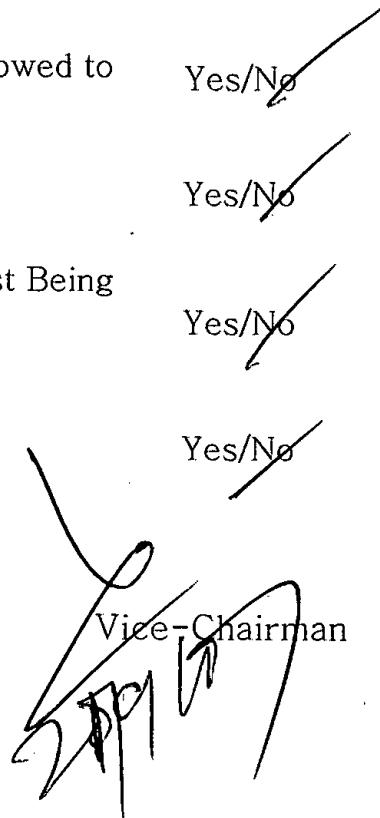
THE HON'BLE MR. K.V. SACHIDANANDAN, VICE CHAIRMAN

1. Whether reporters of local newspapers may be allowed to see the Judgment? Yes/No

2. Whether to be referred to the Reporter or not? Yes/No

3. Whether to be forwarded for including in the Digest Being compiled at Jodhpur Bench & other Benches ? Yes/No

4. Whether their Lordships wish to see the fair copy of the Judgment? Yes/No


Vice-Chairman

X

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.187 of 2007.

Date of Order: This, the 21st day of September 2007.

THE HON'BLE MR.K.V.SACHIDANANDAN, VICE CHAIRMAN

Shri M.Balakrishna Reddy
S/o M.A.Reddy
Presently working as Divisional Forest Officer
(Wildlife), Khasi Hills Division
Oakland, Shillong
Meghalaya.

..... Applicant.

By Mr.K.N.Choudhury, Sr.Advocate, Mr.U.K.Nair &
Mr.B.Sarma, Advocates.

- Versus -

1. The Union of India
Represented by the Secretary
to the Government of India
Ministry of Personnel, Public
Grievances and Pension
(Department of Personnel & Training)
North Block, New Delhi-1.
2. The State of Meghalaya, represented
By the Principal Secretary to the
Govt. of Meghalaya, Forests and
Environment Department
Shillong, Meghalaya.
3. The Commissioner and Secretary
to the Govt. of Meghalaya, Forests and
Environment Department
Shillong, Meghalaya.
4. Principal Chief Conservator of Forest
Meghalaya, Shillong.
5. Shri G.W.Khamujai, IFS
Planning Officer
Office of the Principal
Chief Conservator of Forests

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Meghalaya, Shillong

.....Respondents.

By Ms.U.Das, Addl. C.G.S.C. for Respondent No.1,
Mr.A.Sarma, Advocate General, Govt. of Meghalaya &
Ms.S.Sarma, Advocate.

ORDER (ORAL)

SACHIDANANDAN, K.V., (V.C.):

The applicant belongs to IFS cadre and is a direct recruit of the 1993 batch. He was allotted the Assam Meghalaya Cadre (Meghalaya Segment). He is presently holding the post of Divisional Forest Officer (DFO in short) (Wildlife), Khasi Hills Division, Shillong. While working as DFO, Utilisaiton Division, Meghalaya, Shillong the applicant was transferred and posted vide Notification dated 23.12.2005 (Annexure-1) as DFO (Wildlife), Khasi Hills Division, Meghalaya, Shillong and he joined the transferred post on 23.12.2005 itself. Since then, he has been working as such without any break. The averment in the O.A. is that he initiated a number of projects for the development of the division under him and was earnestly following up the progress of the projects initiated by him. One such project initiated by the

applicant is the construction of the State Zoological Park at Umtrew. He prepared the requisite project report which was thereafter approved by the high level committee and requisite fund was released in the month of June, 2007. The Govt. of India has also approved the said project. With the impending approval of funds for setting up of the said project, a move was initiated at the behest of certain politicians demanding transfer of the applicant and posting respondent No.5 in his post. The respondent No.5 who was a state forest officer was promoted to IFS cadre in the month of June, 2007. Even before his formal promotion to the IFS cadre steps were initiated on his behalf by a vested circle to post him as DFO (Wildlife) Khasi Hills Division. The sole reason behind seeking transfer of the Applicant was his refusal to be a party to the nefarious activities sought to be done by the said political lobby in the division. The said lobby intensified its activities for seeking ouster of the applicant and posting of the respondent No.5 being favourable to them in the post held by applicant. As the move for ouster of the applicant was circulating through the corridors of powers, a Parliamentary Secretary who happens to be the MLA of the

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constituency wherein the said zoo project was to be set up, in a most arbitrary and illegal manner and in clear violation of official procedure prescribed, proceeded to submit a note proposing a series of transfer and posting of IFS and SFS officers including that of the applicant and the respondent No.5. The said note in categorical terms required the respondent No.5 to be transferred as DFO (Wildlife) Khasi Hills Division in place of the applicant. The said note is in clear violation of the Rules of Executive business and the authority, making the said note has no jurisdiction to initiate any proposal of transfer and posting of persons like the applicant. The Principal Chief Conservator of Forests (PCCF in short), of course, in categorically opposed the proposal for transfer of the applicant on the ground that a mammoth project for construction of state zoo was about to be started and the services of the applicant was held to be very valuable for the same. However, he was shocked and surprised to come across a notification bearing

Memo No.FOR.12/97/Pt/102-F dated 03.07.2007 (Annexure-5) by which he was transferred and posted as DFO, Silviculture Division, Meghalaya, Shillong and the respondent no.5 was posted against the post

held by the applicant. The only intention behind the issuance of the impugned notification dated 03.07.2007 is to somehow oust the applicant from his current post so as to facilitate the posting of respondent no.5 against the same. The impugned notification was issued by one Shri L. Roy, in his purported capacity as the Commissioner and Secretary to the Govt. of Meghalaya, Forest and Environment Department. However, the said authority was transferred from the said department vide order dated 23.03.2007 and he was not functioning in the said capacity while issuing the impugned notification on 03.07.2007. In terms of circulars governing transfers and posting more particularly the handing over and taking over the charge by officers consequent on transfer specifically requires the handing over and taking over of such charge within 15 days from the date of issuance of order of transfer. In the instant case, Shri L. Roy was transferred out of the department way back in March, 2007 an the said order of his transfer still holds the field and the same has neither has been rescinded nor modified. As such, the impugned notification is void ab initio. Further, the said notification does not speak of any public interest

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or administrative exigency involved in affecting the transfers as ordered. The applicant is yet to complete his tenure of three years as DFO (Wildlife), Khasi Hills Division. There is no approval from the Personnel Department with regard to his transfer before completion of his tenure which is mandatory under the procedure prescribed in this connection. This is being done only on political pressure and in clear violation of the procedure prescribed. The said notification is devoid of any reasoning and the same is liable to be set aside and quashed. Hence, this Original Application seeking the following main reliefs:-

- “8.1 To set aside and quash the impugned notification dated 03.07.2007 (Annexure-5) in so far as the applicant is concerned.
- 8.2 To direct the respondent authorities to forbear from giving effect to the impugned notification dated 03.07.2007 (Annexure-5)
- 8.3 To direct the respondent authorities to allow the applicant to continue as Divisional Forest Officer (Wildlife), Khasi Hills Division, Meghalaya Shillong.”

2. The respondents have filed a detailed reply statement contending that before his transfer as

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DFO (Wildlife), Khasi Hills Division by order dated 23.12.2005 the applicant had been working as DFO, Forest Utilisation Division, Meghalaya, Shillong and thereafter vide notification dated 3.7.2007 he was transferred as DFO, Silviculture Division, Meghalaya, Shillong. All of these transfer orders do not affect the applicant either in respect of his status, pay, place of posting or in any other way affecting his duties, rights and interest as DFO. The matter concerning setting up of a State Zoological Park had been initiated several years prior to applicant's transfer as DFO (Wildlife), Khasi Hills Division, Meghalaya, Shillong. It is not a project initiated by the applicant. In accordance with the practice and procedure followed in government service, the applicant working under the Chief Conservator of Forests did what he was required to do in discharging his duties. The project for setting up the State Zoological Park as pursued by the department consistently over a number of years, is yet to be approved. The allegations against "certain politicians" or "vested circle" or "the said political lobby" or the "The said lobby" are not corrected and denied. The government having duly considered all the aspects of the matter decided

to transfer the applicant not as a punitive measure but only for the purpose of ensuring smooth management of the affairs concerning the forest department in the local areas under the jurisdiction of the applicant. Serious allegations were raised against the applicant before the government by the local people both in Khasi Hills and earlier in Jaintia Hills when the applicant was posted at Jawai which are annexed as Annexures-A&B of the Affidavit. Further, the MLA of the constituency is under a duty to draw the attention of the government to the affairs in and around his constituency and therefore, there is no violation of Rules of Executive Business as alleged. The allegations against the applicant were enquired into and the enquiry report dated 23.03.2005 is an indication that his hands are not clean. The local MLA who is conversant with conditions obtaining in and around their constituencies cannot be faulted for seeking intervention of the government to prevent avoidable untoward consequences. The conclusions sought to be drawn by the applicant with regard to his transfer are not warranted by the note of the PCCF as the government not being bound by the views of any particular officer, duly issued the transfer order

dated 3.7.2007. The order of transfer was made by the government after due consideration of all the relevant facts and circumstances and "not to somehow accommodate the Respondent No.5". Law is well settled that a government servant has no right not to be transferred. Since the applicant has made no case, the instant O.A. is liable to be dismissed, claimed the respondents, in their affidavit.

3. The applicant has filed an affidavit-in-reply (rejoinder) reiterating the contentions made in the O.A. and further contended that premature transfer before completion of tenure posting will have a demoralizing effect upon the concerned person. With an intention to discourage frequent transfers the Govt. of Meghalaya issued a circular No.PER.58/85/123 dated 18.11.1998 which expressly stipulates prohibition of transfer before completion of 3 years except under exceptional circumstances. In the instant case, no such exceptional circumstance is necessitated to transfer the applicant before completion of his tenure. The impugned order of transfer was neither issued in public interest nor in administrative exigency. The respondent authorities by succumbing to the

political pressure followed the dictation given by the Parliamentary Secretary, I/C Food and Civil Supplies, Govt. of Meghalaya, issued the impugned transfer order of the applicant along with others including respondent No.5.

4. Heard Mr. K. N. Choudhury, learned Sr. counsel assisted by Mr.U.K.Nair, learned counsel for the applicant and Mr. A. Sarma, learned Advocate General, Govt. of Meghalaya assisted by Rishmita Devi, learned counsel at length.

5. Learned counsel for the parties have brought my attention to the various pleadings, materials and evidence placed on record. Learned counsel for the applicant would argue that the impugned transfer order was issued on the basis of a note prepared by the Parliamentary Secretary, I/C Food and Civil Supplies, Govt. of Meghalaya who also happens to be the MLA of the constituency where the zoo project was to be set up before the Minister, Forest & Environment much against the Rules of Executive business. He has no authority at all to initiate such proposal and only PCCF can initiate such a proposal. The said move was objected by the PCCF in categorical terms. According to the

applicant, the transfer order was issued by one Shri L. Roy, in purported capacity of Commissioner & Secretary to the Govt. of Meghalaya, Forest & Environment Department but he was transferred from the said capacity vide order dated 23.3.2007 which was published in the Gazette of Meghalaya and as per circular dated 29.08.2002 issued by the Personnel Department the transfers should invariably be effected, without fail, after expiry of 15 days of issuance of the order or the end of the month whichever is later. In that event, Shri L. Roy could not have either processed the transfer nor signed the orders. The cancellation of the transfer order dated 23.03.2007 vide notification dated 10.7.2007 (Annexure-D of the Govt. Affidavit) will not improve the case of the respondents. The so-called public complaints were merely a built up case against the applicant factum of which can be understood by the bottom line of the representation of the Ri Bhoi Development Organisation, an NGO (Annexure-B of the Govt. Affidavit) which states that respondent no. 5 be posted in place of the applicant. In the enquiry so conducted to enquire into the allegations, nothing was proved and the enquiry was closed accordingly. The transfer of the applicant was

sought to be made only to accommodate the respondent no.5. Therefore, the impugned order of transfer is liable to be set aside and quashed.

Learned counsel for the respondents, on the other hand, persuasively argued that the applicant has no indeceivable right to hold a post for long. The wording as to public interest need not be shown in all orders of transfer. It has to be understood from the order itself. The government was constrained to transfer the applicant on public complaints. He submitted that it is the prerogative of the government to transfer an employee to their choice according to necessity, public interest and administrative exigency. The transfer of the applicant does not affect him either in respect of his status, pay, placing of posting or in any other way affecting his duties, rights and interest as DFO. Applicant's claim that the Zoo project was initiated by him is a total falsehood. The project was initiated several years prior to transfer of the applicant as DFO, Khasi Hills Division. The applicant is mountainising the issue to give an impression that he is an indispensable person for the said project. No employee can aspire or claim

that he is indispensable to a post. He has to do what he was required to do in discharge of his duties.

6. I have given due consideration to the arguments, materials and evidence placed on record. Admittedly, applicant has been transferred vide order dated 03.07.2007. For better elucidation the relevant portion of the said order is reproduced below:

"No.FOR.12/97/Pt/102-B-

Shri

M.B.K.Reddy, IFS, (RR 1993), Divisional Forest Officer, Wildlife Khasi Hills Division, Shillong is transferred and posted as Divisional Forest Officer, Silviculture Division, Shillong with effect from the date of taking over charge and until orders vice Shri K.S.Lingdoh, IFS, IFS, transferred.

No.FOR/12/97/Pt/102-C

Shri

G.W.Khamujai, IFS, Planning Officer, Office of the Principal Chief Conservator of Forests, Shillong is transferred and posted as Divisional Forest Officer, Wildlife Khasi Hills Division, Shillong with effect from the date of taking overcharge and until further orders vide Shri M.B.K.Reddy, IFS, transferred.

..."

On going through the said notification it is clear that it is not an isolated transfer of the applicant in as much as six officers including the applicant



and respondent no.5 have been transferred by the general notification. Respondent No.5 is transferred in place of the applicant. Applicant has to take charge in place of Shri K.S.Lingdoh as DFO, Silviculture Division and the said officer is transferred as DFO (T), Jaintia Hills Division, Jowai. This order is indicative that it is a general transfer order not aiming at a particular individual. Learned counsel for the Respondents admitted that applicant has been transferred before completion of 3 years period which is well within the Rules and also submitted that some of the other officers who have been transferred also have not completed 3 years tenure. Since it being a general transfer it is argued that it is issued in public interest and in administrative exigency not to victimize any particular officer. The contention of the applicant, on the other hand, is that the officer who has signed the transfer order is not competent to do so since he was transferred from the capacity under which he signed the order. He was transferred vide order dated 23.03.2007 published in Gazette of Meghalaya (Annexure-6 of reply Affidavit of the applicant) which is reproduced herein below:-



"No. PER.04/2006/Pt.-VII/6.- Shri L.Roy, IAS (SCS-88), Commissioner and Secretary to the Government of Meghalaya, Forest and Environment, Border Areas Development, Trade(including Border Trade) and Food, Civil Supplies and Consumer Affairs Departments is transferred and posted as Commissioner and Secretary, Meghalaya Legislative Assembly with effect from the date of taking over charge and until further orders."

The said order is very specific that the order will come into effect from the date of taking over charge and until further orders. That means the government has reserved the right to retain the said officer in the post until further orders and thereafter the order was cancelled by virtue of Annexure-D order of the Govt. Affidavit dated 10.7.2007. Cancellation of the said transfer order of the officer is subsequent to the transfer order of the applicant, and therefore, the cancellation order is only designed to defeat the claim of the applicant. Order dated 10.7.2007 canceling the transfer of Shri L.Roy is quoted below:-

"No. PER.04/2006/Pt.V/16-H- Shri L.Roy, IAS (SCS-88), Commissioner and Secretary to the Government of Meghalaya, Forest & Environment, Border Areas Development, Trade (incl Border Trade), Food, Civil Supplies and Consumer Affairs Departments shall also function as Commissioner & Secretary to



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the Govt. of Meghalaya, Education Department and Commissioner & Secretary, Meghalaya Legislative Assembly with effect from the date of taking over charge and until further orders. He is, however, relieved of his functions as Commissioner & Secretary to the Govt. of Meghalaya, Forests & Environment, Border Areas Development, Trade (incl. Border Trade) Departments with effect from the date of handing over charge.

The orders contained in this Department Notification No.PER/.04/2006/Pt.VII/6 dt. 23.03.2007 are hereby cancelled"

It is argued that after 15 days of the transfer order if one person is not taking charge within the prescribed period he should be deemed to be released forthwith and therefore, Shri L.Roy should have been relieved and he has no authority to sign the transfer order of the applicant.

7. Considering all the aspects that even original order of transfer the officer who has signed the impugned order has got a rider that the officer can be retained until further orders. The notification that one should be relieved within 15 days of transfer order has no relevance or consequence as far as this case is concerned and it cannot be said that the officer concerned has no

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authority to sign the same. Therefore, the said argument cannot be acceded to nor accepted.

