

MC NO. 24 OF 2015

**BEFORE  
HON'BLE MR JUSTICE UMA NATH SINGH,  
CHIEF JUSTICE**

**13.10.2015**

Mr R Jha, learned counsel, appears for the applicant.

Mr ND Chullai, learned senior GA, represents the State respondents.

This application has been filed for defreezing of Bank Account and release of substantial amount of money during the pendency of the case i.e. Crl. Petn. No. 33 of 2014.

Learned counsel for the applicant submits at the bar that the applicant is the Chairman of the CMJ Foundation Trust, which is the sponsoring body of CMJ University as mentioned and defined under Section 2(xxxiii) of the CMJ University Act, 2009. The said Foundation is a registered trust since 2004 and is engaged in various kinds of business and social activities since its inception.

After registering of criminal proceeding against the University i.e. CID PS Case No. 2(4) of 2013, the Investigating Officer of the said case through his own letter and without taking permission from the court has frozen all the bank accounts of the University as well as the CMJ Foundation. Further I/O has also frozen the fixed deposits standing in the name of the foundation as well as the personal accounts of the petitioner, his wife, namely, Smti Indu Rani Jha, and both sons, namely, Gopal Jha and Govind Jha.

The details of the frozen bank accounts as mentioned in para 4 of the Crl Petn No. 33 of 2014 which is pending for final adjudication before this Court are as follows :

“A) Freezing Account with Punjab National Bank

<b>Sl. No.</b>	<b>Account Holder</b>	<b>Account Numbers</b>	<b>Types of accounts</b>
1.	Shri. Chandra Mohan Jha	420500100010937	Saving Deposit
2.	Shri. Chandra Mohan Jha	42000DP00000690	Fixed Deposit
3.	Shri. Chandra Mohan Jha	420500DP0000797	Fixed Deposit
4.	Shri. Chandra Mohan Jha	420500DP00001574	Fixed Deposit
5.	Shri. Chandra Mohan Jha	420500DP00001705	Fixed Deposit

6.	Shri. Chandra Mohan Jha	420600DP00001848	Fixed Deposit
7.	Shri. Chandra Mohan Jha	420500DP00001945	Fixed Deposit
8.	Shri. Chandra Mohan Jha	420500DP00001954	Fixed Deposit
9.	Smti. Indu Rani Jha	4205000100011015	Saving Deposit
10.	Smti. Indu Rani Jha	420500DP00000681	Fixed Deposit
11.	Smti. Indu Rani Jha	420500DP00000788	Fixed Deposit
12.	Smti. Indu Rani Jha	420500DP00001583	Fixed Deposit
13.	Smti. Indu Rani Jha	420500DP00001699	Fixed Deposit
14.	Smti. Indu Rani Jha	420500DP00001857	Fixed Deposit
15.	Smti. Indu Rani Jha	420500DP00001936	Fixed Deposit
16.	Shri. GovindJha	420500DP00000724	Fixed Deposit
17.	Shri. GovindJha	420500DP00000779	Fixed Deposit
18.	Shri. GovindJha	420500DP00001167	Fixed Deposit
19.	Shri. GovindJha	420500DP00001486	Fixed Deposit
20.	Shri. GopalJha	420500DP00000715	Fixed Deposit
21.	Shri. GopalJha	420500DP00000830	Fixed Deposit
22.	Shri. GopalJha	420500DP00001194	Fixed Deposit
23.	Shri. GopalJha	420500DP00001495	Fixed Deposit
24.	Shri. GopalJha	420500DP00001811	Fixed Deposit
25.	Shri. GopalJha	420500DP00001875	Fixed Deposit
26.	C.M.J. University	420500DA00000987	Fixed Deposit
27.	C.M.J. University	420500DA00000996	Fixed Deposit
28.	C.M.J. University	420500DA00001001	Fixed Deposit
29.	C.M.J. University	420500DA00001010	Fixed Deposit
30.	C.M.J. University	420500DA00001029	Fixed Deposit
31.	C.M.J. University	420500DA00001038	Fixed Deposit
32.	C.M.J. University	420500DA00001047	Fixed Deposit
33.	C.M.J. University	420500DA00001056	Fixed Deposit
34.	C.M.J. University	420500DA00001065	Fixed Deposit
35.	C.M.J. University	420500DA00001074	Fixed Deposit
36.	C.M.J. University	420500DA00001162	Fixed Deposit
37.	C.M.J. University	420500DA00001171	Fixed Deposit
38.	C.M.J. University	420500DA00001445	Fixed Deposit
39.	C.M.J. University	420500DA00001454	Fixed Deposit
40.	C.M.J. University	420500DA00001524	Fixed Deposit
41.	C.M.J. University	420500DA00001560	Fixed Deposit
42.	C.M.J. University	420500DA00001649	Fixed Deposit
43.	C.M.J. University	420500DA00002019	Fixed Deposit
44.	C.M.J. University	420500DA00002028	Fixed Deposit
45.	C.M.J. University	420500DA00002347	Fixed Deposit
46.	C.M.J. University	420500DA00002480	Fixed Deposit
47.	C.M.J. University	420500DA00002020	Fixed Deposit
48.	C.M.J. University	420500DA00000909	Fixed Deposit
49.	C.M.J. University	420500DA00000928	Fixed Deposit
50.	C.M.J. Foundation	420500001000016108	Saving Deposit
51.	C.M.J. Foundation	420500DA00001630	Fixed Deposit
52.	C.M.J. Foundation	420500DA00001737	Fixed Deposit
53.	C.M.J. Foundation	420500DA00001746	Fixed Deposit
54.	C.M.J. Foundation	420500DA00001755	Fixed Deposit
55.	C.M.J. Foundation	420500DA00001764	Fixed Deposit
56.	C.M.J. Foundation	420500DA00002037	Fixed Deposit
57.	C.M.J. Foundation	420500DA00002046	Fixed Deposit
58.	C.M.J. Foundation	420500DA00002213	Fixed Deposit
59.	C.M.J. Foundation	420500DA00002240	Fixed Deposit
60.	C.M.J. Foundation	420500DA00002295	Fixed Deposit
61.	C.M.J. Foundation	420500DA00002329	Fixed Deposit

