



Serial No. 01
Supplementary List 1

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 362 of 2023 with
 WP(C) No. 18 of 2024

Date of Decision: 05.11.2024

SM Energenco Limited

.... **Petitioner(s)**

- **Versus** -

1. State of Meghalaya,
Through the Chief Secretary
Govt. of Meghalaya, Shillong.
2. State of Meghalaya
Through the Commissioner & Secretary,
Power Department, Government of Meghalaya, Shillong.
3. Meghalaya Power Generation Corporation Limited,
A Public Sector Undertaking of the Government of Meghalaya
Through the Director (Generation) and Chief Engineer (C),
Having office at Lumjingshai, Short Round Road,
Shillong-793001.

... **Respondent(s)**

Coram:

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

Appearance:

For the Petitioner(s)	:	Mr. D. Das, Sr. Adv. with Mr. R. Hazarika, Adv. Mr. I. Das, Adv. Mr. K. Talukdar, Adv.
For the Respondent(s)	:	Mr. A. Kumar, AG with Ms. Z.E. Nongkynrih, GA Ms. R. Colney, GA



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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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JUDGMENT AND ORDER

1. These two writ petitions being connected and involving the same subject matter in issue, are being disposed of by this common judgment and order. In WP(C) No. 362 of 2023, the writ petitioner has assailed the cancellation of the works awarded to it in respect of the Upper Khri Stage I and Upper Khri Stage II Hydro Electric Project of 15 MW and 10 MW respectively, on the ground given by the respondents, that the project though technically viable, was commercially un-viable. The petitioner has based its claim on the fact that after the bidding process for the said project, a Letter of Intent had been issued in their favour on 11.01.2013, and that a Letter of Allotment was also issued on 26.03.2013, which culminated in the execution of two Preliminary Agreements both dated 09.05.2014 in respect of the projects. The petitioner's stand is that the said closure of the project was contrary to the terms of the Preliminary Agreements and that instead of the issue being resolved, the respondents on



12.09.2023 announced the revival of the said projects with new partnership and under a new format. As such, directions had been prayed for, to restrain the respondents from issuing any tenders, bidding documents, work orders etc., in respect of the said Hydro Electric Project.

2. In the second writ petition i.e. WP(C) 18 of 2024, the petitioner has put a challenge to the impugned termination order dated 22.12.2023, which was issued during the pendency of WP (C) No. 362 of 2023, by which both the Preliminary Agreements dated 09.05.2014 stood terminated. The petitioner has thus, sought for withdrawal and quashment of the impugned termination order dated 22.12.2023.

3. Mr. D. Das, learned Senior counsel assisted by Mr. K. Talukdar, learned counsel on behalf of the petitioner has taken this Court through the sequence of events and submitted that for the said Hydro Electric Project, after the bidding process and execution of two separate Preliminary Agreements, which required the survey and investigation of the project sites and preparation of a Detailed Project



Report (DPR), by the petitioner within a certain timeframe, the petitioner had completed the same as required and had submitted the DPR. However, he submits the project did not take off as the respondents raised various queries and sought clarifications, which delayed the execution of the project, even though the petitioner had co-operated throughout the deliberations which took place and had also complied with the additional requirements of the respondents. He then submits that without any notice to the petitioner, the respondents unilaterally decided to cancel the project during a meeting held on 20.04.2022, on the ground that the projects were technically viable but financially un-viable due to high cost. The petitioner he submits, had incurred substantial cost which was invested in the preparation of the DPR, and thus suffered irreparable loss, with the arbitrary termination or cancellation which should have taken place only after due notice.

4. The termination order dated 22.12.2023, it is contended cannot be termed as a mere communication as sought to be made out by the respondents, as the said order has referred to various clauses of the Preliminary Agreements, with allegations that the petitioner was in



breach of the same thereby resulting in the termination. Learned Senior counsel submits that termination has civil consequences and therefore prior notice is an essential requirement. The last paragraph of the termination order dated 22.12.2023, he argues shows that the said Preliminary Agreements were subsisting as it is stated therein, that the termination order was issued in accordance with the Preliminary Agreements. As such, he submits what is clearly apparent from the facts of the case is the contradictory nature or stance, that has been adopted by the respondents, inasmuch as, in the impugned termination order though it is stated the Preliminary Agreements is not in existence, the termination ostensibly was in accordance with and made in exercise of clause 29 of the Preliminary Agreements. He therefore submits that the termination order being bad in law is liable to be set aside and quashed.

