

BEFORE  
THE HON'BLE MR. JUSTICE T NANDAKUMAR SINGH

18.05.2015

Mr. K.K.Mahanta, learned Sr. counsel appearing for the petitioner submits at the Bar that the respondent had filed the additional affidavit today only and a copy was furnished to the Junior counsel in the course of the day.

It is a clear submission of Mr. K.K.Mahanta, learned Sr. counsel that at least some time will be required to digest the bulky additional affidavit filed by the respondent today itself. Accordingly, list this case on 11-06-2015. Petitioner may file rejoinder affidavit, if any, to the additional affidavit filed by the respondent at least one week before the next date. On that day, an attempt shall be made to dispose of the petition at the admission stage.

**JUDGE**

S.Rynjah

Compet. No.8/2013

BEFORE  
THE HON'BLE MR. JUSTICE T NANDAKUMAR SINGH

18.05.2015

List this case on 11-06-2015.

**JUDGE**

S.Rynjah

MC[WP(C)] No. 96 of 2015  
in WP(C) No.114/2015

BEFORE  
THE HON'BLE MR. JUSTICE T NANDAKUMAR SINGH

18.05.2015

In view of the order passed in WP(C) No. 114/2015, this  
MC[WP(C)] No. 96/2015 shall stand disposed of.

**JUDGE**

S.Rynjah

WP(C) No.114/2015

BEFORE  
THE HON'BLE MR. JUSTICE T NANDAKUMAR SINGH

18.05.2015

Mr. K.P. Bhattacharjee, learned counsel appearing for the petitioner and also Mr. N.D.Chullai, learned Sr. GA, assisted by Mr. H.Kharmih, learned GA appearing for the respondents No. 1 to 6.

2. Issue notice returnable 4(four) weeks.

3. Petitioner is to take steps for service of notice to respondents No. 7, 8 and 9 by registered post with AD within a period of 4(four) weeks.

4. In support of interim prayer, Mr. K.P.Bhattacharjee, learned counsel appearing for the petitioner contended that the Secretary, Rajabala Higher Secondary School, West Garo Hills District, issued an advertisement in the Shillong Times dated 06-01-2015 inviting applications in Standard Form for the post of Assistant Teacher (Arts) at Rajabala Higher Secondary School. In response to the advertisement, petitioner had filed the application for the said post. The petitioner also received a call letter dated 19-01-2015 for interview for the said post fixed on 20-01-2015. Mr. K.P.Bhattacharjee, learned counsel appearing for the petitioner contended that the Government of Meghalaya had implemented the N.C.T.E, standing guidelines which prescribed that all the teachers at Higher Secondary level are to be Graduate with B.Ed. In support of his contention, Mr. K.P.Bhattacharjee, learned counsel appearing for the petitioner has drawn the attention of this Court to the letter of Director of Higher & Technical Education, Meghalaya, Shillong dated 12-01-2007 (Annexure:C-2 to the writ petition) which read as follows:

“OFFICE OF THE DIRECTOR OF HIGHER &  
TECHNICAL EDUCATION: MEGHALAYA,  
SHILLONG.

No. E,G,T/Appt/2/2006/107

Dated Shillong the 12<sup>th</sup> January, 2007.

*From:* Shri W.Khylllep, M.C.S.  
Director of Higher & Technical  
Education, Meghalaya, Shillong.

*To :* The Inspector of Schools,  
Shillong/Nongpoh/Nongstoin/Jowai/  
Williamnagar/Tura/Baghmara.

*Subject:* Appointment of Asstt. Teacher in Deficit  
Secondary Schools.

