

**Cont.Cas(C) No. 29 of 2013**

**19-2-2014**

**HON'BLE THE CHIEF JUSTICE**

Shri HL Shangreiso, Advocate, present for the petitioner.

Learned counsel for the petitioner prays for and is allowed to take steps for service of notice on respondent No. 2, Shri B.K.Syiem (Syiem of Myriaw) with correct particulars.

Issue fresh notice to respondent No.2.

List after 4(four) weeks.

**CHIEF JUSTICE**

S.Rynjah

**CONT.CAS(C) No. 24/2013**

**HON'BLE THE CHIEF JUSTICE**

**19.02.2014**

Miss B.Das, Advocate present for the petitioner.

Shri. P.Yobin, Advocate present for the respondents  
No. 1, 2 and 5.

Shri. B.Khyriem, Advocate present for the  
respondents No. 3 and 4.

Affidavit-in-opposition has been filed on behalf of  
respondents No.1, 2 and 5. Same be taken on record.

Learned counsel for the petitioner prays for and is  
allowed 3 (three) weeks time to file the rejoinder affidavit.

List after 3 (three) weeks.

**CHIEF JUSTICE**

*Sylvana*

Misc Case(CR(P) No. 3 of 2014  
IN CR(P) No. 23 of 2011

19.02.2014

HON'BLE THE CHIEF JUSTICE

In view of the judgment and order of the date passed in CR(P)No. 23 of 2011, this Misc. Case also stands disposed of.

CHIEF JUSTICE

dev  
19.02.14

**MC[WP(C)]. No. 12 of 2014**

**19-2-2014**

**HON'BLE THE CHIEF JUSTICE**

In view of the order of the date passed in MC[WP(C)] No. 23 of 2014, since the interim order dated 21-1-2014 has been vacated, as such, no further orders need be passed in this matter. Accordingly, MC[WP(C)] No. 12 of 2014 also stands disposed of.

**CHIEF JUSTICE**

S.Rynjah

# THE HIGH COURT OF MEGHALAYA

**MC[WP(C)]. No. 23 of 2014**

**In WP(C) No. 11 of 2014**

1. Shri Marcello Mawlot, S/o Shri N.Sangriang, R/o Pyndengrei, P.O. Nongstoin, West Khasi Hills District.

**...Applicant**

**-VERSUS-**

1. Shri Pynkmenlang Lyndem, S/o Smti. M.N.Lyndem, Resident of Lower Lachumiere, Shillong, East Khasi Hills District, Meghalaya.
2. The State of Meghalaya, represented by the Secretary to the Government of Meghalaya, PHE Department, Shillong.
3. The Chief Engineer (PHE), Government of Meghalaya, Shillong.
4. The Executive Engineer (PHE) Mairang Division, Mairang.
5. The Deputy Secretary to the Government of Meghalaya, PHE Department, Shillong.
6. The Under Secretary to the Government of Meghalaya, PHE Department, Shillong.
7. The Under Secretary to the Government of Meghalaya, Personal and AR(B) Department, Shillong

**...Opposite Parties.**

Mr.B.Bhattacharjee, Advocate, present for the applicant. .

Mr.HS Thangkhiew, Sr. Advocate, Mr. ND Chullai, Sr. Govt. Advocate, Mr. N.Mozika, Advocate and Mr. S.Sen Gupta, Govt. Advocate, present for the opposite parties.

Date of Order 19th February, 2014.

## ORDER

**(Oral: HON'BLE PRAFULLA. C.PANT, CHIEF JUSTICE)**

Shri B.Bhattacharjee, Advocate, present for the applicant.

Shri HS Thangkhiew, Sr. Advocate, assisted by Shri N.Mozika, Advocate, present for the writ petitioner/respondent.

Shri ND Chullai, Sr. Govt. Advocate, assisted by Shri S.Sen Gupta, Govt. Advocate, present for the respondents – State.

1. Heard.
2. By means of this application, the applicant has sought vacation of the interim order dated 21-1-2014.
3. Brief facts of the case are that the writ petitioner, Shri Pynkmenlang Lyndem was an officiating Lower Division Assistant (for short LDA) with Public Health Engineering Department at Mairang. From the papers on record, it appears that the applicant, Shri Marcello Mawlot got selected for the post of LDA cum Typist and his name was recommended by District Selection Committee vide its order dated 16-12-2013 and he was appointed as LDA cum Typist vide order dated 17-1-2014. Consequently, the services of writ petitioner, Shri Pynkmenlang Lyndem were terminated vide order dated 17-1-2014 on which the writ petitioner challenged the termination order by filing WP(C) No. 11 of 2014 in which this court on 21-1-2014 passed an interim order staying the impugned order dated 17-1-2014 till the next date of listing. Hence this stay vacation application MC[WP(C)]. No. 23 of 2014 has been filed by the respondent No. 7, Shri Marcello Mawlot (present applicant).
4. On behalf of the applicant and on behalf of the State respondents, it is argued that the writ petitioner has no right of continuance in the post of LDA as a duly selected candidate has been appointed on said post. Reliance was placed in this connection in the case of ***State of Karnataka vrs Umadevi (2006) 4 SCC page 1*** in which the Apex Court has held that the adhoc appointments etc should not be protected or directed to be regularized by the courts.
5. Learned counsel for the writ petitioner submitted that there is no prayer made by the petitioner for his regularization and it is further submitted that his appointment has been made under Regulation 3(f) as such, he has the right of continuance.
6. However, perusal of the appointment letter of the writ petitioner shows that he was appointed in officiating capacity for 3(three) months till a recommendation is made by the District Selection Committee (for short DSC). As such, the petitioner's appointment letter itself shows the condition that his appointment was to continue only till the recommendation by the DSC. Therefore, once the DSC has recommended the name of the applicant, Shri Marcello Mawlot and he has been appointed, it cannot be said that the writ petitioner has a right

to continuance on the post as he has not been appointed under any selection process.

