

HIGH COURT OF MEGHALAYA

WP(C) No. 345 of 2013

1. The Meghalaya Truck Drivers Association
represented by its authorized Secretary
Shri. Bobby R Marak of the Association.
2. Shri. Bobby R. Marak, Secretary, Meghalaya
Truck Drivers' Association, Dainadubi,
P.O. Damas. P.S. Mendipathar, District North
Garo Hills, Meghalaya.

..... Petitioners

-Versus-

1. The State of Meghalaya,
represented by the Principal Secretary
to the Government of Meghalaya,
Department of Home, Shillong.
2. The Deputy Commissioner,
North Garo Hills District,
Resubelpara, Meghalaya
3. The Superintendent of Police,
North Garo Hills District,
Resubelpara, Meghalaya
4. The Officer-in-Charge,
Dainadubi Police Outpost, Dainadubi
North Garo Hills District,
Meghalaya

..... Respondents

BEFORE HON'BLE MR JUSTICE SR SEN

Advocate for the Petitioner	:	Mr. S Dey
Advocate for the Respondents	:	Mr. ND Chullai Mr. KP Bhattacharjee
Date of Hearing	:	24.02.2015.
Date of Judgment & Order	:	24.02.2015

JUDGMENT & ORDER (Oral)

The petitioner's case in nut shell is that, "the petitioner is a registered Union established/Constituted by the Goods and Coal Trucks, Drivers and Handymen in the name and style **"ALL MEGHALAYA GOODS AND COAL CARRIERS TRUCKS DIRVERS AND HANDYMEN UNION"** Meghalaya, established/constituted in

the year 2005, Head Office at Dainadubi, North Garo Hills District, Meghalaya. The Petitioners Union was formed to organize Goods and Coal Carriers Truck, Drivers and Handyman's who are engaged in hazardous job. That with a view to further enhancing its welfare activities undertaken by the petitioner's Union, adopted an unanimous Resolution by its Executive Committee to the effect that a sum of Rs. 100/- (Rupees One Hundred) only per trip from coal loaded truck would be collected from the registered members, which is readily accepted and agreed to remit the said contribution towards its Union head office at Dainadubi, which is situated at a distance of 150 meters away from the National Highway- 62. The police personnel from Dainadubi Police Outpost every now and then obstructed/prevent the union members from carrying out their legal and lawful activities of the Union, without any valid ground and sanction of law. The petitioner Union, having no other adequate and alternative remedy, approached this Hon'ble Court by filing a writ petition, registered as WP(C) No. 147 (SH) 2006 and this Hon'ble Court vide order dated 29.06.2006 disposed the said writ petition with a direction to allow the petitioner to collect Rs. 100/- (Rupees One Hundred) only from its members only and also further directed the respondents not to obstruct or prevent the Union to carry out its legal and lawful activities. The Deputy Commissioner, East Garo Hills District, Williamnagar was pleased to passed an order allowed the Union to collect membership fees subject to the following terms and conditions.

- (i) The office of the Union should not be along the National Highway and should be located at least 110 meters away from the National Highway.
- (ii) The members of the Union should not stop the moving trucks on NH-62 and shall not disrupt the smooth flow of the vehicular traffic. Violation

of the above terms and condition will lead to immediate revocation of the Permission.

The head office of the petitioner at Dainadubi was functioning lawfully but the Respondent No. 5 along with other Police personnel forcibly shut down the office of the Union without any reasonable cause and resulting into immense loss to the petitioners Union. The petitioners Union through its President once again approached this Hon'ble Court by filing an application under Article-226 of the Constitution of India which was registered as WP(C) No. 59 (SH) of 2012. The Hon'ble Court vide order dated 21.03.2012 was pleased to disposed of the said writ petition with a "... direction **directing the respondent No. 3 and 4 not to harass or disturb their collection of membership fees so long as such activities are carried out strictly in accordance with the order issued by the Deputy Commissioner, East Garo Hills District, Williamnagar....**" The petitioner office was constructed by its members outside the National Highway at a distance of 150 meters away from the National Highway, and there is no disturbance whatsoever into the movement of traffic/vehicle as well as to the pedestrians in the National Highway. The members of the Union was shocked when some police personnel from the office of Respondent No. 5 once again close down the petitioner head office on 15th November 2013, even though the said office of the Union was functioning as per the direction and order dated 21.03.2012 of this Hon'ble Court passed in WP(C) No. 59 (SH) of 2012, and per the guideline laid down by the Deputy Commissioner, East Garo Hills District, Meghalaya. The office of the Union was closed down without following the basic principle of natural justice. Hence, this petition."

2. Mr. S Dey, learned counsel appeared for on behalf of the petitioners submits that, the petitioners are running an association for the welfare of Truck Drivers and Handyman and have got a number of members affiliated with the association. In return they are collecting membership fees @ Rs. 100 from each member of the association. The learned counsel further submits that, there is nothing illegal as they are not carrying out any activity in the National Highway and also further contended that whatever direction this Court passes, they will abide by it and they are ready to shift their office or place of collection far away from National Highway.

3. Mr. ND Chullai, learned senior counsel assisted by Mr. KP Bhattacharjee raised objection stating that, setting up of such office on the National Highway has created lots of disturbances for the smooth plying of vehicles and has caused traffic jam. Besides that, the organization has not obtained permission from National Highway Authority of India, as such, they cannot continue with their office on National Highway or to collect any kind of membership fee.

4. Mr. S Dey, the learned counsel for the petitioners also relied on the Judgment of this Court passed in WP(C) No. 184 of 2013.

5. After hearing the rival submissions advanced by the learned counsel for the parties, I hereby ordered as follows:

- (i) Henceforth, petitioners' association shall collect membership fees only from the registered members of the association and not from any other trucks who are not members of the association.
- (ii) While collecting membership fees, members of the association shall not use any kind of force.

- (iii) Petitioners' association shall not set-up any office on National Highway and if it still continuing, they will have to take immediate necessary steps to shift their office at least 150 meters away from the National Highway.
- (iv) Petitioners' association shall maintain a register for their memberships which may be checked and scrutinized by the Government authorities from time to time as and when necessary.
- (v) In case there is any violation of the Court's order, authorities shall be at liberty to take appropriate necessary action in accordance with law.

6. With these observations and directions, this instant petition is allowed to that extend and the matter stands disposed of.

JUDGE

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