

BEFORE
THE HON'BLE MR JUSTICE UMA NATH SINGH, CHIEF JUSTICE
THE HON'BLE MR. JUSTICE T. NANDAKUMAR SINGH

18.05.2015

(Uma Nath Singh, CJ)

Heard Mr. GS Massar, and Mr. HS Thangkhiew, learned senior counsel appearing for the petitioner/contemnor.

1. Mr. Adelbert Nongrum, the contemnor made statement in public undermining the dignity and authority of this Court by saying that he “**dares Court to hold him in contempt**” which was published on 31.12.2014 under the caption “KHADC CEM dares court to hold him in contempt” in the local daily “The Meghalaya Times” . This statement of Mr. Adelbert Nongrum, the contemnor daring the authority of the Court has scandalized lowered the authority of this Court and interfered with the due cause of judicial proceedings.

2. Mr. Adelbert Nongrum, the contemnor made a further statement in public lowering the authority of Court which was reported in ‘The Shillong Times’ on 08.01.2015. The statement reads as : “**High Court Judge S.R Sen had passed the judgment by taking into account of a single case in which two parties had already arrived to a compromise and that all the political parties should jointly voice their concern against the ruling of the Court**” and he further made that “**he strongly suspect that there is a hidden agenda against the indigenous community behind this ruling**”. The above statement was published under the Heading/Caption “Council to challenge judgment against traditional bodies KHADC files appeal against the High Court ruling”.

3. For those contemptuous statements, the learned Single Judge (Hon’ble S.R. Sen, J.) vide order dated 14.01.2015 issued Notice to the contemnor to be present personally and to file his show cause statement on or before 27.01.2015 without fail. In response thereto, the contemnor appeared before the learned Single Judge on 27.01.2015. The learned Single Judge asked the contemnor as to what encouraged him to lower the authority of the High Court by making statement in public that he “dared the Meghalaya High Court to hold him in contempt and to punish him for the same” which had appeared in ‘the Meghalaya Times’ a daily newspaper dated 31.12.2014. The contemnor was also asked to explain as to what prompted him further to give another scandalous statement that “**!**

strongly suspect that there is a hidden agenda against the indigenous community behind this ruling”, that appeared in ‘The Shillong Times’ daily newspaper dated 08.01.2015. The contemnor failed to give any satisfactory answer to the said queries put across by the Court in respect of the said statements given by him. He, rather stated in his oral reply that **he is a constitutional functionary, so he should have been consulted before passing the judgment and order dated 10.12.2014 passed in WP(C)No.363/2014, though he was not a party**. This only goes to show that he considers himself to be above the High Court. Accordingly, the learned Single Judge passed the order dated 27.01.2015 that there is prima facie material for criminal contempt proceeding against the contemnor and directed that the matter be placed before the Hon’ble Chief Justice to constitute an appropriate Bench for taking up this case containing the statements that scandalized the authority of Court and constituted a case of criminal contempt of court. Accordingly, the matter was placed before the Division Bench for initiating criminal contempt proceeding. The operative portions of the order of the learned Single Judge dated 27.01.2015 read as follows:-

*“2. Further, when respondent No. 1 was personally asked, whether he has made such statement, he answered in affirmative. Though, in his affidavit he has stated that, he is ready to tender his apology but from his body language and conduct it appears that, there is no repentance or realization on his part. Mr. Nongrum respondent No. 1, when asked what encouraged him to say that, **“dared the Meghalaya High Court to hold him in contempt and to punish him for the same”**, which appeared in Meghalaya Times a daily newspaper dated 31st December 2014. He was also asked to explain, what exited him further to give a statement that, **“I strongly suspect that there is a hidden agenda against the indigenous community behind this ruling”** which appeared in Shillong Times dated 8.01.2015. (He gave this statement against the Judgment & Order dated 10.12.2014 passed in WP(C) No. 363 of 2014).*

3. The respondent No. 1 failed to place any satisfactory answer to the queries put by this Court against the statement given by him as quoted above. Hence, it is clear that whatever apology he mentioned in his affidavit is nothing but mere paper and hollow apology only. However, in the middle of dictation of this order he said that, he has tendered his apology.

