

Serial No. 04 Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 8 of 2024

Date of Decision: 20.05.2024

Shri. Deipormi Dkhar,
S/o (L) M. Challam,
R/o Dulong Jowai,
West Jaintia Hills District,
Meghalaya

:::Petitioner

-Vs-

1. State of Meghalaya,
Represented by Chief Secretary,
Shillong
2. The Commissioner & Secretary of
Transport, Government of Meghalaya,
Shillong
3. The Commissioner of Transport,
Government of Meghalaya,
Shillong
4. The District Transport Officer,
Government of Meghalaya,
West Jaintia Hills District,
Jowai

:::Respondents

Coram:

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

Appearance:

For the Petitioner(s) : Mr. S. Sen, Adv. with
Mr. R. Majaw, Adv.
Mr. S.K. Roy, Adv.

For the Respondent(s) : Mr. A. Kumar, AG with
Mr. N. Syngkon, GA
Mr. J.N. Rynjah, GA

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

JUDGMENT AND ORDER

1. The petitioner by way of this third writ petition is before this Court assailing the actions of the respondents in withdrawing the official staff from the weighbridge of the petitioner located at Amsarin, West Jaintia Hills, and for directions to order the respondents to act in accordance with the renewal agreement for the said weighbridge dated 01.06.2022, and also for compliance of the order dated 16.01.2024, passed by the respondent No. 3.

2. The background facts are that the petitioner was settled with a lease of a weighbridge at Amsarin, vide lease agreement dated 07.12.2017, for a period of 3(three) years in accordance with the provisions of Rule 7 of the Meghalaya Installation, Regulation, Maintenance & Operation of Weighbridge Rules 2009, and the said period was to expire on 06.12.2020. The said agreement by letter dated 10.12.2020, was renewed till the period ending 31.12.2020, on the same terms and conditions, and it is the case of the writ petitioner that they had diligently paid all the installments due as payable, and had also applied for renewal of the lease which however, apart from the letter dated 10.12.2020, no further response was received from the respondents. The writ petitioner on the lease not being formally renewed, then filed writ petition being WP(C) No. 2 of 2021, which was disposed of by judgment dated 09.05.2021, with a direction to the writ petitioner to approach the respondents for consideration for renewal. The lease agreement was then renewed for a period of 3(three) years w.e.f. 01.06.2022 to 31.05.2025. The respondents then vide letter dated 14.07.2023, communicated to the petitioner that the said lease would be extended only to 30.09.2023. The petitioner being aggrieved thereby, assailed the said letter by way of WP(C) No. 299 of

2023, and this Court then by order dated 28.09.2023, directed that status quo be maintained until the next date, which thereafter was continued by another order dated 08.12.2023.

3. The respondents then by letter dated 16.01.2024, withdrew the impugned letter dated 14.07.2023, but on 01.02.2024, all the official staff employed in the said weighbridge were relieved therefrom and posted in another weighbridge by the name of Amjeha weighbridge, which as per the writ petitioner, has dislocated the operation of his weighbridge, and in effect had rendered it inoperable, as the said staff were necessary for stamping the weighment slips, which were issued to the vehicles. As such, the instant writ petition seeking the reliefs as aforementioned, has been preferred by the writ petitioner.

4. The main contention of the writ petitioner is that with the withdrawal of the earlier impugned letter dated 14.07.2023, under challenge in WP(C) No. 299 of 2023, the lease agreement which was to be effective till 31.05.2025 stood restored, and as such without any speaking order, the withdrawal of the official staff posted in the weighbridge of the petitioner was uncalled for and unwarranted. It has also been argued that the settlement of weighbridges is governed by

the Rules of 2009 and Rule 5 thereof, provides for certain conditions to be fulfilled before a weighbridge is installed, such as the same being placed before the respondent No. 2 (Commissioner & Secretary, Transport) as per Rule 6 of the said Rules, who is then to sign the agreement with the successful bidder, as provided by the Meghalaya State Policy for Weighbridges, 2018, which supplement the Rules. The extended lease dated 14.07.2023, it is contended though a stance has been adopted by the State respondents that the signatory thereto was incompetent to execute the same, cannot render the renewed lease void, inasmuch as, the agreement is a statutory agreement and it cannot be said that there was no approval or sanction from the competent authority. The case of *Timber Kashmir Private Ltd. vs. Conservator of Forest, Jammu* reported in (1976) 4 SCC 497, has been cited by the learned counsel for the petitioner to press his case that if the sanction was either expressed or implied, given by, or on behalf of the Government, once there has been a valid execution of lease by duly authorized officer, the documents would be the best evidence of the sanction.

