

MC[WP(C)] No. 198 of 2016
With WP(C) No. 50 of 2015

BEFORE
THE HON'BLE MR. JUSTICE, S.R. SEN

28.04.2017

Heard Mr. H.S. Thangkhiew, learned Sr. counsel assisted by Mr. N. Mozika, learned counsel for the applicant/respondent No. 2 as well as Mr. K. Sunar, learned counsel for the respondent No. 1/petitioner.

The matter came up for hearing on the maintainability of the instant writ petition.

After hearing the submissions advanced by the learned counsel and after going through the "Memorandum of Association" and "Rules of the Meghalaya Urban Development Agency" which is at Annexure-1 of the writ petition, I could not satisfy myself that it is not a part of the Government, so no writ lies, rather from the "Memorandum of Association" and "Rules of the Meghalaya Urban Development Agency", it clearly shows that the "Meghalaya Urban Development Agency" is a creation and part of the Government.

Further, in the case of ***In Unni Krishnan v. State of A.P: (1993) 1 SCC at Para 78 (20)*** the Hon'ble Supreme Court has held that:

"78 (20) The term 'authority' used in Article 226, the context must receive a liberal meaning unlike the term in Article 12. Article 12 is relevant only for the purposes of enforcement of fundamental rights under Article 32. Article 226 confers power on the High Courts to issue writs for enforcement of the fundamental rights as well as non fundamental rights. The words 'any person or authority' used in Article 226 are, therefore, not to be confined only to statutory authorities and instrumentalities of the State. They may cover any other person or body performing public duty. The form of the body concerned is not much relevant. What is relevant is the nature of the body imposed on the body. The duty must be judged in the light of positive obligation owed by the person or authority to the affected party. No matter by what means the duty is imposed; if a positive obligation exists mandamus cannot be denied."

Therefore, I do not find any point to record any reason that the petition is not maintainable. In my view, the petition is maintainable.

Misc. Case stands disposed of.

JUDGE

D. Nary