4. He rather stated that, he is a constitutional functionary, so he should have been consulted before passing the Judgment & Order dated 10.12.2014 passed in WP(C) No. 363 of 2014, though he was not a party. In hostile manner he asked the court to remain patient and was trying to provoke the court repeatedly prior to the dictation of this order.

5. For such slur, mudslinging and bald statement against the Judge of the High Court in particular and High Court in general without any basis, and today his conduct in court room have definitely affected the

majesty of law and has shaken the confidence of the people upon the judiciary, hence, such paper and hollow apology is not at all acceptable.

6. The author of the judgment passed in WP(C) No. 363 of 2014 had never written any judgment or order with any hidden agenda. A Judge does not have any caste, religion or language or any personal agenda and he is above all those practices and his only motive is to render justice and to ensure that rule of law to prevail and dignity of the Constitution to be upheld. I mentioned that, this Court is not against any customs or usages or against any practice unless it is unreasonable. Customs and usages cannot be rigid but it is always flexible and changes with times as per the requirements of the people at large. It is also a fact that, there was no such practice that headman to issue NOC or to interfere with the work of the District Administration as well as Police Administration. I further made it clear that, no custom or usage can supersede the statutory law and fundamental rights of a person as granted by the Constitution of India, So, any practice or usage which is contradictory with the Constitution of India, statute or principle of natural justice, such custom and usage cannot continue. Truth and rule of law to prevail and dignity of Constitution to be upheld at any cost."

4. The Division Bench thus registered the criminal contempt proceeding against the contemnor. The contemnor thereafter filed a Special Leave to Appeal being SLP (Crl) No. 1716/2015 against the said order of the learned Single Judge dated 27.01.2015 passed in CRL.OP(C) No.1/2015. The said SLP (Crl) No.1716/2015 was disposed of by the Hon'ble Apex Court by passing the order dated 13.03.2015 requesting the Division Bench to expeditiously decide the contempt petition pending before it without being influenced, in any manner. The said order of the Apex Court dated 13.03.2015 passed in SLP (Crl) No.1716/2015 reads as follows:-

"ITEM No. 12+58

COURT No.12

Section II

*S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S*

Petition (s) for Special Leave to Appeal (Crl.) No (s). 1716/2015

*(Arising out of impugned final judgment and order dated 27/01/2015 in
CRLOP No.1/2015 passed by the High Court of Meghalaya)*

ADELBERT NONGRUM

Petitioner (s)

VERSUS

REGISTRAR GENERAL

HIGH COURT OF MEGHALAYA & ORS Respondent (s)

(with appln. for exemption from filing c/c of the impugned judgment and interim relief)

WITH SLP(C) No...../2015 CC. No.4548-4549/2015

(With appln. for permission to file SLP and interim relief and office report)

Date: 13/03/2015 This petition was called on for hearing today.

CORAM:

HON'BLE MR. JUSTICE VIKRAMAJIT SEN

HON'BLE MR. JUSTICE ABHAY MANOHAR SAPRE

For the Petitioner (s)

Mr. Vijay Hansaria, Sr. Adv.

Mr. H.S.Thangkhiew, Sr. Adv.

Mr. Avnish Pandey, Adv

Mr. Philemon Nongbri, Adv.

Mr. Debashree Saikia, Adv.

Ms. Sneha Kalita, Adv.

For the Respondent (s)

UPON hearing the counsel the Court made the following

O R D E R

Permission to file SLPs is granted.

