

Serial No. 69-112
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 352 of 2022 with
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Date of Decision: 04.10.2023

Chanchal Debanth	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Hiralal Deb	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Pronob Sarkar	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Niklesh Malakar	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Abhinash Deb	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Bipul Das	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Dilip Ranjan Dey	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Samar Sarkar	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Amio Das	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Hirok Roy	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Bishnu Paul	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Sujit Das	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Monoranjan Das	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Bakul Das	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Biplob Dey	Vs.	The Syiem/Acting Syiem of Sohra Syiemship

Ramakanta Chanda	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Probito Das	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Alok Das	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Bikash Das	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Adhir Das	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Sandeep Dey	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Rahul Roy	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Ashish Debnath	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Sudhangshu Das	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Abhinash Deb	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Pradeep Sinha	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Himadri Roy	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Subroto Das	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Sanjib Das	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Sajib Debnath	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Nripesh Dey	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Milon Kumar Das	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Shankar Dey	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Monju Das	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Ankur Das	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Jhuntu Das	Vs.	The Syiem/Acting Syiem of Sohra Syiemship

Nripesh Dey	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Debashish Dey	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Binayak Roy	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Mintu Debnath	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Atul Das	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Moloy Das	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Ranatlal Dey Alias Ratanlal	Vs.	The Syiem/Acting Syiem of Sohra Syiemship
Sanjay Chakraborty	Vs.	The Syiem/Acting Syiem of Sohra Syiemship

Coram:

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

Appearance:

For the Petitioner/Appellant(s) : Mr. S. Dey, Adv.

For the Respondent(s) : Dr. F.L. Nonglait, Adv. (For R 1)
Mr. V.G.K. Kynta, Sr. Adv. with
Ms. C. Nongkhlaw, Adv. (For R 2)

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

- This batch of writ petitions which deal with the issuance of
Trading Licenses under the *United Khasi-Jaintia Hills District*

(Trading by Non-Tribals) Regulation, 1954, is a second round of litigation before this Court. Whereas, in the first round, the writ petitioners were aggrieved with the non-issuance of an NOC by the respondent No. 1, which had effectively stalled the process of renewal, in these writ petitions, the petitioners are aggrieved with the requirements stipulated in the form format issued by the respondent No. 1 for grant of NOC, which they assert are not relevant, and without any authority of law.

2. The petitioners who are all non-tribals are stated to be permanent residents of Majai area, Sohra Syiemship, engaged in the trade of supply and sale of limestone, non-basmati rice, fruits, etc. Due to an incident, which had created a law-and-order situation on 28.02.2020, in Ichamati village, requisite NOCs was not issued by the respondent No. 1 (Syiem of Sohra) to the petitioners, to enable them to apply for renewal of their Trading Licenses under the *United Khasi-Jaintia Hills District (Trading by Non-Tribals) Regulation, 1954*.

3. The earlier writ petitions were then disposed of by order dated 16.12.2021, wherein this Court at Paras – 10 to 14 directed as follows.

“10. Heard learned counsel for the parties. These applications, it is noted have been filed after the petitioners have exhausted all other efforts as is evidenced by the Annexures appended to the writ

petition, which apart, from including the earlier trading license issued by the respondent No. 4 contain numerous representations made before the respondent No. 5 and the other respondents, apart from other State functionaries; minutes of meetings and resolutions that had been arrived at, on various dates with the District Administration and others. It appears that, they have approached this Court as a last resort. The factors that have led to the non-consideration of their applications for renewal of their trading licenses need not be gone into, in this present proceeding, but it would suffice to say that, for whatever reasons, the rights as enshrined in the Constitution of India cannot be deprived from any citizen. Article 21 of the Constitution ensures the Protection of Life and Personal Liberty, and the Right to Life is a basic human right. Article 21 has since also encompassed the Right to Livelihood.

11. In the case of Olga Tellis v. Bombay Municipal Corporation, which is a celebrated and a path breaking case, a five-judge bench of the Supreme Court has held and implied that 'right to livelihood' is borne out of the 'right to life', as no person can live, without the means of living, that is, the means of Livelihood. It follows therefore that if the right to livelihood, is not considered and treated as a part of the constitutional right to life, the easiest way of

depriving a person of his right to life, would be to deprive him of his means of livelihood.

12. The writ petitioners are traders which is their livelihood and the non-renewal of their trading licenses of the eligible applicants, will no doubt result in the deprivation of their right to livelihood. In this backdrop therefore, it would be expedient for the ends of justice, if this entire batch of writ petitions are disposed of at this stage itself with the directions and as undertaken by the respondents No. 4 and 5, the process for renewal licenses be taken up and completed expeditiously.

13. Accordingly, the respondent No. 5 is directed to complete the process of issuance of NOCs to all the eligible applicants within 3(three) weeks from the date of receipt of this order and the respondent No. 4 thereafter, on receipt of the applications for which NOC has been obtained shall process the same within 4(four) weeks thereafter.