5. On the aspects of civil consequences, availability of alternative remedy, disputed question of facts, which are the points that have been raised by the respondents in the invocation of writ



jurisdiction by the petitioner, learned Senior counsel has relied upon the following decisions:-

- i) ***Raghunath Thakur vs. State of Bihar (1989) 1 SCC 229***
- ii) ***Mahabir Auto Stores vs. Indian Oil Corporation (1990) 3 SCC 752***
- iii) ***Haji Abdul Shakoor & Co. vs. Union of India (2002) 9 SCC 760***
- iv) ***Harbanslal Sahnia vs. Indian Oil Corporation Ltd, (2003) 2 SCC 107***
- v) ***ABL International Ltd., vs. Export Credit Guarantee Corporation of India Ltd. (2004) 3 SCC 553***
- vi) ***UMC Technologies (P) Ltd., vs. Food Corporation of India (2021) 2 SCC 551***
- vii) ***M.P. Power Management Co. Ltd., vs. Sky Power Southeast Solar India (P) Ltd., (2023) 2 SCC 703***
- viii) ***SBI vs. Rajesh Agarwal (2023) 6 SCC 1***
- ix) ***Ramakrishna Mission vs. Kago Kunya (2019) 16 SCC 303***
- x) ***St. Mary's Education Society vs. Rajendra Prasad Bhargava (2023) 4 SCC 498***

6. In reply, the learned Advocate General assisted by Mr. A.S. Pandey, learned counsel for the respondents has submitted that the



issuance of the order dated 22.12.2023, is not a termination of the Preliminary Agreements but is a mere reiteration of the consequences of the contractual provisions which provides for termination, due to efflux of time. The learned Advocate General has referred to the Preliminary Agreements and has highlighted the relevant clauses of provisions as contained in clauses 4, 9, 12, 13 and 30. It is submitted that an entire reading of the said clauses shows that within two years of signing of the Agreement, the contractor was to furnish five reports, the failure of which the respondents were at liberty to cancel the Preliminary Agreements. The other following clauses he submits clearly shows that the validity of the Agreement was up to a period of one month after the due date of submission of DPR which in this case expired on 12.10.2016, and that further as required under clause 13, the parties did not enter into any Implementation Agreement within one year of submission of DPR. As such therefore, no contractual relationship existed between the parties at the time of issuance of the impugned notice and that the same was a mere reiteration of the correct position as it stood between the parties, as per the contractual terms.



7. The learned Advocate General then submits that the petitioner had been given ample opportunity, but they failed to attend review meetings and that clause 30 itself provides that any dispute between the parties shall be resolved through mutual negotiations. From the reading of the entire Preliminary Agreements, the learned AG submits that the same stood expired due to efflux of time for non-compliance of clause 12 by the petitioner, and as such at the time of issuance of notice dated 22.12.2023, the same was as per the Agreement itself, which provided for such consequences. The petitioner he then submits by way of the writ petitions is seeking specific performance of a contract which is financially un-viable and in complete contravention of clause 13 thereof, and as such the writ is liable to be dismissed as no specific performance or injunction can be granted in a determinable contract, even under the Specific Relief Act, 1963.

8. The learned AG has then contended that the writ petition itself is not maintainable as it is hit by delay and laches, and the matter



concerns disputed question of facts and is in the realm contractual jurisdiction. It is further contended that the same is a terminable contract for which specific performance cannot be sought; and in support of these contentions has placed reliance on the following decisions:-

- i) ***Municipal Council Gondia vs. Divi Works & Suppliers***
2022 SCC OnLine SC 247
- ii) ***State of Gujarat vs. Meghji Pethraj Shah Charitable Trust***
(1994) 3 SCC 552
- iii) ***Tata Motors Ltd. vs. Brihan Mumbai Electric Supply & Transport Undertaking (BEST), 2023 SCC OnLine SC 671***
- iv) ***Bareilly Development Authority vs. Ajai Pal Singh (1989) 2 SCC 116***
- v) ***Jagdish Mandal vs. State of Orissa, (2007) 14 SCC 517 : 2006 SCC OnLine SC 1373***

9. Heard learned counsels for the parties.

10. To the mind of this Court, the entire matter hinges upon the maintainability of the writ petition considering the fact that the



dispute that has arisen is purely from a contractual arrangement or situation in the realm of private law. The only factor that will determine this question is whether the action of termination by the impugned notice, can be considered arbitrary to the extent to warrant interference by this Court, in exercise of powers under Article 226 of the Constitution of India.

