GAHC040014922025

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

Case No. : PIL/15/2025

Likha Rajnik
Son of Shri Likha Tana, resident of Riyo Village, Nirjuli, PO and PS Nirjuli, Papum Pare District, Arunachal Pradesh.

VERSUS

The State of AP and 10 Ors
represented by the Chief Secretary, Govt of Arunachal Pradesh, Itanagar. 2:The Secretary
Age: 0
Occupation :
Department of Home
Govt of Arunachal Pradesh
Itanagar.

3:The Secretary
Age: 0
Occupation :
Department of State Lotteries
Govt of Arunachal Pradesh
Itanagar.

4:The Director General of Police
Age: 0
Occupation :
Govt of Arunachal Pradesh
PHQ
Chimpu
Itanagar.

5:The Superintending of Police
Age: 0
Occupation :

Capital Complex
Itanagar Division
Itanagar to be represented by PP

6:The Superintending of Police
Age: 0
Occupation :
Capital Complex
Naharlagun Division
Naharlagun to be represented by the PP

7:The Superintending of Police
Age: 0
Occupation :
Yupia
Papum Pare District
to be represented by the PP

8:The Officer in Charge
Age: 0
Occupation :
Police Station Itanagar
to be represented by the PP

9:The Officer in Charge
Age: 0
Occupation :
Police Station Naharlagun
to be represented by the PP

10:The Officer in Charge
Age: 0
Occupation :
Police Station Doimukh
to be represented by the PP

11:The Officer in Charge
Age: 0
Occupation :
Police Station Papu Hill
Naharlagun to be represented by the P

BEFORE

HON'BLE MR. JUSTICE BUDI HABUNG

HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

Advocate for the Petitioner : Mr. L. Perme, ld. Adv.

Advocate for the Respondents : Mr. S. Tapin, ld. Sr. GA(AP).

Date on which Judgment is reserved : 13.08.2026

Date of Hearing : 13.08.2026

Date of Judgment and Order : 24.09.2026

Whether the pronouncement is of the Operative part of the Judgment? :No

Whether the full Judgment has been pronounced ? : Yes

JUDGMENT & ORDER

(CAV)

[Budi Habung, J]

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Heard Mr. L. Perme, learned counsel for the petitioner. Also heard Mr. S. Tapin, learned Senior Government Advocate for all the State respondents.

2. The petitioner, claimed to be a public-spirited person, has instituted this Public Interest Litigation seeking, *inter alia*, directions to the State authorities and the police of the District for effective implementation of the Lotteries (Regulation) Act, 1998, the Lotteries (Regulation) Rules, 2010, and the Government Notification/Order No. SL/23/2022 dated 06.03.2025 issued by the State Government of Arunachal Pradesh, including the Government Order No. LOT-152/97 dated 17.01.2007 issued by the Secretary, Department of State

Lotteries, Government of Arunachal Pradesh, Itanagar. The petitioner also prays for taking appropriate action against alleged illegal and unregulated lucky draw, housie, lotteries, and gift coupon activities being conducted/organized in the State of Arunachal Pradesh.

3. The State respondents and the concerned police authorities have filed their respective affidavits. The affidavits state that wherever specific complaints regarding the alleged illegal lottery activities were received, the same were examined and appropriate action was taken in accordance with law. The State authorities have also stated that directions have been issued from time to time to the District Magistrates of all Districts and police authorities of Arunachal Pradesh for strict enforcement and for taking necessary action against illegal lottery activities in accordance with the applicable provisions of law and Government Notifications/Orders.

4. After filing their affidavit, the State respondent No. 3, by filing an additional affidavit, has clarified the stand of the State Government regarding the applicability of the Lotteries (Regulation) Act, 1998. At paragraph 2 of the additional affidavit of the State respondent No. 3, it has been stated that the earlier stand of the respondent requires correction. It is stated that the Lotteries (Regulation) Act, 1998 does not govern local lotteries conducted by private individuals. However, it is clarified that Notification No. LOT-152/97 dated 17.01.2007 issued by the State Government prohibits the conduct of local lotteries within the State of Arunachal Pradesh. Paragraph 2 of the additional affidavit filed by respondent No. 3 being relevant is reproduced below:

> **"***2. That the present respondent has taken a stand that the Lotteries (Regulation) Act, 1998 is applicable to the local lotteries being organized by the*

individuals in the State of Arunachal Pradesh, though the clear stand has not been taken as such but accepted the claimed made by the petitioner as to applicability of the Lotteries (Regulation) Act, 1998 over the subject matter of the PIL. After filling of the affidavit-in-opposition, the matter has been re-examined again and it has been found that Lotteries (Regulation) Act, 1998 prohibits the conduct of lotteries by the State Government as provided under Sections 3 and 5 of the Act but the same do not cover the local lotteries being organized by the private individuals. As such, this additional affidavit is being filed to bring in the notice of this Hon'ble High Court that the Lotteries (Regulation) Act, 1998 is not applicable over local lotteries conducted by the private individuals. However, the Notification No.LOT-152/97 prohibits the conduct of local lotteries in the State of Arunachal Pradesh."