14. Till such process is completed by the respondents No. 4 and 5, the writ petitioners shall not be restrained in any manner from plying their trade due to non-renewal of their trade license.”

4. It appears that the respondent No. 1, thereafter had embarked upon the exercise for grant of NOC and had devised the format which the petitioners are aggrieved with, as they allege that the same was

beyond the scope of the respondent No. 1, to prescribe such requirements such as the furnishing of documents regarding mining leases, permanent residential certificates from the office of the Deputy Commissioner etc, which they contend were not material for the purposes of issuance of an NOC.

5. As the process was taking an unreasonably long time, Contempt Applications alleging non-compliance of the order dated 16.12.2021, were also filed by the writ petitioners. In the course of hearing, however, on a detailed examination of the *United Khasi-Jaintia Hills District (Trading by Non-Tribals) Regulation, 1954*, it was noticed by this Court that, that Section 3A, which contains the conditions for granting or refusing a license, with regard to a recommendation, or in this case NOC, it has been provided at Section 3A(e), that the application was to be recommended by the village Headman after being duly approved by the local Dorbar. The entire exercise therefore, which had been gone into by the writ petitioners before the respondent No. 1, the Syiem of Sohra, for grant of the NOC, was therefore an exercise in futility, inasmuch as, the Syiem of Sohra, being the Chief had no role to play, as per the Regulation.

6. At the time of hearing, Dr. F.L. Nonglait, learned counsel for the respondent No. 1, on this aspect had also fairly submitted and

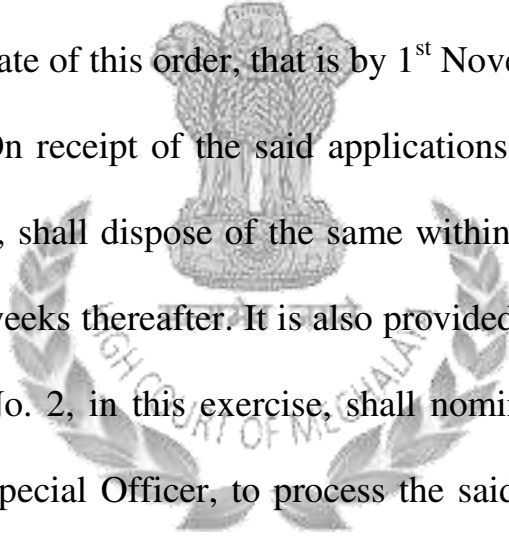
conceded that, perhaps in the grant of NOC, respondent No. 1, would not have any role to play, as on the recommendation of the Village Headman, the application for grant of Trading License was to be dealt with by the issuing authority, that is, the respondent No. 2, the KHADC.

7. Mr. V.G.K. Kynta, learned Senior counsel at this juncture, in the course of deliberations, on instructions received, had then submitted that as the matter had been long pending, the Respondent District Council was ready to take up the matter of renewal of the Trading Licenses of all the petitioners and to deal with the same in accordance with the Regulation, provided the writ petitioners submitted their applications before the respondent No. 2.

8. Mr. S. Dey, learned counsel for the petitioners on the suggestion of the learned Senior counsel, has also expressed the willingness of the writ petitioners to directly approach the respondent No. 2, in the matter of renewal of their Trading Licenses, but however, submits that a time frame be prescribed by this Court, so that the matter be not left in limbo any longer.

9. Having heard the learned counsels for all the parties, and having given due consideration to the facts and circumstances of these cases, this Court appreciates the stand taken by all the counsels

for the parties to resolve the present imbroglio. As such, without lingering with the matter any longer, it is hereby directed as follows:-

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- (i) All the writ petitioners in these writ petitions, shall apply individually for renewal of their respective Trading Licenses, by submitting their applications before the Office of the Secretary to the Executive Committee, KHADC, within 4(four) weeks from the date of this order, that is by 1st November, 2023.
- (ii) On receipt of the said applications, the respondent No. 2, shall dispose of the same within a period of 8(eight) weeks thereafter. It is also provided that, the respondent No. 2, in this exercise, shall nominate and authorize a Special Officer, to process the said applications and to put up the same before the Licensing Authority, for further necessary action.
- (iii) It is further directed that, in the examination of the applications, the same shall be conducted in a fair and transparent manner, and the writ petitioners be afforded adequate opportunity by the respondent No. 2, to clarify any issue that may arise.

- (iv) The process of issuance of renewal or grant of fresh Trading License shall be done strictly in accordance with the provisions of the *United Khasi-Jaintia Hills District (Trading by Non-Tribals) Regulation, 1954*.

10. With the above noted directions, the instant writ petitions, accordingly stands disposed of. However, it is provided that, till such process is completed by the respondent No. 2, the petitioners herein, shall not be restrained from conducting their legitimate business, due to the non-renewal of their Trading License.

11. There shall be no order as to costs.

Judge

Meghalaya
04.10.2023
"D.Thabab-PS"

