

GAHC020002332021



**THE GAUHATI HIGH COURT**  
**(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**  
**KOHIMA BENCH**

**Case No. : PIL(Suo Moto) 1/2021**

1:IN-RE  
KOHIMA, NAGALAND

VERSUS

1:THE STATE OF NAGALAND AND 5 ORS  
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF NAGALAND  
AND CHAIRMAN OF THE NAGALAND STATE DISASTER MANAGEMENT  
AUTHORITY, NAGALAND

2:THE PRINCIPAL SECRETARY  
HEALTH AND FAMILY WELFARE DEPARTMENT  
NAGALAND  
KOHIMA

3:THE PRINCIPAL DIRECTOR  
HEALTH AND FAMILY WELFARE DEPARTMENT  
GOVT. OF NAGALAND  
NAGALAND  
KOHIMA

4:THE DISTRICT TASK FORCE HEADED BY THE DEPUTY COMMISSIONER  
OF ALL THE DISTRICTS  
NAGALAND

5:THE CHIEF MEDICAL OFFICERS OF ALL THE DISTRICT  
NAGALAND

6:THE UNION OF INDIA  
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA

MINISTRY OF HEALTH AND FAMILY WELFARE  
NIRMAN BHAVAN  
NEW DELH

**Advocate for the Petitioner** : TAKA MASA, SR. ADV(AMICUS CURIAE)

**Advocate for the Respondent : GOVT ADV NL**

**BEFORE  
HON'BLE MR. JUSTICE SONGKHUPCHUNG SERTO  
HON'BLE MR. JUSTICE S. HUKATO SWU**

**ORDER**

**Date : 28-07-2021**

*(Serto, J)*

The Principal Secretary Home, Government of Nagaland has filed an affidavit placing the two SOPs for re-opening of schools for students of class 11 and 12 and for re-opening of colleges and technical institutions as directed in our order dated 20/7/2021. However, regarding our direction to file an affidavit showing the progress made in the vaccination on willing shop keepers and vegetable vendors on priority Mr. N. Mozhui submitted that a comprehensive affidavit covering almost all the directions given in our order dated 20/7/2021 have been filed only today. The same has not been placed before us. Therefore, the matters stated in the affidavit would be taken up on the next date. Further, in paragraph 8 of our order passed on 20/7/2021 while taking note of the high positivity rate in 5 districts of the State, we have directed respondent No.1 to take some more special steps to contain the spread of the virus and for treatment of people who are already infected in those districts and file an affidavit showing the steps taken in that regard. But no affidavit has been filed. Therefore, the respondent No.1 is directed to file the same on or before the next date of hearing.

At the same time a PIL has been filed today which is registered as PIL 8/2021 challenging a portion of paragraph 2 of the two SOPs issued by the Home Department for opening of schools for students of class 11 and

12 and for re-opening of colleges and technical institutes. The PIL has been taken up along with the pending PIL (Suo Moto) 1/2021 since the subject matters are more or less the same.

We have heard Ms. Nuksungtila, learned counsel appearing for the petitioner in the PIL and we have also heard all the learned counsels representing the other parties. The limited prayer of the petitioner in the PIL 8/2021 is that the conditions given at paragraph 2 of the two SOPs for opening of schools and colleges i.e. teaching and non-teaching staffs should be fully vaccinated or should have taken the 1<sup>st</sup> dose of vaccine at least 15 days prior to the opening of schools or colleges be modified so that those who choose not to be vaccinated may be given the option of being compulsorily tested every 15 days. After considering the submissions of the learned counsel on this and taking into account of the fact that no one can be compulsorily vaccinated, we are of the view that the option prayed for can be granted. Therefore, the Principal Secretary Home is directed to modify paragraph 2 of the 2 SOP so as to provide such option to the teaching and non teaching staff of schools and colleges.

With this the PIL 8/2021 is disposed.

List the PIL (Suo Moto)1/2021 along with PIL 6/2021 and PIL 7/2021 on 18/8/2021.

Sd/-  
**JUDGE**

Sd/-  
**JUDGE**

**Comparing Assistant**