8. Another point that has to be borne in mind that though much efforts have been taken to prove the involvement of the concerned MLA/Parliamentary Secretary, I/C Food and Civil Supplies, Govt. of Meghalaya in this case and it is averred that it is at his dictation the entire transfer order has been culminated has to be evaluated from the record. At the outset it is admitted fact of both sides that no malafide has been specifically alleged against any person including the concerned MLA in the O.A. and the said authority has also not been made a party in the O.A. so as to prove malafide, if any. If there is no pleading that there is malafide, it is not enough that such malafide can be pleaded through argument as an after thought. Of course, in a case of malafide there may not be direct material available on record. Therefore, this Court has to evaluate the materials on record and came to a conclusion. Evidently, so-called Parliamentary Secretary, I/C Food and Civil Supplies, Govt. of Meghalaya who happened to be the local MLA has submitted a note to the Government proposing a series of transfer of

IFS/SFS officers in public interest. The entire scenario started when Ri Bhoi Development Organization, Nongpoh, an NGO has written a complaint to the Hon'ble Chief Minister of Meghalaya highlighting some grievances of local tribal people against the applicant. This complaint was sent by the local people under the seal of the aforementioned NGO alleging that moral character of the applicant is not praise worthy and with those of lower ranks especially the female staff. The Chief Minister has forwarded the same to the Minister, Forest I/C of the department for taking immediate action. Learned counsel for the respondents would argue that the State population is consisted of majority of tribal people and many constituencies are declared and reserved as tribal constituencies and it is one such constituency and therefore, complaints from the local people/NGOs with regard to harassment of tribal has to be looked into very seriously. Hence, matter was referred to the Minister Forest.

9. Learned Advocate General, Govt. of Meghalaya had produced the entire files relating to transfer and the Minister's noting with reference to

the allegation levelled against the applicant. The Note of the Minister, Forests in the concerned file is quoted below:-

"The reason to transfer the officer is a considered one after taking into consideration all aspects regarding both performance and works assigned to him. Given the complaints on the officer's conduct on several occasions, it was necessary to move him from the assignment. However, in view of the fact that he is a young officer, and if guided properly can be built up in future to become a good officer, it was decided that he should be assigned an equally important assignment as DFO (Silviculture), where he would play a role in big plantation and afforestation programmes of the State, which are in need of planting material. Considering all these factors the parawise comments as at Sl.72-81 may stand."

Though the above note was subsequent to the transfer order, it indicates the mind of the administration. When the Parliamentary Secretary/concerned MLA received a complaint he has forwarded the same to the CM. In the event of transfer before completion of tenure of 3 years the permission of the Chief Minister has to be obtained as per rules. In the instant case, the said procedure has been fully complied with. Though the PCCF has made a descending note it was overruled by the higher authority with

due application of mind. Therefore, it cannot be said that due procedure has not been followed in issuing the transfer order of the applicant. It is also argued that the concerned MLA is under the duty to draw the attention of the government to the affairs in and around his constituency, which cannot be said to be irregular.

10. Taking the above averments and arguments and materials placed on record by both parties into consideration, I find that no prejudice and inconvenience has been caused to the applicant by the impugned transfer order and he has no indefeasible right to claim that he should be placed at a particular place for long. The respondents have followed the due process of procedure prescribed by obtaining consent of the Chief Minister while transferring the applicant and others before completion of their tenure. The malafide against the respondents so argued by the learned counsel for the applicant could not be traced out by any material on record. In the absence of any such material it cannot be said that impugned order of transfer is vitiated by malafide.



11. Learned counsel for the applicant has brought my attention to the following decisions of the Supreme Court and High Courts in support of his contention:-

1. **1980 SC 319 in the case of State of Punjab and Another vs. Gurdial Singh and Others** wherein regarding 'malafide' the Hon'ble Supreme Court has observed - "When the custodian of power is influenced in its exercise by considerations outside those for promotion of which the power is vested the court calls it a colourable exercise and is undecieve by illusion."
2. **2005 (4) GLT 371 in the case of Dilip Kr. Saikia vs. State of Assam & Ors** wherein the Hon'ble Gauhati High Court held that transfer which is made to accommodate another employee is not bonafide.
3. **2004(1) GLT 347 in the case of Jibeswar Thakuria & Ors. Vs. State of Assam & Ors** wherein the Hon'ble Gauhati High Court deprecated the political intervention in transfer and posting.



On going through the above decisions I find that the facts of the cited cases are not applicable in this case which are different, and therefore, will not come for the rescue of the applicant.

Learned counsel for the respondents has relied on the following decisions in support of his contention:-

1. **2006(9) SCC 587 in the case of Ashok Laxman Gaikowad vs. State of Maharashtra** wherein the Hon'ble Supreme Court opined that, "In the first place, a government servant cannot disobey a transfer order by not reporting at the place of posting and then go to a court to ventilate his grievances. It is his duty to first for work where he is transferred and make a representation as to what may be his personal problems. This tendency of not reporting at the place of posting and indulging in litigation needs to be curbed. Apart therefrom, if the appellant really had some genuine difficulty in reporting for work at Tezpur, he could have reported for duty at Amritsar where he was so posted."

2. **2004 (7) SCC 405 in the case of State of U.P. and Another vs. Siya Ram and Another** wherein the Hon'ble Apex could held



that no govt. servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or place of his choice.

3. 2004 (4) SCC 245 in the case of **Union of India & Others vs. Janardhan Debnath & Another** wherein the Hon'ble Supreme Court held that transfer to another post in the same cadre on account of inefficiency or misbehaviour is not barred by FR 15.

4: (1987) 2 SCC 9 in the case of **Hem Lal Bhandari vs. State of Sikkim** wherein the Hon'ble Supreme Court at paragraph 7 held that, "The petitioner has made various allegations of mala fides against the Chief Minister of Sikkim. These allegations are not supported by any acceptable evidence. Therefore, we do not propose to consider them. Much was made of the fact that the Chief Minister has not filed a counter-affidavit himself denying the allegations. According to us it is not necessary since the allegations are wide in nature and are bereft of details. We do not think it necessary in all cases to call upon persons placed in high positions to controvert allegations made against them by filing affidavits unless the allegations are specific, pointed and necessary to be controverted."



5. (1978) 4 SCC 336 in the case of **Kedar Nath Bahl vs. The State of Punjab and Others.**

6. AIR 1970 SC 1102 in the case of **A. Sanjeevi Naidu etc. etc. vs. State of Madras and Another** wherein the Hon'ble Supreme Court held that, "When those officials discharge the functions allotted to them, they are doing so as limbs of the Government and not as persons to whom the power of the government had been delegated."

Relying the above cases learned counsel for the Respondents canvassed for a position that transfer is a condition of service which cannot be faulted if the due procedure is followed. The dictums laid down by the above decisions are still governing the field. It is for the administration to decide who should work where and what job should be given to an employee. It is further borne out from the record that the transfer order of the applicant does not affect his status, pay, place of posting or any other way affect his duties, rights and interest as DFO. The applicant has made a tall claim that so-called zoo project was initiated by him. Learned Advocate General, Govt. of Meghalaya would submit

1

that the project was initiated many years prior to joining of the applicant as DFO (Wildlife), Khasi Hills Division and even assuming that the applicant has got certain roles in it with all visionary zeal and commitment, can he aspire or insist to be posted there in total disregard of the fact that due consent has been obtained from the Hon'ble Chief Minister for his transfer? The Govt. has felt that it is necessary to transfer the applicant for the larger interest of the State. Applicant cannot claim that he is an indispensable person to a particular post, if so, the monopolistic tendency in Govt. service will grow and that may lead to great irregularities and corrupt activities which cannot be encouraged by the Government. This Court views that this argument has great force in view of the facts and legal position discussed above.

12. In the conspectus facts and circumstances of the case and the legal positions, as discussed above, I am of the view that the applicant has not made out a case specifically when no prejudice has been caused to him by virtue of his transfer since his status, salary, place of posting, duties, rights and interests as DFO will not be affected.



Therefore, the O.A. is bereft of any merit and liable to be dismissed.

13. In the circumstances, the O.A. is dismissed having no merits. No order as to costs. Interim order shall stand vacated.



(K.V.SACHIDANANDAN)
VICE CHAIRMAN

/bb/

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: AT GUWAHATI

O. A. No. 187/ 2007

Sri M. Balakrishna Reddy

.....Applicant

Vs

Union of India and ors

.....Respondents

-AND-

IN THE MATTER OF :

An affidavit in reply by and on behalf of the Applicant to the affidavit in Opposition filed on behalf of the respondents no. 2 to 4.

AFFIDAVIT -IN- REPLY

1. That your applicant states that the Original Application No. 187 of 2007 was preferred by him assailing an order of transfer dated 03.07.07 on the ground that the same was malafide and was issued without there being any public interest and/ or administrative exigency involved in the issuance of the same.
2. That save and except the statements that are specifically admitted to herein below all the averments as made in the affidavit-in-opposition, under reply, are denied. The applicant further does not admit anything that is contrary and/ or inconsistence with the records of the case.
3. That with regard to statements made in paragraph 3 of the affidavit-in-opposition, under reply, it is respectfully stated that such transfer

Filed by the Applicant
Through:- Amran Chetry,
Advocate. 37

orders issued malafide have a demoralizing effect inasmuch as it could be inferred that sincere and dedicated service is rewarded with ouster from current assignment. In recognition of this salutary principle in service career of a Government employee the Government of Meghalaya with an intention to discourage frequent transfers has issued circular No. PER. 58/85/123 dated 18/11/1998 which expressly stipulates prohibition of transfer before completion of three years except under exceptional circumstances. In the case on hand there exists no exceptional circumstances necessitating the transfer of the applicant before completion of his tenure against the post of Divisional Forest Officer, (Wild Life) Khasi Hills Division. The circular dated 18.11.98, which still holds the field, ought to be treated as law declared by the Executive in exercise of their powers under Article 162 of the Constitution and strictly adhered to by the State Government.

A copy of the said circular dated 18.11.98 is annexed as Annexure - 1.

4. That with regard to statements made in paragraph 4 of the affidavit-in-opposition, under reply, it is respectfully stated that the plan concept and project formulation for a sum of 30 Crores as awarded by the Twelfth Finance Commission to the State of Meghalaya for construction of Zoological Park as part of special package covered under State Specific Problems has been done by the applicant solely after his posting in the Khasi Hills Wildlife Division. Peacemeal efforts were made by the applicant's predecessor in this regard which did not evoke much response from the fund sanctioning authority. The plan concept prepared and submitted by the applicant was approved by the High Level Committee of the State of Meghalaya presided by the Chief Secretary and sent to Government of India by the Finance Department for the purpose of release of funds. The Ministry of Finance on perusal of the plan concept prepared by the applicant has released funds to the tune of 12 Crores for the financial year 2006-07. A copy of the sanction letter of the Finance Ministry duly forwarded by the Finance Secretary of Meghalaya to the Forest Department is enclosed hereby. The Master Plan of the Zoo would be prepared after awarding the tender to the best bid received in connection with preparation of same by expert Zoo Architects,

which would need the approval of the Central Zoo Authority, Government of India.

Letter of Finance Secretary, dated 18/05/2007 enclosing the sanction letter of Government of India is annexed hereby as Annexure - 2.

5. That with regard to statements made in paragraph 5 of the affidavit-in-opposition, under reply, it is respectfully stated that though the recommendations are recommendatory in nature they reflect upon the actual course of action that would best preserve public interest in the matter in recognition of the efforts put in and progress already achieved by the applicant. It is pertinent to mention here that the efforts of the applicant for setting up of the Zoo saw the project taking shape and the same after being approved by all concerned is ready for implementation.

6. That with regard to statements made in paragraph 6 of the affidavit-in-opposition, under reply, it is respectfully stated that representation of a local lobby (Annexure A of the affidavit in opposition) is merely a built up case against the applicant the factum of which is easily understood by the bottom line of the representation which states that Shri G.W. Kharmujai be posted in the place of the applicant. The said representations, are all manufactured ones without any substance and the same were so procured so as to pressurise the authorities to transfer out the applicant from the post of Divisional Forest Officer, (Wild Life) Khasi Hills Division and accommodate the respondent no. 5 against the said post. The policy as followed by the Government of Meghalaya with regard to the transfer clearly prevent the authorities from acting upon request made by non official bodies or persons for transfer/ posting of a particular officer. The said policy is reflected in the executive manual.

A copy of the said executive manual relevant for the case in hand is annexed as Annexure - 3.

7. That with regard to statements made in paragraph 7 of the affidavit-in-opposition, under reply, it is respectfully stated that in respect of frivolous complaints made by certain staff in view of strict work code enforced by the applicant a fact finding enquiry was indeed conducted by Shri T. T. C. Marak in respect of which the State Government concluded the matter through issuance of a complete exoneration order dated 05.09.05. In the said order it was in specific terms recorded that noting adverse was found against the applicant during his tenure as Divisional Forest Officer (Territorial) Jaintia Hills Division, Jowai.

A copy of the said order dated 05.09.05 is annexed as Annexure - 4.

8. That with regard to statements made in paragraph 8 of the affidavit-in-opposition, under reply, it is respectfully stated that the issue has ended in complete exoneration of the applicant and need not have been reagitated in the present case. It is obvious that vested interests to secure their own purpose would raise such issues again and again to suit their purpose but the State Government which is in know of things ought not to lend any credibility to such frivolous allegations which are utterly perverse without an iota of truth. The records relevant to the case on hand would reveal that the allegations as highlighted in the paragraph under reply, did not form the basis for issuance of the impugned order of transfer dated 03.07.07.

9. That with regard to statements made in paragraph 9 of the affidavit-in-opposition, under reply, it is respectfully stated that the Parliamentary Secretary, in-charge Food and Civil Supplies Department vide his note had proposed the transfer of the applicant from the post of Divisional Forest Officer, (Wild Life) Khasi Hills Division and the posting of the respondent no. 5 against the same. It was the said note that ultimately culminated in the issuance of the impugned order dated 03.07.07. The respondent authorities had by succumbing to the political pressure brought upon them, followed the dictation given by the said Parliamentary Secretary. In

view of the said position, it cannot be said that the impugned order of transfer was issued in public interest and/ or for reasons of administrative necessity.

10. That with regard to statements made in paragraph 10 of the affidavit-in-opposition, under reply, it is respectfully stated that there ought to be primacy attached to the opinion of the PCCF in matters of transfer and posting of Officers serving directly under him who is in the best know of their capabilities. In the instant case the PCCF had strongly advised against the transfer of the applicant.

11. That with regard to statements made in paragraph 11 of the affidavit-in-opposition, under reply, it is respectfully stated that the assertions of the applicant secure importance in the context of the observations of the State Planning Board who had inspected the site and progress in the matter.

12. That with regard to statements made in paragraph 12 of the affidavit-in-opposition, under reply, it is respectfully stated that the request of the applicant was duly processed by the State Government and copies of the note sheets pertaining to transfer of the applicant have been made available including the proposal of the MLA who at the relevant point of time was Parliamentary Secretary in charge of Food and Civil Supplies. It is clear from the note sheets of the relevant file that the proposal for transfer was initiated principally on the note submitted by the MLA. It was the said note that ultimately culminated in the issuance of the impugned order dated 03.07.07. The respondent authorities had by succumbing to the political pressure brought upon them, followed the dictation given by the said Parliamentary Secretary. In view of the said position, it cannot be said that the impugned order of transfer was issued in public interest and/ or for reasons of administrative necessity.

Copies of the note sheets relevant to the issue on hand is annexed as Annexure – 5 series.

13. That with regard to statements made in paragraph 13 of the affidavit-in-opposition, under reply, your deponent denies the same and

reiterate and reaffirms the statements made in paragraph 4.11 of the Original Application. The contention raised by the applicant in the Original Application with regard to the actual reasons behind the issuance of the impugned order of transfer dated 03.07.07 stand vindicated by the documents furnish to him in pursuance to the application made by him under the right to Information Act, 2005. It is revealed that the impugned order of transfer was initiated at the instance of an authority not competent to initiate such measures. The impugned order of transfer was issued only with the view to accommodate the respondent no. 5 against the post of Divisional Forest Officer, (Wild Life) Khasi Hills Division. It is respectfully stated that no case has been made out by the respondents for vacating the stay since the law is settled that transfers cannot be accentuated by malafide considerations or pure personal whims and caprice of the authorities. No case has been made out by the respondents for vacating the stay since the law is settled that transfers cannot be accentuated by malafide considerations or pure personal whims and caprice of the authorities. The present order is further vitiated on account of it having been processed by a Commissioner & Secretary who had been transferred out of Forest Department through orders no. PER. 04/ 2006/ Pt-VII/ 6 dated 23/03/2007. The Government of Meghalaya circular in the subject is candid inasmuch as it prescribes that after expiry of a period of 15 days from the date of issuance of the transfer order or the end of the month which ever is later the officer would be deemed to have been relieved from the post. In the latter event Shri L. Roy could not have either processed the transfer issue of the applicant nor signed the orders.

A copy of the notification dated 23.03.07 is annexed as Annexure – 6.

A copy of the circular of the Personnel Department No. PER 61/2000/160 dated 29/08/2002 is annexed as Annexure - 7.

14. That with regard to statements made in paragraph 14 of the affidavit-in-opposition, under reply, your deponent denies the same and

reiterate and reaffirms the statement made in the paragraph 4.12 of the Original Application and in the foregoing paragraph of this Affidavit in Reply.

15. That with regard to statements made in paragraph 15 of the affidavit-in-opposition, under reply, your deponent denies the same and reiterate and reaffirms the statement made in the paragraph 4.13 of the Original Application and in the foregoing paragraph of this Affidavit in Reply.

16. That with regard to statements made in paragraph 16 of the affidavit-in-opposition, under reply, your deponent denies the same and reiterate and reaffirms the statement made in the paragraph 4.14 of the Original Application and in the foregoing paragraph of this Affidavit in Reply.

