
(2016) 04 MEG CK 0002
In the Meghalaya High Court
Case No : Pil No. 4 of 2016

Shri Pradip Kumar Dey

APPELLANT

Vs

State of Meghalaya

RESPONDENT

Date of Decision : 13-04-2016

Acts Referred:

Citation : (2016) 4 NEJ 562

Hon'ble Judges : Mr. Dinesh Maheshwari, CJ. and Shri S.R. Sen, J.

Bench : Division Bench

Advocate : Mr. N.D. Chullai, Sr. GA, for the Respondents; Mr. L.R. Das, Advocate, for the Petitioner

Final Decision : Dismissed

Judgement

Dinesh Maheswari, C.J. (Oral) - The petitioner, while stating his concern for public and source of knowledge of the subject matter being his personal experience, has filed this writ petition as Public Interest Litigation (PIL), purportedly seeking to project the alleged miseries faced by the families residing on the bank of the river Wah Umkhrah due to its overflowing after downpour during the monsoon. The petitioner has attempted to suggest in the writ petition that there is urgent need of desilting of the river to protect the life and property of the residents/shop owners on the banks of the river and has alleged that the respondents have totally neglected and have shown indifference to the recurring plight of hundreds of man-made flood victims.

2. After finding that the present one appears to be essentially a matter concerning protection of environment and the river, we have posed the questions as to why the petitioner should not approach the National Green Tribunal (NGT) as also about the research of the petitioner on the previous dealing of the subject matter of this petition with its corollary aspects by the Courts/Tribunals. In this regard, the learned Sr. GA has immediately responded with the submissions that the matter concerning flooding of river Wah Umkhrah and its pollution has already acquired attention of the National Green Tribunal, that had passed an

order dated 29.01.2015; and then, the matter had earlier appeared before one of us (S.R. Sen, J.), in a revision petition against the order passed by the Assistant to Deputy Commissioner that was not in conformity with the order passed by the NGT. The learned senior counsel Mr. H.S. Thangkhiew present in the Court has, with permission, indicated that in fact, the said matter is now pending with the Hon"ble Supreme Court.

3. Upon this Court having been informed of the particulars, the record of CR (P) No. 18 of 2015 has been requisitioned; and on perusal thereof, it is clear that NGT had passed an order on 29.01.2015 in O.A. No.146 of 2014 relating to the river in question; and then, an injunction order passed by the Assistant to Deputy Commissioner was vacated by this Court in CR (P) No.18 of 2015. It is, of course, pointed out that the matter remains pending before the Hon"ble Supreme Court.

4. A reference to the aforesaid background aspect lends seriousness to the question that was posted at the outset i.e., as to why the petitioner has approached this Court in this matter that essentially falls within the jurisdiction of the NGT? Moreover, looking to the order passed in the previous litigations and pendency of the matter before the Supreme Court, we have also queried as to why the petitioner has not disclosed any such fact in the petition which has been filed as a PIL. Learned counsel for the petitioner has responded with the submissions that the earlier orders for demolition of houses/construction are not going to serve the purpose indicated in this writ petition i.e., urgent necessity of desilting of the river and hence, the facts concerning such litigation/orders have not been stated in this petition.

5. We are not at all impressed with the submissions made on behalf of the petitioner. In our view, the petitioner has no justification whatsoever to file a petition in the nature of PIL while totally omitting to state the relevant facts about the other litigations concerning principal subject matter, i.e., protection of the river Wah Umkhras.

6. We are constrained to reiterate the fundamental principles that for maintaining a genuine PIL, the petitioner is supposed to carry out basic research in the matter and ought to be forthright while disclosing all the relevant and material facts and particulars. Moreover, the petitioner owes a duty to disclose all the relevant aspects and particulars of previous litigations, whether pending or decided, relating to the subject matter of PIL. Any petition filed without the petitioner attending on these requirements and with the petitioner lacking in forthrightness, obviously, appears to be a petition wanting in bona fide intent and motive; and such a petition, taking unnecessary toll on the time of the Court, is required to be rejected at the threshold and that too with costs.

7. On being asked about the business/profession the petitioner is engaged in, learned counsel for the petitioner submits that he is managing a grocery shop.

8. In the totality of circumstances, while dismissing this petition with costs, we

put a note of caution for the petitioner to remain careful in future and else, he may be visited with harsher penalties.

9. With the observations foregoing, this petition stands dismissed with costs quantified at Rs. 25,000/- (Rupees twenty five thousand), to be deposited by the petitioner within 30 (thirty) days from today with the Meghalaya State Legal Services Authority.

10. It would be required of the petitioner to produce the receipt of such deposit of the amount of costs in the Registry of this Court. If such a receipt is not produced within six weeks, the Registry shall inform the respondents, who shall recover the aforesaid amount of costs from the petitioner by adopting the necessary proceedings; and shall deposit the same with the State Legal Services Authority.