

HIGH COURT OF MEGHALAYA
AT SHILLONG

PIL No.1/2024

Date of Order: 05.12.2024

Tenny Dard M. Marak	Vs.	State of Meghalaya & ors
---------------------	-----	--------------------------

Coram:

Hon'ble Mr. Justice I.P. Mukerji, Chief Justice
Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner	: Dr. P. Agarwal, Adv
For the Respondents	: Mr. N. Syngkon, GA with Mr. J.N. Rynjah, GA

- | | | |
|-----|--|-----|
| i) | Whether approved for reporting in Law journals etc.: | Yes |
| ii) | Whether approved for publication in press: | Yes |

Note: For proper public information and transparency, any media reporting this judgment is directed to mention the composition of the bench by name of judges, while reporting this judgment/order.

The petitioner in this public interest litigation claims to be a social worker.

By this petition, the petitioner attempts to bring to the notice of this Court alleged inaction or mismanagement of the government in operating 28 weighbridges across the State. Our attention is invited by learned counsel for the petitioner to a report of the Comptroller and Auditor General of India (Revenue Sector) for the year ended 31st March, 2022 where non-realisation of revenue on account of non-

functioning or below par functioning of the weighbridge was estimated at Rs.23.75 crore. This revenue, inter alia, comprises of overloading fee, cess and “royalty” in case of export materials, fine, lease, rent and so on. Similar reports for the previous years from 2012 were also placed before the Court indicating loss of revenue.

Learned counsel for the respondents emphatically submits that these reports do not depict the current state of affairs. All the 28 weighbridges are fully functional and that there is no loss of revenue at all.

At the outset we state that the Court needs to be very careful in dealing with public interest litigation of this kind. The Court should refrain from interfering in normal administrative activities of the government. Normally, only in cases of gross failure of the administrative machinery causing injury to the public at large who are unable to obtain any redress except with the intervention of the Court, should the Court intervene. This dividing line should be strictly maintained. Otherwise the separation of powers between the executive and judiciary would disappear and the judiciary would be performing administrative functions.

We find that earlier a writ in this regard was entertained by this Court (PIL No.1 of 2022 with MC (PIL) No.1 of 2022), which was disposed of on 23rd August, 2023, expressing the hope that adequate steps would be taken against overloaded vehicles crossing the checkpoints without proper weighment.

Hence, we admit this writ petition.

We pass the following interim order:

(i) A spot inspection for two hours will be conducted by the respondents, in the presence of the petitioner or his representative, in each of the weighbridges at checkpoints on one day at the time when vehicular traffic is the greatest. Such inspection shall be incognito, that is to say without making any public announcement. We clarify that only the petitioner is to be informed who shall keep the inspection secret. The petitioner shall not conduct any inspection but shall be present only.

(ii) Any overloading fee, charges, revenue, etc. realised out of such inspection shall be stated in a report and submitted before the Court. The report shall be signed by the Commissioner of Transport. On the basis of this report, the Court shall decide any further steps to be taken in furtherance of this PIL. The report is to be submitted by 10th February, 2025

(iii) List this PIL once again on 12th February, 2025.

(W. Diengdoh)
Judge

(I.P. Mukerji)
Chief Justice

Meghalaya
05.12.2024
"*Lam* DR-PS"