17. That with regard to statements made in paragraph 17 of the affidavit-in-opposition, under reply, your deponent denies the same and reiterate and reaffirms the statement made in the paragraphs 4.15 & 4.16 of the Original Application and in the foregoing paragraph of this Affidavit in Reply.

18. That with regard to statements made in paragraph 17 of the affidavit-in-opposition, under reply, it is respectfully stated that the State Government have issued clear instructions as already adverted to in the foregoing paragraph that proposal for transfer with proper justification ought to be processed through the Personnel Department which is headed by the Chief Secretary himself and then approval of the Chief Minister is to be secured to the transfers contemplated basing on the reasons assigned. The approval of the Chief Minister to a transfer which does not have any justification and/ or is malafide cannot validate the transfer and this Hon'ble Tribunal under such circumstances be pleased to interfere with the said transfer. In the instant case the case has not been processed through the Personnel Department and thus denied the benefit of its examination through the Personnel Department. In a similar case the Hon'ble High Court of Gauhati through its Bench in Shillong has stayed the transfer order of a Range Officer for violation of the policy laid down by the Government themselves.

19. That with regard to statements made in paragraph 18- 22 of the affidavit-in-opposition, under reply, your deponent denies the same and reiterate and reaffirms the statement made in the paragraphs 4.17 to 4.19 of the Original Application and in the foregoing paragraph of this Affidavit in Reply. It is respectfully stated that the respondent authorities had miserably failed to make out a case either for vacation of the interim direction passed by this Hon'ble Tribunal vide order dated 06.07.07 and/ or for dismissal of the Original Application.

20. That your applicant states that the contentions as raised in the foregoing paragraph and also in the Original Application would make it abundantly clear that the impugned order of transfer has not been issued in the interest of public interest and/ or for administrative exigencies. The impugned order of transfer is the result of political pressure brought upon the authorities who by succumbing to the said pressure proceeded to issue the impugned order of transfer dated 03.07.07 without carrying out an exercise to a certain the public interest and/ or the administrative exigency involved in the same.

21. That your applicant submits that materials brought on record by way of the Original Application and also this affidavit in Reply would demonstrate that the applicant has made out a prima facie case requiring the interference of this Hon'ble tribunal in the matter. In view of the said position it is a fit case wherein your Lordships would be pleased to continue the interim directions as passed in the matter and be pleased to allow the Original Application No. 187 of 2007 by granting to the applicant all the relief's as prayed for by him therein.

.....Verification/-

VERIFICATION

I, M. Balakrishna Reddy, aged about 34 years, Son of M. A. Reddy, presently working as Divisional Forest Officer (Wildlife), Khasi Hills Division, Oakland, Shillong, Meghalaya, do hereby solemnly affirm and verify that I am the applicant in O.A. No. 187/ 2007 and conversant with the facts and circumstances of the case, the statements made in paragraph 1,2,3,4,5,6,8, 9,10,11,13,14,15,16 to 18 and 19 are true to the best of my knowledge; those made in paragraphs 7 and 12 are true to my information derived from the records and the rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the 30th day of August, 2007.


DEPONENT
 (M. BALAKRISHNA
 REDDY)

No.PER. 58/85/123,
Government of Meghalaya,
Personnel & A.R. (A) Department

OFFICE MEMORANDUM

Dated Shillong, the 18th November, 1998.

It has come to the notice of Government that there have been instances of random transfer of officers from one Department to another Department or from one branch to another branch and from one place/station to another, sometimes even before completion of the minimum period of three years. This action of the concerned Departments violates Government instructions issued vide Office Memorandum No.PER.114/83/164, dt. 21-2-85 and reiterated under Finance (Economic Affairs) Department's Office Memorandum No.FEA.83/93/145, dt. 4-7-94 and this Department's Office Memorandum No.PER.58/85/117, dt. 2-11-96.

All Departments are directed to strictly adhere to the above Government instructions. In case exceptional circumstances exist necessitating such transfer, detailed proposal is to be submitted to this Department for obtaining prior approval of the Chief Minister, as necessary. No such transfer should be made without the prior approval of the Chief Minister.

Sd/-W.M.S. Pariat,
Commissioner & Secretary to the Govt. of Meghalaya,
Personnel & A.R. (A) Department

Memo No. PER. 58/85/123-A,

Dated Shillong, the 18th November, 1998.

Copy to:

1. All Principal Secretary/ Commissioner & Secretary/ Secretary to the Govt. of Meghalaya/Heads of Departments. Receipt of the above communication may please be acknowledged.

2. The Commissioner of Division for East and West Khasi Hills, Jaintia Hills and Ri-Bhoi Districts, Shillong.
3. The Commissioner of Division for East, West and South Garo Hills Districts, Tura.
4. The Principal Secretary to the Governor of Meghalaya, Shillong.
5. The Commissioner & Secretary to the Chief Minister of Meghalaya, Shillong.
6. The Secretary to the Deputy Chief Minister, Meghalaya, Shillong.
7. The Private Secretary to all Ministers/Ministers of State, Meghalaya, Shillong.
8. The Private Secretary to the Chief Secretary to the Govt. of Meghalaya, Shillong.
9. All Departments in the Secretariat including P.W.D.
10. All Deputy Commissioners.

By Order etc.,

Under Secretary to the Govt. of Meghalaya,
Personnel & A.R. (A) Department

-12-

GOVERNMENT OF MEGHALAYA
FINANCE (ECONOMIC AFFAIRS) DEPARTMENT

45
Annexure -2

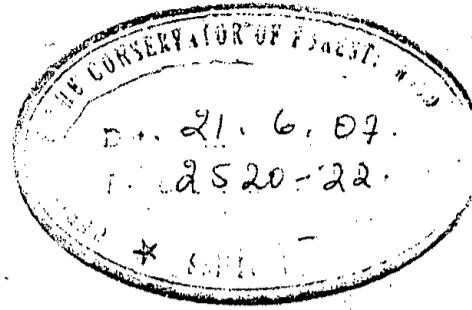
No. FEA (TFC) 98/2005/116

Dated Shillong, the 18th May, 2007.

From : Smt P. Nongdhar
Secretary to the Govt. of Meghalaya
Finance (Economic Affairs) Department

To : The Principal Chief Conservator of Forests
Meghalaya, Shillong

Sub : Release of grants-in-aid under Twelfth Finance Commission award.



Sir,

I am directed to invite a reference to the subject cited above and to forward herewith Govt. of India sanction letter -

1. No. F. 10(5)/FCD/2005, dated 26th March, 2007 releasing Rs. 600.00 lakh. for 'Maintenance of Forests' during 2006 - 07, and
2. No. F. 10(5)/FCD/2005, dated 28th March, 2007 releasing Rs. 1200.00 lakh for setting up of 'Zoological Park' under 'State Specific Needs' during 2006 - 07.

Kindly take necessary action to sanction and utilize the amounts for their stated objectives at the earliest.

Further, Forests & Environment Department is yet to submit action plan for establishment of 'Botanical Garden' recommended by the Twelfth Finance Commission at a total outlay of Rs. 500.00 lakh. Kindly take necessary action in formulating action plan of the same urgently as only three (3) more years is left for implementation under TFC.

Yours faithfully,

(P. Nongdhar)

Secretary to the Govt. of Meghalaya
Finance (Economic Affairs) Department
PABX - 2381. Phone - 2227708

20th June '07
Sd/- M/s.

P. Nongdhar

10 NO. MFB/TFC/2007-08/11, 307-70
76 - The C.C.F./W.L.
75F
75T
75R
75L

-43 -

MOST IMMEDIATE
Forest/TFC Release No. 12/2006-07

AMOUNT TO BE CREDITED IN THE ACCOUNTS OF THE GOVT. OF MEGHALAYA

No. F. 10(5)/FCD/2005
Government of India
Ministry of Finance
Department of Expenditure
Finance Commission Division

Block No. XI, 5th Floor, CGO Complex,
New Delhi, the 26th March, 2007

To

The Chief Controller of Accounts
Ministry of Finance
New Delhi

Subject: 'On Account' payment of grants-in-aid for maintenance of forests to State Governments during 2006-07.

M. No. 20 Df. 26/03/07

Sir,

I am directed to convey the approval for payment of Rs. 600.00 lakh (Rupees six crore only) to the Government of Meghalaya during 2006-07 towards maintenance of forests on the recommendations of the Twelfth Finance Commission on "on account" and provisional basis.

2. You are requested to advise to Reserve Bank of India, Nagpur to credit the above amount to the accounts of Government of Meghalaya.

3. The above amount will be subject to adjustment against the amount of grant to be released through the issue of Presidential Order during the course of the year.

4. The payments are adjustable in the accounts of the Ministry of Finance under the Head 3601.01.104.11.00.31 Grants-in-aid for maintenance of forests in Demand No. 35 – Transfer to State and Union Territory Government for 2006-07.

5. The action taken on this letter may kindly be intimated to this Division.

Yours faithfully

(A.K. Raina)
Deputy Director
Tel No. 24364361

Copy to:

1. The Secretary, RBI, Central Office, Mumbai.
2. The Manager, RBI, Central Accounts Section, Nagpur.
3. The Budget Division (States Section), DEA, North Block, New Delhi.
4. Shri Gireesh Kumar, PAO, Ministry of Finance (5 copies).
5. The Secretary (Finance), Government of Meghalaya
6. The Secretary (Forest), Government of Meghalaya
7. The Accountant General (A&E), Meghalaya
8. The Accountant General (Audit), Meghalaya
9. The Director General of Audit, Central Revenues (ANG-I Section), IP Estate, New Delhi.
10. PS to JS(PF-I)

(A.K. Raina)
Deputy Director

3/4

TRANSFER OF GOVERNMENT SERVANTS

-14-

Procedure on transfer

1. All officers taking charge of a district should examine particularly the state of the camp equipage and of the library. An officer taking charge of a treasury must verify the balances.

Memoranda by Deputy Commissioner relieved

2.1. Every Deputy Commissioner leaving a district, of which he has been in charge for more than a year, should record for the use of his successor a memorandum noting all points of which it is important that his successor should be informed. In this memorandum he should note on the working of the police, the working of Municipal Boards and any other matters of importance.

2.2. In addition to this he should carefully record the names and character of the more important local gentlemen of the district, their activity or supineness in public duties and any special services which they may be fitted to render to the Government in case these should be required of them.

2.3. He should place on record his opinion of the qualifications of the officer subordinate to him. (This record will be treated as confidential.)

2.4. A list of all existing arrears of business must be furnished.

Commencement of joining time

3. When an officer is transferred from one station to another his joining time will commence from the date when he receives official intimation of his transfer, provided that a district officer may direct any subordinate to defer giving over charge for a certain number of days, till he shall have disposed of current or emergent work, reporting the same to the Commissioner for information. Officers should certify on the charge report the day on which the official intimation reached them, and particulars of the orders if any authorising them to defer giving over charge.

Bungalow to be kept for successor

4. When an officer is leaving a station in which he owns the house he occupies, he should, in the first instance, endeavour to come to an arrangement with his successor, and only in the event of his failing to make such an arrangement should he dispose of it to an outsider. Similarly when the outgoing officer rents a house, he should endeavour to secure the lease of the house for his successors, and should if possible not let his departure be known, until his successor has had an opportunity of arranging for a residence, so that outsiders on the spot may not have a better chance than the incoming official.

Representation by non-officials against transfer

5. Whenever a representation asking for the cancellation of a transfer or for the posting of a particular officer is received from non-official bodies, it will be presumed that the official affected by it has in fact prompted this intervention. Strong disciplinary action

to bring pressure on Government to alter their orders of posting and transfer which are all made in the public interest.

Annexure - 3

Handing over of charge

6. A Government servant must arrange to hand over charge within ten days of the receipt of orders of transfer and must arrange to take over at his new place of posting after availing of the prescribed joining time. Any delay in complying with orders of transfer without specific permission of the authority ordering the transfer will be punishable as an act of gross indiscipline.

Charge Certificate

7.1. All officers signing the Transfer Charge Certificate as "Relieving" or "Relieved" Officer should write their names in full, in block letters (first name, middle name and surname) under their signatures, within brackets, while signing the certificate of transfer of charge.

7.2. Revenue and Appointment Departments should be kept informed in all cases of transfers, posting and leave of Sub Deputy Collectors.

Frequent transfer discouraged

8. Frequent transfers should not be resorted to specially when officers are in the stations for comparatively short period unless there appears strong, justifying ground.

Transfer after 5 years

9. Those officers who have already been staying over 5 years in one place and can be transferred without dislocation of work should be transferred immediately.

8. AAA. 10/6
2.7.1964.

9. U.O. No.
244/63/27,
27.2.1964.

1. Para 253—
Executive-
Manual.

2. Para 254—
Executive-
Manual.

3. Para 255—
Executive-
Manual.

4. Para 256—
Executive
Manual.

5. AAA. 12/51/1,
9.3.1951.

GOVERNMENT OF MEGHALAYA
DEPARTMENT OF FORESTS & ENVIRONMENT

NO. FOR.13/2005/301

Dated Shillong the 5th September 2005

From : Shri M.A.S.Thangkhiew, MCS
Officer on Special Duty
Department of Forests & Environment
Government of Meghalaya, Shillong.

To,

Shri M.Bala Krishna Reddy,IFS
Divisional Forest Officer
Forest Utilisation Division
Shillong.

Sub : Enquiry into allegations against Shri M.Bala Krishna Reddy,IFS by Shri T.T.C.Marak, IFS Chief Conservator of Forests- Reg.

Ref : (i) Government letter No. FOR 13/2005 dt 18.02.2005
(ii) Report of Shri T.T.C.Marak, Chief Conservator of Forests submitted under cover of letter No. MFS/PG/16(Pt)/ dt 23.02.2005
(iii) Representation of Shri M.Bala Krishna Reddy vide letter No. MFU/MBKR/PF/ dt 04.07.2005

Sir,

I am directed to communicate on the issue at subject above in the context of communiqus under reference that the State Government after a careful perusal of the report of enquiry furnished by Shri T.T.C.Marak, Chief Conservator of Forests, on an appreciation of totality of circumstances attending the issue under

2
alleged
true

inquiry and general performance of the Officer inquired upon, has decided that nothing adverse of any kind is found against Shri M. Bala Krishna Reddy, IFS while functioning in his capacity as Divisional Forest Officer(Territorial) Jaintia Hills Division, Jowai.

The enquiry against the Officer is concluded along above lines, the episode being closed thereby.

This has the approval of the Principal Secretary, Forests & Environment Department.

Yours faithfully,

M.A.S.Thangkhiew
Shri M.A.S.Thangkhiew, MCS
Officer on Special Duty,
Department of Forests &
Environment, Meghalaya.

Memo No. NO. FOR.13/2005/³⁰¹ Dated Shillong the 5th September' 05

Copy forwarded to:

(i) Commissioner & Secretary, Political Department. This has reference to their I/D No.PCL/10/17/207 Dt. 28th february 2005
(ii) Principal Chief Conservator of Forests, Meghalaya for information.

Shri M.A.S.Thangkhiew, MCS
Officer on Special Duty,
Department of Forests &
Environment, Meghalaya.

Minister Forest & Environment

As discuss in the public interest you may post the following officers as indicated below.

1. Shri K.S. Lyngdoh as DFO JH (T) DIV
2. Shri G.W. Kharmujai as DFO E & W Khasi Hills Div
3. Shri D. Shallam as DFO JH (SF) DIV
4. Shri T. Kharlukhi as DFO GHADC
5. Shri H.C. Dhoudhry as Planning Officer in PCCF off
6. Shri M.B.K. Reddy as DFO Silviculture ✓

Sd/-
 S.W.Rymbai
 Parliamentary Secretary
 I/c Food and Civil Supplies

Addl C.S

To look into this proposal and put up. Pl expedite

Sd/-
 M.N.Mukhim
 03/05/07
 Minister in charge
 Forests & Environment, Soil & Water Conservation
 Social Welfare

Your comments please

Sd/-
 S.Chatterjee

PCCFAddl C.S

My views are appended in a separate sheet

Sd/-
 V.K.Nautiyal

Please put up with the views of PCCF enclosed

Sd/-
 S. Chatterjee

3/5/07

OSD

In file

Sd/-

L.Roy

Minister forest and Environment
As discuss in the Public
interest you may post the
following officers as indicated
below.

1. Shri K. S. Lydydoh as DFO JHC
Div

2. Shri G. W. Karmujai as DFO
Exw Khas

3. Shri D. Chatham as DFO JH(SF)

4. Shri T. Khaparkhi as DFO GHAHD

5. Shri H. C. Choudhary as Planning
Officer in PCCF

6. Shri M. B. K. Reddy as DFO Sircilla

~~Dear Sirs
views of PCCF entreated
by yours truly~~

~~your command
Yours truly
PCCF~~

~~Addl. C. S.
My views are
appended in a
separate sheet
Viswanath~~

~~Addl. C. S.
To look into this
proposal and
put up a pl. expeditely~~

SD
DPM

DPM

DPM

(S. W. Lydydoh)

Parliamentary Secy
G/C Roads & Civil Supplies

~~Shri S. S. Bapat
In-charge
Social & Water
Welfare~~

Attested
S. W. Lydydoh
Government of
Parliamentary Secy
G/C Roads & Civil Supplies
Ministry of
Social & Water
Welfare
Forest

(---illegible) dt 03.05.07 from Shri S. W. Rymbai, Parliamentary Secretary
Sl 92c

O.S.D

SI 92-93c - May please be seen and please read with notes and orders on the body of the P.U.C alongwith the views /comments of the PCCF at sl 93 /c.