5. Mr. S. Sen, learned counsel for the petitioner has also referred to the affidavit sworn by the respondents in WP(C) No. 2 of

2021, with regard to consideration for renewal and has further submitted that the impugned order dated 14.07.2023, which was under challenge in WP(C) No. 299 of 2023, was never communicated to the petitioner nor the petitioner afforded an opportunity of hearing, which is in violation of the principles of natural justice, especially taking into account the fact that the agreement is a statutory agreement, which as per Article 299, cannot be cured by a post decisional hearing. It has been further submitted by the learned counsel that the order under challenge dated 14.07.2023, was ostensibly passed pursuant to a letter dated 20.06.2023, issued by the Deputy Secretary, Transport Department, which was also never furnished to the writ petitioner. As such, he submits the lease having validly been extended, the respondents have acted arbitrarily in curtailing the term apart from not affording any opportunity to the writ petitioner in violation the principles of natural justice.

6. Mr. A. Kumar, learned Advocate General assisted by Mr. N. Syngkon, learned Government Advocate for the respondents has submitted that the agreement dated 01.06.2022, does not confer any right on the petitioner, as the same had been entered by the respondent No. 3 (Commissioner of Transport), who is not authorised in terms of

the Meghalaya Installation, Regulation Maintenance & Operation of Weighbridge Rules 2009, inasmuch as, the same can be renewed only with the permission of the Government under Rule 3 read with Rules 6 & 7 of the Weighbridge Rules. The learned Advocate General has then submitted that a bare perusal of the earlier agreement dated 07.12.2017, would show that only after permission had been granted and the Commissioner duly authorised that the agreement had been entered into. In contrast he submits, the agreement dated 01.06.2022, does not contain any declaration or statement that the Government had accorded permission to the Commissioner of Transport, or authorised him to enter into an agreement with the petitioner. The agreement dated 01.06.2022 he contends, is against the statutory rules i.e. Weighbridge Rules, 2009 and as there is no authorization to the Commissioner of Transport to enter in to the agreement on behalf of the Government, there is no compliance with Article 229 of the Constitution, and as such the same cannot bind the Government.

7. It is also submitted that in the case of ***Kmenlang Suiam vs. State of Meghalaya & Ors.*** reported in ***2011 SCC OnLine Gau 86***, the Gauhati High Court while interpreting the Meghalaya Weighbridge Rules had held that the granting a permission is sine qua non for the

installation and operation of a weighbridge. In the instant case he submits, no permission from the authorised authority was sought and no permission has been issued by the competent authority which makes the agreement dated 01.06.2022 violative of Rule 6 of the Weighbridge Rules which provides that only the Secretary, Transport Department is authorised to issue permission after the Commissioner of Transport forwards an application. In the instant case he contends, there was no application by the Commissioner of Transport under Rule 4, and no certificate was issued under Rule 7 of the Weighbridge Rules, which deals with the renewal of permission. With regard to the authority, it has been submitted that as per the Rules of Executive Business of the Government of Meghalaya, only the Minister and other authorised officers have the power to enter into instruments in the name of the Governor, and in this regard has referred to Rule 9 of these Rules. The State therefore, he submits is not bound by acts of unauthorized officers and in this regard has cited the following judgments:-

- i) ***Bhikraj Jaipuria vs. Union of India (1961) SCC OnLine SC 34***
- ii) ***Union of India & Ors. vs. N.K. Private Limited & Anr. (1973) 3 SCC 388***

iii) *Glock Asia-Pacific Limited vs. Union of India (2023) 8 SCC 226*

8. On another limb of argument, he submits no tender had been issued prior to the agreement dated 01.06.2022, which is in contravention of Rule 3 of the Meghalaya Weighbridge Rules, which provides that the State may install or maintain by itself as many weighbridges only after calling for tender and fulfilling the conditions of Rules 4, 5 & 6, thereof. The petitioner, the learned Advocate General submits, no longer has any right to operate the weighbridge, inasmuch as, from the initial agreement a period of 6 years was already over in December 2023, and as such there could have been no further renewal without calling for bids from the public as provided by the Rules. The agreement being contrary to statutory Rules therefore, he contends is non est in law as a contract cannot override a statute. In support of this contention, the learned AG has cited the following decisions:-

