

# THE HIGH COURT OF MEGHALAYA

**WP(C) No.290/2013**

Shri. Sohidur Islam,  
S/o Shri. Nurul Islam,  
aged about 25 years,  
R/o Lower Nolbari, Part II,  
PS Phulbari,  
West Garo Hills District, Meghalaya.

::: Petitioner

-VS-

1. Government of Meghalaya represented by the Chief Secretary of Meghalaya.
2. The Deputy Commissioner & District Programme Coordinator, West Garo Hills, Meghalaya.
3. The Block Development Officer (B.D.O.) & Programme Officer (MGNREGS), Selsella C&RD Block, Selsella, West Garo Hills, Meghalaya.
4. Shri. Abu Siddique,  
S/o Moziuddin Bepari,  
R/o Bholarbhita (Borshibanda), Phulbari,  
West Garo Hills, Meghalaya.
5. Shri. Abubakkar Siddique,  
Gaonbura (Headman),  
R/o Moulakandi, PS Phulbari,  
West Garo Hills District, Meghalaya.

BEFORE  
THE HON'BLE MR JUSTICE T NANDAKUMAR SINGH

For the Petitioner : Mr. A Khan, Adv

For the Respondents : Mrs. S. Bhattacharjee, GA for respdts.1-3  
None appears for the respdts.No.4 & 5

Date of hearing : **30.04.2014**

Date of Judgment & Order : **30.04.2014**

### JUDGMENT AND ORDER (ORAL)

Petitioner by this writ petition is assailing the order dated 16.09.2013 passed by the Block Development Officer (BDO) & Programme

Officer MGNREGS, Selsella C&RD Block, West Garo Hills, Meghalaya (Annexure-A4 to the writ petition) for approving the Gram Sabha meeting of the Lower Nolbari Part II for electing the members of the Village Employment Council (for short 'VEC') on 05.08.2013, in that meeting, the private respondent No.4 Shri.Abu Siddique was elected as Secretary.

**2.** Heard Mr. A Khan, learned counsel for the petitioner and Mrs. S. Bhattacharjee, learned GA appearing for the respondents No.1-3. None appears for the respondents No.4 & 5 inspite of proper service of notice of the present writ petition to them.

**3.** The National Rural Employment Guarantee Act, 2005 (NREGA) was enacted with an object to enhance livelihood, security of households in rural areas of the country by providing at least 100 days of guaranteed wages, employment in every financial year to every household whose adult members volunteer to do unskilled manual work and for matters connected therewith. The Act provides that the State Govt. shall guarantee employment in rural areas by notification making a scheme for providing not less than 100 days of guaranteed employment in a financial year. The Governor of Meghalaya in exercise of the powers conferred by Sub-Section (1) of Section 4 of the National Rural Employment Guarantee Act, 2005 (NREGA) was pleased to make the Scheme called "Meghalaya Rural Employment Guarantee Scheme (MREGS), 2006". Under the said Scheme, the principal authority is the State Govt. for the purpose of planning, monitoring and implementation of MREG Scheme, which includes Governing Body of DRDA. At the village level, the authority is the VEC. The VEC is the village unit and all the male and female heads of the household shall be the members of the VEC of the village. The members of the VEC shall hold a public meeting at a

conspicuous venue in the village to elect the Governing Body or Governing Members of the VEC of the village in a democratic process.