Submitted

Sd/-

9/5/07

Com & Secy

O/N above plese read with order of the Addl CS on the body of P.U.C at Sl 92 c. The PCCF has submitted his views at Sl 93c.

Submitted for further orders please.

Sd/-

9/5

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PCCF'S views on the proposed posting of Deputy Conservator of Forests

Shri K.S. Lyngdoh IFS has been posted in two Territorial division's viz Garo Hills and Khasi Hills Territorial Division in the past. He could not cope up with the work pressures of working in the Territorial Divisions and as per his own admission working in Territorial Divisions is not temperamentally suited to him. At the same time he has been doing very well in the functional division viz Silviculture Division and also did very well as Planning Officer.

Shri M.B.K.Reddy is a very good planner with great in depth knowledge of laws, rules, procedures etc. The Khasi Hills Wildlife Division will play a key role in the establishment of the State Zoo in Ri-Bhoi District. Shri Reddy has already done lot of ground work and prepared project outline, manual for Zoo keepers etc. He has a clear vision in this field and I am very impressed by his commitment for creation of the Zoo. I am to strongly advise against him from his present position as Divisional Forest Officer Wildlife Division.

The present Divisional Forest Officer Khasi Hills Territorial Division Shri A. Lyngdoh IFS is being considered for promotion to Conservator of Forests. He has been an excellent field administrator for forests and it would be difficult to find a substitute for him to man this key division. The only suitable person presently available for this purpose is Shri G.W. Kharmujai who is about to be nominated to IFS and would be most suitable to be posted in this key cadre post.

Bringing H.C.Choudhury as Planning Officer in my office would be a right step. However, he should be given a couple of more months to complete his work in Jaintia Hills Territorial Division.

Shri D. Challam has served a long term on deputation with the Garo Hills Autonomous District Council and moving him out of Garo Hills may be accepted.

Signature

Sd/-

Signature

V.K.Nautiyal

Signature

4.5.07

Principal Chief Conservator of Forests
Meghalaya, Shillong.

The 23rd March, 2007

No. PER.04/2006/Pt-VIII/5.— Shri A. Som, IAS, (SCS-90), Commissioner and Secretary to the Government of Meghalaya, Information and Public Relations and Communication Departments shall also function as Commissioner and Secretary to the Government of Meghalaya, Industries Department with effect from the date of taking over charge and until further orders.

No. PER.04/2006/Pt-VII/6.— Shri L. Roy, IAS (SCS-88), Commissioner and Secretary to the Government of Meghalaya, Forest and Environment, Border Areas Development, Trade (including Border Trade) and Food, Civil Supplies and Consumer Affairs Departments is transferred and posted as Commissioner and Secretary, Meghalaya Legislative Assembly with effect from the date of taking over charge and until further orders.

No. PER.04/2006/Pt-VII/6-A.— Shri W. L. Lyngdoh, IAS (Non-SCS), Commissioner of Excise, Meghalaya; Secretary to the Government of Meghalaya, Urban Affairs, Sericulture and Weaving Departments and Chief Executive Officer, Shillong Municipal Board shall also function as Secretary, Chief Minister's Secretariat with effect from the date of taking over charge and until further orders.

No. PER.04/2006/Pt-VII/6-B.— Shri H.M. Shangliang, MCS, State Protocol Officer, Officer-on-Special Duty, Education, Revenue, Information and Public Relations, Soil and Water Conservation, Industries and Chief Minister's Secretariat is relieved of his functions as Officer-on-Special Duty, Chief Minister's Secretariat with effect from the date of handing over charge.

The 26th March, 2007

No. PER.700/IAS/PSK/174.— Subject to admissibility, Shri P. Sampath Kumar, IAS Deputy Commissioner, West Garo Hills, Tura, was under Rule 11 of the AIS, 1955 Rules, 1955 granted earned leave on medical grounds for a period of 11(eleven) days with effect from 2nd January, 2007 to 12th January, 2007 with permission to prefix with effect from 23rd December, 2006 to 31st December, 2006 and 1st January, 2007 and suffix the 13th and 14th January, 2007 being holidays and Sundays to the leave.

The Officer would have continued to hold the post but for his proceeding on leave and there was every likelihood of his returning to the same or a similar post on expiry of the leave.

No. PER.700/IAS/PSK/174-A.— On return from leave, Shri P. Sampath Kumar, IAS was reposted as Deputy Commissioner, West Garo Hills District, Tura with effect from 15th January, 2007 and until further orders.

R. V. SUCHIANG,
Commissioner & Secretary to the Govt. of Meghalaya,
Personnel & A. R. (A) Department.

The 23rd March, 2007

No. PER.04/2007/Pt-II/11.— The services of Shri F.M. Doph, MCS, Additional Deputy Commissioner, Jaintia Hills District, Jowai are placed at the disposal of Community & Rural Development Department for appointment as Project Director, D.R.D.A. Jowai with effect from the date of taking over charge and until further orders. He shall, however, continue to function as Additional Deputy Commissioner, Jaintia Hills District, Jowai.

No. PER.04/2007/Pt-II/11-A.— The services of Shri F.M. Doph, MCS, Additional Deputy Commissioner, Jaintia Hills District, Jowai are placed partially at the disposal of Planning Department for appointment as District Planning Officer, Jaintia Hills District, Jowai with effect from the date of taking over charge and until further orders.

I. W. INGYI,
Deputy Secretary to the Govt. of Meghalaya,
Personnel & A. R. (A) Department.

The 15th March, 2007

No. PER.589/MCS/JP/106.— On return from leave, Smti. J. Pakyntein, MCS, was reposted as Deputy Secretary to the Government of Meghalaya, Social Welfare etc.. Departments with effect from 22nd January, 2007 and until further orders.

The 16th March, 2007

No. PER.899/MSS/AN/14.— Smti. Asira Nongrum, Superintendent, S.A. (A) Department was under Fundamental Rule 90 of the Meghalaya Fundamental Rules and Subsidiary Rules 1984 granted earned leave on private affairs for a period of 12(twelve) days with effect from 12th February, 2007 to 23rd March, 2007 with permission to prefix 10th and 11th and to suffix 24th and 25th February, 2007 being holidays and Sundays to the leave.

No.PER. 61/2000/160,
Government of Meghalaya,
Personnel & A.R. (A) Department

Dated Shillong, the 29th August, 2002.

From: Shri W.M.S Pariat, IAS
Principal Secretary to the Govt. of Meghalaya

To, All Principal Secretaries/Commissioner & Secretaries/Secretaries
to the Government of Meghalaya.

Sir,

I am to refer his Deptt's circular No. PER.46/96/57, dated 30-06-98 relating to the matter of handing and taking over charge of officers consequent on transfers, etc. It has been brought to the notice of this Deptt that inspite of the above instructions transfers effected by the Govt. are not compiled with even after long periods of time.

It is reiterated that transfer orders once issued are meant to be complied with immediately. Whenever transfer orders are issued, the same should invariably be effected, without fail, within a period of 15 days of the orders being issued or before the end of the month when the transfer order is issued, whichever is late. In case an officer does not hand over charge within the prescribed period, the officer would be deemed to have been relieved forthwith, immediately after expiry of the above mentioned period.

In case of any compelling reasons which prevent a transfer from being effected, the relevant transfer orders are either to be stayed or kept in abeyance by the concerned authority within this period. If the transfer orders are not stayed or kept in abeyance within this specified period, then the transferred officer would be deemed to have been automatically relieved from his post as detailed above.

The above instructions may kindly be brought to the notice of all concerned for strict observance.

Yours faithfully

Sd/- W.M.S. Pariat
Principal Secretary to the Govt. of Meghalaya,
Personnel & A.R. (A) Deptt.

negative

Memo No. PER.61/2000/160-A

Dated Shillong, the 29th August, 2002

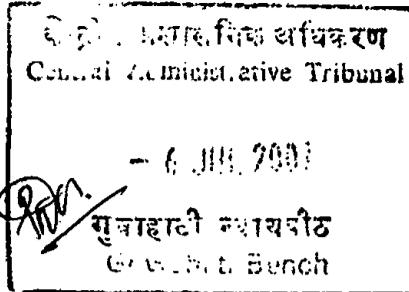
Copy to:

1. The Private Secretary to the Chief Minister, Meghalaya
2. The Private Secretary to the Chief Secretary, Meghalaya
3. All Heads of Department
4. All Deputy Commissioners/Sub-Divisional Officers (Civil)
5. The Accountant General (A&E), Meghalaya

By Order etc.,

Sd/- W.M.S. Pariat
Principal Secretary to the Govt. of Meghalaya,
Personnel & A.R. (A) Deptt.

Copy to:



**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH: AT GUWAHATI.**

ORIGINAL APPLICATION NO. 187 /2007.

Sri M. Balakrishna Reddy

.....**Applicant.**

Versus

The Union of India & ors.

.....**Respondents.**

SYNOPSIS

The applicant has by way of this application raised a grievance against the arbitrary and illegal action on the part of the respondent authorities in issuing a notification dated 03.07.07 towards transferring him out of the post of Divisional Forest Officer (Wildlife), Khasi Hills Division, Meghalaya Shillong currently held by him before completion of his tenure against the said post. The impugned notification dated 03.07.07 is the result of political pressure mounted upon the authorities on behalf of the respondent no. 5 and there exists no public interest and/ or administrative exigency in issuance of the same.

The impugned notification came to be issued basing on a proposal submitted by a political authority unconnected with the works of the department. The proposal for transfer of the applicant was objected to by the head of the department i.e. the Principal Chief Conservator of Forest, Meghalaya on the ground that the services of the applicant as Divisional Forest Officer (Wildlife), Khasi Hills Division, Meghalaya Shillong was indispensable in view of his involvement of a project for setting up of a state zoo. The retention of the applicant as Divisional Forest Officer (Wildlife), Khasi Hills Division, Meghalaya Shillong was also directed by the members of the State Planning Board for the smooth implementation of the said project however ignoring the said

recommendations, the impugned notification came to be issued to satisfy the political lobby backing the respondent no. 5 and who were actively canvassing for the posting of the respondent no. 5 as Divisional Forest Officer (Wildlife), Khasi Hills Division, Meghalaya Shillong.

The haste in which the impugned notification dated 03.07.07 came to be issued and the non application of mind in issuance of the same is clear from mere perusal of the notification itself inasmuch as the impugned notification has been issued under the signature of an authority who on the date of the issuance of the notification dated 03.07.07 no longer held the charge of the post of Commissioner and Secretary Environment and Forest Department Government of Meghalaya.

The impugned notification having been issued for the purpose of accommodating the respondent no. 5 against the post of his liking and there being no public interest involved in the issuance of the same, the impugned notification is not sustainable and liable to be set aside. The manner and method in which the impugned notification has been issued and the pressure on the authorities from a powerfull political lobby, there exists no scope for any reconsideration in the matter by the authorities on an appeal being preferred by the applicant. Any appeal if filed in the matter would have been a futile exercise and as such the applicant has no other forum to ventilate is grievance other than this Hon'ble Tribunal.

The applicant is continuing to hold the post of Divisional Forest Officer (Wildlife), Khasi Hills Division, Meghalaya Shillong but he fears that by succumbing to the pressure from political circles, the authorities may proceed to release him from the post currently held by him. As such this application praying for urgent and immediate relief .

Filed By



(B. Sharma)

Advocate

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**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH: AT GUWAHATI.**

ORIGINAL APPLICATION NO. 187 /2007.

Sri M. Balakrishna Reddy

....**Applicant.**

Versus

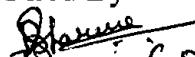
The Union of India & ors.

....**Respondents.**

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Filed By



(C.B. Sharma)

Advocate

- 6. III 2007

गुवाहाटी = राष्ट्रीय

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:

GUWAHATI BENCH: AT GUWAHATI.

ORIGINAL APPLICATION NO. /2007.

BETWEEN

Sri M. Balakrishna Reddy, son of M.A. Reddy,
presently working as Divisional Forest Officer
(Wildlife), Khasi Hills Division, Oakland, Shillong,
Meghalaya.

.....Applicant.

AND

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Personnel, Public Grievance and Pension (Department of Personnel & Training), North Block, New Delhi – 1.
2. The State of Meghalaya, represented by the Principal Secretary to the Government of Meghalaya, Forest and Environment Department Shillong, Meghalaya.
3. The Commissioner and Secretary to the Government of Meghalaya Forest and Environment Department, Shillong, Meghalaya.
4. Principal Chief Conservator of Forest, Meghalaya, Shillong.

Filed by:- the applicant
through → Brijesh Sharma
Advocate.

5. Sri G.W. Kharmujai, IFS, Planning Officer, Office of the Principal Chief Conservator of Forest, Meghalaya, Shillong.

.... Respondents.

1. **PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION IS MADE:**

This application is directed against the arbitrary and illegal action on the part of the respondent authorities in issuing a notification bearing No. FOR. 12/ 97/ Pt/ 102-F dated 03.07.07 towards transferring and posting the applicant as Divisional Forest Officer, Silviculture Division, Shillong before completion of his tenure against the post of Divisional Forest Officer (Wildlife) Khasi Hills Division, currently held by him. The said notification dated 03.07.07 came to be issued in clear violation of the procedure prescribed in this connection and without there being any departmental proposal for the same from the respondent no. 4. Further, the notification came to be issued by an authority who did not hold the post of Commissioner and Secretary to the Government of Meghalaya, Forest and Environment Department as on 03.07.07. The impugned notification came to be issued without there being any administrative exigencies and/ or public interest involved.

2. **JURISDICTION:**

The applicant further declares that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

3. **LIMITATION:**

The applicant declares that the instant application has been filed within the limitation period prescribed under section 21 of the Administrative Tribunal Act, 1985.

4. **FACTS OF THE CASE:**

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges guaranteed under the Constitution of India and the laws framed thereunder. The applicant belongs to the Indian Forest Service and is a direct recruit of the 1993 batch. The applicant was allotted the Assam Meghalaya Cadre (Meghalaya Segment). The applicant is presently holding the post of Divisional Forest Officer (Wildlife), Khasi Hills Division, Shillong.

4.2 That the applicant states that while working as Divisional Forest Officer Forest Utilisation Division Meghalaya Shillong he was transferred and posted vide Notification dated 23.12.05 as Divisional Forest Officer (Wildlife), Khasi Hills Division, Meghalaya Shillong. The applicant in terms of his said order of transfer joined against his transferred post on 23.12.05. The applicant w.e.f. 23.12.05 has been working against the said post till this very date without any break.

A copy of the Notification dated 23.12.05 is annexed as Annexure – 1.

4.3 That the applicant states that on his joining as the Divisional Forest Officer (Wildlife) Khasi Hills Division, Meghalaya Shillong, he initiated a number of projects for the development of the division under him and was earnestly following up the progress of the projects initiated by him. One of the projects as initiated by the applicant is the construction of the State Zoological Park at Umtrew. The applicant prepared the requisite project report for the said park which was then approved by the High Level Committee presided by the Chief Secretary of the State. The proposal thereafter came to be placed before the Finance Ministry, Government of India for approval and release of the requisite funds. The Government of India approved the said projects and released funds for the purpose in the month of June 2007. The funds so released by the Government of India were as assistance to the State of Meghalaya under the XII Finance Commission Award.

4.4 That the applicant states that in anticipation of the release of the requisite funds for setting up of the said park, the applicant vide his communication dated 01.11.06, requested his superior authorities for engaging the Central Zoo Authority, New Delhi or any other reputed Central Government Construction Firm for the purpose of implementation of the first phase of the said project for the year 2006-07. The applicant had proceeded to make said request in view of the sophisticated and specialised nature of work involved in the setting up of the said park and the lack of requisite infrastructure and trained personal in the Department for the purpose of implementation of the said project.

A copy of the said communication dated 01.11.06 is annexed as Annexure – 2.

4.5 That the applicant states that the basic design concept of the project and the other preliminary works involved, including preparation of the master plan of the zoo and the management plan of zoo was done by the applicant. The plan as prepared by the applicant was of international standards and with the preparation of the said plan the long pending dream to have a zoological park of international standard in the state started to take shape. The members of the State planning board carried out an inspection of the site at which the proposed State Zoological Park was to be set up, on 05.06.07. The said team also examined all the connected aspects related to the said projects including the inspection of the master plan, management plan of the zoo. The findings of the said team in course of its inspection was recorded in form of minutes wherein the inspection team in categorical terms recommended for the continuation of the applicant as the in-charge of the project till its successful completion. The said board had proceeded to make the said recommendation being apprehensive of the fact that any compromise at this juncture would result in the state loosing a much awaited opportunity of showcasing its ability to erect a monument that future India would gloss over for generations to come.

A copy of the said minutes dated 14.06.07 is annexed as Annexure – 3.

4.6 That the applicant states that with the impending approval of funds by the Central Government for setting up of the said project, a move was initiated at the behest of certain politicians demanding the transfer of the applicant from the post currently held by him and for posting the respondent no. 5 against the same. The respondent no. 5 who was a state Forest Service officer was promoted to the IFS cadre in the month of June 2007. Even before his formal promotion to the IFS cadre steps were initiated on his behalf by a vested circle to post him as the Divisional Forest Officer (Wildlife), Khasi Hills Division, Meghalaya Shillong. The sole reason behind seeking the ouster of the applicant from the post currently held by him was his refusal to be a party to the nefarious activities sought to be done by the said political lobby in the Division and with the approval for setting up of a zoo in the Division and the stand taken by the applicant for having the works implemented by the Central Zoo Authority, the said lobby intensified its activities for seeking the ouster of the applicant and for posting a person who would be a party to their nefarious activities against the post held by the applicant. The respondent no. 5 was identified as the person who would be favourable to the said lobby and as such he was demanded to be posted against the post held by the applicant.

