**Serial No. 06**
**Regular List**

# HIGH COURT OF MEGHALAYA
# AT SHILLONG

WP(C) No. 328 of 2014

Date of Decision: 01.12.2020

Shri Ram Chandra Sharma **Vs.** State of Meghalaya & Ors.

**Coram:**

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

**Appearance:**

For the Petitioner(s) : Mr. A.S. Siddiqui, Adv.

For the Respondent(s) : Mr. K.P. Bhattacharjee, GA with
Ms. Z.E. Nongkynrih, GA (For R 1)
Mr. V.G.K. Kynta, Sr. Adv. (For R 2&3)
None (For R 4)

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

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

1. Matter taken up via Video Conferencing.

2. This writ petition has been filed assailing the show cause notice dated 13.09.2014 issued by the respondent No. 3 under ***The United Khasi Jaintia Hills District (Trading by Non-Tribal) Regulation, 1954*** as amended up to date. The petitioner replied to the show cause dated 23.09.2014 and also being aggrieved thereby has come before this Court raising the question as to the jurisdiction of the respondent No. 3 to interfere in his running of his business, inasmuch as, he is a license holder

of the Shillong Municipal Board and is operating in the Municipal market at Laitumkhrah.

3. Mr. A.S. Siddiqui, learned counsel for the petitioner in his submission has taken this Court to paragraph 10 (2) (d) of the Sixth Schedule of the Constitution of India and submits that the regulation i.e. ***The United Khasi Jaintia Hills District (Trading by Non-Tribal) Regulation, 1954*** has travelled beyond the legislative competence of the District Council by encompassing the professions which is out of the purview of para 10 (2) (d) of the Sixth Schedule of the Constitution of India.

4. The learned counsel further submits that the jurisdiction of the District Council is circumscribed by para 10 of the Sixth Schedule of the Constitution of India and as such cannot insist on the license as he is earning his livelihood in the municipal market under a valid license issued by the Shillong Municipal Board, (Respondent No. 4). He further submits the market in question, wherein he is plying his trade is owned, developed and maintained by the respondent No. 4, and as such, the respondent No. 3 has no role to play in the said market nor does the petitioner require to obtain a license from it.

5. Mr. V.G.K. Kynta, learned Senior counsel for the respondent No. 2 & 3 at the outset and in the earlier round of hearing had placed reliance in the case of ***The District Council, United Khasi-Jaintia Hills, Shillong & Anr. vs. Ka Drepsila Lyngdoh of Syllai-U-Lor, Mylliem, Mylliem Syiemship, United Khasi-Jaintia Hills & Ors.*** reported in ***(1975) 4SCC 809*** and submits that by virtue of this judgment, the

jurisdiction of the District Council has been defined and as has been held, extends to even administered areas which had only been ceded to the British Government for municipal administration in accordance with the Assam Municipal Act, 1923 and that the ceded areas were only for the specified purpose of municipal administration and were never included to be within the territorial jurisdiction of the Shillong Municipal Board. Reliance has also been placed in the judgment in the case of ***Hardeodas Jaganath vs. State of Assam & Ors.*** reported in ***AIR 1970 SC 724*** and the order ***dated 20th August, 2002*** passed in ***Writ Petition (C) No. 673 of 1994*** by the Hon'ble Supreme Court in the case of ***Non-Tribal Youth Union & Anr. vs. Union of India & Ors***. He however, submits that the instant matter does not require a finding on this aspect, inasmuch as, the prayer of the writ petitioner is confined to the challenge to the show cause dated 13.09.2014.

6. Mr. V.G.K. Kynta, learned Senior counsel referring to the impugned show cause submits that no action has been taken by the respondent No. 3 on the said show cause, and the reply as stated by the petitioner to have been filed on 23.09.2014 was never received by the respondent No. 3. He further submits that there are no records available on this matter with the respondent No. 3 and has given a statement that no action will be taken against the petitioner on the basis of this proceeding.

7. Having heard learned counsel for the parties and considered the entire matter as placed, including the materials on record, it is noted that though issues have been raised with regard to the jurisdiction of the

respondent No. 3 in issuing the show cause, the prayer of the petitioner is confined to quashing and setting aside the said show cause and to restrain the respondent No. 2 & 3 from causing any interference to the business of the petitioner.

8. The impugned show cause it is noted had been issued as far back as on 13.09.2014 to which the writ petitioner had stated that a reply had been filed. On perusal of the entire order sheet of the instant matter, it does not reflect or show that any order had been passed by this Court, staying the proceedings after issuance of the show cause. It seems by the efflux of time, the matter has since died a natural death. Coupled with the statement at the bar made by the learned Senior counsel for the respondent No. 3 that no action will be taken against the petitioner on the basis of the show cause so issued, nothing remains in the instant matter which requires adjudication or findings, inasmuch as, the main prayer of the writ petitioner no longer survives for consideration, especially on the statement made by Mr. V.G.K. Kynta, learned Senior counsel for the respondents No. 3.

9. Accordingly, this writ petition in the facts and circumstances and for the reasons as stated above stands closed.

10. There shall be no order as to costs.

**JUDGE**

Meghalaya
01.12.2020
***"V. Lyndem-PS"***