We have heard learned Senior Counsel appearing for the petitioner. All that we wish to state at this stage is that the Division Bench shall proceed with expedition to decide the contempt petition pending (emphasis supplied) before it without being influenced, in any manner, whatsoever by any observations made in the order dated 27th January, 2015 passed by the learned Single Judge inasmuch as he has found that the proceedings should have been laid before the Division Bench. With these observations, the Special Leave Petitions are disposed of.

**(USHA BHARDWAJ)
AR-CUM-PS**

**(SAROJ SAINI)
COURT MASTER"**

5. During the pendency of the writ appeal against the order passed by learned single Judge (Hon'ble S.R. Sen, J) in which this Division Bench has given opportunity to all the concerned to participate in hearing and the pleadings are yet to be completed and also during the pendency of the contempt proceeding required to be disposed of expeditiously in terms of the above order of the Hon'ble Apex Court dated 13.03.2015 passed in SLP (Crl) No.1716/2015, the contemnor has been continuously making contemptuous statements scandalizing and lowering the authority of this Court beyond repairs and redemption. The contemnor has openly gone to public while throwing challenge that he dares the authority of the Court. This Court having noticed repeated such attempts on the part of the contemnor to scandalize its authority passed an order dated 13.05.2015, which reads as follows:-

"13.05.2015

Mr. G.S. Massar, learned senior counsel, represents the respondents.

Contemnor, Mr. Adelbert Nongrum is said to have been issuing statements against the order of learned Single Judge of the High Court namely, Hon'ble Mr. Justice S.R. Sen and despite being conveyed to exercise restraints he has gone to the Media with open challenge to the authority of the High Court. Such an attempt on the part of contemnor has lowered the dignity of the Court in the eye of general public and shaken the public faith in judicial institutions beyond repairs and redemption. Thus, we direct contemnor, Mr. Adelbert Nongrum to remain present in Court on Monday (18.05.2015). The Superintendent of Police, East Khasi Hills District shall ensure his appearance on the date fixed. We also restrain all the print and electronic media from publication as well as televising the statements of the contemnor, if any, made hereinafter.

The Registry shall place on record all the statements issued/made by the contemnor from time to time in connection with the impugned order after the matter has been remanded to this Court by the Hon'ble Supreme Court for consideration. Let a copy of this order be sent to State Information and Public Relations Department and also to all the print and electronic media for compliance. List this matter on 18.05.2015."

6. Towards the above order, the contemnor is present in Court. He states that he does not subscribe and read all the newspapers but he admits that he is a regular subscriber of 'the Shillong Times'. The Shillong Times daily edition dated 07.05.2015 published, a news item under the caption "Political parties, Traditional Heads on "War mode" against High Court ruling on traditional heads", wherein, in the body of the news, the contemnor has been attributed the speech like "the Khasi Hills Autonomous District Council Chief, Shri. Adelbert Nongrum reiterated he would

continue to oppose the High Court ruling till his last breath". The statement of the contemnor was also carried in the daily edition of 'the Meghalaya Guardian' dated 07.05.2015 under the caption, "Unrest cloud looms over High Court ruling". Again in the body of the news item, he has been attributed to have made the statement that he will never agree with the ruling of the Meghalaya High Court. He also spoke that he has challenged the judgment and order of Mr. Justice S.R. Sen and that he would never agree with the order till the last breath. Such contemptuous statements obviously, only go to show his lack of faith in the Rule of law, the Constitution and also the justice dispensation system of the country. If such a person who is throwing an open challenge to the rule of law by indulging in activities also bordering on constituting the offence of sedition is allowed to move freely in the society, he may prove to be a potential threat to the security and integrity of the country. Thus, looking to the offensive conduct of the contemnor inside and outside the Court : for, he is putting an open affront to the authority of this Court and the rule of law and also the very existence of the judicial institutions, we need to exercise our powers of detention in custody under Section 14 of the Contempt of Courts Act read with Article 215 of the Constitution of India against him. We, thus, order accordingly.