62.	C.M.J. Foundation	420500DA00002365	Fixed Deposit
63.	C.M.J. Foundation	420500DA00002383	Fixed Deposit
64.	C.M.J. Foundation	420500DA00002435	Fixed Deposit
65.	C.M.J. Foundation	420500DA00002471	Fixed Deposit
66.	C.M.J. Foundation	420500DA00002611	Fixed Deposit
67.	C.M.J. Foundation	420500DA00002727	Fixed Deposit

B) Freezing Account with Axis Bank Ltd, Shillong

Sl No	Account Holder	Account Number	Type of Account
1.	Shri Chandra Mohan Jha	912010065486378	Saving Account
2.	Shri Chandra Mohan Jha	911010045415597	Saving Account
3.	Shri Chandra Mohan Jha	91201001189993	Saving Account
4.	Shri Chandra Mohan Jha	913040010623041	Saving Account
5.	Shri Chandra Mohan Jha	913040010623041	Fixed Deposit
6.	Shri Chandra Mohan Jha	913040010624060	Fixed Deposit
7.	Shri Chandra Mohan Jha	913040017630909	Fixed Deposit
8.	Shri Chandra Mohan Jha	913040021577728	Fixed Deposit
9.	Shri Chandra Mohan Jha	912040057465687	Fixed Deposit
10.	Shri Chandra Mohan Jha	912040059971487	Fixed Deposit
11.	SmtiIndu Rani Jha	913010006193894	Saving Account
12.	SmtiIndu Rani Jha	912010043484657	Saving Account
13.	SmtiIndu Rani Jha	912010057351396	Saving Account
14.	SmtiIndu Rani Jha	913040010624882	Saving Account
15.	SmtiIndu Rani Jha	912040058624508	Saving Account
16.	Shri GovindJha	026010100326247	Saving Account
17.	Shri GopalJha	114010100065007	Saving Account
18.	CMJ Foundation	912010065496388	Saving Account
19.	CMJ Foundation	912010041552921	Saving Account
20.	CMJ Foundation	912010032436535	Saving Account
21.	CMJ Foundation	913040010621566	Fixed Deposit
22.	CMJ Foundation	913040017626052	Fixed Deposit

23.	CMJ Foundation	913040018763239	Fixed Deposit
24.	CMJ Foundation	912040039975616	Fixed Deposit
25.	CMJ Foundation	912040041813395	Fixed Deposit
26.	CMJ Foundation	912040045778135	Fixed Deposit
27.	CMJ Foundation	912040046299464	Fixed Deposit
28.	CMJ Foundation	912040054472215	Fixed Deposit
29.	CMJ Foundation	912040058629231	Fixed Deposit
30.	CMJ Foundation	912040001576952	Fixed Deposit
31.	CMJ Foundation	912040001585749	Fixed Deposit
32.	CMJ Foundation	9120400018608174	Fixed Deposit
33.	CMJ Foundation	9120400057464503	Fixed Deposit
34.	CMJ Foundation	9120400059969358	Fixed Deposit
35.	CMJ Foundation	912010033461101	Fixed Deposit
36.	CMJ Foundation	911040055659713	Fixed Deposit
37.	CMJ Foundation	911040055680568	Fixed Deposit
38.	CMJ Foundation	912040034641211	Fixed Deposit
39.	CMJ Foundation	912040039999230	Fixed Deposit
40.	CMJ Foundation	912040053268284	Fixed Deposit
41.	CMJ Foundation	912040059585361	Fixed Deposit
42.	CMJ Foundation	912040001578754	Fixed Deposit

