

THE HIGH COURT OF MEGHALAYA

WP(C) No. 360 of 2014

Smti Prodipta Khongwir,
D/o Smti Kuila Khongwir,
R/o Oxford Hills, Kench's Trace,
Shillong,
East Khasi Hills District,
Meghalaya.

....Petitioner

-Vs-

1. The State Government of Meghalaya,
Represented by its Commissioner Secretary,
Govt. of Meghalaya
Home (Police) Department,
Meghalaya.
2. Superintendent of Police,
East Khasi Hills District,
Meghalaya.
3. The Khasi Hills Autonomous District Council,
East Khasi Hills District,
Shillong.
4. The Chief Executive Member,
Khasi Hills autonomous District Council,
Shillong.
5. The Dorbar Shnong of Madan Laban,
East Khasi Hills District,
Shillong.

....Respondents

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

For the petitioner	:	Mr. K.Paul, Adv. Ms. R.Paul, Adv.
For the respondents	:	Ms. P.S.Nongbri, Adv. Mr. K.P.Bhattacharjee, GA.
Date of hearing	:	28-10-2015
Date of Judgment	:	28-10-2015

JUDGMENT AND ORDER (ORAL)

Heard Ms. R.Paul, learned counsel appearing for the petitioner, Ms. P.S.Nongbri, learned counsel appearing for the respondents No. 4 and 5 and also Mr. K.P.Bhattacharjee, learned GA appearing for the respondents No. 1, 2 and 3.

2. The only prayer sought for in the present writ petition is for a direction to the respondents to forthwith unseal and unlock the shop of the petitioner situated at Laban and also directing the respondents No. 3 and 4 to take steps to ensure recurrence of such incidents except under the authority of law. This Court passed an interim order dated 17-11-2014 in the present writ petition which read as follows:

“17.11.2014

Heard Mr. S. Thapa, learned counsel appearing for the petitioner, who submits that on 12.11.2014 at around 4:30 PM 10(ten) to 15(fifteen) persons claiming themselves to be the members of the District Council, along with the house owner Smti S.N. Rani and Dorbar Shnong members came to the shop of the petitioner at Laban and without any warning pushed out the petitioner from the shop and forcefully locked the shop on the pretext that the undersigned does not have a valid trading licence for operating the shop.

The learned counsel further argued that the petitioner being a tribal does not require a trading licence and in this regard, she filed an FIR with the O/C of Laban P.S which is at Annexure-4.

Also heard Mr. N.D. Chullai, learned counsel appearing for the State who agreed that, trading licence is not necessary for a local tribal to run the business. A similar view has also been expressed by Mr. G.S. Massar, learned Sr. counsel. If it is so, I am of the view that the shop has been closed down illegally. The O/C of Laban P.S is directed to open the shop in presence of a Magistrate and to make necessary inventories and to allow the petitioner to continue her business until further order and also further directed to ensure that

nobody should interfere with the business of the petitioner.

Issue notice to the respondents. Since Mr. G.S. Massar, learned Sr. counsel assisted by Mr. L.S. Darnei, learned counsel appearing on behalf of the District Council and Mr. N.D. Chullai, learned Sr. GA appearing for and on behalf of the State are present and accepted the notice, no formal notice is called for.

Since the allegation is also against the member of the Dorbar Shnong, I am of the view that the petitioner should make the Dorbar also as a party.

List this matter after 2(two) weeks for show cause."

3. Ms. P.S.Nongbri, learned counsel appearing for the respondents No. 4 and 5 submits at the Bar that in pursuant of the interim order of this Court dated 17-11-2014, the shop of the petitioner had been opened and the petitioner is running her business. Ms. R.Paul, learned counsel appearing for the petitioner also submits that the petitioner had already obtained the ST Certificate.

4. Ms. P.S.Nongbri, learned counsel appearing for the respondents No. 4 and 5 submits at the Bar that trade licence is not required for members of the ST. The shop of the petitioner was sealed for the reason that the petitioner was allowing the shop to be run by a non-tribal.

5. In the above factual backdrop, this writ petition is disposed of with a direction that the shop of the petitioner shall not be sealed without giving an opportunity of being heard to the petitioner.

6. Writ petition is accordingly disposed of.

JUDGE

S.Rynjah