5. In view of the aforesaid clarification given by the State respondent, it is now necessary to consider the legal position declared by the Hon'ble Supreme Court in the judgment rendered in ***State of Karnataka & Anr. Vs. State of Meghalaya & Ors.***, reported in **(2022) 14 SCC 697**. In the said case, the Hon'ble Supreme Court examined the constitutional distribution of legislative power relating to lotteries. It was held that lotteries, including private lotteries, are treated as a form of betting and gambling and that lotteries organized by private parties or entities fall under Entry 34 of List II of the Seventh Schedule to the Constitution. Therefore, the State Legislature has the power to make laws concerning them. It was also clarified in the said judgment that lotteries organized by the Government of India or a State Government are covered by Entry 40 of List I and, therefore, Parliament has the power to legislate in respect of such lotteries.

6. The relevant paragraph of ***State of Karnataka vs. Meghalaya*** (supra) is reproduced below:

"*124. In view of the aforesaid discussion, we come to the following summary of conclusions: - State of Karnataka vs. Meghalaya*

(i) That the subject 'betting and gambling' in Entry 34 of List II is a State subject.

(ii) From the judgments of this Court, it is now clear that 'lotteries' is a species of gambling activity and hence lotteries is within the ambit of 'betting and gambling' as appearing in Entry 34 List II.

(iii) The expression 'betting and gambling' is relatable to an activity which is in the nature of 'betting and gambling'. Thus, all kinds and types of 'betting and gambling' fall within the subject of Entry 34 of List II. The expression 'betting and gambling' is thus a genus it includes several types or species of activities such as horse racing, wheeling and other local variations/forms of 'betting and gambling' activity. The subject 'lotteries organised by the Government of India or the Government of a State' in Entry 40 of List I is a Union subject. It is only lotteries organised by the Government of India or the Government of State in terms of Entry 40 of List I which are excluded from Entry 34 of List II. In other words, if lotteries are conducted by private parties or by instrumentalities or agencies authorized, by Government of India or the Government of State, it would come within the scope and ambit of Entry 34 of List II.

(iv) Thus, the State legislatures are denuded of their powers under Entry 34 of List II only to the extent of lotteries organised by the Government of India or the Government of a State, in terms of Entry 40 of List I. In other words, except what is excluded in terms of Entry 40 of List I, all other activities which are in the nature of 'betting and gambling' would come within the scope and ambit of Entry 34 of List II. Thus, 'betting and gambling' is a State subject except to the extent of it being denuded of its powers insofar as Entry 40 of List I is concerned.

(v) Entry 62 of List II is a specific taxation Entry on 'luxuries, including taxes on entertainments, amusements, betting and gambling'. The power to tax is on all activities which are in the nature of 'betting and gambling,' including lotteries. Since, there is no dispute that lotteries, irrespective of whether it is conducted or it is organised by the Government of India or the Government of State or is authorized by the State or is conducted by an agency or instrumentality of State Government or a Central Government or any private player, is 'betting and gambling', the State Legislatures have the power to tax lotteries under Entry 62 of List II. This is because the taxation contemplated under the said Entry is on 'betting and gambling' activities which also includes lotteries, irrespective of the entity conducting the same. Hence, the legislations impugned are valid as the Karnataka and Kerala State Legislatures possessed legislative competence to enact such Acts.

(vi) Thus, the scope and ambit of lotteries organised by Government of India or Government of State under Entry 40 of List I is only in the realm of regulation of such lotteries. The said Entry does not take within its contours the power to impose taxation on lotteries conducted by the Government of India or the Government of State.

(vii) We also hold that lottery schemes by the Government of other States are organised/conducted in the State of Karnataka or Kerala and there are express provisions under the impugned Acts for registration of the agents or promoters of the Governments of respective States for conducting the lottery schemes in the State of Karnataka and the State of Kerala. This itself indicates sufficient territorial nexus between the respondents– States who are organising the lottery and the States of Karnataka and Kerala.

