

Serial No. 02
Supplementary List I

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 188 of 2023

Date of Decision: 23.06.2023

Smti. Dalinrose Nongshli

Vs.

State of Meghalaya & Ors.

Coram:

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

Appearance:

For the Petitioner/Appellant(s) : Mr. S.R. Lyngdoh, Adv. with
Mr. H.R. Nath, Adv.

For the Respondent(s) : Ms. N.G. Shylla, Sr. GA.

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

JUDGMENT AND ORDER (ORAL)

1. This writ petition has been filed seeking appropriate orders to suspend the Auction Sale of the petitioner's Crusher Unit, which has been notified by the impugned letter dated 07.06.2023.

2. The petitioner submits that though renewal for the consent to operate has been filed before the Meghalaya State Pollution Control Board, that is the respondent No. 4, they were not favoured with the same and the respondent No. 4 had on 20.10.2021, passed an order establishing the fact that, the Crusher Unit was operating illegally and such which was in contravention of the provisions of Sections 24, 25, 44, 45(a) and 47 of the Water (Prevention and Control of Pollution Act, 1974) as well as the Air (Prevention and Control of Pollution Act, 1981). It appears that no appeal has been preferred against the said order. However, there is also the presence of a CR proceedings instituted by the respondent No. 4 against the writ petitioner, which the learned counsel submits is still pending.

3. Ms. N.G. Shylla, learned Senior Government Advocate submits that the writ application is not maintainable, inasmuch as, the petitioner has failed to assail the basic impugned order, wherein an appeal is provided under the Water (Prevention and Control of Pollution Act, 1974) and the Air (Prevention and Control of Pollution Act, 1981) before the National Green Tribunal (NGT).

4. She further submits that the Auction notified under the Assam Land Revenue Regulation Act, 1886, is only a mechanism for recovery of the fine amount which has been levied upon the petitioner.

5. I have heard learned counsels for the parties.

6. After hearing the learned counsels for the parties and on examination of the impugned order, it is noticed that the Auction Notice dated 07.06.2023, has invited for Sealed Tender Bids from intending purchasers in the prescribed format to be deposited by 26th June, 2023 upto 5 PM and the last date for earnest money deposit an application on 28th June, 2023 before the Deputy Commissioner, Ri Bhoi District. At this stage and in view of the facts of the case, there is little scope for this Court to interfere in exercise of powers under writ jurisdiction.

7. In the interest of justice however, the writ petitioner is permitted to file a representation before the Deputy Commissioner, Ri Bhoi District, by Monday the 26th June, 2023 with regard to the proposed Auction of the Stone Crusher Unit. The process of auction however, shall continue as scheduled only that the respondent No. 3 shall withhold the settlement of the Auction to the successful tender till disposal of the representation of the writ petitioner, a week thereafter.

8. Writ petition accordingly stands closed and disposed of.

Judge

Meghalaya
23.06.2023
"D.Thabab-PS"