7. At this stage, learned senior counsel Mr. G.S. Massar and Mr. H.S. Thangkhiew, make requests that the copies of newspapers as also the charges with show cause notice be supplied to the contemnor. We thus, direct the Registry to supply the photo copy of newspapers as referred to hereinabove and serve the charges of criminal contempt of this Court AS DRAWN HEREIN BELOW:

"WHEREAS the aforesaid material laid before this Court, prima facie, constitutes criminal contempt of Court, you (Adelbert Nongrum) are prima facie found to have committed the criminal contempt of this Court and required to be proceeded against. Hence, the articles of charges are drawn as: (i) that you (Adelbert Nongrum) are hereby charged for committing criminal contempt which is punishable under Section 12 of the Contempt of Courts Act 1971 and Article 215 of the Constitution of India, for making contemptuous statements scandalizing the authority of this Court and lowering its dignity; (ii) that you (Adelbert Nongrum) are charged for committing criminal contempt which is punishable under Section 12 of the Contempt of Courts Act 1971 and Article 215 of the Constitution of India, for daring the authority of the Court in open public by making statements which appeared in local dailies, namely, (1) The Meghalaya Times dated 31.12.2014 and (2) The Shillong Times dated 08.01.2015; (iii) that you (Adelbert Nongrum) are charged for committing criminal contempt which is punishable under Section 12 of

the Contempt of Courts Act 1971 and Article 215 of the Constitution of India, for making continuous contemptuous statements and indulging in activities challenging the authority of this Court and thus interfering with judicial proceedings even after the order of Hon'ble the Apex Court dated 13.03.2015 passed in SLP (Crl) No.1716/2015; and (iv) that you (Adelbert Nongrum) are charged for committing criminal contempt which is punishable under Section 12 of the Contempt of Courts Act 1971 and Article 215 of the Constitution of India, by your conduct and statements which have caused serious prejudice to public faith in the rule of law and the authority of the judicial institutions to administer justice by making scandalizing statements as appeared in 'the Meghalaya Guardian' dated 07.05.2015 and 'the Shillong Times' dated 07.05.2015 during the pendency of the writ appeal as well as the instant contempt proceedings.

8. In answer to what are the charges set out herein above, you (Adelbert Nongrum) are to file your statements of defence and submit show cause on or before the next date of hearing and till then in view of your acts of committing criminal contempt on the face of this Court, you are detained in custody in exercise of powers under Section 14 of the Contempt of Courts Act read with Article 215 of the Constitution of India. The police and Jail authorities are thus directed to admit the contemnor to custody in compliance with this order with further direction to produce him before the Court as and when he (the contemnor) desires to file an application for bail as well as show cause statements for consideration.

9. The Registrar General shall prepare and issue warrant of custody under the High Court Rules in terms of this order. Further, the contemnor through his counsel is granted liberty to mention the matter for listing as and when he decides to file show cause statements as well as application for bail.

JUDGE

CHIEF JUSTICE

Dev/Lam/Sylvana

MC [CRL. OP(C)] No. 2/2015
In CRL.OP(C) No. 2/2015

BEFORE
THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR JUSTICE T NANDAKUMAR SINGH

18.05.2015

Ms. N.G. Shylla, learned counsel, appears for the petitioner/contemnor.

We have heard learned counsel for parties and perused averments made in Misc. Case No. 2/2015 seeking clarification as to the date of release of the petitioner/contemnor who was sentenced to 20 (twenty) days simply imprisonment with a fine of Rs. 1000/- (Rupees one thousand) only. It is stated that the fine amount has been deposited. It is also submitted that the petitioner was detained in custody on 29.04.2015, for committing contempt in the face of the Court. Thus, one day detention on 29.04.2015 be also counted towards calculating the substantive sentence. On due consideration, since the petitioner has deposited the fine amount and is said to have learned the lesson for life with assurance that he will not repeat the act of committing contempt of the Court by violating the orders of Court ever in future, we allow the prayer and direct the Jail authority to count the period of substantive sentence w.e.f. 29.04.2015. Thus, in that case, the petitioner/convict contemnor shall be released from jail on 19.05.2015 and we ordered accordingly.