- i) *Anil Kumar Singh vs. Commissioner, Entertainment Tax, U.P & Ors., 1997 SCC OnLine All 514***
- ii) *Arumugam Chelliah Paul vs. Life Insurance Corporation of India, 1989 SCC OnLine Bom 275***

9. The learned AG has further submitted that without prejudice to the other submissions, the petitioner has not challenged the letter dated 20.06.2023 issued by the Deputy Secretary, Transport Department, the competent authority granting extension only upto 30.09.2023, and that as this letter has not been withdrawn and still subsists, the agreement therefore stands terminated with effect from 30.09.2023. He submits that the consequential order cannot be challenged without challenging the basic order and that it was not open to this Court to quash an order that is not under challenge. Reference has been made to the decision in the case of ***Edukanti Kistamma & Ors. vs. S. Venkatareddy & Ors., (2010) 1 SCC 756***, to press this point. The learned AG has also argued that the agreement is not is a statutory contract as it has not been made under the Rules, and that the dispute being contractual, no relief can be sought by invoking the writ jurisdiction of this Court. He lastly submits that the Government has the right to establish weighbridges as per the Rules of 2009, and the non-mention of Amjeha weighbridge in the notification of 2018, will not vitiate the matter in any manner. The petitioner he lastly submits has no enforceable legal right and the writ petition is liable to be dismissed.

10. Heard learned counsels for the parties. This matter from the submissions and materials placed, has raised many issues before this Court that have to be examined, inasmuch as, the three writ petitions i.e. WP(C) No. 2 of 2021, WP(C) No. 299 of 2023, and the instant writ petition WP(C) No. 8 of 2024, being intertwined and interconnected, it has made the dispute between the writ petitioner and the respondents multi-dimensional. To address the same, it would be useful to first look at the aforementioned 3(three) writ petitions, and the prayers sought therein, as also the orders passed by this Court in the course of the proceedings and the subsequent orders that followed from the respondents, as well as their actions. In the first writ petition i.e. No. WP(C) No. 2 of 2021, the writ petitioner had filed the writ petition with a prayer for extension of renewal of the lease which was due to expire to 06.12.2020. The said writ petition, on an affidavit filed by the State respondents, wherein it was stated that the petitioner was advised to approach the Transport Department for favourable renewal, which was to be considered taking in view Rule 7 of the Weighbridge Rules, 2009 and Point 2(iii) of the Meghalaya State Policy for Weighbridges 2018, was then disposed of by order dated 09.05.2022. By the said order, this Court directed the writ petitioner to approach

the State respondents, with an appropriate application which was to be considered within a period of 1(one) month. Thereafter, by order dated 30.05.2022, the Commissioner of Transport (Respondent No. 3) directed the writ petitioner to pay the renewal fees of Rs. 250 by 31.05.2022. Strangely however, it was recorded in the order that the same was passed in compliance with the directions of this Court, when no such direction was ever passed by this Court in the order dated 09.05.2022. The order of this Court dated 09.05.2022, as well as order dated 30.05.2022 of the respondent No. 3, being relevant are reproduced hereinbelow:-

“HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 1 of 2021 with
WP(C) No. 2 of 2021
WP(C) No. 3 of 2021

Date of Order: 09.05.2022

<i>Smti Bhahi Dkhar</i>	<i>Vs. State of Meghalaya & Ors.</i>
<i>Shri. Deiphormi Dkhar</i>	<i>Vs. State of Meghalaya & Ors.</i>
<i>Shri. Mayalang Lanong</i>	<i>Vs. State of Meghalaya & Ors.</i>

Coram:

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

Appearance:

For the Petitioner(s)/Appellant(s): Mr. H.L. Shangreiso, Sr. Adv. with
Ms. A. Kharshiing, Adv.

*For the Respondent(s) : Mr. S. Sen, Sr. GA with
Ms. S.A. Laloo, GA*

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

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

ORAL

1. These batch of writ petitions have been filed for renewal and continuation of the existing agreement between the state and the petitioners for running the weighbridges.

2. It appears that the petitioners are still running the weighbridges and as per the affidavit of the state respondents as indicated in paragraph 5, the renewal of the petitioners' licenses will be considered in the event that an appropriate application is submitted before the state respondents.

3. In view of the circumstances and the affidavit as placed, Mr. H.L. Shangreiso, learned Sr. counsel for the petitioners submits that the writ petitions can be closed.

