

Serial No. 29
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 12 of 2023

Date of Decision: 03.10.2023

Shri. Arwanphai Wanshnong

Vs.

State of Meghalaya & 3 Ors.

Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. R. Kharsyad, Adv.

For the Respondent(s) : Mr. H. Abraham, GA.

- i) Whether approved for reporting in Law journals etc.: Yes/No
- ii) Whether approved for publication in press: Yes/No

Oral:

1. The writ petitioner is before this Court, being aggrieved with a letter dated 19.09.2022, whereby he has been directed to refund the amounts charged from the beneficiaries under the Pradhan Mantri Awaas Yojana -Gramin (PMAY-G) Scheme, on the basis of an enquiry

conducted by the office of the Block Development Officer, Mawsynram C&RD Block on 28th and 29th April, 2021. The stated case of the writ petitioner is that he has not over charged any beneficiaries as alleged and that even on a criminal investigation that has been instituted on the basis of an FIR, nothing incriminating has been discovered against him. He therefore, prays that the impugned order being without any basis and he not being given adequate opportunity to defend himself in the enquiry, be set aside and quashed.

2. On the part of the State respondents, it has been submitted that on receipt of the complaints from the concerned beneficiaries, an enquiry was instituted as per the grievance redressal mechanism provided under the scheme, and in the enquiry, it has been revealed that the writ petitioner instead of charging the nominal Rs.50/- for issuance of NOC, charged an amount ranging from Rs.5000/- to 5700/- from 57 beneficiaries, for construction of the PMAY-G house. He has also submitted that ample opportunity had been afforded to the petitioner to appear in the enquiry, but, he was absent inspite of service of notice. He therefore, prays that directions be issued that the writ petitioner refund the said amounts, as reflected in the enquiry to the beneficiaries named therein.

3. I have heard learned counsels for the parties and examined the materials on record. As submitted, it is seen that on the allegation so made, wherein a complaint had even been lodged before the Hon'ble Governor of the State of Meghalaya, an enquiry was conducted for investigation of the implementation of the PMAY-G Scheme at Elaka Dwara Nongtyrnem Sirdarship on the 28th and 29th April, 2021.

4. A perusal of the enquiry report, reflects that the State respondents had interacted individually through interview module with the 67 members of the listed beneficiaries and in the findings, it has also been observed as follows:

“During the interaction it was also found that 57 nos. of the beneficiaries expressed that they was asked by the Sirdar to pay the amount varying from 5000 to 5700 rupees in order to get the NOC and whosoever failed to make that payment they may not avail the NOC for construction of the PMAY-G houses. Thus, these unnecessary demand has terrified some of the beneficiaries and unwillingly it make them to seek help in the form of loans from the SHGs, burrowing from neighbors and their relatives and some of those beneficiaries has to sell their livestock such as cows and goats in order to make that large sum of money and this in term has affected their livelihood and income.

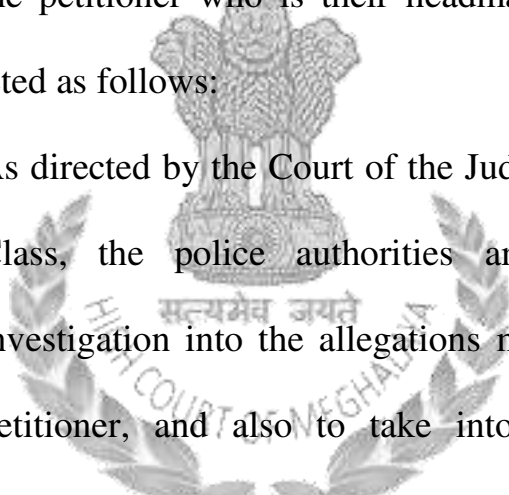
Lastly, when asked for any evidence or proof that the beneficiaries have paid the above mentioned amount in forms of receipts or any other written documents to support their claimed, it was found that none of them were able to produce.”

5. The report goes on to record the personal appearance of the writ petitioner only on 30th April, 2021, on the excuse that the notice was initially received by the Secretary, which had occasioned his non-appearance on the 2(two) dates. However, a showcause reply was filed by him, and the same was put on record. The records further reveal that on the basis of an FIR dated 26.03.2021, a case has been registered and the same was forwarded to the Court, and though a final report had been submitted, vide order dated 25.03.2022, the Judicial Magistrate First Class, had directed for further investigation in the matter.

6. Looking into the entire backdrop of the facts and circumstances of the case, this Court prima facie, is able to discern that the writ petitioner, who is occupying a position of importance as the Sirdar of the concerned villages, has allegedly been found to have indulged in realizing undue amounts from 57 beneficiaries, who have availed of the PMAY-G scheme, a scheme for marginalized citizens to enable them to obtain housing. Though, it has been strongly refuted by the writ

petitioner that there is not a figment of evidence to show that he has ever indulged in such extraction, the report generated by the State respondents, has candidly addressed this issue, taking into account the depressed economic condition of the beneficiaries.

7. Taking into consideration the totality of the case, the fact that matter still stands un resolved, and also the fact that the beneficiaries would naturally be intimidated in any enquiry proceeding before the police against the petitioner who is their headman, in the interest of justice, it is directed as follows:

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- (i) As directed by the Court of the Judicial Magistrate First Class, the police authorities are to complete the investigation into the allegations made against the writ petitioner, and also to take into account any other materials as may be necessary, such as the enquiry report of 28th and 29th April, 2021.
 - (ii) The investigation shall be conducted and completed as expeditiously as possible preferably within 3(three) months from the date of receipt of this order by a responsible officer, to be deputed by the Superintendent of Police, East Khasi Hills District.

- (iii) The writ petitioner it to co-operate fully with the Investigating Authorities in all respects.
- (iv) In the event, that there is any hint of intimidation by the writ petitioner to the named beneficiaries herein, in any manner whatsoever, strict action in accordance with law will be undertaken.
- (v) The State respondents especially the BDO also to co-operate and provide all necessary materials to the Investigating Authorities.

8. These directions have been issued in this order, in view of the fact that, these socially beneficial schemes have been made as to alleviate the poverty of the citizens residing in under developed and far-flung areas, where people have no means to a proper dwelling or pucca house. In the process, if as alleged, such actions are resorted to by the Headman or people in their administrative capacities, instead of assisting the downtrodden, they frustrate the very object of the scheme.

9. As a footnote, this Court would like to observe that it has been constrained to pass the abovenoted directions in the interest of the general public and to help ensure the faithful implementation of projects

meant for the lesser fortunate citizens such as the beneficiaries in this instant case.

10. With the above noted directions, this writ petition stands closed and disposed of.

11. A copy of this order be supplied to the Superintendent of Police, East Khasi Hills as well as the other respondents for compliance.

Judge

Meghalaya
03.10.2023
"D.Thabak-PS"