C) Freezing Account with Union Bank of India, Nebsarai Branch, New Delhi

Sl No	Account Holder	Account Number	Type of Account
1.	CMJ University	579101010050207	Saving Account
2.	CMJ University	579102010002502	Saving Account

D) Freezing Account with ICICI Bank Ltd, Shillong

Sl No	Account Holder	Account Number	Type of Account
1.	CMJ University	035201001414	Saving Account

The learned counsel for the applicant/petitioner has also submitted that due to freezing of the accounts, he along with his entire family has to undergo serious financial crises and he is unable to pay the statutory dues, in particular, of Income Tax, and housing loans taken from Housing Urban Development Corporation for the construction of buildings of the University situated at Jorabat. The said Corporation has been sending recovery notices to the applicant/petitioner and even threatening to take possession of the University building. He is also unable to pay the salary of the staff of the Foundation as well as the CMJ University. Hence, the applicant/petitioner has approached this Court for grant of relief(s) and release of substantial amount of money by defreezing the fixed deposits and bank accounts etc.

Learned counsel for the applicant/petitioner submits that the CMJ Foundation was engaged in various kinds of business activities since much before the CMJ University was set up by the Trust. The Chief Judicial Magistrate by earlier two orders dated 17.01.2014 and 28.11.2014 had already released several accounts of the applicant/petitioner only on the basis of concession granted by the Investigating Officer even in the midst of investigation. The order dated 03.11.2014 passed by the Chief Judicial Magistrate, whereby the Bank accounts in question having deposits over 43 crores have been frozen is an ex-parte order and supports the acts of commission and omission on the part of the Investigating Officer in complete violation of the procedure required to be followed under Sections 102 and 105 CrPC. Thus, there is a violation of mandatory provisions of the CrPC by the Investigating Officer as well as by the Court of Chief Judicial Magistrate. It is also a submission of learned counsel that an endowment fund of Rs. 56500000/- has already been created and deposited and as of date, the same is lying with the State Government. It is also a submission that though the Investigating Officer has alleged that a large number of mark-sheets and certificates were issued within a short span of time by the University, but the fact remains that the Investigating Officer failed to understand that most of the academic courses are run with semesters system, therefore, at the end of each semester, the candidates have to be issued mark-sheets for different courses. Establishment of various study centers was already authorized by the provisions of the CMJ University Act. The University Grants Commission being the regulatory authority had never raised any objection about the functioning of the University. The Visitor, namely, the Governor of Meghalaya also passed various orders against

the interest of the University in a quick succession. He sought a large number of information on 26.04.2013 but strangely enough by the order of the same date, also directed the Director General of Police of Meghalaya to register an FIR and investigate the case without waiting for reply from the University. The orders passed by the Visitor, even in violation of the orders of Hon'ble the Supreme Court which required the authorities to grant opportunity under Section 48 of the CMJ University Act, 2009 and also opportunity to show cause to the students whose degrees were later unilaterally cancelled, finally led to the closure of the University.

On the other hand, learned State counsel in his oral arguments as well as written submissions has asserted that the mark-sheets and degrees of various courses were issued in irregular manner. The students were illegally enrolled for the study centers outside the Shillong Main campus of the University. The off campus and regional study centers were established all over India without obtaining the approval of the UGC and the respective State Governments in violation of the UGC Regulations and Statutes. The University also furnished misleading information about the details of faculty members and the CMJ Foundation as well as its members had sought the enrolment of students for various study centers outside the main campus through illegal and non-regular mode.

On a careful perusal of the rival pleadings and consideration of rival submissions, it is noticeable that the impugned Bank Accounts said to be frozen is said to be shown also in the Income Tax returns. Besides, the University Grants Commission being the Supervisory authority had never raised any objection to the functioning of the University. A Court of Learned single Judge of this Court (Hon'ble Mr Justice T Nandakumar Singh) by a detailed judgment and order dated 16.07.2015 allowed WP(C)No. 177 of 2014 while also holding that there was non-compliance with and violation of the requirements of the CMJ University Act 2009 (Act No. 4 of 2009); the Meghalaya Private Universities (Regulation of Establishment and Maintenance of Standards) Act, 2012 (Act No. 8 of 2012); the principles of natural justice and, also the concept of obligation of the administrative authorities to act fairly in the interest of justice. Moreover, that judgment has not been called in question and now it appears to have attained the finality.

