

# THE HIGH COURT OF MEGHALAYA

## WP(C)No.28/2014

Shri. Mohibul Islam,  
S/o (L) Kalimuddin Ahmed,  
R/o Old Bhaitbari village, PO Bhaitbari,  
West Garo Hills District, Meghalaya.

:::: Petitioner

**-Vs-**

1. State of Meghalaya represented by the  
Commissioner, C&RD Department.  
Govt. of Meghalaya, Shillong.
2. The Deputy Commissioner,  
West Garo Hills District, Tura.  
Meghalaya.
3. Block Development Officer & Programme Officer,  
MGNREGS, Selsella C&RD Block, West Garo Hills  
District, Meghalaya.
4. Shri. Abdul Jobbar, Gaonbura Old Bhaitbari village,  
Police Station Phulbari, West Garo Hills District,  
Meghalaya.
5. Shri. Joynal Abdin, President VEC Old Bhaitbari  
MGNREGS, Selsella C&RD Block, West Garo Hills District,  
Meghalaya.
6. Shri. Faruk Hussain Mondal, Secretary VEC Old Bhaitbari  
MGNREGS, Selsella C&RD Block, West Garo Hills District,  
Meghalaya.
7. Smti. Solema Bibi, Woman Member VEC Old Bhaitbari  
MGNREGS, Selsella C&RD Block, West Garo Hills District,  
Meghalaya.

:::: Respondents

For the Petitioner : Mr. S Dey, Adv

For the Respondents : Mr. ND Chullai, Sr. GA  
Mr. KP Bhattacharjee, GA  
Mr. A Khan, Adv for respt.No.6

## WP(C)No.248/2014

Shri. Faruk Hussain Mondal,  
S/o (L) Affaz Uddin Mondal, aged about 44 years  
R/o Old Bhaitbari, PS Phulbari,  
West Garo Hills District,  
Meghalaya

:::: Petitioner

**-Vs-**

1. Govt. of Meghalaya represented by the Chief Secretary of Meghalaya.
  2. The Deputy Commissioner & District Programme Coordinator, West Garo Hills District, Tura. Meghalaya.
  3. Project Director & Additional Programme Coordinator, (MGNREGS), West Garo Hills District, Meghalaya.
  4. Block Development Officer (BDO) & Programme Officer, (MGNREGS), Selsella C&RD Block, West Garo Hills District, Meghalaya.
  5. Shri. Mohibul Islam,  
S/o (L) Kalimuddin Ahmed,  
R/o village Old Bhaitbari village, PO Bhaitbari,  
West Garo Hills District, Meghalaya.
  6. Shri. Monowar Hussain,  
S/o Azizul Hoque, R/o village Old Bhaitbari,  
P.O. Bhaitbari, West Garo Hills District,  
Meghalaya.
- : : : : Respondents

**BEFORE  
THE HON'BLE MR JUSTICE T NANDAKUMAR SINGH**

For the Petitioner	:	Mr. A Khan, Adv
For the Respondents	:	Mr. ND Chullai, Sr. GA Mr. KP Bhattacharjee, GA Mr. S Dey, Adv for respt.No.5&6
Date of hearing	:	<b>26.09.2014</b>
Date of Judgment & Order	:	<b>26.09.2014</b>

**JUDGMENT AND ORDER(ORAL)**

These two writ petitions involving similar question of fact and law relating with the constitution of Village Employment Council (VEC) for Old Bhaitbari, VEC are taken up for joint hearing for disposal by a common judgment and order.

2. Heard Mr. S Dey, learned counsel for the petitioner in WP(C)No.28/2014, Mr. ND Chullai, learned Sr. GA assisted by Mr. KP

Bhattacharjee, learned GA appearing for the respondents No.1-3 and Mr. A Khan, learned counsel for the respondents No.5 & 6. Also heard Mr. A Khan, learned counsel for the petitioner in WP(C)No.248/2014/respondents No.5&6 in WP(C)No.28/2014, Mr. ND Chullai, learned Sr. GA assisted by Mr. KP Bhattacharjee, learned GA appearing for the respondents No.1-4 and Mr. S Dey, learned counsel for the respondent No.5/petitioner in WP(C)No.28/2014.

