

**Serial No.44**  
**Regular List**

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

WP(C). No. 411 of 2020

Date of Order :20.06.2023

Smti. Marquis Kharumnuid & 7 Ors.      Vs.      State of Meghalaya & Ors.

**Coram:**

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

**Appearance:**

For the Petitioner/Appellant(s) : Ms. A.Kharshiing, Adv.  
Mr. R.Majaw, Adv.

For the Respondent(s) : Mr. H.Kharmih, Addl. Sr. GA for R 1-4.  
Mr. H.Abraham, Adv. for R 5-7.

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

**(ORAL)**

1. The writ petitioners, by way of the instant writ petition have complained about the alleged misutilisation of funds in the implementation of the scheme for construction of latrines under the Swachh Bharat Mission. The writ petitioners have prayed that an inquiry be conducted against the concerned respondent BDO, as also the private respondent Nos.

6 & 7, for the said alleged misappropriation, besides a prayer against the exclusion of names of the writ petitioner Nos. 5 & 6 from the beneficiary list.

2. Ms. A.Kharshiing, learned counsel for the petitioner submits that in the implementation of the scheme, the sanctioned amount for each beneficiary was not released, but infact, only a portion of the same was disbursed to the beneficiaries. She further submits that after the first list of beneficiaries had been published, the respondents without any approval or authority had released a second list. It has also been contended that in the implementation of the scheme, no proper inspection was carried out, and neither, were the prescribed guidelines for the construction of such latrines followed, which has resulted in loss of public money. She therefore prays that appropriate orders be passed directing for a proper impartial inquiry to be gone into so as to unearth the misappropriation and defalcation of funds by the respondent BDO, as also the private respondent Nos. 6 & 7, and that the amount which stands unreleased to the beneficiaries be released forthwith.

3. Mr. H.Kharmih, learned Addl. Sr. GA appearing for the respondent Nos. 1-4 submits that there has been no illegality in the implementation of the said scheme and that regular inspections were carried out by the respondents for ensuring timely completion of the works. RTI queries to

this effect had also been replied, and that the identification and selection of the beneficiaries, which is the sole responsibility of the village authority had also been undertaken by the said village authorities. Further, he submits that the amounts as due, have been fully released to the beneficiaries and that an FIR which had been filed by the petitioners, which was taken cognizance by the Magistrate, was also subsequently withdrawn, and the accused therein were all acquitted.

4. The learned Addl. Sr. GA also submits that the errors that have crept in, in the list of beneficiaries had also been corrected and duly submitted to the office for records vide letter dated 23<sup>rd</sup> September, 2018, and the same has been annexed at Annexure-I to the affidavit filed by the State respondents. He finally submits that no irregularities have been committed and the scheme had been implemented in accordance with the relevant guidelines and directions.

5. Mr. H.Abraham, learned counsel appearing for the private respondents has placed reliance on his affidavit and submits that all the beneficiaries in the list as provided, have received benefits of the scheme and that the duly constituted Committee of the village has also corrected the list and submitted the same to the office of the BDO and that the name of petitioner No. 8 at Serial No. 120 which was repeated at Serial No. 123 had been corrected. In the execution of the project, learned counsel

submits that public meetings were conducted by the Committee, wherein the beneficiaries have been explained about the scheme and also the audit report was read out in detailed in the public meetings, which was accepted by the beneficiaries. He finally submits that the entire scheme of sanitation was implemented in a transparent manner and no eligible beneficiary was denied to avail the benefit under the scheme. He therefore, submits that there being no merit in the writ petition, the same may not be entertained.

6. I have heard learned counsel for the parties. A perusal of the writ petition along with the affidavits as placed, shows that the only point in issue is with regard to the grievance of the writ petitioners in the manner of implementation of the scheme, wherein allegations have been made that the beneficiaries were not paid the full amount. On the earlier occasion of hearing, Ms. A.Kharshiing, learned counsel for the petitioner had sought time to obtain instructions to validate the averments made in the writ petition as to the allegation of misappropriation and deprivation of certain beneficiaries. Though an averment had been made at para 28 of the writ petition that the implementing agency, respondent Nos. 6 and 7 had distributed between Rs. 3000/- to Rs. 9000/- only to some beneficiaries of the list of 145 and the list of 174, no materials have been placed to substantiate this contention.

7. The point in issue it is noted stands clearly in the realm of disputed facts. Further, as pointed out by the learned Addl. Sr. GA, the FIR on which Pynursla P.S. Case No. 33(10) 2018 was registered, was also withdrawn by the writ petitioners and the accused therein were acquitted.

8. Faced with this situation, and in view of the disputed facts that are involved in the instant matter, wherein a Court in writ jurisdiction is not in a position to discern and ascertain the competing rights and claims of the parties, the instant writ petition is not entertained and is accordingly dismissed.

9. Parties to bear their own cost.



Meghalaya  
20.06.2023  
"Samantha PS"