4.7 That the applicant states that as the move initiated by the said circle was circulating through the corridors of powers, a Parliamentary Secretary who also happens to be the MLA of the Constituency wherein the said project was to be setup, in a most arbitrary and illegal manner and in clear violation of the official procedure prescribed, proceeded to submit a note in the file pertaining to the transfer and posting of IFS and SFS officers, proposing a series of transfers and posting including the transfer and posting of the applicant and the respondent no. 5. The said note in categorical terms required the respondent no. 5 to be transferred and posted as the Divisional Forest Officer (Wildlife), Khasi Hills Division, Meghalaya Shillong in place of the applicant. The said note is in clear violation of the Rules of Executive business and the authority making the said note had no jurisdiction to initiate any proposal of transfer and posting of persons like the applicant.

4.8 That the applicant states that on receipt of the said note proposing a series of transfers involving IFS officers, the Minister, Environment and Forest

Department endorsed the same to the Additional Chief Secretary, Forest for his examination. The Additional Chief Secretary on examination of the proposal directed the Principal Chief Conservator of Forest to submit his views in the matter. It may be mentioned here that the Principal Chief Conservator of Forest is the head of the department and it is he who is required to initiate proposals of transfers and posting of the officers working under him inasmuch as it is he who is in the know how of the requirements of the service.

4.9 That the applicant states that as gathered by him, on examination of the said proposal, the Principal Chief Conservator of Forest opposed in categorical terms the proposal for transfer of the applicant on the ground that a mammoth project for construction of state zoo was about to be started and the services of the applicant was held to be very valuable for the same. The respondent no. 4 recommended to the Government to refrain from transferring the applicant from the post of Divisional Forest Officer (Wildlife), Khasi Hills Division, Meghalaya Shillong for the present.

4.10 That your applicant state that on coming to learn about the move initiated by a vested circle to get him transferred out of the post of Divisional Forest Officer (Wildlife), Khasi Hills Division, Meghalaya Shillong and also the recommendation of the respondent no. 4 over ruling the said move initiated for his transfer, the applicant vide his communication dated 21.06.07 made under the provisions of the Right to Information Act 2005, demanded before the Public Information Officer Forest and Environment Department information with regard to the proposal initiated by political personalities for his transfer and also the recommendation of the Principal Chief Conservator of Forest with regard to the same. The respondent authorities are yet to respond to the information as sought for by the applicant vide his said communication dated 21.06.07.

A copy of the said communication dated 21.06.07 is annexed as Annexure - 4.

4.11 That the applicant states that poised thus he was shocked and surprise to come across a notification bearing memo no FOR. 12/ 97/ Pt/ 102-F dated 03.07.07 by which he was transferred and posted as Divisional Forest

Officer, Silviculture Division, Meghalaya Shillong and the respondent no. 5 was posted against the post currently by the applicant. As gathered by the applicant the transfer and posting as made vide the notification dated 03.07.07 are in terms of the proposal indicated herein above made by the Parliamentary Secretary. The only intention behind the issuance of the impugned notification dated 03.07.07 is to somehow oust the applicant from the post currently held by him and to facilitate the posting of the respondent no. 5 against the same and with the view to camouflage this intention, the notification dated 03.07.07 proceeded to effect transfers in a chain manner.

A copy of the notification dated 03.07.07 is annexed as Annexure – 5.

4.12 That the applicant states that on receipt of the said notification he enquired into the background leading to the issuance of the same and he could come to learn that the said notification dated 03.07.07 came to be so issued basing on the pressure mounted upon the authorities on behalf of the respondent no. 5 from political circles. The notification dated 03.07.07 has been so issued by Sri L. Roy, in his purported capacity as the Commissioner and Secretary to the Government of Meghalaya Forest and Environment Department, however the said authority was transferred out from the said department vide order dated 23.03.07 and on the date of issuance of the notification dated 03.07.07 the said authority was not functioning as the Commissioner and Secretary to the Government of Meghalaya Forest and Environment Department. It may be mentioned here that in terms of the circulars governing transfers and posting more particularly the handing over and taking over the charge by officers consequent on transfer specifically requires the handing over and taking over of such charge within 15 days from the date of issuance of order of transfer. In the case on hand Sri L. Roy was transferred out of the department way back in the month of march 2007 and the said order of his transfer still holds the field and the same has neither been rescinded and/ or modified. As such, the impugned notification having not been issued by an authority authorised to issue such notification, the same is void ab initio.

The applicant craves leave of this Hon'ble tribunal to refer and rely upon the circular pertaining to handing over and taking over of charge by officers consequent upon their transfers.

4.13 That the applicant states that the impugned notification dated 03.07.07 is not the result of any departmental proposal made by the respondent no. 4 for transferring and posting of the officers working under him but the same is the result of the political pressure brought upon the authorities by the respondent no. 5 from political circles. As stated herein above, the proposal for the transfers as made vide the impugned notification dated 03.07.07 came to be made by an extra constitutional authority having no jurisdiction in the matter. The respondent authorities while issuing the said order of transfer in case of the applicant clearly ignored the advice rendered by the respondent no. 4 and also the members of the State Planning Board. The only justification behind issuance of the impugned notifications is to somehow accommodate the respondent no. 5 against a post of his liking and thereby also satisfy the political lobby baking the respondent no. 5. There is no public interest and/ or administrative exigency involved in the transfer as orders in the case of the applicant vide the notification dated 03.07.07.

4.14 That the applicant states that the very initiation of the proposal for his transfer being illegal, the impugned notification dated 03.07.07 issued towards implementing the directives issued in the matter by an authority not competent do so, is not sustainable and is liable to be set aside and quashed. The impugned notification itself does not speak of any public interest and/ or administrative exigency involved in effecting the transfers as ordered. The records wherein the said transfers were processed would also reveal that there exists no public interest and/ or any administrative exigency involved in issuance of the impugned notification dated 03.07.07. The said notification dated 03.07.07 has been issued basing on extraneous considerations and the same has been so issued in clear violation of the procedure prescribed.

4.15 That the applicant states that he is yet to complete his tenure of three years against the post of Divisional Forest Officer (Wildlife), Khasi Hills Division, Meghalaya Shillong currently held by him. There is no approval from the

Personnel Department, Government of Meghalaya with regard to his transfer before completion of his tenure against the post held by him which is mandated under the procedure prescribed in this connection. The whole process leading to the issuance of the impugned notification dated 03.07.07 has been so processed basing on extraneous political considerations. The fact that the impugned notification dated 03.07.07, having been issued basing on political pressure and in violation of the procedure prescribed renders the same unsustainable. Further, the said notification having been issued by an authority who no longer held the post of Commissioner and Secretary, Forest and Environment Department, Shillong, Meghalaya, renders the notification void ab-initio.

4.16 That the applicant states that the impugned notification dated 03.07.07 is arbitrary, out rightly malicious, vindictive, whimsical, capricious, unfair and has been issued in clear violation of the procedure prescribed in this connection. The impugned action can be justified only by reason other than relevant and bonafide. There is malice in law as well as on facts. There is total non-application of mind by the respondent authorities and the same is devoid of any reasoning and as such the said order is liable to be set aside and quashed. The manner and method in which the impugned notification has been issued and the pressure on the authorities from a powerfull political lobby, there exists no scope for any reconsideration in the matter by the authorities on an appeal being preferred by the applicant. Any appeal if filed in the matter would have been a futile exercise and as such the applicant has no other forum to ventilate his grievance other than this Hon'ble Tribunal.

4.17 That your applicant states that in view of the facts and circumstances stated above it is a fit case wherein your lordships would be pleased to pass an interim direction as has been prayed for, failing which the petitioner stands to face irreparable loss and injury.

4.18 That your applicant states that in the event of your lordships being pleased to pass an interim direction as has been prayed for, the balance of convenience would be maintained in favour of the applicant inasmuch as he is yet to be relieved from the post of Divisional Forest Officer (Wildlife), Khasi Hills Division, Meghalaya Shillong. The applicant till this very date has not handed

over the charge of the post held by him to the respondent no. 5 and the respondent no. 5 has also not taken over charge of the post held by the applicant. The impugned notification dated 03.07.07 having not been issued in public interest and/ or administrative exigencies and the same being the result of political pressure mounted on the respondent authorities by the respondent no. 5 and the lobby backing him, the said notification is not sustainable in the eye of law. Further, the notification dated 03.07.07 having been issued by an authority who no longer held the post of Commissioner and Secretary to the Government of Meghalaya, Environment and Forest Department, the same is void ab-initio.

4.19 That this application has been filed bonafide and to secure ends of justice.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS:

5.1 For that the action on the part of the respondent authorities in issuing the impugned notification dated 03.07.07 is illegal, arbitrary and in violation of the principles of natural justice.

5.2 For that the impugned notification having been issued by an authority who had on the date of issuance of the said notification ceased to hold the post of Commissioner and Secretary, Government of Meghalaya, Forest and Environment Department, the impugned notification dated 03.07.07 is void ab-initio and liable to be set aside and quashed.

5.3 For that the impugned notification dated 03.07.07 having been so issued basing on a proposal put up by an extra constitutional authority and the same having been processed in clear violation of the procedure prescribed in this connection, the same is not sustainable in the eye of law and liable to be set aside and quashed.

5.4 For that the impugned notification having not been issued basing on some public interest and/ or administrative exigency, the transfer as ordered vide the said notification in the case of the applicant, before completion his tenure

against the post currently held by him is unsustainable and liable to be interfered with by this Hon'ble Tribunal.

5.5 For that the respondent authorities having proceeded to issue the impugned notification dated 03.07.07 solely basing on the pressure mounted on them from political circles, the impugned notification has been clearly issued basing on extraneous consideration for achieving an alien purpose or an oblique motive and as such the impugned notification is clearly malafide and has been so issued in colourable exercise of powers vested in the authorities.

5.6 For that from the facts and circumstances existing in the matter it is clear that the impugned notification dated 03.07.07 has been issued without any application of mind by the respondent authorities and the transfers as ordered are devoid of any reasoning. As such, the impugned notification dated 03.07.07 has got no legs to stand and is required to be set aside and quashed by this Hon'ble Tribunal.

5.7 For that in any view of the matter the impugned action on the part of the respondents is not maintainable and the applicants are entitled to the relief's prayed for.

The applicant craves leave of the Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of hearing of the case.

6. DETAILS OF THE REMEDIES EXHAUSTED:

That the applicant declares that he has exhausted all the remedies available to them and there is no alternative remedy available to them. The urgent nature of the relief's as sought for in this application has forced the applicant to approach this Hon'ble Tribunal at the earliest possible instance.

7. **MATTER NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:**

The applicant further declares that he has not filed any application, writ petition or suit regarding the grievance in respect of which this application is made before any other court or any other bench of this Tribunal or any other authority, nor any such application writ petition or suit is pending before any of them.

8. **RELIEF SOUGHT FOR:**

Under the facts and circumstances stated above, the applicant most respectfully prays that the instant application be admitted, records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be pleased to grant the following relief's to the applicants:

8.1 To set aside and quash the impugned notification dated 03.07.07 (Annexure – 5) in so far as the applicant is concerned.

8.2 To direct the respondent authorities to forbear from giving effect to the impugned notification dated 03.07.07 (Annexure – 5).

8.3 To direct the respondent authorities to allow the applicant to continue as Divisional Forest Officer (Wildlife), Khasi Hills Division, Meghalaya Shillong.

8.4 Cost of the application.

8.5 Any other relief/ reliefs that the applicant may be entitled to.

9. **INTERIM ORDER PRAYED FOR:**

The applicant in the facts and circumstances of the case prays that your Lordships would be pleased to stay the effect and operation of the impugned notification dated 03.07.07 (Annexure – 5).

10.

11. **PARTICULARS OF THE POSTAL ORDER:**

- i) IPO No. - 34G 650897
- ii) Issued from - G.P.O. Guwahati
- iii) Payable at - Guwahati.

12. **DETAILS OF INDEX:**

An Index showing the particulars of documents is enclosed

13. **LIST OF ENCLOSURES:**

As per Index.

VERIFICATION

I, M. Balakrishna Reddy, aged about 34 years, Son of M. A. Reddy, presently working as Divisional Forest Officer (Wildlife), Khasi Hills Division, Oakland, Shillong, Meghalaya, do hereby solemnly affirm and verify that I am the applicant in this instant application and conversant with the facts and circumstances of the case, the statements made in paragraph 1,2,3,4,1,4,3
4,6 to 4,15, 4,18 and 5 to 12 are true to the best of my knowledge; those made in paragraphs 4,2, 4,4 and 4,5 are true to my information derived from the records and the rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the 05th day of July, 2007.



DEPONENT

GOVERNMENT OF MEGHALAYA
FORESTS & ENVIRONMENT DEPARTMENT

ORDERS OF THE GOVERNOR

NOTIFICATION

Dated Shillong the 23rd December 2005

NO. FOR.12/97/Pt /69 : On being relieved, Shri G.F.Shullai, IFS (SFS 1991), DFO (Territorial) Garo Hills Division, Tura is transferred and posted as DFO, Forest Utilisation Division, Meghalaya, Shillong with effect from the date of taking over charge and until further orders vice Shri M.B.K.Reddy,IFS transferred.

Shri G.F.Shullai, IFS is also allowed to hold additional charge of the post of Managing Director Forest Development Corporation, Ltd, Meghalaya, Shillong vice Shri G.C.Das Choudhury, IFS relieved.

NO. FOR.12/97/Pt./69-A: Shri. R.L.Thiek,IFS (RR 1994) DFO, Balphakram National Park, Baghmara is transferred and posted as DFO, (Territorial), Garo Hills Division, Tura with effect from the date of taking over charge and until further orders vice Shri G.F. Shullai, IFS transferred

NO. FOR.12/97/Pt./69-B : Shri Ranjit Popli, IFS (RR 1988), DFO Working Plan Office, Meghalaya, Shillong is transferred and posted as DFO, Balphakram National Park, Baghmara with effect from the date of taking over charge and until further orders vice Shri R.L. Thiek, IFS transferred.

NO.FOR.12/97/Pt./69-C : Shri M.B.K. Reddy, IFS (AM:93) DFO, Forest Utilisation Division, Meghalaya, Shillong is transferred and posted as DFO, Wildlife Khasi Hills Division, Meghalaya, Shillong with effect from the date of taking over charge and until further orders vice Shri P.H.S. Bonney, IFS, transferred.

NO. FOR.12/97/Pt./69-D : Shri P.H.S.Bonney,IFS(SFS 1991) DFO, Wildlife Khasi Hills Division, Meghalaya, Shillong is transferred and posted as DFO Working Plan Office, Meghalaya, Shillong with effect from the date of taking over charge and until further orders vice Shri R. Popli, IFS, transferred.

Sd/-

Commissioner & Secretary
Department of Forests & Environment

Memo NO. FOR.12/97/Pt./69-E Dated Shillong the 23rd December 2005

Copy forwarded to:

1. Private Secretary to the Chief Minister to the Govt. of Meghalaya for favour of information of the Chief Minister.
2. Private to Minister, Forests & Environment, Govt. of Meghalaya for favour of information of the Minister.
3. The Accountant General (A&E) Meghalaya, Shillong for information and necessary action.
4. The Commissioner & Secretary, Govt. of Meghalaya, Forests & Environment Department.
5. The Principal Chief Conservator of Forests, Meghalaya, Shillong for information and necessary action.
6. All CCFs/CFs/DFOs.
7. Shri Ranjit Popli, IFS., Divisional Forest Officer, Working Plan Office, Meghalaya, Shillong for information and necessary action.

*Revised
Certified to be True Copy
R.
Advocate*

8. Shri G.C. Das Choudhury, IFS., Managing Director, Forest Development Corporation of Meghalaya, Ltd. Shillong for information and necessary action.
9. Shri G.F. Shullai, IFS., Divisional Forest Officer (Territorial), Garo Hills, Tura
10. Shri P.H.S. Bonney, IFS., Divisional Forest Officer, Wildlife Khasi Hills Division, Meghalaya, Shillong for information and necessary action.
11. Shri M.B.K. Reddy, IFS., Divisional Forest Officer, Forest Utilisation Division, Meghalaya, Shillong for information and necessary action.
12. Shri R.L. Thiek, IFS., Divisional Forest Officer, Balphakram National Park, Baghmara for information and necessary action.
13. Director, Printing & Stationery, Meghalaya, Shillong for publication in Meghalaya Gazette.
14. Personal File of the Officers concerned.
15. Guard File/Office Copy.

By Order etc.,

M.A. Dharapluie
Officer on Spl. Duty to the Govt. of Meghalaya,
Forests & Environment Department

PRIORITY

GOVERNMENT OF MEGHALAYA
 OFFICE OF DIVISIONAL FOREST OFFICER: WILDLIFE: KHASI HILLS
 DIVISION: SHILLONG

MWL/ State Zoo/ ~~NO~~ 8Dated Shillong the 1st November 2006

From : Divisional Forest Officer, Wildlife
 Khasi Hills Division, Shillong.

To, The Conservator of Forests, Wildlife
 Khasi Hills & Jaintia Hills Circle, Shillong.

Sub : Implementation of State Zoo at Umtrew Project- Reg.

