CNR No. SKHC01-000076-2024

THE HIGH COURT OF SIKKIM : GANGTOK

(Civil Extra Ordinary Jurisdiction)

SINGLE BENCH : THE HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, JUDGE

WP(C) No.15 of 2024

Shri Phurba Tshering Tamang (Sanjay Tamang),
S/o Late Shri Partap Singh Tamang,
Aged about 43 years,
R/o Singling, Soreng District,
Sikkim – 737121. ... **Petitioner**

versus

1. **Shri Mironium Tamang,**
S/o Shri Nehru Tamang,
R/o Singling, Soreng District,
Sikkim – 737121.

2. **The Additional District Magistrate,**
Gyalsing District Administrative Centre,
Gyalsing, Sikkim – 737111.

3. **The Land Revenue & Disaster Management Department,**
Government of Sikkim,
Through its Secretary, Tashiling Secretariat,
Gangtok, Sikkim – 737101.

4. **The District Magistrate/Collector,**
Soreng District, Soreng,
Sikkim – 737121. ... **Respondents**

Petition under Article 226 of the Constitution of India

Appearance:

Mr. Nawin Kiran Pradhan, Advocate for the Petitioner.

Mr. Aditya Makkhim and Ms. Sashi Rai, Advocates for the Respondent No.1.

Mr. Yadev Sharma, Government Advocate with Ms. Pema Bhutia and Mr. D. K. Tamang, Assistant Government Advocates for the Respondents No.2 to 4.

Date of hearing : 24-11-2026
Judgment pronounced on : 24-11-2026
Judgment uploaded on : 25-11-2026

JUDGMENT (ORAL)

Bhaskar Raj Pradhan, J.

The writ petitioner is aggrieved by the cancellation of the Certificate of Identification (COI) issued in his favour earlier and

thereafter the confirmation by the appellate fora that the cancellation was right.

2. The petitioner has approached this Court challenging both the orders of the respondent no.2, the Additional District Magistrate at Gyalshing, in Case no.02/DC(GYZ.) of 2023, dated 04-05-2023 (Issuing Authority) and the respondent no.3, the Secretary, Land Revenue & Disaster Management Department, Government of Sikkim, in Appeal Case no.04 of 2023, dated 07-03-2024 (Appellate Authority).

3. The concerned notification for cancellation of the COI as pointed out by learned counsel for the petitioner, dated 26-10-2010, bearing no.119/Home/2009, was issued by the Home Department, Government of Sikkim. The jurisdiction of the Issuing Authority to cancel the COI once granted can come about only under two circumstances as provided therein. For clarity, it is quoted hereinbelow:-

> **"***.....*
> *(4)*
> *The issuing authority is also authorized to cancel the Certificate of Identification of a person if it is reasonably established that the Certificate has been obtained by him/her or on his/her behalf by misrepresentation or suppression of any material fact.*
> *.....***"**

4. The occasion to cancel the COI issued in favour of the petitioner arose after the respondent no.1 made a complaint to the Issuing Authority. In the complaint, dated 13-01-2023, he alleged that the petitioner was given a fake document (COI) by late Partap Singh Tamang.

5. The COI which stands cancelled records that the writ petitioner is the son of late Partap Singh Tamang. Based on the complaint by respondent no.1, an enquiry was conducted by Mr.

Pranay Chettri, Investigating Officer (IO), Police Inspector, Special Branch, Gyalshing, at the instance of the Issuing Authority. On completion of his enquiry, he submitted an enquiry report, dated 29-03-2023, stating as under:-