**3.** The petitioner of WP(C)No.28/2014 was elected as Secretary of the VEC of Old Bhaitbari in the election conducted by the Gram Sabha on 18.01.2012 for the members of the Old Bhaitbari VEC and on his election in the said election as Secretary of the Old Bhaitbari VEC, the BDO & Programme Officer, MGNREGS, Selsella C&RD Block, West Garo Hills issued the order dated 23.01.2012, that the petitioner had been elected as Secretary of Old Bhaitbari VEC. In pursuance of the said election as Secretary of the Old Bhaitbari VEC and order dated 23.01.2012, the petitioner continued to serve as Secretary of the Old Bhaitbari VEC; and while he was serving as Secretary of the Old Bhaitbari VEC, a show cause notice dated 21.01.2014 was issued by the BDO & Programme Officer, MGNREGS, Selsella C&RD Block, West Garo Hills to the petitioner alleging that he had not placed the account of the VEC of Old Bhaitbari before the Job Card Holders inspite of several requests and also did not pay the wages to the Job Card Holders. In response to the said show cause notice dated 21.01.2014, the petitioner submitted his reply dated 21.01.2014. It is further stated in the writ petition that without any enquiry, the respondent No.3 i.e. the BDO & Programme Officer, MGNREGS, Selsella C&RD Block, West Garo Hills issued the order dated 31.01.2014 that the private respondent No.6 Shri. Faruk Hussain Mondal (writ petitioner of WP(C)No.248/2014), had

been selected in the meeting held on 10.01.2014 as Secretary of the VEC of Old Bhaitbari.

4. In the writ petition, it is further case of the petitioner that under the Scheme called "Meghalaya Rural Employment Guarantee Scheme, 2006" which is self contained one, the terms of the AEC members will be one year and if there be any complaint about any of the AEC members, a special meeting of the VEC shall be convened by the BDO or his/her representative to effect any changes in the VEC as may be agreed to by the VEC. Mr. S Dey, learned counsel for the petitioner in WP(C)No.28/2014 strenuously contended that under the said Scheme i.e. Meghalaya Rural Employment Guarantee Scheme, 2006, the elected VEC can be changed and the new members could be elected in a subsequent election of the VEC by the Job Card Holders. It is nobody's dispute that if there be any complaint against the members of the VEC, the elected VEC members, after holding enquiry, could be replaced by the elected members in a subsequent election. In the present case, the petitioner of WP(C)No.28/2014 had been removed from the post of Secretary of the Old Bhaitbari VEC without holding an enquiry and the respondent No.6 (writ petitioner in WP(C)No.248/2014) had been appointed as Secretary of the Old Bhaitbari VEC without any election. In this regard, Mr. A Khan, learned counsel for the petitioner in WP(C)No.248/2014, submitted that there was a selection of Secretary from amongst the Job Card Holders for the Old Bhaitbari VEC.

5. In the writ petition i.e. WP(C)No.248/2014 filed by the respondent No.6 is praying for a direction to the respondents to conduct an enquiry for the complaint mentioned above against the writ petitioner of WP(C)No.28/2014. The writ petitioner of WP(C)No.28/2014 had already filed reply to the show cause notice. Learned counsel appearing for the petitioner

of WP(C)No.28/2014/respondent No.6 of WP(C)No.248/2014, has no objection in granting the prayer sought for in the writ petition in WP(C)No.248/2014 for a direction to conduct the enquiry for the said complaint against the petitioner i.e. writ petitioner of WP(C)No.28/2014.

6. Mr. ND Chullai, learned Sr. GA appearing for the State respondents also submits that there shall be a fresh election for the President, Secretary and Woman Member of the Old Bhaitbari VEC by the Job Card Holders in compliance with the procedures/conditions mentioned in the said Scheme i.e. Meghalaya Rural Employment Guarantee Scheme, 2006, inasmuch as, there is no clear cut record for conducting the election of the VEC of Old Bhaitbari in compliance with the procedures/conditions mentioned in the said Scheme of 2006 i.e. Para 4 - Village Employment Council (VEC) there shall be three elected members from each VEC including the traditional headmen and female member to represent VEC at AEC.

7. In the above peculiar factual backdrop, this Court is of the considered view that there shall be a fresh election for the President, Secretary and Woman Member of the VEC of Old Bhaitbari in strict compliance with the procedures/conditions mentioned in the said Scheme of 2006 within a period of 45 days from the date of receipt of a certified copy of this common judgment and order. In the interregnum, the officer authorized by the Deputy Commissioner, West Garo Hills District, shall take charge of the VEC of Old Bhaitbari till fresh election is held. It is further directed that the Deputy Commissioner, West Garo Hills or the BDO concerned shall conduct the enquiry for the complaint mentioned above against the petitioner of WP(C)No.28/2014 in compliance with the principle of natural justice and the enquiry should be completed within a period of 45 days.

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

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**JUDGE**

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