Sir/Madam,

*On the subject cited above, I am to state that for the improvement of the quality of Educator it is desired to implement the N.C.T.E, standing guidelines which are mandatory which prescribed that all the teachers at Secondary level are to be Graduate with B.Ed. As such you are hereby informed to ensure all vacancies in Deficit Secondary Schools should be filled up by B.Ed. degree holder. Failing which no approval should be accorded from this office or your office. This shall come into force with immediate effect.*

*Further the appointment against the B.Ed. deputation vacancies should also be made with B.Ed. candidates.*

*All the Schools concerned may be informed accordingly.*

*Yours faithfully,*

*Sd/- W.Khylllep,  
Director of Higher & Technical  
Education, Meghalaya, Shillong”.*

5. Copy of the Regulation called the National Council for Teacher Education (Determination of Minimum Qualifications for Recruitment of Teachers in Schools) Regulations, 2001 is also annexed to the present writ petition. Under that

Regulation, the minimum academic and professional qualification for the post of Teachers in Higher and Secondary School are Graduate with Bachelor of Education (B.Ed) or four years integrated B.Sc., B.Ed or equivalent course.

6. Learned Sr. counsel, Mr. N.D.Chullai, appearing for the State respondents is not denying the said letter of the Director of Higher & Technical Education, Meghalaya, Shillong dated 12<sup>th</sup> January, 2007 which has been quoted above. Mr. K.P.Bhattacharjee, learned counsel appearing for the petitioner contended that the respondent No.9 is not having the qualification of B.Ed. which is the essential minimum qualification for appointment to the post of Assistant Teacher in the Higher Secondary School. Therefore, it is his submission that the respondent No.9 is not even eligible for appointment to the post of Assistant Teacher in Rajabala Higher Secondary School. On considering the submission of learned counsel appearing for the petitioner and also on perusal of the records, it appears that prima facie case has been made out for passing an interim. In the interim, it is provided that the operation of the impugned appointment order dated 21-01-2015 for appointing the respondent No.9 Smti. Jesmin Jahir, as Assistant Teacher (Arts) in Rajabala Higher Secondary School (Deficit Secondary Level) and approval order/letter dated 23-01-2015 of the Director of School Education & Literacy, Govt. of Meghalaya, Shillong shall remain suspended until further order. However, liberty is granted to the respondent to file an application for modification of the interim order.

7. List this case on 15-06-2015.

**JUDGE**

S.Rynjah

WP(C) No.115/2015

BEFORE  
THE HON'BLE MR. JUSTICE T NANDAKUMAR SINGH

18.05.2015

Heard Mr. A.S.Siddiqui, learned counsel appearing for the petitioner and also Mr. N.D. Chullai, learned Sr. GA, assisted by Mr. H.Kharmih, learned GA appearing for respondents No. 1, 2 and 4 and Mr. S. Dey, learned counsel appearing for the respondent No.3.

2. Issue notice returnable 6(six) weeks.
3. No formal notice need be issued as respondents have entered appearance through their learned counsel.
4. One of the prayers sought for in the present writ petition is "to quash the eviction notice dated 13-11-2014 issued by the Deputy Commissioner, West Garo Hills, Tura." It is the submission of Mr. N.D.Chullai, learned Sr. GA appearing for the respondents No. 1, 2 and 4 that the persons to whom the said eviction notice had been issued for evicting them from the land of the Tura Civil Hospital had already filed a joint writ petition being WP(C) No. 373/2013. This Court after hearing the submission of learned counsel appearing for the parties and also after perusal of the affidavit-in-opposition filed by the respondent had passed the final judgment and order dated 24-07-2014 in WP(C) No. 373/2014 wherein the Deputy Commissioner, West Garo Hills District, Tura is directed to take appropriate steps as provided under the Meghalaya Public Premises (Eviction of Unauthorised Occupants) Act, 1980, for evicting the petitioners (petitioners of that writ petition). It was also made clear that the petitioners (petitioners of that writ petition) should not be evicted without hearing them as provided under Section 4 of the said Act, 1980. Since the matter involves public interest, there should not be any delay on the part of the Deputy Commissioner, West Garo Hills District, Tura in taking up necessary steps as provided under

the said Act, 1980 and the Deputy Commissioner, West Garo Hills District, Tura shall complete all exercise within a period of 2(two) months from the date of receipt of a certified copy of the judgment and order. Para No. 3, 4, 5, 6 ,7 and 8 of the earlier judgment and order of this Court dated 24-07-2014 read as follows:

*“3. It is stated in the writ petition that the petitioners are residing for generations by constructing their houses in the land-in-question. It is also further stated that as per the customary practices of Garo people, lands are divided spatially, which are known as Akhing. The Nokma being the manager of the Akhing, he manages and allots plots of lands to the residents residing within the Akhing. The said right of the Nokma is also recognized by the Garo Hills Autonomous District Council which is a creation of Sixth Schedule to the Constitution of India. The rights of the petitioners to the land-in-question, where the petitioners alleged to have been constructed their houses and resided therein for generations are based on the allotment/certificate issued by one Smti. Enilla Ch. Marak, Nokma. It is also the further case of the petitioners that the said land is a part of the Akhing and accordingly, Smti. Enilla Ch. Marak being the Nokma of the said Akhing issued the said allotment/certificate order. Copy of the said allotment/certificate order is annexed at Annexure-1 to the writ petition. On perusal of the Annexure-1 to the writ petition, it is clear that the said allotment/certificate is an undated one.*

*4. The further case of the petitioners in the writ petition for challenging the said impugned notice dated 06.12.2013 was that the Superintendent Tura Civil Hospital, West Garo Hills, Tura is not the competent authority for issuing the impugned Notice dated 06.12.2013 asking the petitioners to vacate the said land. For evicting the petitioners from the said land-in-question, the respondents have to follow the procedures prescribed for eviction under the “Meghalaya Public Premises (Evictions of Unauthorized Occupants) Act, 1980 (for short ‘the said Act of 1980’).*

*5. The State respondents had filed their affidavit-in-opposition wherein, it is clearly stated that the petitioners are the illegal occupants and encroachers of the hospital land settled in favour of the Tura Civil Hospital. Para 5 of the affidavit-in-opposition filed by the respondents read as follows:-*

“5. That in reply to para 2 of the writ petition, the respondent while denying the contention of the petitioners as false and baseless, states that the petitioners are not residing within Danakgre Akhing land of West Garo Hills. They are in fact the illegal occupants and encroachers of Hospital land settled in favour of the Tura Civil Hospital, Tura by the Garo Hills Autonomous District Council (GHADC). The said land measuring an area of B 142-K 1-L 13, covered by Dag No.7 of Tura De-reserved Forest was handed over by the GHADC in the month of August 1973 to the then Civil Surgeon of Tura vide Possession Certificate dated August, 1973 for the purpose of construction of 100 bedded Civil Hospital. Subsequently, an additional plot of land measuring an area of B 8-K 2-L 6, covered by Dag No.18 of Tura De-reserved Forest was also handed over vide letter No.GDC-REV/346/70/128-32 dated 22.4.1977 to the Civil Hospital Tura for use and expansion of the Hospital. Therefore, in total, the Tura Civil Hospital has in its possession 150 Bighas-3 Kattas and 19 Lesas of Tura De-reserved Forest Land. Mention may be made that the aforesaid land had all along been Reserved Forest and the same was subsequently de-reserved for the purpose of constructing the abovementioned 100 bedded Civil Hospital for the benefit of the people of Garo Hills as a whole. Hence, it is vehemently denied that the Akhing Nokma under GHADC has any right over the said plot of land and more so when the land in question has been transferred to the Government.

It is further submitted that the Nokma Document vide Annexure-I of the writ petition is false as it has been allegedly issued by Smti. Enilla Ch. Marak, Nokma Danakgre Akhing, who became the Nokma only in the month of April, 2011. As per Garo Customary Law, (L) Watre Ch. Marak, mother of Smti.Enilla Ch. Marak, ought to have issued the Nokma document as (L) Watre Ch. Marak was recorded Nokma of Danakgre Akhing till her death in 2011. It is pertinent to mention herein that when the Government of Meghalaya acquired more than 750 Bighas of land for the purpose of building Government Offices during the year 1972-73, it was (L) Watre Ch. Marak and her husband Najing Nokma who parted with the Akhing land and

for which they received due compensation on behalf of the Chambugong Maharis. It is therefore, reiterated that the contention of the petitioners is false and baseless and hence is liable to be rejected.

