

THE HIGH COURT OF MEGHALAYA

WP(C) No.135/2013

Shri. S.S. Marbaniang,
S/o D Marbaniang,
R/o Mawlai Mawroh,
Shillong, East Khasi Hills District,
Meghalaya.

:::: Petitioner

-Vs-

1. The Shillong Municipal Board,
Shillong.
2. The Chief Executive Officer,
Shillong Municipal Board, Shillong. :::: Respondents

WP(C) No.136/2013

Shri. Ganpatlal Sharma,
S/o (L) Lakshmi Narayan Sharma,
R/o Polo Bazar, Shillong,
East Khasi Hills District, Meghalaya.

:::: Petitioner

-Vs-

1. The Shillong Municipal Board,
Shillong.
2. The Chief Executive Officer,
Shillong Municipal Board, Shillong. :::: Respondents

WP(C) No.137/2013

Shri. P.M. Hynniewta,
S/o Shri.S.S. Marbaniang,
R/o Mawlai Mawroh, Shillong,
East Khasi Hills District,
Meghalaya.

:::: Petitioner

-Vs-

1. The Shillong Municipal Board,
Shillong.
2. The Chief Executive Officer,
Shillong Municipal Board, Shillong. :::: Respondents

WP(C) No.138/2013

Smti. Kyiet Marbaniang,
W/o (L) W. Kurbah,
R/o Mawlai Mawroh, Shillong,
East Khasi Hills District, Meghalaya

-VS-

1. The Shillong Municipal Board, Shillong.
2. The Chief Executive Officer, Shillong Municipal Board, Shillong. ::: Respondents

WP(C) No.139/2013

Smti Sumarmai Hynniewta,
W/o Shri. S.S. Marbaniang,
R/o M.C. Road, Shillong,
East Khasi Hills District, Meghalaya. : Petitioner

-VS-

1. The Shillong Municipal Board, Shillong.
2. The Chief Executive Officer, Shillong Municipal Board, Shillong. ::: Respondents

WP(C) No.140/2013

Smti. Rina Das,
W/o (L) B.K. Das,
R/o Bipul Bhavan, Jail Road,
Shillong, East Khasi Hills District,
Meghalaya. ::: Petitioner

-Vs-

1. The Shillong Municipal Board,
Shillong.
2. The Chief Executive Officer,
Shillong Municipal Board, Shillong. :::: Respondents

WP(C) No.141/2013

Smti. Eva Kordor Hynniewta,
S/o Shri. S.S. Marbaniang,
R/o Mawlai Mawroh, Shillong,
East Khasi Hills District,
Meghalaya.

:::: Petitioner

-Vs-

1. The Shillong Municipal Board,
Shillong.
2. The Chief Executive Officer,
Shillong Municipal Board, Shillong. :::: Respondents

WP(C) No.142/2013

Smti. Ratna Sen,
W/o Late Juntu Sen,
R/o Polo Bazar,
Shillong, East Khasi Hills District,
Meghalaya.

:::: Petitioner

-Vs-

1. The Shillong Municipal Board,
Shillong.
2. The Chief Executive Officer,
Shillong Municipal Board, Shillong. :::: Respondents

WP(C) No.143/2013

Smti. Deepa Mehra,
W/o S. Roy Choudhury,
R/o Bivar Road, Shillong,
East Khasi Hills District,
Meghalaya.

:::: Petitioner

-Vs-

1. The Shillong Municipal Board,
Shillong.
2. The Chief Executive Officer,
Shillong Municipal Board, Shillong. :::: Respondents

WP(C) No.144/2013

Shri. Manik Lal Saha,
S/o Shri. K.D. Saha,
R/o Oakland, Shillong,
East Khasi Hills District,
Meghalaya.

:::: Petitioner

-Vs-

1. The Shillong Municipal Board,
Shillong.
2. The Chief Executive Officer,
Shillong Municipal Board, Shillong. :::: Respondents

WP(C) No.145/2013

Shri. Ambor Nongdhar
S/o Shri. Drek Kharpuli,
R/o Pohskeh, Shillong,
East Khasi Hills District,
Meghalaya.

:::: Petitioner

-Vs-

1. The Shillong Municipal Board,
Shillong.
2. The Chief Executive Officer,
Shillong Municipal Board, Shillong. :::: Respondents

WP(C) No.146/2013

Shri. Provinious Syiemiong,
S/o (L) W. Lyngdoh,
R/o M.C. Road, Polo, Shillong,
East Khasi Hills District,
Meghalaya.