(viii) In view of the aforesaid conclusions, we find that Division Benches of the High Courts of Kerala and Karnataka were not right in holding that the respective State Legislatures had no legislative competence to impose tax on the lotteries conducted by other States in their State (in the State of Karnataka and Kerala respectively)."

7. Thus, it stands that the Lotteries (Regulation) Act, 1998 cannot be treated as the sole statutory basis for regulating or prohibiting every lottery or draw conducted by a private individual or community organization. Accordingly, the subject and field concerning private lotteries, as a species of betting and gambling, fall within the legislative competence of the State. This, however, does not mean that private lotteries or similar activities are permissible as a matter of right. Their legality would have to be examined with reference to the applicable law, rules, notifications and orders issued by the concerned State authority from time to time.

8. In the present case, the State Government has relied upon Notification No. LOT-152/97 dated 17.01.2007, whereby the sale, conduct and holding of one-time lotteries and housie within the territory of Arunachal Pradesh were prohibited. The State has also relied upon the State law, rules, notifications and executive orders issued by the State authorities from time to time applicable in

the State of Arunachal Pradesh relating to prohibition of gambling. Therefore, we are of the opinion that, at this stage, it is not necessary for this Court, in the present PIL, to decide the legality of every form of gift coupon or draw as to whether a particular gift coupon scheme is, in substance, a lottery, gambling activity or merely a voluntary contribution scheme involving gifts. This is a question which depends upon the actual terms and manner of operation of that particular scheme.

9. Further, the factual circumstances with regard to the allegation made by the petitioner in his complaint before the police station and the subsequent action taken by the police pursuant to the FIR/complaint received are also material and require consideration.

10. The affidavit filed on behalf of respondent No. 11, the Officer-in-Charge, Police Station Papu Hill, Naharlagun, discloses that upon receipt of the complaint dated 05.07.2025 regarding the proposed/conducted Dree Festival Gift Coupon Draw, the same was entered as a GD Entry being GDE No. 13/2025 and an inquiry was immediately initiated. During the course of the inquiry, notices under Section 35(3) of the BNSS, 2023 were issued to the organizers, namely, (i) Michi K. Tabing, (ii) Shri Habung Tapa, (iii) Shri Duyu Doilang, and (iv) Shri Nani Pollo, and their statements were recorded in accordance with law.

11. It has been stated in the affidavit that, during the inquiry, the organizers explained that the Dree Festival Gift Coupon Draw was not a lottery but an adaptation of the traditional Apatani system of ‘MIHI’ (donation), namely, a voluntary household contribution traditionally collected by the Miido Bulyang, popularly known as Gora. According to the explanation recorded during the inquiry, the gift coupon system was introduced as a modern adaptation of the

said practice. It is stated that the persons making voluntarily contributing through the coupon then get a chance to receive the returned gift. It was further stated that there was no compulsion upon any person to participate and that there was no officially endorsed open-market sale of the coupons as it was basically meant for distributing amongst the person belonged to the said community.

12. It is further stated that, upon examination of the persons concerned, they were released on personal bonds in accordance with law. The police affidavit further states that, having regard to the facts ascertained during the inquiry, preventive action permissible under law was taken to ensure that such activity was not repeated. The police also ensured that the matter continued to remain under watch. It has also been stated that, if any further material indicating the commission of any cognizable offence is brought on record, necessary legal action, including registration of an FIR, would be initiated.

13. The aforesaid materials demonstrate that the complaints made by the petitioner were not ignored by the police authorities. On the contrary, the complaints were entertained and an inquiry was initiated, notices were issued, statements were recorded, and preventive action was taken. During hearing, the petitioner has not been able to demonstrate any specific subsequent instance, supported by material, where an alleged violation of law was brought to the notice of the police/competent authority and it was deliberately ignored and have not taken any action.

14. Similarly, the other respondents have also filed their respective affidavits. The affidavits filed by respondent Nos. 8, 9 and 10 also show that the police authorities of the respective police stations have taken necessary action on the

complaints received by them. The affidavits filed by the respondents indicate that the complaint received at Naharlagun Police Station on 10.06.2025 was registered in the General Diary. It was then forwarded to Ziro Police Station, as the alleged occurrence took place within the jurisdiction of Ziro Police Station. Another complaint regarding the proposed lottery at Seijosa was similarly entered in the General Diary and the same was forwarded to the concerned Police Station at Seizosa.