Sir,

It is reliably learnt that the HLC has approved clearance in respect of construction of Zoological Park at Umtrew, Meghalaya. In so far as implementation of the first phase of the project for the year 2006-07 is concerned the following is submitted for your kind consideration and further necessary action in the matter:

- (i) The execution of work including hiring of architects for creating the exhibit and other structural designs including layout may perhaps be entrusted to Central Zoo Authority, New Delhi who could be at liberty to engage the best architects available globally to create the designs. They could also be at liberty to engage the best construction firm available in the Country with widest and richest experience available in Zoo construction work for the purpose of creation of those exhibits that have already been planned in the Country. And those exhibits not created yet in the Country perhaps the CZA could hire overseas Zoo construction firms for the purpose. The necessity of hiring the services of CZA would seem worthy of consideration since design of roads and off-exhibit buildings too would have to be zoo friendly. For eg., the roads running through the Zoo would have to camouflage their concrete portions with special devices(horticultural or otherwise) and least asphalt

*Certified to be True copy
 S. Advocate*

would have to be employed in laying the roads since excessive black wide roads reduce aesthetic appeal. Similarly, even the electrical wiring in the Zoo would have to be exclusive and special considering the fact that highly special exhibits would have to be suitably wired. Considering all these facts perhaps CZA appears to be the most alluring alternative to be approached to implement the project by suitably depositing the entire sum earmarked for the purpose with them.

- (ii) In the event the CZA were to refuse to accede to our request in writing we may perhaps approach, in the alternative, the best Central Government Construction Firm with the rider that they shall engage the best possible firm specialized in Zoo construction, and if necessary an international firm to implement the work.
- (iii) Perhaps all components of the Construction may be awarded to one agency since Zoo construction involves an integrated approach where all components of the construction would have to suitably harmonize in portraying a singular and integrated design synchronizing with the message of wildlife conservation and awareness.
- (iv) No construction work of any kind may perhaps be agreed upon to be carried out departmentally since the project is of a highly specialized nature and sufficient experience may not have been acquired by the departmental staff to execute the same.
- (v) Emphasis has been placed at sl(i) and (ii) in favor of specialized Central Govt institutions towards executing the project as a "deposit work" since the need to carry out quality control check on every item of work before clearing the Contractor's bill which is mandatory may not be possible for us considering

X8

- 19 -

that our staff are not trained to demonstrate quality control checks nor do we have the requisite infrastructure to carry out the sophisticated laboratory tests.

Yours faithfully,

Honey
Divisional Forest Officer, Wildlife
Khasi Hills Division, Shillong

Memo No. MUL.100/State Zoo/409. Dated Shillong the 1st November 2006

Copy forwarded to:
Chief conservator of Forests, Wildlife, Meghalaya for information.

Honey
Divisional Forest Officer, Wildlife
Khasi Hills Division, Shillong

ofc

Report on inspection carried out by Member, State Planning Board and Chairman Sub Group D of the Planning Board of the site for construction of State Zoo at Umtrew, Ri-Bhoi District

Dr Friday Lyngdoh, Co-Chairman of the Planning Board and Shri A.H. Scott Lyngdoh, Member, State Planning Board carried out inspection of the site at which it is proposed to construct the State Zoological Park at Umtrew on 5th June 2007. They were accompanied by Shri Robin Shullai, IFS Chief Conservator of Forests (in-charge) Wildlife and Shri M.B.K.Reddy, IFS D.F.O Wildlife, Khasi Hills as desired by the State Planning Board.

At the site the CCF and DFO formally invited the Hon'ble Members to inspection and briefed them about the objective of the project which is principally to evolve a themed Bio-Park that would catapult Meghalaya as a destination centre for animal display in natural zoo-geographic settings and carve out for itself a suitable and enviable niche in the international theatre of Zoological Parks apart from promoting conservation of endangered animal species of North East. It was stated that the Bio-Park would strive to provide a solution to the rapidly disappearing biodiversity in North East India that would concentrate on four fundamental aspects of display, research, education and conservation. The project is estimated to boost the local tourism industry apart from generating employment and that the site was acquired by the Forest Department in the year 2003.

It was explained by the DFO that the State Zoo would be built along modern lines adhering to the guidelines framed by the Central Zoo Authority in this regard with the principle motto of arousing awareness in conservation of endangered species of North East apart from actively promoting the latter. The Zoo institution would be

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Certified to be true copy
B. Advocate

organized as a Bio-Park adopting a multilayered ecosystem approach in its animal presentation scheme. It would eminently be a scientific didactic institution that would place Meghalaya ahead in the diffusion of natural, ethical and scientific ideas to promote respect and preservation of all species in the wild. The Bio-Park would adopt for itself the principal theme of "Endangered Species of North-East" being supplemented and nourished on constituent themes viz " Fragile Forests" " Endemic Primates in the Evergreens" etc.

With the help of a manually drawn map in 1: 2000 Scale Shri Reddy explained to the State Planning Board the tentative lay out of the Zoological Park with respect to its various components/ sections proposed for display chief among which are the following:

- (i) Ungulate enclosure with moats .
- (ii) Walk through aviaries
- (iii) Butterfly Park
- (iv) Orchidarium
- (v) Nocturnal House to showcase the nocturnal species of the wild preserving nocturnal ambience
- (vi) State- of- art Acquarium
- (vii) Amphibian, turtle and fish ponds showcasing the endemic and endangered fauna among those classes of animals.
- (viii) Deer Safari Park
- (ix) Prehistoric Animal Park
- (x) Invertebrates Park with special emphasis on endemic Spider Species
- (xi) Pelican Island

- (xii) Night Safari along the lines of Singapore Night Safari whereat the nocturnal species would be shown in natural settings through subtle spotlighting using the red and infra-red spectra of light.
- (xiii) Creation of mixed species rotation exhibits replicating Louisville's Zoo rotation concept
- (xiv) Fossorial burrowing species enclosure
- (xv) A colorful fairy tale exhibit to elicit emotional connection between visitors and the endangered flag ship species of North East viz Red Panda complete with interactive devices, claymation videos.

A broad design concept album that was prepared by the DFO comprising coloured plates of proposed exhibit buildings, display sections, restaurants, individual animal exhibits, various entrances, layout of traffic, visitor amenities, trails etc were displayed to the Board Members to paint a bird's eye view of the entire Zoo project comparable to any other Zoo of international repute.

The expenditure on the project is estimated at 34.15 Crores of Rupees. Annual maintenance cost is viewed at Rs 1 Crore with revenue generation expected to be nearly Rs 40 lakhs annually. It was stated that the XII Finance Commission has allotted a sum of Rs 30 Crores for the project to be spread over 4 years and the Central Zoo Authority could be persuaded to finance the rest of the expenditure. It was intimated that the Divisional Forest Officer has submitted the plan concept in respect of the project accompanied by a detailed schedule of works that has been approved by the High Level Committee chaired by the Chief Secretary and forwarded by the Finance Department of the State Government to the Union Finance Ministry for

approval of the Plan Concept and release of funds. Further communication from the Central Government is being awaited.

The Board Members noticed certain hutments close to the area at which the entrance to the Zoo is being planned. It was desired by the Board Members that steps be taken to secure the land housing the hutments at the earliest before the price of land escalates in the area so that the area as a whole is as aesthetically pleasing as possible and meaningfully blend with the entire landscape. There were few other patches of land adjacent to the boundary which too were felt desirable to acquire.

In reply to a query of the Co-Chairman of the Board as to how the project would be executed it was explained by the DFO that detailed proposal in relation to constitution of a Zoo Project Implementation Unit Society to implement the project complete with Memorandum of Association and Byelaws has been submitted to the PCCF who has duly forwarded them to the State Government and notification in relation to the same is being awaited. Considering the enormity of the project it was felt that Central Government might insist on constitution of such a Society to ensure transparency in execution of works before actual release of funds. It was felt by the Board that the State Government ought to notify the constitution of the Society at the earliest.

It was stated by the DFO that the Central Zoo Authority before approving the Zoo Project would insist on 2 documents viz Master Plan of the Zoo and Management Plan of the Zoo. The DFO has prepared the Management Plan which is a bulky document of 450 pages that was glanced through by the

Board members. The Board was highly appreciative of the dedicated work of the DFO which has resulted in composition of such a comprehensive Management Plan that appeared to be impeccable in respect of its contents and also the entire plan concept matching international standards. The Board Members perused the Plan Concept prepared by the DFO that secured approval of the High Level Committee of the State duly chaired by the Chief Secretary. It was noticed that though the project was mooted in the year 1999 and it has undergone several twists and turns it is solely on account of the dedicated and creative efforts of the present DFO, Wildlife, Shri Reddy that the dream of the State to present a Zoological Park of National/international standards has taken concrete shape with a definite vision and direction lent to the entire project leading to the present scenario of the project nearing actual initialization of the construction process through securing the required clearances. The vision and brilliance of the DFO is matchless and a project of such mammoth nature requiring honest and dedicated efforts which has actually been conceived by him ought to be executed by him alone leading to its successful completion without it being derailed. The Board felt therefore that the present incumbent Shri Reddy ought to be in-charge of the project till its successful completion lest the State lose a much awaited opportunity of showcasing its ability to erect a monument that future India would gloss over for generations to come.

The Master Plan being a skilled and professional work to be done by Architects well experienced in creating Zoo lay outs to the satisfaction of the CZA, the latter has been left to be done by Architects experienced in Zoo designing after receipt of funds for the purpose from the Central Govt. It was also mentioned by the DFO that the North Eastern Space Applications

Centre has been assigned the task to create digital contour map of the zoo location which is a necessary requirement of the Zoo Authority before they could approve the project.

In view of the inspection the following are decided for immediate action of concerned authorities to expedite the project in the interest of the State and the Nation too:

- I. Acquisition of certain patches of land adjacent to the acquired site to make the boundary as uninterrupted and natural as possible to suit the Zoo purpose.

Action – (i) PCCF to send a proposal to the State Govt for acquisition purposes

(ii) Commissioner & Secretaries Planning and Finance to take steps to make the requisite funds available to the Forest & Environment Dept.

2. Immediate constitution of Zoo Project Implementation Unit Society.

Action – Commissioner & Secretary, Forests to initiate steps towards the same.

3. In recognition of the pressing need to ensure that the project is not derailed mid way issue a formal order to the effect that the present DFO shall continue to be in-charge of the execution of the project till its successful completion in his capacity as DFO Wildlife, Khasi Hills.

Action – Additional Chief Secretary Forests & Environment to do the

needful

4. Take steps with the Central Govt. towards release of funds earmarked for the purpose.

Action - Secretary, Finance.

Sd/-

(Dr. Friday Lyngdoh)
Co-Chairman, State Planning Board
Cum
Advisor to the Chief Minister.

Memo No. PB.13/2006/14

Dated Shillong, the 14th June, 2007.

Copy for information to :-

- (i) Private Secretary to Chief Minister of Meghalaya to bring to the notice of the Chief Minister.
- (ii) Private Secretary to the Minister Forests & Environment to bring to the notice of the Minister.
- (iii) Additional Chief Secretary to the Govt. of Meghalaya, i/c Forests & Environment Department.
- (iv) Commissioner & Secretary to the Govt. of Meghalaya, Forests & Environment Department.
- (v) Commissioner & Secretary to the Govt. of Meghalaya, Finance Department.
- (vi) Commissioner & Secretary to the Govt. of Meghalaya, Planning Department.
- (vii) Commissioner & Secretary to the Govt. of Meghalaya, Revenue Department.
- (viii) Secretary to the Govt. of Meghalaya, Finance Department.
- (ix) Principal Chief Conservator of Forests, Meghalaya, Shillong.
- (x) Chief Conservator of Forest, Wildlife Division, Shillong.
- (xi) Divisional Forest Officer, Wildlife, East Khasi Hills, Shillong.

By Order etc.

Special Officer & Ex-Officio Under Secretary
Meghalaya State Planning Board

From : M.Bala Krishna Reddy, IFS Dated Shillong the 21st June 2007
 Divisional Forest Officer, Wildlife
 Khasi Hills Division, Shillong.

To:

The Public Information Officer
 Deputy Secretary
 Forests & Environment Dept
 Meghalaya.

Sub : Request for information under Right to Information Act, 2005(Act No. 22 of 2005) regarding move to secure my transfer from the present post of DFO Wildlife, Khasi Hills Division.

Madam,

Information is sought under following provisions of Right to Information Act, 2005:

- (i) **Section 3** : All citizens shall have Right to information notwithstanding anything contained in any other Act or law
- (ii) **Section 6** : Provision for requesting information to PIO
- (iii) **Section 7** : Request for information to be disposed of within a maximum period of 30 days
- (iv) **Section 8** : Exemptions from disclosure – in the present context only Cabinet papers in relation to transaction of Government are exempted provided that they too shall be made available after the decision has been taken (notings in Secretariat file except those submitted to the Cabinet for their deliberation are not exempt).
- (v) **Section 20(1)** : Power of State Information Commission to impose penalty for noncompliance of Act upto a total sum of Rs 25,000/-
- (vi) **Section 20(2)** : Power of State Information Commission to recommend disciplinary action against the Officer responsible for nondisclosure of information requested under the provisions of the Act.
- (vii) **Section 19(7)** : Decision/recommendation of State Information Commission to be binding.
- (viii) **Section 22** : Right to Information Act, 2005 to override all other Acts and laws existing for the time being.

Following information is sought in exercise of right conferred on me under

Section 3 of the RTI Act, 2005 readwith Section 22 of the Act:

- (1) Whether it is true that certain political personality/ MLA/Minister/any other individual has requested the State Government to have me transferred and have instead a certain officer posted in my place against the post of Divisional Forest Officer, Wildlife, Khasi Hills. If so copy of the letter addressed by such individual in relation to my transfer and all other connected papers may kindly be furnished to me.
- (2) Whether in the matter concerning my transfer during the past 4 months from the post of DFO, Widlife, Khasi Hills Division, the PCCF, Meghalaya has been consulted especially in the context of request made by certain individual for my transfer/ decision of the State Government to have me transferred. If no, the reasons for such non-consultation. If yes,

certified to be true copy

Advocate

copy of the letter containing recommendation/ opinion/ advice of the PCCF in the matter may kindly be furnished to me.

(3) If any proposal for my transfer from the post of DFO, Wildlife, Khasi Hills Division has been initiated from any bureaucrat in the Secretariat and whether it is in conformity with the advice of the PCCF. Kindly furnish all particulars of such noting and copy of the note-sheet containing the relevant file notings and all further notings of the superior officers/authorities on such proposal apart from allowing me to inspect the relevant pages of the concerned file.

(4) Whether the proposal for my transfer referred to at Sl(3) above if not in conformity with the advice of the PCCF or through negation of the advice of PCCF through overruling has been initiated only by a bureaucrat/authority senior in rank and hierarchy to that of PCCF i.e., Chief Secretary and above in accordance with the decision of the Hon'ble Supreme Court ^{on 8.1.2001} in I.A. No. 424 in W.P.(C) 202/ 1996 in **T.N.Godavarman Tirumalpad vs Union of India** accepting the recommendation of the Centrally Empowered Committee placing only the Chief Secretary of the State above the PCCF in the hierarchy of bureaucratic subordination.

(5) Whether all Government circulars/ office memoranda/ Rules relating to transfer of Government Servants in the State of Meghalaya for eg., the circular of the Personnel Department that in all cases of transfer before a tenure of 3 years of posting approval of Chief Minister of the State through the Personnel Department, has been complied with. If yes, the particulars thereof(copy of approval of personnel department) may kindly be furnished. If no approval has been secured, the reasons thereof may kindly be furnished.

(6) Whether the officials of the Forest Department wish to be guided in the matter of my transfer by the decision of the Hon'ble Supreme Court rendered through a Constitutional Bench of 5 Judges in **E.P Royappa Vs State of Tamilnadu** reported in AIR 1974 SC 555 whereat the following was held:

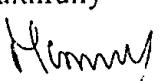
....The Government is the best judge to decide how to distribute and utilize the services of the employees. However, this power must be exercised honestly, bonafide and reasonably. It should be exercised in public interest. If the exercise of power is based on extraneous considerations or for achieving an alien purpose or on oblique motive it would amount to malafide and colourable exercise of

power. Frequent transfers, without sufficient reasons to justify such transfers, cannot but be held as mala fide. A transfer is mala fide when it is not for professed purpose, such as in normal course or in public or administrative interest or in the exigencies of service but for other purpose, that is to accommodate another person for undisclosed reasons. It is the basic principle of rule of law and good administration, that even administrative action should be just and fair."

If not, the reasons for not observing the above decision of the Apex Court especially since the law laid down by the Supreme Court of India is binding on all civil and judicial authorities of the Country by virtue of Article 141 and 144 of the Constitution.

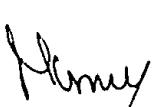
- (7) Whether the officials of the Forest Department wish to be guided in the matter of my transfer by the decision of the Hon'ble Supreme Court delivered in Arvind Dattatreya Dhande vs State of Maharashtra reported in Supreme Court Service Rulings Vol 27 p 101(copy enclosed). If not the reasons thereof may kindly be furnished to me.
- (8) Whether the officials of the Forest Department wish to be guided by the decision of the Himachal Pradesh High Court in Ram Kishan vs Dist Education Officer, 1 LR 1979, H.P 481(D.B) and other Administrative Tribunals disapproving transfer at the behest of political personalities or those unconnected with the affairs of the Department(copy enclosed). If not the reasons thereof may kindly be communicated to me.
- (9) Whether the Forest Department wishes to abide by the recommendation of the State Planning Board after inspection of progress pertaining to Zoo project communicated duly by their letter dated 14/06/2007 that I ought to be retained in the current post of DFO wildlife till completion of the Zoo construction project. If not the reasons thereof and all file notings pertaining to the said refusal may kindly be furnished to me.