This Court also in its judgment in Criminal Petition No. 32 of 2014 Govind Jha and Anr v. State of Meghalaya and Ors, has not only

quashed the orders of Chief Judicial Magistrate, Shillong, directing issuance of non-bailable warrants, use of handcuffs and lookout notices but also deprecated the conduct of the respondents including the Investigating Officer for straying away from the established procedure of law. Rather, the orders of the Chief Judicial Magistrate, Shillong to handcuff the alleged accused appear to be in utter contempt of various judgments of Hon'ble the Apex Court. The petitioner seems to have a huge amount of financial liability to be met including the one relating to repayment of loan and furnishing of Income Tax returns apart from satisfying other different kinds of demand in the form of bills. Moreover, after the judgment in WP(C)No. 177 of 2014, the University has to be revived under the law, and for a smooth functioning of the Institution, a fund would also be required. It also appears that the University was set up by the CMJ Foundation Trust which was engaged in different kinds of business activities, and perhaps, out of such business funds only, it created the infrastructures of the University. The Bank Accounts of the CMJ Foundation have also been frozen by the Investigating Officer by issuing letters without Court's orders as such. It further appears that on two different dates, the Chief Judicial Magistrate vide orders dated 17.01.2014 and 28.11.2014 has defrozen and released several Bank Accounts merely on the concession given by the Investigating Officer even after freezing of the Bank Accounts during the course of investigation. Besides, there is an allegation of violation of Section 102(1) of the CrPC by the Investigating Officer.

In view of the aforesaid facts and circumstances, I am of the considered view that for enabling the applicant/petitioner to meet the financial obligations of the CMJ Foundation, the CMJ University and also in respect of individual liability and that of family members and to make the CMJ University functional in terms of the judgment of the learned single Judge passed in WP(C)No. 177 of 2014, for the present, an amount of Rs. 15,62,43,477.46p out of the frozen amount of Rs. 30,42,87,709.17p belonging to the CMJ Foundation should be released: for the Trust alone had established the University. The details of the frozen bank accounts of the CMJ Foundation which are defrozen and directed to be released hereby, are as follows :

A) Freezing Account with Punjab National Bank

Sl No	Account Holder	Account Numbers	Types of accounts	Amount freezed (in Rupees)
1.	C.M.J. Foundation	420500001000016108	Saving Deposit	168744
2.	C.M.J. Foundation	420500DA00001630	Fixed Deposit	2500000
3.	C.M.J. Foundation	420500DA00001737	Fixed Deposit	2500000
4.	C.M.J. Foundation	420500DA00001746	Fixed Deposit	2500000
5.	C.M.J. Foundation	420500DA00001755	Fixed Deposit	2500000
6.	C.M.J. Foundation	420500DA00001764	Fixed Deposit	2500000
7.	C.M.J. Foundation	420500DA00002037	Fixed Deposit	2500000
8.	C.M.J. Foundation	420500DA00002046	Fixed Deposit	2500000
9.	C.M.J. Foundation	420500DA00002213	Fixed Deposit	5000000
10	C.M.J. Foundation	420500DA00002240	Fixed Deposit	5000000
11	C.M.J. Foundation	420500DA00002295	Fixed Deposit	10000000
12	C.M.J. Foundation	420500DA00002329	Fixed Deposit	10000000
13	C.M.J. Foundation	420500DA00002365	Fixed Deposit	10000000
14	C.M.J. Foundation	420500DA00002383	Fixed Deposit	5000000
15	C.M.J. Foundation	420500DA00002435	Fixed Deposit	10000000
16	C.M.J. Foundation	420500DA00002471	Fixed Deposit	10000000
17	C.M.J. Foundation	420500DA00002611	Fixed Deposit	10000000
18	C.M.J. Foundation	420500DA00002727	Fixed Deposit	10000000
			TOTAL	10,26,68,744

B) Freezing Account with Axis Bank Ltd, Shillong

Sl No	Account Holder	Account Number	Type of Account	Amount freezed (in Rupees)
1.	CMJ Foundation	912010065496388	Saving Account	602909
2.	CMJ Foundation	912010041552921	Saving Account	127872.46
3.	CMJ Foundation	912010032436535	Saving Account	274184
4.	CMJ Foundation	913040010621566	Fixed Deposit	10511001
5.	CMJ Foundation	913040017626052	Fixed Deposit	10416227
6.	CMJ Foundation	913040018763239	Fixed Deposit	20746939
7.	CMJ Foundation	912040039975616	Fixed Deposit	10895604
			Total	5,35,74,733.46



Thus, Misc. Case No. 24 of 2015 for interim relief is partly allowed and disposed of. The main matter, namely, CrI Petn No. 33 of 2014 for releasing the entire frozen accounts would have to await the availability of charge-sheet which was informed to have been filed during the course of hearing of CrI Petn No. 32 of 2014. Thus, the trial court is directed to submit a certified copy of the charge-sheet placed on the case record of CID PS Case No. 2(4) of 2013 by the Investigating Officer.

CHIEFF JUSTICE

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