:::: Petitioner

-Vs-

1. The Shillong Municipal Board,
Shillong.
2. The Chief Executive Officer,
Shillong Municipal Board, Shillong. :::: Respondents

WP(C) No.147/2013

Shri. K.D. Saha,
S/o (L) J.C. Saha,
R/o Oakland, Shillong,
East Khasi Hills District,
Meghalaya.

:::: Petitioner

-Vs-

1. The Shillong Municipal Board,
Shillong.
2. The Chief Executive Officer,
Shillong Municipal Board, Shillong. :::: Respondents

WP(C) No.148/2013

Shri. Pritam sharma,
S/o (L) Pijush Kanti Sharma,
R/o 405, Nongkhardot,
West Shillong, East Khasi Hills District,
Meghalaya.

:::: Petitioner

-Vs-

1. The Shillong Municipal Board,
Shillong.
2. The Chief Executive Officer,
Shillong Municipal Board, Shillong. :::: Respondents

WP(C) No.149/2013

Shri. Drek Kharpuli,
S/o (L) D. Lyngdoh,
R/o Pynthorbah, Shillong,
East Khasi Hills District,
Meghalaya.

:::: Petitioner

-Vs-

1. The Shillong Municipal Board,
Shillong.
2. The Chief Executive Officer,
Shillong Municipal Board, Shillong. :::: Respondents

WP(C) No.150/2013

Shri. Rain Singh Lyngdoh,
S/o (L) P. Dympep,
R/o Polo, Shillong,
East Khasi Hills District,
Meghalaya.

:::: Petitioner

-Vs-

1. The Shillong Municipal Board,
Shillong.
2. The Chief Executive Officer,
Shillong Municipal Board, Shillong. :::: Respondents

WP(C) No.151/2013

Shri. Nabendu Goswami,
S/o (L) Nilmoni Goswami,
R/o Bipul Bhavan, Jail Road, Shillong,
East Khasi Hills District,
Meghalaya.

:::: Petitioner

-Vs-

1. The Shillong Municipal Board,
Shillong.
2. The Chief Executive Officer,
Shillong Municipal Board, Shillong. :::: Respondents

WP(C) No.152/2013

Shri. Syntai Singh Marbaniang,
S/o (L) D. Shangpliang,
R/o Mawlai Mawroh, Shillong,
East Khasi Hills District,
Meghalaya.

:::: Petitioner

-Vs-

1. The Shillong Municipal Board,
Shillong.
2. The Chief Executive Officer,
Shillong Municipal Board, Shillong. :::: Respondents

WP(C) No.153/2013

Shri. Naresh Chandra Barua,
S/o (L) Shri. C Barua,
R/o Polo Hills 6th Furlong, Shillong,
East Khasi Hills District,
Meghalaya.

:::: Petitioner

-Vs-

1. The Shillong Municipal Board,
Shillong.
2. The Chief Executive Officer,
Shillong Municipal Board, Shillong. :::: Respondents

WP(C) No.154/2013

Shri. Gutrasen Barua,
S/o (L) Shri. N.C. Barua,
R/o Mawpun, Golf Link, Polo, Shillong,
East Khasi Hills District,
Meghalaya.

:::: Petitioner

-Vs-

1. The Shillong Municipal Board,
Shillong.
2. The Chief Executive Officer,
Shillong Municipal Board, Shillong. :::: Respondents

BEFORE
THE HON'BLE MR JUSTICE T NANDAKUMAR SINGH

For the Petitioners	:	Mr. K Paul, Adv.
For the Respondents	:	Mr. K Baruah, Adv
Date of hearing	:	24.04.2014
Date of Judgment & Order	:	24.04.2014

JUDGMENT AND ORDER (ORAL)

These writ petitions involving the same questions of facts and law praying for similar relief(s) are taken up together for disposal by this common judgment and order.

2. The Shillong Municipal Board (for short 'SMB') got a Project from the Govt. of India in Ministry of Housing and Urban Poverty Alleviation. To commence the construction, the old structures are to be demolished and for that purpose, the writ petitioners are to be shifted from those premises temporarily. This is the third round of litigation for the same prayer involving the said project i.e. for the construction of the new building or new shops by demolishing the old structures at Polo Bazar Municipal Market. Because of litigations, it appears that the project cannot be implemented.