4. Accordingly, it is directed that the writ petitioners to approach the state respondents with an appropriate application within a week which is to be considered expeditiously preferably within a period of one month from the date of receipt of certified copy of this order.

5. With the above noted directions, these writ petitions stand closed and disposed of."

*Sd/-
JUDGE*

**“GOVERNMENT OF MEGHALAYA
OFFICE OF THE COMMISSIONER OF TRANSPORT
MEGHALAYA::SHILLONG**

No. Com/Trans/WP(C)/8/2021/307, Dated Shillong the 30th May, 2022.

ORDER

The Hon’ble High Court of Meghalaya while passing Judgment in WP(C) No. 1 of 2021, Smti Bhahi Dkhar – Vs – State of Meghalaya & Ors, WP(C) No. 2 of 2021, Shri Deipormi Dkhar – Vs – State of Meghalaya & Ors. and WP(C) No. 3 of 2021, Shri Mayalang Lanong – Vs – State of Meghalaya & Ors., dated 09.05.2022 has directed the Petitioners to approach the State respondents i.e., the Transport Department with an appropriate application within a week which is to be considered expeditiously preferably with a period of one month from the date of receipt of certified copy of its order. The office of the Commissioner of Transport, Shillong thereafter received the copy from the petitioner on 11.05.2022 which has been processed and forwarded in original to the Transport Department on the 11th May, 2022 vide letter No. Com/Trans/WB(Pynursla)/1/2018/117, No. Com/Trans/WB(Amsarin)/2/2016/398, No. Com/Trans/WB(G. Saphai)/4/2018/96, and vide letters dated 20.05.2022 No. Com/Trans/WB(Pynursla)/1/2018/126, No. Com/Trans/WB(Amsarin)/2/2016/399 and No. Com/Trans/WB(G. Saphai)/4/2018/97 for further action as directed by the Hon’ble High Court.

Therefore in order to comply to the directions contained in the Hon’ble High Court Order the petitioners is hereby directed to pay the Renewal Fee of Rs. 250/- by Treasury Challan positively by 31st May, 2022 so as to ensure enable signing of Agreement in respect of weighbridge at (i) Iewsyiem (ii) Amsarin and (iii) Garampani.

Sd/-

(I.W. Ingti, I.A.S.)

*Commissioner of Transport
Meghalaya, Shillong*

*Memo.No.Com/Trans/WP(C)/8/2021/307-A, Dated Shillong the 30th May, 2022
Copy to :*

- 1. The Deputy Secretary to the Govt. of Meghalaya, Transport Department for favour of information.*

2. *Smti Bhahi Dkhar,*
3. *Shri Deipormi Dkhar*
4. *Shri Mayalang Lanong* } *for compliance to the above order*

Sd/-
Commissioner of Transport
Meghalaya, Shillong”

11. An agreement was then executed on 01.06.2022 for another 3(three) years which was to expire on 31.05.2025 between the writ petitioner and the State respondents and the same was signed by the respondent No. 3. Thereafter, this arrangement came to be curtailed by letter dated 14.07.2023 issued by the respondent No. 3, making the agreement valid only upto 30.09.2023, which gave birth to the second writ petition being WP(C) No. 299 of 2023, wherein directions were sought for declaring the letter dated 14.07.2023 illegal and further to allow the writ petitioner to deposit the instalments for the license fees. This Court then while examining the matter, by order dated 08.12.2023, directed the State respondents to produce the relevant records and documents in connection with the renewal of the agreement which were referred to in the renewal order dated 30.05.2022 (Annexure 9 to WP(C) No. 299 of 2023). It is noteworthy to mention herein that, in the impugned letter dated 14.07.2023, reference has been made to a letter dated 30.09.2023 which conveyed

the decision of the Government with regard to the renewal. This is pertinent, in view of the fact that as per Rule 6 of the Weighbridge Rules 2009, it is the Secretary to the Transport Department who is the competent authority for issuance of permission, inasmuch as, Rule 3 & 4, vests the power of installation of weighbridges and permission to grant establishment to private entities with the Government.

12. In the intervening period however, the respondent No. 3 by order dated 16.01.2024, withdrew the letter dated 14.07.2023 but however, thereafter, withdrew the official staff stationed at the weighbridge of the writ petitioner which then led to the instant writ petition (WP(C) No. 8 of 2024). The petitioner's complaint by this last writ petition is for directions to the State respondents to act in accordance with the renewal agreement dated 01.06.2022.