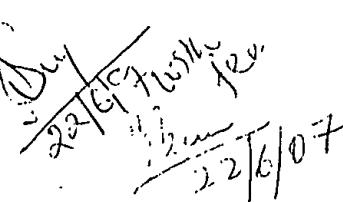
Yours faithfully


(M.Bala Krishna Reddy)

Copy for favour of kind information and necessary action to :

1. Principal Chief Conservator of Forests, Meghalaya.
2. Commissioner & Secretary, Forests & Environment Department, Meghalaya.


(M.Bala Krishna Reddy)


22/6/07

GOVERNMENT OF MEGHALAYA
FORESTS & ENVIRONMENT DEPARTMENT

ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Shillong, the 3rd July, 2007.

No.FOR.12/97/Pt/102 – Shri K.S. Lyngdoh, IFS (SFS 1991), Divisional Forest Officer, Silviculture Division, Shillong is transferred and posted as Divisional Forest Officer (T) Jaintia Hills Division, Jowai with effect from the date of taking overcharge and until further orders vice Shri H.C. Chaudhary, IFS, transferred.

No.FOR.12/97/Pt/102-A – Shri H.C. Chaudhary, IFS, (RR 1992), Divisional Forest Officer (T) Jaintia Hills Division, Jowai is transferred and posted as Planning Officer, Office of the Principal Chief Conservator of Forests, Shillong with effect from the date of taking overcharge and until further orders vice Shri G.W. Kharmujai, IFS, transferred.

No.FOR.12/97/Pt/102-B – Shri M.B.K. Reddy, IFS, (RR 1993), Divisional Forest Officer, Wildlife Khasi Hills Division, Shillong is transferred and posted as Divisional Forest Officer, Silviculture Division, Shillong with effect from the date of taking overcharge and until further orders vice Shri K.S. Lyngdoh, IFS, transferred.

No.FOR.12/97/Pt/102-C – Shri G.W. Kharmujai, IFS, Planning Officer, Office of the Principal Chief Conservator of Forests, Shillong is transferred and posted as Divisional Forest Officer, Wildlife Khasi Hills Division, Shillong with effect from the date of taking overcharge and until further orders vice Shri M.B.K. Reddy, IFS, transferred. *July 2007*

No.FOR.12/97/Pt/102-D – The services of Shri D. Challam, MFS, Divisional Forest Officer, Garo Hills Autonomous District Council, Tura are replaced at the disposal of the Govt. of Meghalaya. On his services being replaced at the disposal of the Govt. of Meghalaya, Shri D. Challam, MFS is transferred and posted as Divisional Forest Officer, Social Forestry, Jaintia Hills Division, Jowai vice Shri T. Kharlukhi, MFS, transferred.

No.FOR.12/97/Pt/102-E – Shri T. Kharlukhi, MFS, Divisional Forest Officer, Social Forestry, Jaintia Hills, Jowai is transferred and his services are placed at the disposal of Garo Hills Autonomous District Council, Tura for appointment as Divisional Forest Officer vice Shri D. Challam, MFS, transferred.

Shri G.W. Kharmujai, IFS and Shri D. Challam, MFS, are to move first.

Sd/- L. Roy
Commissioner & Secretary to the Govt. of Meghalaya,
Forests & Environment Department.

Memo No.FOR.12/97/Pt/102-F

Copy forwarded to :-

Dated Shillong, the 3rd July, 2007. *Recd. Deh*

1. The P.S. to the Chief Minister, Meghalaya, Shillong, for information of the Chief Minister.
2. The P.S. to the Minister, Forest & Environment, Meghalaya, Shillong for information of the Minister.
3. The P.S. to the Chief Secretary, Govt. of Meghalaya, Shillong for information of the Chief Secretary.
4. The Principal Secretary, Forests & Environment, Meghalaya, Shillong.
5. The Accountant General (A&E), Meghalaya, Shillong.
6. The Principal Chief Conservator of Forests, Meghalaya, Shillong for information and necessary action..
7. All the Chief Conservators of Forests/Conservators of Forests/Divisional Forest Officers.
8. Shri K.S. Lyngdoh, IFS, Divisional Forest Officer, Silviculture Division, Meghalaya, Shillong.
9. Shri H.C. Chaudhary, IFS, Divisional Forest Officer (T) Jaintia Hills Division, Jowai.
10. Shri M.B.K. Reddy, IFS, Divisional Forest Officer, Wildlife Khasi Hills Division, Shillong.
11. Shri G.W. Kharmujai, IFS, Planning Officer, Office of the Principal Chief Conservator of Forests, Meghalaya, Shillong
12. Shri D. Challam, MFS, Divisional Forest Officer, Garo Hills Autonomous District Council, Tura.
13. Shri T. Kharlukhi, MFS, Divisional Forest Officer, Social Forestry, Jaintia Hills, Jowai.
14. The Secretary, Executive Committee, Garo Hills Autonomous District Council, Tura.
15. The Director of Printing & Stationery, Meghalaya, Shillong for favour of publication in the Meghalaya Gazette.
16. Personal File of the Officers. 15. Guard File

By order etc.

M.A.S. Thangkhiew

(M.A.S. Thangkhiew)
Officer on Special Duty to the Govt. of Meghalaya,
Forests & Environment Department.

Certified To be True Copy

S. Advocate

23/7/07
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17.1.2011
300

4. That while denying the correctness of the statements made in Paragraphs 4.3 & 4.4 of the application, I say that the matter concerning setting up of a State Zoological Park had been initiated several years prior to the petitioner's transfer as D.F.O.(Wildlife) Khasi Hills Division. It is not a project "initiated by the applicant". In accordance with the practice and procedure followed in government service, the applicant working under the Chief Conservator of Forests did what he was required to do in discharge of his duties. The Project for setting up the State Zoological Park as pursued by the department consistently over a numbers of years, is yet to be approved.

5. That while denying the correctness of the statements made in paragraph 4.5 of the application, I say that the report dated 14.6.2007 (Annexure-3/P.27, application) in respect of "inspection of the site" on 5th June, 2007, which is mostly about what Shri Reddy, DFO did, is recommendatory in nature and the recommendations which don't carry any binding effect, are as follows :

"1. Acquisition of certain patches of land adjacent to the acquired site to make the boundary as uninterrupted and natural as possible to suit the Zoo purpose.

Action- (i) PCCF to send a proposal to the State Govt for acquisition purposes

(ii) Commissioner & Secretaries Planning and Finance to take steps to make the requisite funds available to the Forest & Environment Dept.

2. Immediate constitution of Zoo Project Implementation Unit Society. Action – Commissioner & secretary, Forests to initiate steps towards the same.

3. In recognition of the pressing need to ensure that the project is not derailed mid way issue a formal order to the effect that the present DFO shall continue to be in-charge of the execution of the project till its successful completion in his capacity as DFO Wildlife, Khasi Hills.

Action – Additional Chief Secretary Forests & Environment to do the needful.

4. Take steps with the Central Govt. towards release of funds earmarked for the purpose.

27/2/2016

Action – Secretary, Finance.”

6. That with regard to the statements made in paragraph 4.6 of the application, I say that allegations against “certain politicians” or “vested circle” or “the said political lobby” or “The said Lobby” are not admitted and are hereby denied. The Government having duly considered all aspects of the matter decided to transfer the applicant not as a punitive measure but only for the purpose of ensuring smooth management of the affairs concerning the Forest Department in the local areas under the jurisdiction of the applicant. The unspecified “certain politicians” not being spelt out, the allegations are liable to be rejected as being un-entertainable. In fact serious allegations against the applicant from local people were before the government copies of which are annexed hereto as

Annexure – A & B.

7. That while denying the correctness of the statements made in paragraph 4.7 of the application, I say that there were serious complaints against the applicant by local people both in Khasi Hills and earlier in Jaintia Hills when the applicant was posted at Jowai. Further, the MLA of the Constituency is under a duty to draw the attention of the government to the affairs in and around his Constituency. There is no violation of the Rules of Executive Business.

8. That in this connection, it is pertinent to mention that an enquiry was conducted by Sri T.T.C. Marak, IFS, Chief Conservator of Forest, Social Forestry and Environment Meghalaya into allegations against the applicant Sri Reddy. the enquiry report submitted by said Sri T.T.C. Marak under memo dated 23.3.2005 contained his suggestions recorded therein which are as follows :

*Deputy Commissioner
Brahmaputra*

“while the case of Ms. R. Bthuh cannot be commented upon, being subjudiced, some trouble shooting measure will have to be done. Some suggested actions are :

- 1) The Divisional Forest Officer(T) Jaintia Hills Division, Jowai, Shri M.B.K. Reddy. IFS may be moved out of the division at the earliest possible. However, this may be done in such a manner that it does not due to pressure. He may be requested to proceed on leave to diffuse the tension in an initial step. A mature Divisional Forest Officer may be posted who would restore normalcy in the division as well as engage in confidence building measures with the staff.
- 2) There appears to be a dual control in respect of controlling officers for D.F.O.(T)
 - i) CF.(Hq.) &
 - ii) CF(WL & T)

2/2/08

(\$1500 to \$10,000) to be paid in cash or in installments over a period of 12 months.

T.D.A.C. 23

2 (OH)2C (6)

CEMTR 3 (1)

This needs to be looked in... after consultation with PCCF. It appears that both CF's were not available for counseling the DFO.

3) A senior forest officer may be directed to see that the harmonious relationship between the authority and staff be restored. This will entail the redressal of grievances, which the staff had presented against the Divisional Forest Officer."

9. That I say that MLAs' who are conversant with conditions obtaining in and around their constituencies cannot be faulted for seeking intervention of the Government to prevent avoidable untoward consequences. Neither does a decision of the government taken at the highest level after due consideration of the facts and circumstances pertaining to the instant matter, become open to question merely because the government decision accepts one view against another.

10. That while denying the accuracy of the statements made in paragraph 4.8 of the application, I say that the conclusions sought to be drawn by the applicant are not warranted by the note of the Principal Chief Conservator of Forest as the Government not being bound by the views of any particular officer, duly issued the impugned order of transfer dated 3.7.07.

A copy of the note of the Principal Chief Conservator of Forest mentioned in paragraph 4.8 of the application is annexed hereto and marked as Annexure- C.

11. That with regard to the statements made in paragraph 4.9 of the application, I say that the size of the project being a "Mammoth Project for construction of State Zoo" can not legitimately be claimed as a ground for questioning the order of transfer dated 3.7.2007 or for continuance of the applicant in his present post. The size of the project "about to be started" is a continuous process initiated many years before the applicant joined as D.F.O.(Wildlife) Khasi Hills Division and is bound to continue even if the present incumbents concerned are posted out of the Meghalaya Forest Department.

12. That with regard to the statements made in paragraph 4.10 of the application, I say that the petitioner's application dated 1.6.2007 must have been duly processed by the authorities under the Right to Information Act, 2005.

13. That while denying the correctness of the allegations in paragraph 4.11 ,I say that the impugned order of transfer dated 3.7.2007 was duly made by the government after due consideration of all relevant facts and

2 29/8

This usage of theooking in... after consultation with PCC. If
applicable party C's was not suitable for consulting this DFO.
A senior forest officer may be designated to see if this harmonious
relationship prevails the authority shall be restored. This will
justify the demand of the DFO.
against the Divisional Forest Officer.

That I ask Major MJA, who is commanding with considerations of
the said authority cannot be imposed for seeking intervention of
the Government to prevent suitable harmonious consultation.
decisive of the development factors at the highest level after due consideration of
the facts and circumstances before of the interest matter, become open to
question whether persons this Government decision accepts one view against

19.01.06

This will delay this action of the department, made in
bestirously of the application. I say that this consultation report of be drawn
by the police are not measured by this note of this Provincial Chief Conservator
of Forest as the Government of India pound by the views of any particular
officer, may issued the imbalanced order of transfer dated 3.2.02.

A copy of this note of this Provincial Chief Conservator of
Forest mentioned in para 4.8 of the application is annexed
hereto and marking as Annexure-C.

This will lead of the department made in para 4.8 of the
application, I say that the size of the project period a "Minimum Project for
conservation of state 500....." can not definitely be claimed as a ground
for suspending this order of transfer dated 3.2.2002 or for consultation of the
application in the present case. The size of the project "should" be stated as
consultancy basis initially with a view to this application being joined as
(A.M.I.L) Khasi Hills Division and is bound of course even if the present
application is posted out of the Manipur Forest Department.

This will lead of the department made in para 4.10 of the
application, I say that the application dated 1.6.2002 must have been
fully processed by the authority under this Right of Information Act 2002.

This will delay the consultation of the concerned in para 4.11.
I say that the imbalanced order of transfer dated 3.2.2002 was duly made
by the Government for the consideration of all relevant facts and

circumstances and not "to somehow oust the applicant" from the post as alleged or otherwise. The question of somehow ousting the applicant or somehow retaining the applicant in the "mammoth Project" does not arise. It is not correct that the notification dated 3.7.2007 is in terms of the proposal indicated hereinabove. Further, it is worth noting that the petitioner does not state how and in what way he could gather the basis for the said statements. There is no basis for the statements that the impugned notification was issued "to facilitated the posting of Respondent No.5" and "with a view to camouflage this initiation". The applicant's interest in continuing as D.F.O.(Wildlife) Khasi Hills Division even when admittedly there is no personal detriment caused to the applicant by the said impugned order, renders the application itself liable to be dismissed as being not maintainable. The law is well settled that a government servant has no right not to be transferred. The interim order dated 6.7.2007 may be vacated by this Hon'ble Tribunal.

14. That while denying the correctness of the statements made in paragraph 4.12, I say that Sri L. Roy, IAS, Commissioner & Secretary continued to be In-charge of Forest and Environment Department till 24.7.2007 under the notification No.PER.04/2006/PtV/16-H dated 10/7/2007.

A copy of the said notification dated 10.7.07 is annexed hereto and marked as Annexure - D.

15. That it is not correct that the notification dated 3.7.2007 came to be made by an extra constitutional authority as alleged or otherwise. The impugned order of transfer was duly and validly made by the government and "not to somehow accommodate the Respondent No.5" "against a post of his liking" or of the applicant's liking. The allegations in paragraph 4.13 of the application are unfounded and untrue. The impugned decision was taken by the State Government upon duly weighing the facts and circumstances placed before it. The allegations of malafides and/or arbitrariness are wholly unsustainable, untrue and unentertainable.

16. That there is no truth in the statements made paragraph 4.14 as already stated herein in this affidavit.

✓ 29X

17. That while denying the correctness of the statements made in paragraphs 4.15 & 4.16 of the application, I say that the impugned order was issued- with the approval of the Chief Minister who also holds the portfolio of the Personnel Department duly in compliance with the standing instructions governing such transfers. The said impugned order has been duly processed. The allegations of "extraneous political consideration" and/or "political pressure" "affecting the whole process leading to the impugned notification dated 3.7.07" are not correct and are hereby denied. There is no violation of the prescribed procedure as alleged or otherwise. The impugned order was issued with due approval of the Chief Minister.

18. That while denying the correctness of the statements made in paragraphs 4.17, 4.18 & 4.19, I say that the interim order dated 6.7.2007 may be vacated by this Hon'ble Tribunal.

19. That the allegations contained in paragraph 4.18 are unsustainable in view of the facts and circumstances as set forth hereinabove in this affidavit.

20. That it is submitted that the petitioner's conduct being vitiated by want of bonafides, the instant application is liable to be dismissed.

21. That it is submitted that the application being factually unsustainable and legally untenable is liable to be dismissed.

22. That it is submitted that in any event the petitioner has made out no case warranting interference by this Hon'ble Tribunal and as such the instant application is liable to be dismissed.

 29/1

23. That the statements made in paragraphs 1, 2, 3, 4, 5, 7, 8, 9, 11, 12, 13, 15, 16, 18 and 19 of this affidavit are true to my knowledge, those made in paragraphs 6, 10, 14 and 17 being matters of record are true to my knowledge derived therefrom which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this affidavit on this the 20th day of August, 2007 at Guwahati.

Identified by :

Sumitra Sarma
Advocate
20/8/07



DEPONENT

Solemnly affirmed and declared before me by the deponent who is identified by Sumitra Sarma, Advocate on this the 20th day of August, 2007 at Guwahati.

MAGISTRATE

Solemnly affirmed before me by the deponent
who is personally known to me / identified by
S. M. S. Sarma, Advocate
Jyotish Chakraborty
Sheristadar
District & Sessions Judge
Kamrup, Guwahati 20/8/07

ANNEKURE

110

Shri.T.T.C.Marak, IFS
Chief Conservator of Forests & Enquiry Officer,
Camp, Jowai.

Sub:- COMPLAINT AGAINST SHRI M.B.K.REDDY, DFO (T) JOWAI.

Sir,

Sir,
In continuation of our complaint submitted to the Principal Chief Conservator of Forests, Meghalaya Shillong we the undersigned would like to bring to your notice that consequent to the complaint made against the above named Officer and as signatories of the complaint express our apprehension of a reprisal from the DFO (T) if he is allowed to stay at Jowai for some more time by way of suspension, transfer to remote places deduction of salaries etc.

We would also like to inform you that the main gate is always kept closed rendering the staff who are staying in Government Quarters acute difficulty in coming and going. There are always many policemen in the compound who may create untoward incident to our grown up children.

We therefore request that Shri.M.B.K.Reddy to be transferred immediately from Jaintia Hills District.

