

**Serial No.02**  
**Regular List**

**HIGH COURT OF MEGHALAYA**  
**AT SHILLONG**

MC (WA) No.16/2023 in  
WA No.22/2023

Date of Order: 19.07.2023

Adarsh Saraswati Mahila Shiksha Vs. State of Meghalaya & ors  
and Gramin Vikas Samiti

**Coram:**

**Hon'ble Mr. Justice Sanjib Banerjee, Chief Justice**  
**Hon'ble Mr. Justice W. Diengdoh, Judge**

**Appearance:**

For the Applicant/Appellant : Mr. F. Hasan, Adv with  
Mrs. M. Rahman, Adv

For the Respondents : Mrs. T. Yangi B, AAG  
Ms. A. Thungwa, GA

i) Whether approved for reporting in Law journals etc.: Yes

ii) Whether approved for publication in press: Yes/No

**JUDGMENT: (per the Hon'ble, the Chief Justice) (Oral)**

In view of the good grounds shown, the delay of about 21 days in preferring the appeal is condoned and the appeal is taken on record.

2. This is a continuation of a thoroughly misconceived petition by which the appellant herein, in effect, sought specific performance of a contract that was terminable by its very nature.

3. The appellant was awarded a contract as a part of the Centrally-funded Jal Jeevan Mission. According to the appellant, since the State of

Meghalaya was recognised as the best performing State in respect of the scheme, the private contractors, including the appellant herein who carried forward the scheme, must have performed adequately. The real grievance of the petitioner is that the petitioner's contract for completion of work in five districts under several phases was terminated by a non-speaking order. The petitioner says that though extensions have been granted to other contractors to finish the uncompleted part of the work in respect of the initial phases, the appellant has been discriminated against and special action taken against the appellant.

4. It appears from the order impugned dated May 5, 2023 that the primary thrust of the State's contention was that the writ petitioner had concealed facts and had suppressed material in obtaining an initial order that the remainder of the contract should not be awarded to any other, if not already awarded by then. In course of the submission, the State pointed out that there was a complaint filed against the persons in control of the appellant herein on the ground that they had attempted to bribe government officials. A copy of the complaint was carried to the writ court.

5. The State also contended that several opportunities had been afforded to the appellant to correct itself and to complete the work within the time schedule that was agreed upon. Indeed, the State claimed that following an earlier show-cause notice, there was a virtual admission on

the part of the appellant herein that it had failed to adhere to the initial timelines.

6. The appellant asserts that the non-speaking order of termination did not indicate to what extent the work was incomplete. There appears to be a serious dispute between the State and the appellant as to whether and, if so, to what extent, the work was left incomplete by the contractor. The writ court reckoned that it was a serious dispute on facts that could not be resolved in proceedings under Article 226 of the Constitution.

7. For the wealth of reasons indicated in the order impugned, the writ court held that the writ petition was liable to be dismissed as not maintainable. Indeed, notwithstanding the wide authority available to a Constitutional Court under Article 226 of the Constitution, there is an element of self-restraint that is exercised. Since writ proceedings are decided on affidavit evidence and on summary procedure, disputed questions of fact which require proof are not entertained. In any event, at the end of the day, the real grievance of the petitioner is that the petitioner has been unfairly treated and has been deprived of the profits that the petitioner was entitled to upon successful completion of the work. Such grievance sounds in money and the relief that the petitioner should pursue should be by way of a suit for damages.

8. Accordingly, WA No.22 of 2023 is dismissed without interfering with the judgment and order impugned dated May 5, 2023, in

view of the good reasons indicated therein. However, nothing in the order impugned will prevent the writ petitioner from instituting an appropriate civil suit for damages, should the writ petitioner be so advised.

9. MC (WA) No.16 of 2023 is disposed of.

10. The appeal fails. There will, however, be no order as to costs.

**(W. Diengdoh)**  
**Judge**

**(Sanjib Banerjee)**  
**Chief Justice**

Meghalaya  
19.07.2023  
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