13. In the factual situation as portrayed above, it is first to be noted that the initial Lease Agreement was executed on 17.11.2017, for a period of 3(three) years, which expired on 06.12.2020. As per the stipulation of Rule 7 of the Weighbridge Rules, a permission granted for installation of a weighbridge under Rule 6, is renewable every 3(three) years. In the case of the petitioner, admittedly the Lease Agreement or permission had expired on 06.12.2020, and on the non-

renewal of the permission, WP(C) No. 2 of 2021 had been filed, and the same was disposed of by order dated 09.05.2022, with directions as quoted above. The order of renewal dated 30.05.2022, which has been reproduced above, on a bare perusal, states that the application of the petitioner had been processed and forwarded to the Transport Department for consideration, but in the last paragraph, has issued the order for renewal citing therein, that the same is in compliance with a direction issued by this Court. As observed earlier, there were no directions issued by this Court for renewal, but only for consideration thereof. Interesting to note at this juncture, is that, the Commissioner of Transport as can be seen from the records by a letter dated 20.05.2022, had written to the Transport Department, the following letter.

**GOVERNMENT OF MEGHALAYA
OFFICE OF THE COMMISSIONER OF TRANSPORT
MEGHALAYA::SHILLONG**

No. Com/Trans/WB(Amsarin)2/2016/399, Dated Shillong, the 20th May, 2022

***From: Shri. I.W. Ingty, I.A.S.,
 Commissioner of Transport,
 Meghalaya, Shillong.***

***To The Deputy Secretary to the Govt. of Meghalaya,
 Transport Department.***

***Subject: Renewal of Agreement for the Weighbridge at Amsarin
 near Sohkha Model (Jowai – Dawki Road)***

Reference: No.Com/Trans/WB(Amsarin)/2/2016/398, dt. 11-05-2022.

Madam,

In inviting a reference to the letter on the subject cited above, I am to inform that the Hon'ble High Court of Meghalaya, Shillong vide its Judgment Order dated 09-05-2022 has directed to renew the Agreement for the Weighbridge at Amsarin near Sohkhla Model (Jowai – Dawki Road) and giving a specific period within a month from the date of receipt of the Certified Copy of the Order i.e 11-05-2022 and which was forwarded to Government on the same day.

In this regard, Government is requested to kindly accord approval for renewal of the Agreement as per directions of the Hon'ble High Court of Meghalaya, Shillong to avoid contempt of Court Order.

Yours faithfully,

***(Shri. I.W.Ingty, I.A.S.),
Commissioner of Transport,
Meghalaya, Shillong.***

14. The letter dated 20.05.2022, is indeed disturbing, inasmuch as, the Commissioner of Transport for reasons unknown has sought renewal of the agreement by mentioning that renewal was to be granted as per directions of this Court, to avoid contempt, when no such direction was ever passed. Thereafter, the agreement dated 01.06.2022, was then executed with the said Commissioner of Transport, being the signatory on behalf of the respondents. A comparison of the earlier agreement dated 07.12.2017 and the new agreement dated 01.06.2022, has also revealed certain discrepancies, such as, it nowhere reflects that the agreement was renewed, after due

permission as envisaged under Rule 3 read with Rule 6 and 7 of the Weighbridge Rules was granted. In the agreement dated 01.06.2022, it is simply put as follows, *“The GOVERNOR of Meghalaya represented by Commissioner of Transport, Government of Meghalaya, Shillong (hereinafter referred to as ‘The Government’ which expression shall include the successors-in-office and administrators, assigns) of the First Part.* No declaration exists as recorded in the initial agreement dated 07.12.2017, wherein it has been stated that the licensee was given permission to set up the said weighbridge by the Government. For the sake of convenience, Rule 3, 6 and 7 of the Weighbridge Rules are reproduced herein below.

“3. Installation of weighing devices.—The Government may install and maintain by itself as many weighbridges for the purpose of section 144 of the Act on such places as it may think necessary or may allow any private person, body of persons, company or organization to install and maintain such weighbridges on payment of lease amount to be determined in each case by the Government after calling tender :

Provided that no lease shall be granted permission to any private person, body of persons, company or organization unless after fulfilling all criteria as laid down in rules 4, 5 & 6 of these rules and permission from the Government in Transport Department is obtained.