Yours faithfully,

E. Lamp	flwr	27/7
A. damsel	<u>flwr</u>	
D. halei	<u>flwr</u>	
H. dichot.	<u>flwr</u>	
L. Takane	<u>flwr</u>	
S. halei	<u>flwr</u>	
R. hyg.	<u>flwr</u>	
T. flaccida	flwr	

Staff of the Divisional Forest Officer (I),
Jaintia Hills Division, Jowai.

Certified to be true copy
OF THE ORIGINAL

20/8/07
(SUMITRA SARMA)
ADVOCATE

RI BHOI DEVELOPMENT ORGANISATION

RI BHOI DISTRICT
NONGPOH

18/ April/ 07

Dr. D.L. Lapang
Honourable Chief Minister
Government of Meghalaya.

Min. /c. Jowai
Sir has connections
govt with our telephone
and with our dealer
Jauk. ~~and~~ ~~and~~

Letter of action

ab- Grievances of the people of Khasi Hills and Ri Bhoi with the ~~missionary~~ Forest Officer (Wild Life) Shillong Range.

On behalf of the People of Ri Bhoi District, the Ri Bhoi Development Organization (R.B.D.O.) humbly submit before your honour this Memorandum against Shri. M.B.K. Reddy D.F.O. (T) Shillong Range on various issues which may be stated as follows:-

That we the people of Ri Bhoi District were overjoyed at the knowledge that ~~the State Zoo~~ would be located at Ri Bhoi District and at the same time the Government had already started the work! But we regret to State that when we the Locals approached the Officer concerned (i.e Shri. M.B.K. Reddy) he did not entertain us in giving any informations or rather ignored us in many ways. Instead it is seen that he was very much in favour of non-tribals from outside the State. This has occurred many times, which proves that he is the hindrance of the Locals and serve for the people from outside the State.

Secondly, when his Office records were traced, it was found that while serving as D.F.O. (T) Jowai he had created an unpleasant scenario among the Staff of that Office and had never addressed to the grievances of the Staff. That showed that he was an irresponsible officer.

Thirdly, Sir, the moral character of this officer concerned is not praise worthy especially with those of Lower Ranks especially of the Female Staff.

Therefore, Sir, we humbly request your kind consideration that for the interest of people of the State the present incumbent be replaced

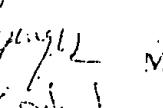
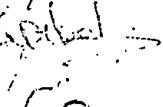
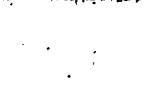
That Sir, may we suggest the name of Shri G.W. Karmujai present D.F.O. Jowai be considered for the post, for the smooth Cooperation from all angles. His name is strongly recommended on account of his ability, capacity, responsibility and interest as public servant.

Your kind consideration is highly appreciated and we are awaiting forward with trust and confidence on your wise judgment.

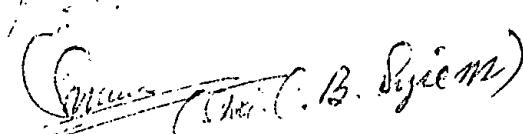
Thanking you

Yours Sincerely,

Dr. D.L. Lapang
President

1) - Shitala Kasing - 
2) - S. P. K. K. 
3) - 
4) - 
5) - 

Mr. Dipul Rynatthiang
Secretary



Certified to be true copy
OF THE ORIGINAL

20/8/07
(SUMITRA SARMA)
ADVOCATE

PCCF's views on the proposed posting of Deputy Conservators of Forests

Shri K.S.Lyngdoh IFS has been posted in two Territorial division's viz. Garo Hills and Khasi Hills Territorial Divisions in the past. He could not cope up with the pressures of working in the Territorial Divisions and as per his own admission working in Territorial Divisions is not temperamentally suited to him. At the same time he has been doing very well in the functional division viz. Silviculture Division and also did very well as Planning Officer.

Shri M.B.K.Reddy IFS is a very good planner with great in depth knowledge of laws, rules, procedures etc. The Khasi Hills Wildlife Division will play a key role in the establishment of the State Zoo in Ri-Bhoi District. Shri Reddy has already done lot of ground work and prepared project outline, manual for zoo keepers etc. He has a clear vision in this field and I am very impressed by his commitment for creation of the Zoo. As such I am to strongly advise against moving him from his present position as Divisional Forest Officer Wildlife Division.

The present Divisional Forest Officer Khasi Hills Territorial Division Shri A.Lyngdoh IFS is being considered for promotion to Conservator of Forests. He has been an excellent field administrator for forests and it would be difficult to find a substitute for him to man this key division. The only suitable person presently available for this purpose is Shri G.W.Kharmujai who is about to be nominated to IFS and would be most suitable to be posted in this key cadre post.

Bringing H.C.Choudhury as Planning Officer in my office would be a right step. However, he should be given a couple of more months to complete his work in Jaintia Hills Territorial Division.

Shri D.Challam has served a long term on deputation with the Garo Hills Autonomous District Council and moving him out of Garo Hills may be accepted.

Principal Chief Conservator of Forests
Meghalaya, Shillong.

W. S. 07
Certified to be true copy
OF THE ORIGINAL
20/8/07
(SUMITRA SARMA)
ADVOCATE

*From: Shri C. M. Sarmah
Date: 20/8/07
Place: Shillong*

Circle

*Stamps
Pl. power
charge
EG*

GOVERNMENT OF MEGHALAYA
ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Shillong, the 10th July, 2007.

No. PER. 04/2006/Pt.V/16 - Shri S. Chatterjee, IAS (RR-76), Chairman Administrative Reforms, Additional Chief Secretary i/c Border Areas Development, Trade (incl. Border Trade), Food, Civil Supplies and Consumer Affairs, Public Works, Industries, Planning, Programme Implementation and Evaluation, and Forest & Environment Departments is relieved of his functions as Additional Chief Secretary i/c Industries Department with effect from the date of handing over charge.

No. PER. 04/2006/Pt.V/16-A -Shri W. M. S. Pariat, IAS (RR-77), Chairman Meghalaya State Electricity Board. Additional Chief Secretary i/c Revenue, Personnel, Home (P) etc., Departments shall also function as Additional Chief Secretary i/c Industries Department with effect from the date of taking over charge and until further orders.

No. PER. 04/2006/Pt.V/16-B - Shri V.S.Oberoi, IAS (RR-79), Principal Secretary to the Govt. of Meghalaya, Forest & Environment, Border Areas Development (incl. Border Trade) Departments shall also function as Agriculture Production Commissioner & Coordinating Commissioner for Infrastructure Development with effect from the date of taking over charge and until further orders.

No. PER. 04/2006/Pt.V/16-C -Shri P.Naik, IAS (RR-84), Chief Electoral Officer, Meghalaya, Commissioner & Secretary to the Govt. of Meghalaya, Elections, Health & Family Welfare, A.H. & Vety. Departments shall also function as Commissioner & Secretary to the Govt. of Meghalaya, Secretariat Administration Department with effect from the date of taking over charge and until further orders.

No. PER. 04/2006/Pt.V/16-D - Shri C.D.Kynjing, IAS (RR-84), Commissioner & Secretary to the Govt. of Meghalaya, District Council Affairs, Home (CD & HG), Secretariat Administration, Power, C & R.D. Departments and Member Board of Revenue shall also function as Commissioner & Secretary to the Govt. of Meghalaya, Forest & Environment, Border Areas Development Departments with effect from the date of taking over charge and until further orders. He is, however, relieved of his functions as Commissioner & Secretary to the Govt. of Meghalaya, Secretariat Administration Department with effect from the date of handing over charge.

No. PER. 04/2006/Pt.V/16-E - Dr. Shreeranjan, IAS (RR-85), Commissioner & Secretary to the Govt. of Meghalaya, Cooperation, Planning, Programme Implementation and Evaluation Departments etc shall also function as Commissioner & Secretary to the Govt. of Meghalaya, Information & Technology Department with effect from the date of taking over charge and until further orders. He is, however, relieved of his functions as Commissioner & Secretary to the Govt. of Meghalaya, Cooperation Department with effect from the date of handing over charge.

Contd..2/-

*Certified to be true copy
OF THE ORIGINAL
20/8/07
(SUMITRA SARMA)
ADVOCATE*

No. PER. 04/2006/Pt.V/16-F- Shri Hector Marwein, IAS (RR-85), Commissioner & Secretary to the Govt. of Meghalaya, Labour, Sericulture & Weaving Departments, Commissioner & Secretary to the Governor, Managing Director, MCCL shall also function as Commissioner & Secretary to the Govt. of Meghalaya, Trade (incl. Border Trade), with effect from the date of taking over charge and until further orders. He is, however, relieved of his functions as Commissioner & Secretary to the Govt. of Meghalaya, Sericulture & Weaving Department with effect from the date of handing over charge.

No. PER. 04/2006/Pt.V/16 -G- Shri P. Kharkongor, IAS, (RR-87) , Commissioner & Secretary to the Govt. of Meghalaya, Agriculture, Fisheries Departments shall also function as Commissioner & Secretary to the Govt. of Meghalaya, Revenue Department with effect from the date of taking over charge and until further orders.

No. PER. 04/2006/Pt.V/16 -H - Shri L.Roy, IAS (SCS-88), Commissioner & Secretary to the Govt. of Meghalaya, Forest & Environment, Border Areas Development, Trade (incl. Border Trade), Food, Civil Supplies and Consumer Affairs Departments shall also function as Commissioner & Secretary to the Govt. of Meghalaya, Education Department and Commissioner & Secretary, Meghalaya Legislative Assembly ~~with effect from the date of taking over charge and until further orders~~. He is, however, relieved of his functions as Commissioner & Secretary to the Govt. of Meghalaya, ~~Forest & Environment, Border Areas Development, Trade (incl. Border Trade) Departments with effect from the date of handing over charge~~.

The orders contained in this Department Notification No. PER.04/2006/Pt.VII/6 dt. 23/03/2007 are hereby ~~cancelled~~.

No. PER. 04/2006/Pt.V/16 -I - Smti. R.V.Suchiang, IAS (RR-89), Commissioner & Secretary to the Govt. of Meghalaya, Personnel & A.R.(A) & (B), Political, Home (P), Cabinet Affairs, Education, Director, M.A.T.I., Commissioner of Division and Additional Development Commissioner for East, West Khasi Hills, Jaintia Hills and Ri-bhoi Districts, Shillong is transferred and posted as Commissioner & Secretary to the Govt. of Meghalaya, Cooperation Department with effect from the date of taking over charge and until further orders. She shall, however, continue to function as Commissioner & Secretary to the Govt. of Meghalaya, Personnel & A.R.(A) & (B), Political, Home (P), Cabinet Affairs, Director, M.A.T.I., Commissioner of Division and Additional Development Commissioner for East, West Khasi Hills, Jaintia Hills and Ri-bhoi Districts, Shillong until further orders.

No. PER. 04/2006/Pt.V/16-J- Shri D.K.Dkhar, IAS (SCS-90), Commissioner & Secretary to the Govt. of Meghalaya, Weight & Measures Department shall also function as Commissioner & Secretary to the Govt. of Meghalaya, Sericulture & Weaving with effect from the date of taking over charge and until further orders.

No. PER. 04/2006/Pt.V/16-K- Shri D.P.Wahlang, IAS (RR-93), Secretary to the Govt. of Meghalaya, Finance, Education, Sports & Youth Affairs, Information Technology Department is transferred and posted as Secretary to the Govt. of Meghalaya, Tourism Department with effect from the date of taking over charge and until further orders. He shall, however, continue to function as Secretary to the Govt. of Meghalaya Information-Technology Department until further orders.

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*26/8/07
(SUMITRA SARMA)
ADVOCATE*

No. PER. 04/2006/Pt.V/16-L - Shri J.Lyngdoh, IAS (SCS-95), Commissioner of Taxes, Meghalaya, Secretary to the Govt. of Meghalaya, Finance, E.R.T.& S Department shall also function as Secretary to the Govt. of Meghalaya, Industries Department with effect from the date of taking over charge and until further orders.

No. PER. 04/2006/Pt.V/16-M - Smti. M.H.K.Marak, IAS (SCS-95), Secretary to the Govt. of Meghalaya, Community & Rural Development Department and Director, Community & Rural Development Meghalaya is transferred and posted as Secretary to the Govt. of Meghalaya, Agriculture and Fisheries Departments with effect from the date of taking over charge and until further orders and her services are placed partially at the disposal of Tourism Department for appointment as Managing Director, MTDC with effect from the date of taking over charge and until further orders.

No. PER. 04/2006/Pt.V/16-N - Shri T.Dkhar, IAS (SCS-97), Secretary to the Govt. of Meghalaya, Revenue and Disaster Management Department, Director, Land Record & Survey, Meghalaya etc., is relieved of his functions as Director, Land Records & Survey, Meghalaya with effect from the date of handing over charge.

No. PER. 04/2006/Pt.V/16-O - Shri K.L.Tariang, IAS (Non-SCS-98), Additional Secretary to the Govt. of Meghalaya, Agriculture, Fisheries, Tourism, District Council Affairs, Soil & Water Conservation Departments is transferred and posted as Additional Secretary to the Govt. of Meghalaya, Community & Rural Development Department and Director, Community & Rural Development, Meghalaya with effect from the date of taking over charge and until further orders.

No. PER. 04/2006/Pt.V/16-P - Smti. Arlene M.Sangma, IAS (SCS), Joint Secretary to the Govt. of Meghalaya, Labour Department and Director, Elementary & Mass Education Meghalaya is transferred and posted as Joint Secretary to the Govt. of Meghalaya, Cooperation Department and Labour Commissioner, Meghalaya with effect from the date of taking over charge and until further orders.

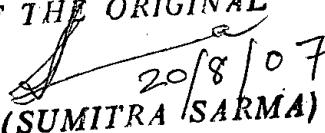
No. PER. 04/2006/Pt.V/16-Q - Shri W.Synrem, Officer-On-Special Duty, Education etc., Departments shall also function as Director, Elementary & Mass Education, Meghalaya in addition to his own duties with effect from the date of taking over charge and until further orders.

No. PER. 04/2006/Pt.V/16-R - Shri Mawshanlang Kharmujai, MCS Member Secretary, MeSEB and Director, Meghalaya State Lotteries is relieved of his functions as Director, Meghalaya State Lotteries with effect from the date of handing over charge.

No. PER. 04/2006/Pt.V/16-S - Smti. R. Lyngdoh, MCS, Labour Commissioner, Meghalaya is transferred and posted as Director, Meghalaya State Lotteries and Officer – on – Special Duty, Mining & Geology Department with effect from the date of taking over charge and until further orders.

No. PER. 04/2006/Pt.V/16-T - Shri Walpeter Roy Lyngdoh. MCS, Officer-on-Special Duty, Finance and E.R.T.S Departments is transferred and posted as Director, Mineral Resources, Meghalaya with effect from the date of taking over charge and until further orders

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ADVOCATE

No. PER. 04/2006/Pt.V/16-U - Shri H.M.Shangpliang, MCS, State Protocol Officer, Officer on Special Duty, Information & Public Relations. Department and Director, Mineral Resources, Meghalaya is transferred and posted as Commissioner of Transport, Meghalaya with effect from the date of taking over charge and until further orders. He shall, however, continue to function as State Protocol Officer, Officer on Special Duty, Information & Public Relations Department until further orders.

No. PER. 04/2006/Pt.V/16-V - Shri M.S.Lhuid, MCS Commissioner of Transport Meghalaya is transferred and posted as Director, Land Records and Survey, Meghalaya with effect from the date of taking over charge and until further orders.

Sd/-R.Chatterjee,
Chief Secretary to the Govt. of Meghalaya.

Memo No. PER. 04/2006/Pt-V/16-W,

Dt. Shillong, the 10th July, 2007

Copy to :-

1. The Commissioner & Secretary to the Governor of Meghalaya, Shillong.
2. The Private Secretary to the Chief Minister, Meghalaya, Shillong.
3. The Private Secretary to the Chief Secretary to the Govt. of Meghalaya, Shillong.
4. The Chief Secretary to the Govt. of Assam, Dispur.
5. The Commissioner of Division for East and West Khasi Hills, Jaintia Hills and Ri-bhoi Districts, Shillong.
6. The Commissioner of Division for East, West and South Garo Hills District, Tura.
7. The Principal Resident Commissioner, Meghalaya House, 9-Aurangzeb, Road, New Delhi-110011.
8. The Secretary, Meghalaya Legislative Assembly, Shillong.
9. The Advocate General, Meghalaya, Guwahati.
10. The Chairman, Meghalaya Public Service Commission, Shillong.
11. The Accountant General, (A&E), Meghalaya, Shillong.
12. The Under Secretary to the Govt. of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, New Delhi-110001.
13. The Research Officer, Govt. of India, Ministry of Personnel, Public Grievances and Pensions Department of Personnel and Training,(Career Management Division),New Delhi-110001
14. The Director of Printing and Stationery, Meghalaya, Shillong for publication of the Notification in the Meghalaya Gazette.
15. The Deputy Commissioner, Shillong.
16. The Trade Adviser and Director of Movement, Govt. of Meghalaya, Meghalaya House, Shanty Pally, Eastern Bye Pass, Kolkata -71.
17. State Informatics Officer, N.I.C./Senior System Analyst, Shillong
18. Secretariat Administration Department (Accounts/Nazarat)/Personnel & A.R.(B) Deptt./Personnel & A.R.(B) Depit. (A.R.Cell)/Law(A) &(B) Deptt/
19. The Treasury Officer, Shillong.
20. Officer(s) concerned.
21. Guard file/ Personal file.

By order etc.,

R.Mahar

Under Secretary to the Govt. of Meghalaya
Personnel & A.R.(A) Department

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20/8/07
(SUMITRA SARMA)
ADVOCATE