11. In the first writ petition i.e. WP(C) 362 of 2023, the petitioner had only sought withdrawal of the minutes of a meeting held on 20.04.2022, wherein in a review meeting the decision to cancel the project was taken based on an appraisal report showing that the project was technically viable but not financially viable due to high cost, and a letter dated 09.09.2022, wherein the petitioner was informed about the said decision. It is to be noted that the petitioner did not attend the said meeting, though notice had been issued to them. In the second writ petition that followed, the same challenges the letter dated 22.12.2023 terminating the two Preliminary Agreements dated 09.05.2014. The termination order however, invoked clause 29 of the Preliminary Agreements and it is given therein, that the order was being issued in accordance with the Preliminary Agreement dated 09.05.2014. This



order in fact has changed the complexion of the 'lis' between the parties, inasmuch as, from a simple cancellation which was under review along with other power projects, which stood cancelled due to unviability or other conditions, the invocation of the clauses of the Preliminary Agreements to effect the same, would mean that a contractual relationship or the Preliminary Agreements was still subsisting.

12. At this juncture, the Preliminary Agreements may be referred to wherein clause 5 reads as follows: -

“5 The Second Party shall carry out the techno-economic studies of the Project and submit a Detailed Project Report (hereinafter called the “DPR”) to the First Party within a period of 48 months from the date of signing of this Preliminary Agreement failing which, the First Party will be at liberty to cancel the Preliminary Agreement after affording due opportunity to the Second Party. No compensation whatsoever shall be payable by the First Party in this regard. The Upfront Premium deposited by the Second Party shall also be liable for forfeiture.”

13. Further, in the Preliminary Agreements certain other conditions that is Clause 4, 9, 12, 13 & 30 as has been cited by the



learned Advocate General which govern the relationship between the parties being relevant, are extracted hereinbelow:-

“4. Within Two years time as the case may be of signing of Preliminary Agreement the Second Party shall furnish to the Government the following:-

- i. A Compendium giving details of hydrological and metrological data/observation.***
- ii. Topographical sheets prepared after conducting surveys.***
- iii.A Compendium giving details of Geological/Geophysical observations.***
- iv. A report on the Power Evacuation Arrangement envisaged by the Second Party.***
- v. Feasibility of the Project.***

In case the Second Party is not able to furnish the above documents within the stipulated period, the First Party will be at liberty to cancel the Preliminary Agreement after affording due opportunity to the Second Party. No compensation whatsoever shall be payable by the First Party in this regard. The Upfront Premium deposited by the Second Party shall also be liable for forfeiture.

9. Following milestones shall be achieved by the Second Party failing which consequential action as mentioned will be taken by the First Party. The Second Party shall be required to submit monthly progress report to the Power Department. At the end of each quarter, the Second Party shall be required to submit a quarterly report to the First Party. The First Party will be at liberty to cancel the Preliminary Agreement, after affording due opportunity to the Second Party in case the First Party is not satisfied about the progress made by the Company.

<i>Sl.</i>	<i>Milestones</i>	<i>For Projects where</i>	<i>Consequential</i>
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No		<i>Feasibility is to be ascertained by IPPs falling under remote areas</i>	Action
(i)	(ii)	(iii)	(iv)
1.	<i>Upfront Premium</i>	<i>First Installment comprising 50% (less 5% amount deposited as Bid Security) amount of total fixed upfront premium payable for the project, shall be required to be deposited within 30 days from the date of issuance of Letter of Intent. Immediately after deposit of first instalment, Letter of Allotment shall be issued</i>	<i>Cancellation Allotment</i>
		<i>Second Instalment comprising balance 50% of total fixed upfront premium shall be required to be deposited within a period 3 months from the date of issuance of Letter of Allotment</i>	<i>Cancellation Allotment</i>
2.	<i>Conveyance of Feasibility/Non-feasibility of the Project: i. A Compendium giving details of</i>	<i>24 Months</i>	<i>Cancellation of the Preliminary Agreement and forfeiture of Upfront Premium</i>



