

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 360 of 2017

Date of order: 14.03.2024

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1. Meghalaya College Teachers' Association
2. Mr Prashanta Sarkhei,
Joint Secretary,
Meghalaya College Teachers' Association.
Vs
1. The State of Meghalaya,
represented by the Commissioner and Secretary to the Government of
Meghalaya, Education Department, Shillong, Meghalaya.
2. The Director of Higher and Technical Education, Meghalaya,
Shillong, Meghalaya.
3. The Regional Provident Fund Commissioner II, Sub-Regional Office,
North Eastern Region, Laitumkhrach, Police Point, Shillong – 793003.
4. Governing Body of Sngap Syiem College represented by its
Secretary, Sngap Syiem College, Mawkyrwat, South West Khasi
Hills District, Meghalaya – 793114
5. Governing Body of Tirot Sing Memorial College, represented by its
Secretary, Tirot Sing Memorial College, Mairang, West Khasi Hills
District, Meghalaya-793120
6. Governing Body of Nongtalang College, represented by its Secretary,
Nongtalang College, Nongtalang, West Jaintia Hills District,
Meghalaya-793109.
7. Governing Body of Durama College, represented by its Secretary,
Durama College, Rongkhon, Megonggre, West Garo Hills District,
P.O. Chandmari Tura, Meghalaya-794002.
8. Governing Body of Tikrikilla College, represented by its Secretary,
Tikrikilla College, Tikrikilla, West Garo Hills District,
Meghalaya-794109.
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9. Governing Body of Women's College, represented by its Secretary, Women's College, Upper New Colony, Laitumkhrah, Shillong, Meghalaya-793003.
10. Governing Body of Acheng Rangmanpa College, represented by its Secretary, West Garo Hills District, Mahendraganj, Meghalaya-794002.
11. Union of India through the Secretary to the Government of India, Ministry of Finance, New Delhi.
12. Union of India through the Secretary to the Government of India, Ministry of Human Resource Development, New Delhi.

Coram:

Hon'ble Mr. Justice S. Vaidyanathan, Chief Justice
Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner : Mr R. Mazumdar, Adv.

For the Respondent : Mr A. Kumar, AG with
Mr A.H. Kharwanlang, Addl. Sr.GA[For R 1&2]
Ms P. Bhattacharjee, Adv. [For R 3]
None for R 4-12

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

J U D G M E N T

(Made by Hon'ble, the Chief Justice)

There is no representation on behalf of the private respondents, despite service of notice on them.

2. Pursuant to the order of the Apex Court dated 24.08.2022, the matter has been remanded to this Court and the relevant portion of the order is extracted hereunder:

“12. The matters are remanded to the High Court to consider the grievance on behalf of the original writ petitioners with respect to non-implementation of the Meghalaya Act, 1969 and the Provident Fund Scheme under the aforesaid Act, if any. To that extent, it will be open for the original writ petitioners to amend the writ petitions to which it will be open for the State to file the counter. However, it is specifically made clear that the remand shall be only to consider the implementation of the Meghalaya Act, 1969 and the Provident Fund Scheme framed thereunder, if any, only and the High Court on the basis of the pleadings (even after the amendment) to consider which part of the Act 1969/scheme framed under the Meghalaya Act, 1969 has not been complied with by the State and/or to what extent the same are not complied with. Only for the aforesaid purpose, the matters are remanded to the High Court. The High Court to finally decide and dispose of the writ petitioners, on remand, within a period of six months from the date of receipt of the present order.”

3. Insofar as the applicability of the Contributory Provident Fund is concerned, it has attained finality and that the employees concerned are not entitled to the CPF. Now the only issue is only with regard to the applicability of the Employees' Provident Funds Scheme, 1952 [briefly EPF Scheme, 1952]. In the light of the judgment of the Apex Court in ***Regional Provident Fund Commissioner v. Sanatan Dharam Girls Secondary School*** reported at ***AIR (2007) SC 276***, it is the duty of the employer, who is a Private Party herein to make the EPF contribution payable on behalf of the employees, in case the amount

was not deducted from the employees' account and contribution is paid to the EPFO. As per the catena of judgments of the Supreme Court, in such cases, interest cannot be waived.

4. However, insofar as the payment of damages is concerned, it should be in terms of the EPF Scheme, 1952 and this Court is not expressing any opinion on the same. Since the amended prayer is restricted that the EPF Scheme, 1952 shall be applicable to the teachers of Ad-hoc grant-in-aid colleges in the State of Meghalaya, we expect the EPFO to act in terms of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and take appropriate action to bring the issue to its logical end.

5 At this juncture, it is represented by the learned counsel appearing for the EPFO that notices have already been issued to the colleges and speedy determination of the amount or contribution payable by the employer and employees together with interest will be determined and intimated to the schools or colleges to pay the entire amount. She further stated that the damages to be levied will also be determined based on the provision of the Act, more so, in terms of Section 32A of the Employees' Provident Funds Scheme, 1952.

6. In view of the above submission, no purpose would be served in keeping this matter pending and accordingly, this Writ Petition stands disposed of with a direction to the EPFO to decide the issue after affording opportunity of being heard to all the parties within a period of six months from the date of receipt of this order.

(W. Diengdoh)
Judge

(S. Vaidyanathan)
Chief Justice

Meghalaya
14.03.2024
"Sylvana PS"