6. Commissioner of Transport to forward the application to the Secretary Transport Department.— After satisfying himself that the application is complete and meets the requirement as laid down in the aforesaid rules 4 and 5, the Commissioner of Transport shall forward the application with all required informations to the Secretary of Transport Department for issue of permission.

7. Renewal of permission.—Any permission referred to in Rule 6 above, shall be renewable every 3 (three) years and no such permission shall be granted or renewed unless the proposal for the grant or renewal of permission, as the case may be, is accompanied by the certificate issued by the Inspector of Weights and Measures, Government of Meghalaya as to the accuracy and correctness of the device.”

15. In this context, reference can be made to the judgment, in the case of *Kmenlang Suiam vs. State of Meghalaya & Ors.* reported in *2011 SCC OnLine Gau 86*, wherein it has been held that granting of permission under the Weighbridge Rule was essential, Para – 26, 37 and 44 being relevant, are quoted herein below.

“26. What is, however, of paramount importance to note is that unless permission was granted under the executive instructions

aforementioned or is granted under 2009 Rules (since after 2009 Rules have come into force), the question of a weighbridge being installed or operated by a party does not arise at all. Granting of permission, under 2009 Rules, too, is, therefore, sine qua non for installation and operation of weighbridges and, consequently, a lease cannot be granted unless permission is granted or a lease cannot be renewed unless the permission itself is renewed.

37. The meeting also resolved that the permission for setting up of check gates on the National Highways, should, henceforth, be given only with recommendation from the State Government and not from the Head of the Department. Before such a recommendation is made by the State Government, the Public Works Department and the Transport Department of the State Government shall jointly decide and make recommendations after taking into consideration the proposal.

44. It is, now, of immense importance to note that it is, indeed, legally permissible for the State Government, even under 2009 Rules, not to renew permission for installation or operation of weighbridge if the decision, as regards non-renewal of permission, is in public interest. In the case at hand, the petitioner has not been able to show that the decision of the Government not to grant renewal of permission, in its meeting

held on 2.6.2010, is against public interest or based on no rational cause.”

16. Therefore, as held in the above judgment, about the necessity of fulfilling certain conditions as provided by the Weighbridge Rules, the agreement dated 01.06.2022, which does not contain the requirements as provided in Rule 6 or Rule 7, it can safely be held that the same was entered into without the sanction or permission of the competent authority. It is also important to note that, in the minutes of a meeting held on 02.06.2010 of the Government (Annexure – 2 to the writ petition), which was chaired by the Chief Minister, a decision at Para-5 thereof, also established the procedure that “*Permission for setting up check gates on a National Highway should henceforth be given only with recommendation from the State Government and not from the Head of Department....*” As such, from the discussions above, it is clearly established that, the agreement entered into by the Commissioner of Transport with the writ petitioner, apart from being without any authority, is also vitiated for an incorrect and misleading interpretation of the order of this Court.

17. The writ petitioner has sought to make out the case that, the agreement dated 01.06.2022, entered into is a statutory agreement

within the definition of Article 299 of the Constitution of India, which would make it binding in nature. However, in view of the absence of any express authority sanctioning the renewal, the Commissioner of Transport in entering into the agreement without being authorized, Article 299 of the Constitution cannot be said to have been complied with. It also may be noted herein that, the Rules of Executive Business of the Government of the State of Meghalaya at Rule 10(12) has also stipulated as follows.

“10(12) Orders or instruments of the Government of the State shall be expressed to be made in the name of the Governor and shall be signed either by the Chief Secretary, a Principal Secretary, Commissioner and Secretary, a Secretary, an Additional Secretary, a Joint Secretary, a Deputy Secretary, an Under Secretary or such other officer as may be authorized by the Government and such signature shall be deemed to be the proper authorization of such order or instrument.”

The absence of any authorization and also by operation of the Rules of Executive Business of the Government of Meghalaya, thus renders the agreement invalid and unenforceable, and will not cloak the writ petitioner with any vested right or any actionable claim for continuance on the basis of the said agreement dated 01.06.2022. In

this context reference may be made to the judgment cited by the State respondents in the case of *Glock Asia-Pacific Limited vs. Union of India(supra)*, where at Para – 14, it has been held as follows.