**4.** It is stated that in a meeting of the Gram Sabha of village Lower Nolbari Part II held on 14.08.2013, the petitioner was elected as a Secretary of the VEC. The proceedings of the said election held on 14.08.2013 was also approved by the respondent No.3 i.e. Block Development Officer (BDO) & Programme Officer MGNREGS, Selsella C&RD Block, West Garo Hills, Meghalaya vide order dated 20.08.2013. After, approval of the said election for electing the petitioner as Secretary of the VEC Lower Nolbari Part II, the respondent No.3 issued a letter dated 28.08.2013 to the Branch Manager, SBI, Chibinang apprising the Bank about the change of members of VEC and in that letter, it had been stated that the petitioner along with the President of the said VEC shall jointly operate with the Bank account of Lower Nolbari Part II. It is also stated that some of the interested persons made a complaint dated 09.09.2013 against the election of VEC of Lower Nolbari Part II, in which the petitioner had been elected as Secretary, to the respondent No.3. It is also stated that the respondent No.3 had arbitrarily issued the impugned order dated 16.09.2013 for approving the election of the village Gram Sabha held on 05.08.2013 for electing the respondent No.4 as Secretary of VEC of Lower Nolbari Part II. It is further stated in the writ petition that the petitioner had discharged his duty as Secretary of VEC of Lower Nolbari Part II very sincerely and honestly for the benefits of the villagers, more particularly, the job card holders of Lower Nolbari Part II.

**5.** Respondents No.1 & 2 had filed joint affidavit-in-opposition. In Para 6 of the affidavit-in-opposition, it is stated that the answering official respondents received a complaint dated 20.08.2013 signed by a substantial number of job card holders against the election proceedings of the VEC of

Lower Nolbari Part II, in which the petitioner had been elected as Secretary of the VEC. In Para 7 of the affidavit-in-opposition, it is also stated that the respondent No.3 had issued a show cause notice dated 03.09.2013, directing all the elected members of the VEC including the petitioner to reply to the allegations made against them within 09.09.2013; and the petitioner did not submit his show cause statement in response to the said notice dated 03.09.2013.

6. It is the case of the petitioner that the time for furnishing or the period for furnishing the show cause statement from the side of the petitioner under the said letter/order of the respondent No.3 dated 03.09.2013 is very short and as such, could not submit his show cause statement in time. But, surprisingly without giving any further notice to the petitioner, the respondent No.3 had issued the impugned order dated 16.09.2013. It is the further case of the petitioner that there was no election, held on 05.08.2013, of the Gram Sabha at Lower Nolbari SSA U.P. School for election of the members of the VEC of Lower Nolbari Part II. It is also stated that even the Gaonbora (Headman) of Lower Nolbari Part II issued a certificate dated 22.09.2013 that there was no meeting of the Gram Sabha on 05.08.2013 for electing the members of the VEC of Lower Nolbari Part II and also that the VEC alleged to have been elected and constituted on 05.08.2013 is fictitious one and the respondent No.4 had never been selected or elected as Secretary of the VEC of Lower Nolbari Part II.

7. From the pleadings of the writ petition and also from the affidavit-in-opposition, it appears that there is a serious disputed question of facts *(i)* as to whether or not the petitioner had been duly selected or appointed in the election held on 14.08.2013; *(ii)* as to whether or not the respondent No.4 Shri.Abu Siddique had been elected in the Gram Sabha

meeting alleged to be held on 05.08.2013 and; **(iii)** as to whether or not there was a complaint against the petitioner for alleged misappropriation of funds for the VEC of Lower Nolbari Part II. These disputed questions of facts cannot be decided in the present writ proceedings.

**8.** For the foregoing reasons, this writ petition is disposed of by directing the District Programme Coordinator/Deputy Commissioner, West Garo Hills to conduct an inquiry **(i)** as to whether or not the petitioner had misappropriated the funds?; **(ii)** as to whether or not there was a meeting of the Gram Sabha after completing all the requirements for holding the meeting on 05.08.2013? and; **(iii)** as to whether or not the respondent No.4 is a job card holder or a bonafide resident of Lower Nolbari Part II village? and thereafter, take appropriate action on the findings of the inquiry. It is made clear that the whole exercise should be completed by the District Programme Coordinator/Deputy Commissioner, West Garo Hills within a period of two months from the date of receipt of a certified copy of this judgment and order. It is also made clear that in the interregnum, till the inquiry is completed, the concerned BDO and his Office may carry out or look into the works for the Lower Nolbari Part II village under the MREG Scheme.

**9.** With the above observations and directions, this writ petition is allowed.

**JUDGE**

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