15. Likewise, the complaint received at Itanagar Police Station regarding the alleged lucky draw at Namsai was entered in the General Diary and the same was forwarded to Namsai Police Station for necessary action. In yet another instance, upon receipt of information regarding the alleged lucky draw at Doimukh, the police party visited the spot and conducted an inquiry, but it came out that no lottery or other illegal activity was found at the location.

16. Thus, the affidavit filed by the respective respondents amply indicates that the police authorities have acted upon the complaints received by them and they have taken necessary action in accordance with law within their respective jurisdictions.

17. There is, however, another circumstance which has emerged from the affidavit of respondent No. 11. This fact disclosed in the affidavit of respondent No. 11 requires consideration while examining the bonafides of the petitioner in filing the present PIL. During the inquiry in connection with the FIR lodged by the petitioner, it came to the notice of the police/inquiry officer that the petitioner, namely, Shri **Likha Rajnik**, himself had been associated with a `***Pre New Year Gift Coupon, 2024***' organization under the name and banner of Jegeyoma Multipurpose Cooperative Society Limited.

18. The gift coupon placed on record as **Annexure-1** to the affidavit bears the name of the organization and contains, *inter alia*, a ticket price of Rs. 500/-. The contents of the coupon promise substantial prizes, including a plot of land, cash prizes and consolation prizes (in cash). The venue mentioned on the coupon is Nikum Niya Hall, Nirjuli, and the draw was stated to be scheduled for 27.12.2024 at 2:00 P.M. onwards.

19. The affidavit filed by police respondent No. 11 further states that the petitioner, Shri **Likha Rajnik**, was the Organizing Chairman of the said gift coupon scheme. It further stated that in this regard an FIR/complaint dated 16.09.2025 was lodged by Shri Mom Apang and Shri Khoda Tapa, alleging, *inter alia*, cheating, criminal breach of trust and violation of the Arunachal Pradesh Gambling (Prohibition) Act, 2012 and the Lotteries (Regulation) Act, 1998. The investigation in the said case is stated to be still in progress.

20. This Court has perused the complaint dated 16.09.2025 as well as the coupon placed on record. The complaint alleges that the tickets were sold for Rs. 500/- each, promising substantial prizes, including cash awards, but that the draw was not conducted, the prizes were not distributed, nor was any refund made. The complainant also alleged that the petitioner, Shri **Likha Rajnik**, was the organizing Chairman of the said gift coupon scheme.

21. In this regard, we make it clear that the Court is not expressing any opinion on the truth or otherwise of the allegations contained in the said FIR/complaint against the petitioner. The criminal investigation shall proceed independently, and the guilt or otherwise of the petitioner shall be determined by the competent authority/Court strictly in accordance with law.

22. However, the petitioner's own involvement in organizing a gift coupon scheme having similar characteristics to the one allegedly organized by the other community disclosed in the record, in our view, is directly relevant to the subject matter of the present PIL. Therefore, it became necessary to ascertain from the petitioner whether the fact that he organized the gift coupon was disclosed in the petition and, if not, why such material fact was not brought to the notice of the Court at the first instance.

23. The petitioner, by filing a rejoinder affidavit, has fairly admitted that he was involved in organizing the said gift coupon. However, while admitting his involvement in organizing the said gift coupon, the petitioner has explained that, in view of the alleged rampant conduct of lotteries and housie activities in the State, he himself attempted to organize the 'Pre New Year Gift Coupon-2024' under the belief that such activity was not illegal.

24. The petitioner states that he approached the Deputy Commissioner, Capital Complex, Itanagar, by submitting a representation dated 04.04.2024 seeking permission to conduct the lottery at Nikum Niya Hall, Nirjuli. However, he was informed by the concerned authorities that the conduct of lotteries was prohibited. It was further informed that, if they organized one, all persons involved in organizing such lottery, including the petitioner, would be arrested.

25. The petitioner stated that, thereafter he approached the Secretary, Law Department, and Secretary, Lotteries. It is stated that upon being approached, the Secretary, Law Department, and Secretary, Lotteries, also gave him the same warning as given by the Deputy Commissioner. The petitioner states that, consequently, he withdrew the gift coupon scheme and announced through social media that organizing a lottery was illegal and that he would refund the

amounts collected from the purchasers.

26. The petitioner has further stated that the FIR dated 16.09.2025 was lodged against him by persons indirectly connected with the Dree Festival Gift Coupon activity, against whom he had earlier lodged a complaint. It is further contended that the said FIR against him was motivated by retaliation. The petitioner also stated that he had made complaints against several other persons, communities and organizations allegedly conducting lottery activities. The petitioner clarifies in the affidavit that his complaints were not directly against any particular tribe or community.