JUDGE

CHIEF JUSTICE

Sylvana

**BEFORE
THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR JUSTICE T NANDAKUMAR SINGH**

18.05.2015

Mr. R. Deb Nath, learned CGC, appears for the appellants.

Mr. SP Mahanta, learned senior counsel, represents the respondents.

The matter is to remain part heard. List on 25.05.2015.

JUDGE

CHIEF JUSTICE

Sylvana

**BEFORE
THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR. JUSTICE S.R. SEN**

18.05.2015

In terms of written request submitted by Mr Pradeep Rai, Amicus Curiae, for adjournment of the case to 28.05.2015, let this matter be listed on 28.05.2015.

JUDGE

CHIEF JUSTICE

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BEFORE
THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR. JUSTICE S.R. SEN

18.05.2015

Mr A Goel, learned counsel, appears for the petitioner.

Mr ND Chullai, learned senior GA, represents the respondents.

As Dr A Saraf, learned senior counsel engaged to argue the matter is not available and his another matter is fixed on 01.06.2015, let this matter be listed on that date, namely, 01.06.2015.

JUDGE

CHIEF JUSTICE

dev

**BEFORE
THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR JUSTICE T NANDAKUMAR SINGH**

18.05.2015

Mr. Gp. Capt. Karan Singh Bhati, learned senior counsel,
assisted by Mr. P. Nongbri, learned counsel, appears for the appellant.

Mr. A. Goel, learned counsel, represents the respondent.

On joint request, let this matter be listed on 01.06.2015.

JUDGE

CHIEF JUSTICE

Sylvana

WP(C) No. 126/2013
WP(C) No. 16/2013
WP (C) No. 369/2014

BEFORE
THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR JUSTICE T NANDAKUMAR SINGH

18.05.2015

Mr. H.H.L. Shangreiso, and Mr. K.Ch. Gautam, learned counsel, appear for the petitioner in WP(C) No. 126 of 2013 and WP(C) No. 369 of 2014 respectively.

Mr. R. Deb Nath, learned CGC, is for respondents No. 1 & 2.

Mr. K. Khan, learned Addl. Sr. GA, represents respondents No. 3 & 4.

Learned counsel for parties state that they have prepared written submissions in addition to oral arguments which they propose to advance on the next date of hearing. They may file their written submissions in advance and exchange the same between learned counsel for parties. Mr. G.N. Sahewala, learned senior counsel, who has been engaged to argue the matter, is not available today. On a request made on his behalf, we adjourn the matter for 2 (two) weeks. List on 01.06.2015.

JUDGE

CHIEF JUSTICE

Sylvana

MC(PIL) No. 3 of 2015

BEFORE
THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR. JUSTICE S.R. SEN

18.05.2015

In view of the judgment passed today in PIL No. 2 of 2015, this Misc. Case also stands disposed of.

JUDGE

CHIEF JUSTICE

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**BEFORE
THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR. JUSTICE S.R. SEN**

18.05.2015

Mr MZ Ahmed, learned senior counsel, assisted by Mrs B Dutta, learned counsel, appears for the petitioners.

Mrs S Bhattacharjee, learned GA, represents the respondents.