“14. It must be emphasized that Article 299 only lays down the formality that is necessary to bind the Government with contractual liability. It is important to note that Article 299 does not lay down the substantial law relating to the contractual liability of the Government, which is to be found in the general laws of the land. It is for this reason that, even though a contract may be formally valid under Article 299, it may nevertheless fail to bind the Government if it is void or unenforceable under the general provisions of law.”

18. In spite the agreement being clearly unauthorized, the Transport Department by letter dated 20.06.2023, however, had conveyed its approval for extension till 30.09.2023, which on then being conveyed to the writ petitioner by letter dated 14.07.2023, as remarked earlier had given rise to WP(C) No. 299 of 2023. The letter dated 20.06.2023, in the view of this Court, would amount to giving a seal of approval to the renewal of permission or license of the writ petitioner, on the basis of a patently incompetent agreement, though for a limited period. No

explanation has been given by the State respondents for the said letter and nor has the same been challenged by the writ petitioner, even when the same subsequently had come to his knowledge. The situation was thereafter compounded, with the issuance of letter dated 16.01.2024, whereby the letter dated 14.07.2023, impugned in WP(C) No. 299 of 2023, was withdrawn, but shortly thereafter, the official staff necessary for operation and validation of weighment slips were withdrawn, and according to the petitioner had rendered the weighbridge inoperable, which resulted in WP(C) No. 8 of 2024 being filed. The action of the State respondents in withdrawing the official staff and posting them in another weighbridge, ostensibly managed and operated by the Government, was also during the operation of status quo orders passed in WP(C) No. 299 of 2023, which has raised serious questions, as to their bonafides, in the entire episode.

19. This situation which has been primarily caused by the respondents, with the writ petitioner also being a direct beneficiary, inasmuch as, a lease that was to terminate in 3 years was still made valid for over 6 years, surely demands that the respondents embark upon a course correction, especially considering the overwhelming aspect that public interest and revenue that has been adversely affected.

This observation is due to the fact that in the entire sequence of events, there has been clear violation of the Weighbridge Rules, especially in the manner of renewal, wherein the orders of this Court have been misinterpreted by the then Commissioner of Transport, which has raised grave doubts as to the motive behind the same, and whether the same was made to give undue benefit to the writ petitioner. This action which the other State respondents have sought to wash their hands off, by attributing the same to be an act of an unauthorized officer, and as such, are not bound by the same, is also viewed with a certain degree of skepticism, inasmuch as, no action has been taken till date departmentally or otherwise against the said officer.

20. Another aspect of concern, is the method adopted by the respondents to nullify WP(C) No. 299 of 2023, where by one hand the letter impugned dated 14.07.2023 was withdrawn, thus taking away the cause of action, but on the other hand, withdrawing the official staff, which were needed for operation of the writ petitioner's weighbridge. Though it is correct that Rule 3 of the Weighbridge Rules, invests the Government with the power to install and maintain as many weighbridges as it may think necessary, the manner in which the official staff were removed from Amsarin, and placed at Amjeha

weighbridge, which is stated to be a Government installation, when status quo orders passed by this Court were in operation is not in good taste. Though it may be held not to be in direct contempt of the order of this Court, as the functioning of the petitioner's weighbridge was still allowed to continue, vide the recall of the order dated 06.01.2024, the same is viewed in a dim light by this Court, and is highly deprecated. State action in their dealings in such cases, especially when it involves commercial interest, should not only be fair and above board, but the transparency and reasonableness of such dealings should be reflected in such actions. Unfortunately, as observed earlier, in the entire sequence of events, the conduct of the State functionaries, either by the then Commissioner of Transport and later by the orders of the Transport Department itself, speaks very poorly about the state of affairs, which necessarily demand a relook and a course correction to be undertaken in public interest and for the good of the State.

21. Therefore, looking into the totality of the circumstances of the case, and the nature of the renewed agreement dated 01.06.2022, the reliefs as prayed by the petitioner cannot be acceded to or allowed.

22. Accordingly, this writ petition is not entertained and the same is dismissed. This judgment having taken into consideration, WP(C) No.

299 of 2023, and findings rendered thereon, will also cover the said case.

23. However, in view of the actions of the other State respondents, especially the then Commissioner Secretary Transport, the respondent No. 1 (Chief Secretary) shall be at liberty to initiate a review to affix responsibility and take appropriate action, to ensure fairness and reasonableness of future actions in such matters, as a manner of course correction.

24. Matter stands disposed of in terms of the order above.

25. No order as to costs.

Judge

Meghalaya
20.05.2024
"D.Thabab-PS"