	<i>Hydrological/ Meteorological data/observations ii.Topographical sheets prepared after conducting surveys. iii.A Compendium giving details of Geological/ Geophysical observations. iv.A report on the Power Evacuation Arrangement envisaged by the Second Party.</i>		<i>deposited.</i>
<i>3.</i>	<i>Submission of Detailed Project Report</i>	<i>36 months from the date of signing of Preliminary Agreement</i>	<i>Extension of prescribed period in the Preliminary Agreement upto maximum of six months subject to deposit of prescribed Extension of Rs. 10,000/- per MW per month.</i>
<i>Sanction of TEC and other required clearance within 1 (one) year from submission of DPR date. Signing of IA within 1 (one) year of submitting DPR or receipt of the above clearance, whichever is earlier.</i>			

12. The Validity of this Preliminary Agreement shall be up to a period of 1 (one) month after due date of submission of DPR or signing of IA whichever is earlier. In the event, the Project is not found viable by the



Second Party after the submission of PFR and the First Party is satisfied that the Second Party has sufficient ground to establish that the Project is not techno-economically viable, the Company will be permitted to withdraw from the Project within a maximum period of 24 months or 30 months as the case may be, without any compensation or liability of First Party for the expenditure incurred by the Second Party before the expiry of this period. The 50% amount of the first installment fixed upfront premium deposited at the time of allotment of the project shall be refunded without any interest and the balance 50% of the upfront premium shall be forfeited to the First Party. This will ensure the commitment of the Second Party towards the execution of the Project and loss of time for the revenues which could have otherwise accrued.

13. Subject to the First Party and the Second Party having satisfied themselves about the techno-economic feasibility of the Project, an Implementation Agreement shall be signed between the First Party and the Second Party within 1(one) year from the date of submitting of DPR for Projects (where feasibility of the Project is to be ascertained by IPPs) or receipt of clearance whichever is earlier. The Company will have to deposit a Security Deposit of sum of Indian Rupees equivalent to Rupees (Rs. 1,00,000) per MW of installed capacity as cash/Bank Draft within one month of signing of the Implementation Agreement with the First Party.

30. Any difference and/or disputes arising at any time between the parties out of this PA/IA or interpretation thereof shall be endeavour to be resolved by the parties hereto by mutual negotiation. All disputes shall be settled within the jurisdiction of Courts of Shillong.”



Clause 12 in this regard is of some importance, as it is provided therein that the validity of the agreement shall be up to a period of 1 month after due submission of the DPR, which in the instant case would have expired on 12.01.2016, as the DPR had been submitted on 13.12.2015. Clause 13, it can be seen has made a provision for the parties to enter into an Implementation Agreement within 1 year from the date of the submission of the DPR, on the satisfaction about the techno-economic feasibility of the project which however, was not done. As such, in this situation and on the non-satisfaction of the conditions, by efflux of time the Agreement would have stood extinguished.

14. However, the impugned termination notice dated 22.12.2023, categorically under the two subject heads has stated and described the nature and purport of the said notice as one of termination of Preliminary Agreements dated 09.05.2014. A further perusal of the termination order would reflect that reliance has been placed for the said termination in the clauses contained in the Preliminary Agreement and in the said notice itself reference has been



made to a proposal placed in the review meeting dated 19.02.2022. In the concluding part it has been stated that the termination has been made in exercise of powers under clause 29 of the Preliminary Agreement, and that the impugned order was being issued in accordance to the said Agreement. Though it has been argued and also reflected that the termination order is a reiteration that the Preliminary Agreement is no longer in existence, the very fact however, the respondents in spite of having by letter dated 09.09.2022 conveyed the decision of cancellation, which would have effectively cut short the matter, the termination order being on the basis of the Preliminary Agreement, it stands to reason that before issuance of the same, as per clause 5, the petitioner should have been show caused and heard. This opportunity having admittedly not been extended to the petitioner, this Court is therefore, to finally examine as to whether the termination order is arbitrary and unreasonable.