(Copy of the Possession Certificate, letter dated 19.4.1977 and Handing Over Possession of Land dated 22.04.1977 is enclosed as Annexure-I).”

**6.** The case of the respondents in their affidavit-in-opposition is clear from para 5 of the affidavit-in-opposition, which had been quoted above. According, to the State respondents, the land measuring an area of B 142-K 1-L 13 covered by Dag No.7 of Tura De-reserved Forest was handed over by the GHADC in the month of August, 1973 to the then Civil Surgeon of Tura Civil Hospital vide Possession Certificate dated August, 1973 for the purpose of construction of 100 bedded Civil Hospital. Subsequently, an additional plot of land measuring an area of B 8-K2-L 6, covered by Dag No.18 of Tura De-reserved Forest was also handed over vide letter No.GDC-REV/346/70/128-32 dated 22.04.1977 to the Civil Hospital Tura. When the Govt. acquired the said land for the purpose of building Govt. Hospital during the year 1972-73, one (L) Watre Ch. Marak and her husband Najing Nokma, who parted with the Akhing land had received due compensation on behalf of Chambugong Maharis. Smti. Enilla Ch. Marak became Nokma only in the month of April, 2011. As per the Garo Customary Law (L) Watre Ch. Marak, mother of Smti. Enilla Ch. Marak became the Nokma and continued to be the recorded Nokma of Danakgre Akhing till her death in 2011.

**7.** Therefore, it is the case of the State respondents that when the said land was handed over to the then Civil Surgeon, Civil Hospital, Tura in the month of August, 1973, the said Smti. Enilla Ch. Marak was not a Nokma of Danakgre Akhing and (L) Watre Ch. Marak was the recorded Nokma of Danakgre Akhing and (L) Watre Ch. Marak and her husband Najing Nokma had already received due compensation. The State respondents in their affidavit-in-opposition further stated that the respondent No.3 received a letter dated 05.04.2013 from the office of the Meghalaya State Pollution Control Board, Shillong, with regard to the management of bio-medical waste at Tura Civil Hospital, directing the Tura Civil Hospital to comply

*with the provision of BMW (Management & Handling) Rules, 1998. For easy reference, the said letter dated 05.04.2013 from the Member Secretary, Meghalaya State Pollution Control Board is quoted hereunder:-*

*“MEGHALAYA STATE POLLUTION CONTROL  
BOARD*

*‘ARDEN’ LUMPYNGGAD,*

*SHILLONG – 793014*

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*No.MPCB/BMW-3/2013-2014/122*

*Dt: Shillong the 5<sup>th</sup> April, 2013*

*To,*

*The Medical Superintendent,  
I/C Tura Civil Hospital, Tura  
West Garo Hills District.*

*Sub: Management of bio-medical waste at Tura  
Civil Hospital.*

*Sir,*

*With reference to the above, this is to inform that during an inspection of Tura Civil Hospital carried out on 26/02/2013 by the Board’s official and it was found that the implementation of the provision of the BMW (Management & Handling) Rule, 1998 has not been followed.*

*In this regard you are hereby directed to take corrective measures for full implementation of the provision of the BMW (Management & Handling) Rule, 1998:*

- The hospital should segregate its bio-medical waste as per the system prescribed in scheduled II (enclosed) of the BMW Rules, 1998.*
- Considering the likelihood of mixing of bio-medical waste it is strongly recommended that proper colour codes and labeling to be followed for identification of the different bio-medical waste. It is also mandatory for the colour codes and labels to be prominently visible and unwashable.*
- Proper care should be taken to avoid mixing of bio-medical waste with non-bio-medical waste.*
- To construct a sharps pit for disposal of Category -4 (Sharp waste).*

