

**THE HIGH COURT OF SIKKIM : GANGTOK**  
(Civil Extra Ordinary Jurisdiction)

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**S.B.: HON'BLE THE CHIEF JUSTICE.**  
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**DATE : 19.06.2018**

**WP(C) No. 11 of 2017**

Shri Sancha Bahadur Subba  
Son of Late Aitabir Subba  
Aged about 54,  
Permanent resident of Upper Burtuk,  
Above Helipad, Gangtok, Sikkim  
Pin code-737101.

... **Petitioner.**

*versus*

1. State of Sikkim  
Through Chief Secretary,  
Government of Sikkim, Gangtok.
2. Secretary,  
Home Department,  
Government of Sikkim,
3. Director,  
Vigilance Department,  
Government of Sikkim,  
Secretariat Annexe-I,  
Sonam Tshering Marg,  
Gangtok, Sikkim, Pin code-737101.
4. Station House Office,  
Vigilance Department,  
Government of Sikkim,  
Secretariat Annexe-I,  
Sonam Tshering Marg,  
Gangtok, Sikkim, Pin code-737101.

5. Crime Investigation Department,  
Government of Sikkim,  
Police Head Quarter,  
Gangtok.
6. Shri Prem Bahadur Subba,  
Son of Late Padam Singh Subba,  
Resident of Sichey, Way to Ranka Road,  
Namastay Building,  
Gangtok, Sikkim.
7. Mrs. Naina Kumari  
Wife of Prem Bdr. Subba  
Resident of Sichey, Way to Ranka Road,  
Namastay Building,  
Gangtok, Sikkim.
8. Mr. Ramesh Sharma,  
Son of Pashupati Nath Sharma  
Shri Sankey Khanal Building  
Near Sichey Sr. School, Baripipal,  
Sichey, Indira Bye Pass Road,  
Gangtok, Sikkim.

... **Respondents.**

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Appearance:

Dr. Doma T. Bhutia and Ms. Preeti Chettri, Advocates  
for the petitioner.

Mr. Karma Thinlay, Sr. Govt. Advocate with Mr.  
Thinlay Dorjee Bhutia, Govt. Advocate, Mr. S.K.  
Chettri and Ms. Pollin Rai, Asstt. Govt. Advocates for  
respondents No. 1 to 5.

Mr. S.S. Hamal and Ms. Priyanka Chhetri, Advocates  
for respondents No. 6 and 7.

Ms. Sabina Chhetri, Advocate for respondent No. 8.

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**ORDER (ORAL)**

**Satish K. Agnihotri, CJ**

Learned Counsel, appearing for the petitioner, submits that in view of the inquiry report dated 07.03.2016, wherein it was submitted that the 6<sup>th</sup> respondent during his service time has indulged himself in investment in stock market/trading during the period 2011-2012 and further it was stated by CB/CID, PHQ, Gangtok that since the 6<sup>th</sup> respondent has retired, no action can be taken under the Sikkim Government Service Conduct Rules, 1981, the petition was filed.

Referring to the statement of salary details of Shri Prem Bahadur Subba with effect from 01.07.1978 to 30.04.2015, the petitioner was informed under the Right to Information Act that the 6<sup>th</sup> respondent retired in April 2016, as indicated in Sl. No. 37. On further examination, it is found, according to her, that on page 43 at Sl. No. 36, the ending month of February 2015 and at next page at Sl. No. 37, starting with March 2016, obviously there is a mistake as is evident from the letter dated 10.07.2015 addressed to the Principal Secretary, Finance, Revenue & Expenditure Department, Government of Sikkim, wherein it is clearly observed that the 6<sup>th</sup> respondent retired from the service on 30.04.2015.

In such view of the matter, the petitioner seeks withdrawal of this petition with liberty to file a proper complaint/petition, if need be, before the appropriate forum, if advised, as per law.

No objection from Mr. Karma Thinlay, learned Senior Government Advocate appearing for the 1<sup>st</sup> to 5<sup>th</sup> respondents, Mr. S. S. Hamal, learned Counsel appearing for 6<sup>th</sup> and 7<sup>th</sup> respondents and Ms. Sabina Chhetri, learned Counsel appearing for the 8<sup>th</sup> respondents.

Accordingly, the petition is dismissed as withdrawn with the aforestated liberty.

**Chief Justice**

19.06.2018

jk/pm

Index : ~~Yes~~ / No  
Internet : Yes / ~~No~~