Petitioner No. 1 who is said to be the Headman; and petitioner No. 2, the President of the Federation of Ri-Bhoi District, have filed this Public Interest Litigation on the ground that the guidelines as framed by the Indian Oil Corporation have not been followed in allotting the petrol outlet at Byrnihat. The reason given by them is that the place is likely to become over-crowded with the opening of Petrol Outlet, and may even prove hazardous to the public health. The litigation appears to be prompted by some vested interests who want to achieve their objects indirectly which they would not have achieved directly. The IOC has laid down standard guidelines which are followed before issuing any allotment; the sites are inspected and the interested parties are associated in the exercise, and the ownership of land is also verified. That apart, they have standard procedure to entertain the complaints. The petitioners are not the expert to say that the petrol outlet would prove hazardous to public health. Further, the Guwahati-Shillong road has been widened to 4(four) lanes and the number of vehicles have multiplied, thus, several such petrol

outlets may be required in future. If there is any chance of traffic congestion or over crowding of vehicles, the State Govt. may take care. Hon'ble the Apex Court as also the High Courts have consistently cautioned against entertaining Public Interest Litigation filed by unscrupulous persons for achieving oblique motive on the basis of unfounded allegations. This view has been taken, inter-alia, in the following judgments : ***Sachindanad Pandey vs. State of West Bengal (1987) 2 SCC 295; Ashok Kumar Pandey vs. State of West Bengal (2004) 3 SCC 349; Dattaraj Nathuji Thaware vs. State of Maharashtra (2005)1 SCC 590; R&M Trust vs. Kormangala Residents Vigilance Group (2005) 3 SCC 91; Kusum Lata vs. Union of India (2006) 6 SCC 180; State of Uttaranchal vs. Balwant Singh Chauhal (2010) 3 SCC 402; P Seshadri vs. S Mangati Gopal Reddy (2011) 5 SCC 484, and judgment dated 08.11.2012 of Hon'ble Supreme Court in C.A. No. 7728 of 2012-Ayaaubkhan Noor Khan Pathan vs. State of Maharashtra.*** Hence, the PIL writ petition which is not filed in public interest, being devoid of merit, is hereby dismissed.

JUDGE

CHIEF JUSTICE

dev

**BEFORE
THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR JUSTICE T NANDAKUMAR SINGH**

18.05.2015

Mr. M.F. Qureshi, learned counsel, appears for the appellant.

Mr. S. Sen Gupta, learned GA, represents the respondents.

Learned counsel for the appellant, after some arguments, prays for and is permitted to withdraw writ appeal with liberty to file a review before the learned single Judge. Writ appeal is thus dismissed as withdrawn with the liberty as aforesaid.

JUDGE

CHIEF JUSTICE

Sylvana

MC [WA] No. 37/2015
In W.A. No. 17/2015

BEFORE
THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR JUSTICE T NANDAKUMAR SINGH

18.05.2015

Mr. M.F. Qureshi, learned counsel, appears for the applicant.

Mr. S. Sen Gupta, learned GA, represents the respondents.

In view of the order passed today in W.A. No. 17/2015, this
Misc. Case also stands disposed of.

JUDGE

CHIEF JUSTICE

Sylvana

**BEFORE
THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR JUSTICE T NANDAKUMAR SINGH**

18.05.2015

Mr. H.S. Thangkhiew, learned senior counsel, assisted by MR. P. Nongbri, learned counsel, appears for the petitioner.

Mr. N.D. Chullai, learned senior GA, assisted by Mr. K.P. Bhattacharjee, learned counsel, represents the respondents.

Reports as summoned by the order dated 27.04.2015 have been received in the Registry and placed on record. It appears that the presiding officers of the Court are facing serious problems in the absence of Xerox machine for supplying periodical information to this Court; certified copies of orders to litigants and charge sheets to accused persons. That apart, it also appears that in the absence of posting of adequate strength of police personnel to serve summons and warrants, the disposal of cases is unduly delayed. Learned Advocate General who is present in Court makes a statement that he will advise the State Government to do the needful expeditiously so that the process of trial is not delayed. List the matter after 2 (two) weeks to seek instructions by learned Advocate General. Registry is directed to send copies of the reports to learned senior counsel (Amicus Curiae) appointed to appear for the Meghalaya State Legal Services Authority and also to the Advocate General's office for perusal and making submissions on the next date of hearing. List on 01.06.2015.

JUDGE

CHIEF JUSTICE