- *Shredder should be procured for shredding of BMW (Syringes, Tubings, Catheters, I.V. Bottles, etc.) to reduce the volume of waste.*
- *Autoclaving of wastes should be practice before disposal for which specific autoclave shall have to be provided for the purpose.*
- *To stop the burning of bio-medical waste immediately and to follow the standard of deep burial as prescribed in scheduled-V.*
- *To prevent spreading of infections/water borne diseases it is recommended that the Category 8 (Liquid Waste) is disinfected prior to disposal to discharge to municipal drains.*
- *The incinerator installed in Tura Civil Hospital, Tura is not in operation. Therefore, you are directed to take up the matter with Director of Health Services (MI), Meghalaya, Shillong for early commissioning and operation of the said incinerator so as to ensure treatment and disposal of incinerable bio-medical waste in accordance to the standards prescribed under the Bio-medical Waste (Management & Handling) Rules, 1998.*

*You are requested to submit an action taken report to the Board at the earliest.*

*Yours faithfully,*

*Sd/-*

*Member Secretary  
Meghalaya State Pollution Control Board,  
Shillong.”*

**8. Tura Civil Hospital is required to take up immediate steps for compliance with the requirement as provided under BMW (Management & Handling) Rules, 1998 by constructing a sharps pit for disposal and other structures for management of bio-medical waste at Tura Civil Hospital and for such compliance, the petitioners who are the unauthorized occupants of the land of the Tura Civil Hospital are required to be vacated and accordingly, the Superintendent, Tura Civil Hospital issued the impugned letter dated 06.12.2013.”**

5. Pursuant to the order of this Court dated 24-07-2014 passed in WP(C) No. 373/2014, the Deputy Commissioner, West Garo Hills District, Tura issued a show cause notice dated

13-11-2014 to the writ petitioners of the said writ petition. The petitioners of the said writ petition had filed show cause statement and ultimately the Deputy Commissioner had passed the order dated 11-11-2014 with the findings that the aggrieved parties/encroachers have no locus standi and in the interest of development of the public welfare, namely construction and commissioning of the incinerator set up earlier and to complete other related activities, undertaken by the authorities of Tura Civil Hospital, the claim of the aggrieved parties/encroachers are set aside and fit to pass an order of eviction under Section 4 of the Meghalaya Public Premises (Eviction of Unauthorised Occupants) Act, 1980. The Court has also given anxious consideration to the said reasoned order of the Deputy Commissioner dated 11-11-2014.

6. The parties/encroachers being aggrieved with the said order of the Deputy Commissioner, dated 11-11-2014 preferred an appeal being Revenue Appeal No. MBR/RA. No. 6 of 2014 before the Meghalaya Revenue Board. The full bench of the Meghalaya Revenue Board consisting of Hon'ble Chairman Mr. B.K.Dev Varma, Hon'ble Member Mr. R.M.Mishra and Hon'ble Member Mr. Y.Tsering, after considering the case of the said encroachers and also the case of the said respondent, passed the judgment and order dated 22-04-2015 for rejecting the appeal filed by the said encroachers. Mr. N.D.Chullai, learned Sr. GA appearing for the respondents No. 1, 2 and 4 by drawing the attention of this Court to the said relief i.e. "to quash the eviction notice dated 13-11-2014 issued by the Deputy Commissioner, West Garo Hills District, Tura," contended that the present writ petition is a proxy writ petition inasmuch as the said parties/encroachers to whom the said eviction notice dated 13-11-2014 had been issued by the Deputy Commissioner, West Garo Hills District, Tura are neither approaching this Court nor filing the present writ petition. To the contra, Mr. A.S.Siddiqui, learned counsel appearing for the petitioner contended that as many as 350 persons are occupying the land of the Tura Civil Hospital, but none of the 350 encroachers has approached this Court.

7. For the foregoing discussion and consideration, this Court is of the considered view that there is no prima facie case for passing interim. Accordingly, prayer for interim is rejected.

8. List this case on 29-06-2015.

**JUDGE**

S.Rynjah