15. In the case of *Mahabir Auto Stores vs. Indian Oil Corporation* (supra) it has been held that fairness in action should be present and that even there is no duty to hear or give reasons, it is



essential to inform the affected party and take it into confidence. In the case of ***SBI vs. Rajesh Agarwal*** (supra) which has dealt with and discussed the principles of natural justice, it has been held that an administrative action can be tested for constitutional infirmities under Article 14 on four grounds i.e. (i) unreasonableness or irrationality (ii) illegality (iii) procedural impropriety and (iv) proportionality but the scope of such judicial review is limited to ascertaining the deficiency in the decision making process and not the correctness of the choice. It further held that the principles of natural justice have universal application and constitute an important facet of procedural propriety envisaged under Article 14. With regard to the point that writ jurisdiction is a public law remedy, and that the instant matter is entirely in a private realm of affairs, in the case of ***M.P. Power Management Co. Ltd., vs. Sky Power Southeast Solar India (P) Ltd.***, (supra) on this point itself at Para 82.12, it has been held as follows:-

“In a case the State is a party to the contract and a breach of a contract is alleged against the State, a civil action in the appropriate forum is, undoubtedly, maintainable. But this is not the end of the matter. Having regard to the position of the State and its duty to act fairly and to eschew arbitrariness in all its actions, resort to the constitutional remedy on the cause of action, that the action is arbitrary, is permissible (see in



this regard Shrilekha Vidyarthi v. State of U.P.30). However, it must be made clear that every case involving breach of contract by the State, cannot be dressed up and disguised as a case of arbitrary State action. While the concept of an arbitrary action or inaction cannot be cribbed or confined to any immutable mantra, and must be laid bare, with reference to the facts of each case, it cannot be a mere allegation of breach of contract that would suffice. What must be involved in the case must be action/inaction, which must be palpably unreasonable or absolutely irrational and bereft of any principle. An action, which is completely mala fide, can hardly be described as a fair action and may, depending on the facts, amount to arbitrary action. The question must be posed and answered by the Court and all we intend to lay down is that there is a discretion available to the Court to grant relief in appropriate cases.”

A perusal of the above noted pronouncements therefore, would necessarily demand that the respondents maintain fairness in action and the observance of the principles of natural justice, notwithstanding the fact that the main subject matter from which the dispute has arisen is in the realm of private law.

16. Further, though it has been submitted by the respondents that alternate remedy exists in the form of an arbitration clause in the Preliminary Agreement itself, this however, cannot serve as a bar to the



exercise of writ jurisdiction in certain cases where the action of the authorities is in violation of the principles of natural justice. As held in the case of ***Harbanslal Sahnia vs. Indian Oil Corporation Ltd*** (supra) at Para-7 thereof, *“In an appropriate case, in spite of availability of the alternative remedy, the High Court may still exercise its writ jurisdiction in at least three contingencies: (i) where the writ petition seeks enforcement of any fundamental rights; (ii) where there is failure of the principles of natural justice; or (iii) where the orders of proceedings are wholly without jurisdiction or the vires of an Act is challenged”*.

With regard to the question of disputed facts though this aspect has been agitated, this Court on examination of materials does not find this point relevant for consideration. On the issue of whether the petitioner is seeking specific performance of contract, this Court is of the considered view that with the issuance of the termination order which has been challenged in the second writ petition and now concerns only the question as to whether the said order is unreasonable and arbitrary, this aspect also has no further relevance in this discourse.



17. The recent decision in the case of Tata *Tata Motors Ltd. vs. Brihan Mumbai Electric Supply & Transport Undertaking (BEST)*, (supra) however, has cautioned court to exercise restraint while exercising their powers of judicial review in contractual or commercial matter. At Para-48 of the judgment, it has been held as follows:-

“48. This Court being the guardian of fundamental rights is duty-bound to interfere when there is arbitrariness, irrationality, mala fides and bias. However, this Court has cautioned time and again that courts should exercise a lot of restraint while exercising their powers of judicial review in contractual or commercial matters. This Court is normally loathe to interfere in contractual matters unless a clear-cut case of arbitrariness or mala fides or bias or irrationality is made out. One must remember that today many public sector undertakings compete with the private industry. The contracts entered into between private parties are not subject to scrutiny under writ jurisdiction. No doubt, the bodies which are State within the meaning of [Article 12](#) of the Constitution are bound to act fairly and are amenable to the writ jurisdiction of superior courts but this discretionary power must be exercised with a great deal of restraint and caution. The courts must realise their limitations and the havoc which needless interference in commercial matters can cause. In contracts involving technical issues the courts should be even more reluctant because most of us in Judges' robes



do not have the necessary expertise to adjudicate upon technical issues beyond our domain. The courts should not use a magnifying glass while scanning the tenders and make every small mistake appear like a big blunder. In fact, the courts must give “fair play in the joints” to the government and public sector undertakings in matters of contract. Courts must also not interfere where such interference will cause unnecessary loss to the public exchequer. (See: [Silppi Constructions Contractors v. Union of India](#), (2020) 16 SCC 489)”