> *"..... The enquiry report is as under:*
>
> 1. *That Late Partap Singh Tamang is a permanent resident of Singling Block under Soreng District. He possesses Old Sikkim Subject Certificate vide Sl.No.**29** Vol.No.**XII** under Block Singling, Soreng Sikkim.*
> 2. *That Late Partap Singh Tamang S/o Late Raj Man Tamang has no biological children or descendants.*
> 3. *That Late Partap Singh Tamang had married one Late Asha Radha Tamang who is the biological mother of alleged Phurba Tsh. Tamang @ Sanju Lama.*
> 4. *That alleged Phurba Tsh. Tamang @ Sanju Lama who is the biological son of Krishna Lama and Late Asha Radha Tamang both citizens of Nepal had been residing in Kolkata as his biological father Krishna Lama used to work as a bus driver in Kolkata. In the year 1985, Buddha Singh Tamang who is the eldest brother of Late Partap Singh Tamang was also working at Kolkata. After being acquainted with the biological parents of alleged Phurba Tsh. Tamang @ Sanju Lama, Shri Buddha Singh Tamang had in the year 1985 brought alleged Phurba Tsh. Tamang @ Sanju Lama to Sikkim for providing him education as requested by his biological parents. Accordingly, in the same year Phurba Tsh. Tamang @ Sanju Lama was admitted at Govt. Sr. Sec. School, Soreng wherein the name of the alleged Phurba Tsh. Tamang is recorded as Sanju Lama and his father's name as Krishna Lama. (Attested copy of Admission record enclosed).*
> 5. *That after few months Late Asha Radha Tamang also came to Sikkim to visit her son Phurba Tsh. Tamang @ Sanju Lama. However, she did not return back and got married to Late Shri Partap Singh Tamang.*
> 6. *That after the marriage of Late Asha Radha Tamang and Shri Partap Singh Tamang alleged Phurba Tsh. Tamang @ Sanju Lama had been raised as their only son. Subsequently, affidavits regarding name and father's name were made and thereafter correction was also made in the admission register of Govt. Sr. Sec. School, Soreng in the year 1993 wherein the name Phurba Tsh. Tamang and his father's name as Partap Singh Tamang were added in place of Sanju Lama and Krishna Lama. (Attested copy of Admission record enclosed).*
> 7. *Thereafter, fake Birth certificate, fake Tribal certificate and fake COI had been obtained in the*

> *name of alleged Phurba Tsh. Tamang with Late Partap Singh Tamang as the biological father.*
>
> 8. *That during discreet enquiry, it is learnt on the strength of statements given by the complainant, elder brothers and relatives of Late Partap Singh Tamang, Ward Panchayat, and General Secretary Sikkim Mulbasi Suraksha Sangathan that the alleged Shri Phurba Tshering Tamang @ Sanju Lama is not the biological/natural son of Late Partap Singh Tamang.*
>
> *.....”*

6. The enquiry report suggests that in fact the writ petitioner was not the biological son of late Partap Singh Tamang but the child of one late Asha Radha Tamang and Krishna Lama. It also alleged that fake Birth Certificate, fake Tribal Certificate and fake COI were obtained in the name of the writ petitioner showing late Partap Singh Tamang as the biological father. Certain documentary evidences have also been submitted along with the enquiry report.

7. In ***Diwas Rai and Another*** vs. ***The State of Sikkim and Others***[1], the Hon’ble the Chief Justice, had occasion to examine a similar issue. It was held, *inter-alia,* that questions relating to the civil rights of the parties, including issues concerning parentage and descent, fall within the exclusive domain of the Civil Court. As the Judgment was rendered by a coordinate Bench, I am inclined to follow the law laid down therein.

8. I am of the opinion that the complex issue of facts and law which would arise because of the facts asserted in the enquiry report against the writ petitioner goes to the genesis of the COI he held until it was cancelled. In such view of the matter, justice would be best served if the writ petitioner is directed to approach the Civil Court within a period of three months’ from today to protect his interest, as advised. It is so ordered. Till such time, the State Authorities shall not pass any adverse orders against the writ petitioner leaving it to the

[1] WP(C) No.41 of 2024, decided by a Single Bench of this High Court, on 15-06-2026.

Civil Court to take a call on it once the writ petitioner approaches the jurisdictional Civil Court.

9. The writ petition is disposed of on the above terms as also the pending applications, if any.

(Bhaskar Raj Pradhan)
Judge

Approved for Reporting : Yes

sdl