



Serial No. 03
Daily List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 531 of 2018 with
MC(WPC) No. 280 of 2018

Date of order: 02.05.2025

Meghalaya Urban Development Authority (MUDA), Shillong through
its Secretary.

...Petitioner

- versus -

1. Employee Provident Fund Organisation, EPFO Head Office, Bhavishya Nidhi Bhawan, 14 Bhikaji Camma Place, New Delhi 110066; with Regional Officer at Laitumkhrah, Police Point, Shillong-793003.
2. Regional Provident Fund Commissioner, Regional Officer at Laitumkhrah, Police Point, Shillong-793003

...Respondents

Coram:

Hon'ble Mr. Justice I.P. Mukerji, Chief Justice

Appearance:

For the Petitioner : Mr. Philemon Nongbri, Adv. with
Mr. R. Pahsyntiew, Adv.

For the Respondents : Ms. P. Bhattacharjee, Adv. with
Mr. F. Bareh, Adv.

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



JUDGMENT: (Oral)

The subject matter of challenge in this writ is a show cause notice dated 15th January, 2018 issued by the Employees Provident Fund Organisation, Shillong.

Learned counsel for the writ petitioner makes the following submissions:

Shillong Transport Services (Shillong Public Transport System) is funded by the Central government. The fund is sent to the State government. With this fund the State government purchases and runs a fleet of buses, of which it is the owner. The operation part of the system is entrusted with by a team of operators which maintains the bus stations, engages drivers, attendants and other staff to run the buses, the bus stand and other parts of the transport system. The writ petitioner is described as a nodal agency by learned counsel to select these operators through a tender process. The personnel who are part of this system are not employees of the writ petitioner. Hence, the writ petitioner was not at any point of time liable to pay their wages or to contribute to their Provident Fund.

These facts are in my opinion, foundational before the Provident Fund authority exercises its substantive jurisdiction under the impugned notice dated 15th January, 2018.



In the circumstances, I am of the opinion that this foundational fact should be determined first before proceeding further with the notice.

The impugned show cause notice dated 15th January, 2018 shall be first heard on the above jurisdictional issue. The Employees Provident Fund authority through the Regional P.F. Commissioner-II shall determine whether the writ petitioner is the employer of the employees of Shillong Public Transport System and whether they were and still are liable to contribute to their Provident Fund. Such adjudication shall be made upon notice to the writ petitioner and all concerned parties by a reasoned order to be made and published within three months of communication of this order. Till this determination is made, the show cause notice shall not be adjudicated upon on merits. If on such adjudication it is found that the writ petitioner is so liable, the Provident Fund authority may proceed with the show cause notice; otherwise the Commissioner will pass appropriate orders withdrawing the said impugned show cause notice.

This writ petition and the connected application [MC(WPC) No. 280 of 2018] are accordingly disposed of.

(I.P. Mukerji)
Chief Justice