18. Similarly, in the case of *Jagdish Mandal vs. State of Orissa* (supra) at Para 22, it has been held as follows:-

“22. Judicial review of administrative action is intended to prevent arbitrariness, irrationality, unreasonableness, bias and malafides. Its purpose is to check whether choice or decision is made 'lawfully' and not to check whether choice or decision is 'sound'. When the power of judicial review is invoked in matters relating to tenders or award of contracts, certain special features should be borne in mind. A contract is a commercial transaction. Evaluating tenders and awarding contracts are essentially commercial functions. Principles of equity and natural justice stay at a distance. If the decision relating to award of contract is bona fide and is in public interest, courts will not, in exercise of power of judicial review, interfere even if a procedural aberration or error in assessment or prejudice to a tenderer, is made out. The power of judicial review will not be permitted to be invoked to protect private interest at the cost of public interest, or to decide contractual disputes. The tenderer or contractor with a grievance can always seek damages in a civil court. Attempts by unsuccessful tenderers with imaginary grievances, wounded pride and business



rivalry, to make mountains out of molehills of some technical/procedural violation or some prejudice to self, and persuade courts to interfere by exercising power of judicial review, should be resisted. Such interferences, either interim or final, may hold up public works for years, or delay relief and succour to thousands and millions and may increase the project cost manifold. Therefore, a court before interfering in tender or contractual matters in exercise of power of judicial review, should pose to itself the following questions :

i) Whether the process adopted or decision made by the authority is mala fide or intended to favour someone;

OR

Whether the process adopted or decision made is so arbitrary and irrational that the court can say: 'the decision is such that no responsible authority acting reasonably and in accordance with relevant law could have reached;'

ii) Whether public interest is affected.

If the answers are in the negative, there should be no interference under [Article 226](#). Cases involving black-listing or imposition of penal consequences on a tenderer/contractor or distribution of state largesse (allotment of sites/shops, grant of licences, dealerships and franchises) stand on a different footing as they may require a higher degree of fairness in action."

19. In the backdrop of the above noted cases which have been cited by the parties and in consideration of the facts and



circumstances of the case, apart from the points of law and principles as enunciated, the most important aspect is the situation of the facts of the case which are peculiar to itself. As discussed above, the Preliminary Agreement at clause 5 has clearly provided that due opportunity be given to the petitioner in the advent that cancellation is being contemplated on the breach of the conditions of the Preliminary Agreement. No doubt this clause has provided for an inbuilt mechanism that binds the respondents to afford an opportunity of hearing to the petitioner before cancelling the agreement, thus necessitating the adherence to the principles of natural justice. However, on the other hand from the materials on record, it is seen that in the review meeting held on 20.04.2022 when the feasibility of the project was under consideration, and the decision taken to cancel the Agreement taken, there was no representation from the side of the petitioner. Further, by communications dated 24.07.2022, and 23.09.2023, the petitioner itself, on the decision of the respondents to cancel the Agreement had raised the issues of recovery of costs and expenses which have been incurred in carrying out feasibility reports and sought for an amicable settlement. These facts assume



significance, inasmuch as, the respondents by the impugned order of cancellation dated 22.12.2023, though citing the Preliminary Agreement have maintained that the order was only a reiteration of the decision already arrived at by the respondents in the review meeting held on 20.04.2022 and communicated by letter dated 09.09.2022, wherein the decision to discontinue the project and also the fact that the petitioner did not attend the same in spite of notice was mentioned.

20. In the light of the facts as discussed above, in the considered view of this Court therefore, it cannot be said that there was no substantial compliance of the principles of natural justice in cancelling the Agreement, inasmuch as, the petitioner was offered adequate opportunity as can be seen from Para-11 of the impugned order itself. The termination therefore cannot be held to be irrational or arbitrary or that the same is malafide or unreasonable to the extent to be interfered with in exercise of discretionary powers of a writ court under Article 226. As noted earlier, the only concern of the petitioner is with relief to be granted on account of the expenses incurred in preparing for the project, which lies squarely in the realm of private



law, for which efficacious alternate remedy to sue for damages is available.

21. As such therefore, these writ petitions are found to be not maintainable and are accordingly not entertained, leaving the petitioner to seek private law remedy in accordance with law.

22. The writ petitions are accordingly closed and disposed of.

JUDGE

Meghalaya
05.11.2024
"V. Lyndem PS"