7. Therefore, stay vacation application {MC[WP(C)]. No. 23 of 2014} is allowed and interim order dated 21-1-2014 stands vacated.

S.Rynjah

**(Prafulla C.Pant)**  
**CHIEF JUSTICE**

**MC[WP(C)]. No. 30 of 2014**

**19-2-2014**

**HON'BLE THE CHIEF JUSTICE**

Smti. S.Bhattacharjee, Advocate, present for the applicants/petitioners.

Shri R.Gurung, Govt. Advocate, present for the respondents No. 1 and 2.

Shri B.Khyriem, Advocate, present for the respondent No. 3.

Heard.

By means of this application, the writ petitioner has sought correction/amendment in paragraph one of the writ petition to place the correct facts on record.

The amendment sought for appears to be bonafide. The same is not opposed by the respondents. Therefore, the amendment application is allowed.

MC[WP(C)] No. 30 of 2014 stands disposed of. Necessary correction to be made in WP(C) No. 25 of 2013.

**CHIEF JUSTICE**

S.Rynjah



**MC[Cont(C)]. No.1 of 2014**

**19-2-2014**

**HON'BLE THE CHIEF JUSTICE**

Shri HL Shangreiso, Advocate, present for the applicant/petitioner.

Heard.

By means of this application, the petitioner has sought correction in the contempt petition No. 29 of 2013.

Learned counsel for the petitioner states that actually the correction in the date mentioned in the prayer clause was required to be made but, inadvertently, it could not be mentioned in the present application. As far as correction in the address of the respondent No.2 is concerned, it appears that correction has already been made in the contempt application.

In the circumstances, this correction application (MC[Cont(C)] No. 1 of 2014) is disposed of with the direction that the petitioner/applicant is allowed to make correction in the prayer clause in the contempt petition and instead of "11.11.2011", "3.12.2011" is allowed to be substituted.

**CHIEF JUSTICE**

S.Rynjah

**WP(C) No. 285/2013**

**HON'BLE THE CHIEF JUSTICE**

**19.02.2014**

Shri. R.Jha, Advocate, present for the petitioner.

Shri. R.Deb Nath, Advocate present for the respondents.

Learned counsel for the petitioner submitted that copy of affidavit-in-opposition have not been served on him. It is directed that copy of affidavit-in-opposition be supplied by the respondents' counsel to the petitioners' counsel.

List after 3 (three) weeks. Meanwhile, the petitioner may file the rejoinder affidavit to the counter affidavit within a period of 3 (three) weeks.

**CHIEF JUSTICE**

*Sylvana*

**WP(C) No. 297/2013**

**HON'BLE THE CHIEF JUSTICE**

**19.02.2014**

Shri. R.Mazumdar, Advocate, present for the petitioner.

Shri. R.Deb Nath, CGC present for the respondents.

Learned counsel for the petitioner prays for and is allowed further 3 (three) weeks time to file rejoinder affidavit.

List after 3 (three) weeks.

**CHIEF JUSTICE**

*Sylvana*

**WP(C) No. 309/2013**

**HON'BLE THE CHIEF JUSTICE**

**19.02.2014**

Shri. A.H.Hazarika, Advocate, present for the petitioner.

Shr.H.Kharmih, Govt. Advocate present for the respondents.

Learned counsel for the petitioner prays for and is allowed further 3 (three) weeks time to file rejoinder affidavit.

List after 3 (three) weeks.

**CHIEF JUSTICE**

*Sylvana*

**WP(C). No. 11 of 2014**

**19-2-2014**

**HON'BLE THE CHIEF JUSTICE**

Shri HS Thangkhiew, Sr. Advocate, assisted by Shri N.Mozika, Advocate, present for the petitioner.

Shri ND Chullai, Sr. Govt. Advocate, assisted by Shri S.Sen Gupta, Govt. Advocate, present for the respondents – State.

SHri B.Bhattacharjee, Advocate, present for the respondent No.7.

Learned counsel for the respondents pray for and are allowed further 4(four) weeks' time to file their counter affidavits.

List after 4(four) weeks. It is clarified that in view of the order of the date passed in MC[WP(C)] No. 23 of 2014, as the interim order has been vacated, for the reason that duly selected candidate has been appointed against the post held by the petitioner in officiation, the interim order is not extended further.

**CHIEF JUSTICE**

S.Rynjah

**WP(C) No. 25 of 2013**

**18-2-2014**

**HON'BLE THE CHIEF JUSTICE**

Smti. S.Bhattacharjee, Advocate, present for the applicants/petitioners.

Shri R.Gurung, Govt. Advocate, present for the respondents No. 1 and 2.

Shri B.Khyriem, Advocate, present for the respondent No. 3.

Affidavit-in-opposition has been filed on behalf of respondents No. 2 and 3.

Learned counsel for the petitioners prays for and is allowed 3(three) weeks' time to file the rejoinder affidavit.

List after 3(three) weeks. The petitioners are allowed to make the amendment/correction in paragraph one of the writ petition in terms of order of the date passed in MC[WP(C)] No. 30 of 2014.

**CHIEF JUSTICE**

S.Rynjah