3. The project is for the interest of public and certain developments are required in the Polo Bazar. The respondents-SMB as directed by this Court, had filed the affidavit dated 11.04.2014 to bring on record the documents and lists of shop owners, who had shifted to the temporary market at Polo Bazar. Because of continuing disturbance from the side of shop owners in the Polo Municipal Market, the Deputy Secretary to the Govt. of Meghalaya, Urban Affairs Department, Shillong under his letter dated 07.06.2013 sought for advice from the Director, Urban Affairs, Meghalaya, Shillong as to whether the project for development of Polo Bazar be shifted to the site identified at New Shillong Township and also the construction of market at Polo is to be examined as and when the court cases are settled. From the said letter, it appears that the project for the larger interest of public for development of Polo Bazar cannot be implemented and the Govt. is compelled to take a decision to the extent of

shifting the project to a place at New Shillong Township and the construction of market at Polo may be examined as and when the court cases are settled.

4. This Court is of the considered view that in such circumstances, there may not be any development in Polo Bazar and the development in Polo Bazar is a must in the interest of public. There should be no unwanted sympathy for any individual, at cost of the project for the larger interest of the people. However, the Govt. should not throw out the people from the project area in an arbitrary manner. The statement i.e. Annexures-5A, 5B and 5C to the said affidavit-in-opposition filed by the respondents-SMB dated 11.04.2014 shows the names of the shop owners, who had already shifted to the temporary market. For easy reference, the statements at Annexure-5A, 5B and 5C of the affidavit-in-opposition filed by the respondents-SMB are reproduced below:-

“ANNEXURE-5 A

Statement showing the List of Vegetable Stall and Fish Stall at Polo Market who shifted to Temporary Market			
Sl. No.	Stall No.	Names	Particular of Trade
1.	142	Anita Pathaw	Dry Fish
2.	137	K.K. Thapa	Dry Fish
3.	122	Tilak Lyngdoh	Fish Stall
4.	119	Lasubon Kharmuti	Fish Stall
5.	123	Wansuk Lyngdoh	Fish Stall
6.	120	A. Kharmuti	Fish Stall
7.	121	Lung Lyngdoh	Fish Stall
8.	136	M. Lyngdoh	Fish Stall
9.	118	Regina Kharmuti	Vegetable Stall
10.	133	Bertimon Myrom	Vegetable Stall
11.	140	Jngir Suting	Vegetable Stall
12.	125	Soskular Kharsohnoh	Vegetable Stall
13.	127	Bliss Nengnong	Vegetable Stall
14.	124	Suklang Lyngdoh	Vegetable Stall
15.	126	Kamal Pradhan	Vegetable Stall
16.	128(A)	Kwill Myllemngap	Vegetable Stall
17.	128	Skuid Pathaw	Vegetable Stall
18.	134	Monalisa Surong	Vegetable Stall
19.	135	Ioda Jyrwa	Vegetable Stall

ANNEXURE-5 B

Statement showing the list vendors at Polo Market who shifted to Temporary Market.		
Sl. No.	Names	Particular of Trade
1.	T Nongsiej	Egg
2.	L. Lyngdoh	Fish Stall
3.	M. Sun	Fish Stall
4.	B Marbaniang	Fish Stall
5.	T. Marbaniang	Fish Stall
6.	Y Rani	Fish Stall
7.	M Sawian	Fish Stall
8.	M Alam	Fish Stall
9.	Belin Rani	Fish Stall
10.	B Rani	Fish Stall
11.	E Kharsohnoh	Fish Stall
12.	K Marbaniang	Fish Stall
13.	I Diengdoh	Fish Stall
14.	A Phawa	Fish Stall
15.	A Kharmujat	Fish Stall
16.	D Shabong	Fish Stall
17.	P Sohtun	Fish Stall
18.	M Nongrum	Fish Stall
19.	Swin Marbaniang	Fish Stall
20.	R Pyngrope	Fish Stall
21.	S Rapsang	Vegetable Stall
22.	Meno Wahlang	Vegetable Stall
23.	S Shabong	Vegetable Stall
24.	D Khyriem	Vegetable Stall
25.	T Lyngdoh	Vegetable Stall
26.	J Shabong	Vegetable Stall
27.	D Sohtun	Vegetable Stall
28.	T Thabah	Vegetable Stall
29.	M Wahlang	Vegetable Stall
30.	S Chettri	Vegetable Stall
31.	Philda Nongspung	Vegetable Stall
32.	Santi Suting	Vegetable Stall
33.	Wandalin Pathaw	Vegetable Stall
34.	Jnier Warjri	Vegetable Stall
35.	T Thabah	Vegetable Stall
36.	Bantellin Kharbukhi	Vegetable Stall
37.	Rebasuklang Nongsiej	Vegetable Stall
38.	Rona Rumnong	Vegetable Stall
39.	Biora Nongrang	Vegetable Stall
40.	Sorajini	Vegetable Stall
41.	Babita Nongrum	Vegetable Stall
42.	Pynskem Synrem	Vegetable Stall
43.	L Dohling	Vegetable Stall
44.	Irene	Vegetable Stall
45.	Masterwel Byrsaw	Vegetable Stall
46.	Bidora Nongrang	Vegetable Stall
47.	K Rynjah	Vegetable Stall
48.	Tmilda Lyngdoh	Vegetable Stall
49.	M Laloo	Vegetable Stall

