

Serial No. 17 & 18
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 517 of 2022 with
WP(C) No. 518 of 2022

Date of Decision: 30.01.2023

Shri Jhonny A. Sangma **Vs.** State of Meghalaya & Anr.
Shri Jhonny A. Sangma **Vs.** State of Meghalaya & Anr.

Coram:

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

Appearance:

For the Petitioner(s) : Mr. S. Dey, Adv. with
Mr. S. Deb, Adv.

For the Respondent(s) : Mr. B. Bhattacharjee, AAG with
Ms. R. Colney, GA

i) Whether approved for reporting in Law journals etc:		Yes/No

ii)	Whether approved for publication in press	Yes/No
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JUDGMENT AND ORDER (ORAL)

1. By way of these two writ petitions, the petitioner being aggrieved by the inaction of the respondents in not disposing of the representation dated 30.11.2022, for release of the alleged pending bills is before this Court seeking a mandamus for a direction to the respondents to dispose the same in accordance with law.

2. Mr. S. Dey, learned counsel submits that the petitioner is the power attorney holder of one Smti Kelo Leeda R. Marak, who is stated to be the daughter of the (L) Shri Roosevelt P. Marak, a Class-I contractor who was engaged for executing the works before the respondents. The learned counsel submits that certain bills i.e. in WP(C) No. 517 of 2022, an amount of Rs. 67,26,103/- (Rupees Sixty Seven Lakhs Twenty Six Thousand One Hundred Three only) and in WP(C) No. 518 of 2022, an amount of Rs. 8,83,00,000/- (Rupees Eight Crores Eighty Three Lakhs only) have remained unpaid for the works completed by the said (L) Shri Roosevelt P. Marak.

3. The learned counsel further submits that on execution of the power of attorney, the petitioner has been authorized to approach the authorities for release of the unpaid bills. However, he submits that even after supplying the relevant documents along with a representation, the same has evoked no response. He therefore, prays for appropriate orders from this Court.

4. Mr. B. Bhattacharjee, learned AAG assisted by Ms. R. Colney, learned GA for the respondents has raised various objections. The learned AAG firstly questions the locus of the petitioner and submits that, nowhere in the power of attorney instrument, has the petitioner been authorized to approach this Court to seek remedy. He

submits that there is nothing on record to support the fact as to whether there are any certified bills, or any undisputed amount due to (L) Shri Roosevelt P. Marak, and he further contends that filing of a representation does not vest any right on the author of the same, to seek remedy under Article 226. He lastly submits that the writ petitions having no basis or substance, the writ petitioner has no vested right and the same be not entertained by this Court.

5. I have heard the learned counsel for the parties.

6. A perusal of the materials on record reflects that that there was some transaction between the PHE Department and (L) Shri Roosevelt P. Marak, wherein formal work orders for execution of works had been issued. Further, it is noted that the said Smti Kelo Leeda R. Marak, daughter of (L) Shri Roosevelt P. Marak, had obtained the Succession Certificate for the debts and securities of (L) Shri Roosevelt P. Marak, whereupon being unable to pursue the same for whatsoever reasons had executed the power of attorney documents, in favour of the petitioner.

7. It is right that mere filing of a representation will not vest the author of the same with any enforceable right, and also the fact the same has not been disposed of will not amount to violation of any right. It is also noted, that seeking a writ to direct the respondents to settle the

dues of the Late contractor arising from the contract agreement will not also come in the realm of writ jurisdiction, unless the bills are undisputed or certified, along with proof that the works had been completed. However, notwithstanding these factors, the Court is to look into these kind of matters on the circumstances and peculiarity of each case, as to whether the exercise under Article 226 is warranted, at all.

8. In these cases as observed earlier, the fact that work orders had been issued to (L) Shri Roosevelt P. Marak are available on record, as also the fact that the heir and successor of (L) Shri Roosevelt P. Marak, had executed a power of attorney in favour of the petitioner. In this view of the matter thereof, and with the limited prayer of the writ petitioner, the respondents are directed to take-up the representation of the petitioner and to dispose of the same in accordance with law, preferably within a period of 8(eight) weeks from the date a certified copy of this order is presented before them.

9. With the above directions, these two writ petitions stand closed and are accordingly disposed of.

10. No order as to costs.

JUDGE

Meghalaya
30.01.2023
"V. Lyndem-PS"