27. This Court has considered the aforesaid explanation given by the petitioner. This Court does not propose to record any finding that the PIL was instituted out of personal vengeance against any particular tribe or community. We find that there is insufficient material to draw any conclusive finding regarding such alleged ill motive against any particular tribe or community. Further, the petitioner's assertion that he had made complaints against persons belonging to different communities cannot also be brushed aside.

28. However, at the same time, the petitioner's own involvement in organizing a similar gift coupon scheme and the criminal complaint lodged against him before the police station are relevant facts which needs to be taken into consideration. These facts appear to have been within the knowledge of the petitioner when the instant PIL was filed. Undern the circumstances, the petitioner ought to have candidly disclosed the same to the Court. A person approaching the Court invoking the extraordinary jurisdiction of the Court in Public Interest Litigation is expected to disclose all material facts relevant to the case and to demonstrate his bona fides.

29. Before disposing of the PIL, the Court considered it necessary to seek certain clarifications from the petitioner. Accordingly, the following questions were put to the petitioner through his learned counsel:

(i) In view of the additional affidavit filed by respondent No. 3, wherein the State has clarified the applicability of the Lotteries (Regulation) Act, 1998, what provision of the 1998 Act does the petitioner rely upon for seeking a mandamus against private individuals or community organizations conducting alleged local lotteries/gift coupons?

(ii) If the petitioner himself had sought permission to conduct a gift coupon scheme in 2024 and thereafter stated to have withdrawn the same upon being informed by the authorities that such activity was illegal and prohibited. Why was the said fact, as well as the subsequent criminal complaint lodged against the petitioner for organizing a similar gift coupon, not disclosed in the petition?

(iii) In view of the affidavits filed by the State respondents and the police authorities showing that specific complaints have been acted upon by registration and investigation/inquiry. Can the petitioner point out any specific instance where an illegal lottery, in violation of the applicable State notification or law, was brought to the notice of the competent authority but no action was taken?

30. The petitioner has not been able to point out any specific provision of the Lotteries (Regulation) Act, 1998 which requires the authorities to take action against private persons or community organisations conducting local lotteries or Gift Coupons. The petitioner, however, contends that respondent No.3 cannot withdraw or change the stand taken in its earlier affidavit without an order of

this Court. It is also contended that the two affidavits of respondent No.3 contain contradictory stands which, according to the learned counsel for the petitioner, is impermissible.

31. However, in view of the constitutional position explained and the law declared by the Supreme Court in **State of Karnataka & Ors. v. State of Meghalaya & Ors.** (supra), activities and grievance relating to private lotteries fall within the State's legislative field relating to betting and gambling. Their legality has, therefore, to be examined under the applicable State law, rules, notifications and orders.

32. This Court finds that the respondents have shown that the complaint regarding the Dree Festival Gift Coupon was acted upon. The police conducted an enquiry, examined the persons concerned and took preventive action. The petitioner has not shown any specific instance of deliberate inaction by the authorities. There is, therefore, no ground for issuing a general writ of mandamus.

33. The prayer for a blanket prohibition of all Gift Coupons, Lucky Draws, Housie or festival-related activities also cannot be granted as sought for. Whether a particular scheme is a lottery, gambling activity or any other prohibited activity depends upon its nature, terms and manner of operation and the applicable law. Such an issue cannot be decided in the abstract in the present PIL.

34. Moreover, the persons and community organizations who may be directly affected by a blanket order of prohibition had not been impleaded as parties respondent to the present proceeding. In such a situation, no adverse or prohibitory order affecting their rights and activities can be passed behind their

back.

35. In view of the aforesaid facts and circumstances, this court finds no ground is made out for issuing the general mandamus as prayed for by the petitioner.

36. It is, however, clarified that dismissal of this PIL does not permit any person, society, community organisation or other body to violate the applicable law. The competent authorities shall continue to examine specific complaints and shall take appropriate action, in accordance with law, against any person found conducting a lottery, gambling activity or similar prohibited scheme.

37. The Court has also considered the question of costs. The petitioner has offered his explanation regarding his involvement in the Gift Coupon scheme, and the allegation against him is a subject matter of investigation. Although the non-disclosure of the material fact is matter which is relevant while considering the petitioner's bona fides, however, in the facts and circumstances of the case, the Court does not consider it necessary to impose exemplary costs.

38. Accordingly, the writ petition is dismissed. No order as to costs.

JUDGE **JUDGE**

Sabnam Mepo (SPA)