ANNEXURE-5 C

Statement of Polo Market Godown			
No.	Stall No.	Names	Trade
1.	75	H.M. Pde	Godown
2.	55	Ram Babu Roy	Godown
3.	54	S. Dkhar	Godown
4.	179	L. Kharbamon	Godown
5.	4	Panna Das	Godown
6.	5	Motilal Das	Godown
7.	50	P. Nongbet	Godown
8.	58	G.L. Sharma	Godown
9.	65	S. Tmar	Godown
10.	207	D. Khyriem	Godown
11.	218	M. Sohkhlet	Godown
12.	169	V. Saio	Godown
13.	70	S. Gurung	Godown
14.	69	A. Hynniewta	Godown
15.	203	D. Mawrie	Godown
16.	197	Prem Tibrewalla	Godown
17.	100	Delbert Pathaw	Godown
18.	67	Delbert Pathaw	Godown
19.	3	Deepa Meera	Godown
20.	7	T. Marwein	Godown
21.	19	S. Purkayastha	Godown
22.	2	Ajoy Deb	Godown
23.	28	S. Dutta	Godown
24.	155	S. Sharma	Godown
25.	72	Manik Saha	Godown
26.	159	G.L. Sharma	Godown
27.	63	Dhiren Nongsiej	Godown
28.	74	Jantu Sem	Godown
29.	73	Mira Lyngdoh	Godown
30.	83	Sara Marry Jyrwa	Godown
31.	82	Willie Wahlang	Godown
32.	215	P.M. Hynniewta	Godown
33.	15	W. Nongrum	Godown
34.	135	Ioda Jyrwa	Godown
35.	17	B. Cilymai Syiem	Godown
36.	14	S.S. Marbaniang	Godown
37.	163	Deepa Mehra	Godown
38.	222	L.M. Lyngdoh	Godown
39.	204	Biolis Syiemlieh	Godown
40.	209	Krishna Bahadur Sunar	Godown
41.	72(A)	Manik Lal Saha	Godown

5. On bare perusal of the said statement, it is clear that many of the writ petitioners had already shifted to the temporary market. However, this fact is disputed by Mr. K Paul, learned counsel appearing for the petitioners. This Court is of the considered view that policy decision regarding development of

Polo Bazar is purely within the realm of the Govt. The Court cannot sit in appeal on the policy decision of the Govt. and however, this Court exercised the power of judicial review, which is the basic feature of the Constitution of India, over the policy decision of the Govt. only when the policy decision is in clear violation of rules and laws. In the present case, this Court is of the considered view that there is no clear violation of rules and laws in taking the policy decision by the Govt. for developing the Polo Bazar. Accordingly, this Court is of the considered view that any interference to the said policy decision of the Govt. is not called for.

6. In the result, these writ petitions are not maintainable.

7. The respondents-SMB have to verify in the presence of the persons or shop owners, whose names mentioned in the said statements quoted above, if they had shifted to the temporary market at Polo Bazar.

8. Mr. K Paul, learned counsel appearing for the writ petitioners also submits at the Bar that the petitioners would convene a meeting on 30.04.2014, for sorting out a proposal regarding the development of Polo Bazar. The respondents-SMB may look into the proposal, if sent by the writ petitioners. It is also made clear that the project should not be stalled because of the objections from the side of the petitioners that some inconveniences may cause to them.

9. Taking into consideration of the submission of Mr. K Paul, learned counsel appearing for the petitioners, till the writ petitioners submit their proposal on Wednesday (30.04.2014), the respondents-SMB, may not take up the demolition process.

10. With the above observations and directions, these writ petitions are disposed of.

JUDGE

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