

Serial No. 31
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 69 of 2018

Date of Decision: 27.09.2018

Smti. Mijitha G. Momin

Vs.

State of Meghalaya & Ors

Coram:

Hon'ble Mr. Justice S.R. Sen, Judge (Oral)

Appearance:

For the Petitioner(s) : Mr. P.T. Sangma, Adv.

For the Respondent(s) : Mrs. S. Bhattacharjee, GA. (For R 1-4)

i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No

1. Heard Mr. P.T. Sangma, learned counsel appearing on behalf of the petitioner as well as Mrs. S. Bhattacharjee, learned GA appearing on behalf of the respondent No. 1-4.

2. The brief fact of the petitioner's case in a nutshell is that:

"The humble petitioner had purchased the Light Goods Vehicles, Bolero Camper Bearing Registration Number ML09A6341 dated 19.02.2014 through Finance From State Bank of India Gasuapara Branch, for sum of total Rs. 575000(five Lakhs Seventy five thousand) with an agreement to pay monthly instalment for sum of Rs. 13,700/- (thirteen thousand seven hundred) only for the purpose of running the business. That the Deputy Commissioner has issued requisition letter to the petitioner vide Letter No.SGH EL 15 BE 2015 dated 19.06.2015, stating that Bye-Election to the Legislative Assembly 2016 is Scheduled to be held on 27.07.2015, therefore, under the power vested with Deputy Commissioner he has requisitioned the said vehicle under section 160 of Representative of the People Act, 1951. That it was on 09.07.2015 at around 04:10AM, said requisition Bolero pickup bearing No. ML09A6431 belongs to the Petitioner

was driven by Shri Arki Lanong UBS who is a Police constable and was proceeding from Baghmara towards Shillong and on reaching at 14Mile, G.S. Road, Byrnihat, the said Bolero met an accident by dashing one truck from behind which was parked at the roadside, and it is further stated that in the process one occupant of Bolero UBSI Ethel Warjri sustained injuries and later he has succumbed to his injuries on the same day i.e. 09.07.2015, at 07:30am at Woodland hospital, Shillong and accordingly the case has been registered vide Nongpoh P.S. Case No. 150(7)2015 u/s 337/338/427/304A IPC. That the petitioner had been frequently requesting the state respondent to take up the matter seriously and to pay the compensation or to arrange a new vehicle to the petitioner in place of the said damaged vehicle, however, the state respondent has refused to comply with the plea of the petitioner. The petitioner has also filed a Writ Petition vide WP(C) No. 25 of 2017 however, the petitioner has withdrew the said petition with a liberty to file a fresh on the ground that the parties agreed to settle the matter amicably outside the Court but, the agreement to settle the matter by the parties could not arrive therefore, the petitioner is filing the instant Writ Petition with a prayer to pay the compensation for the damaged vehicle or to arrange a new vehicle in place of the old vehicle which was fully damaged and is still lying abandoned in Baghmara Police Station. And also to redress her grievances for the interest of justice.”

3. The learned counsel appearing on behalf of the petitioner submits that the vehicle bearing Registration No. ML-09-A-6341 was seized by the Deputy Commissioner, Baghmara, South Garo Hills District, Meghalaya on 19.06.2015 on Bye-Election duty to the Legislative Assembly 2016 and thereafter, this vehicle was used by the Superintendent of Police, Baghmara, South Garo Hills District, Meghalaya on 09.07.2015. The learned counsel also submits that the driver of the vehicle of the petitioner was not allowed to drive the vehicle and while the vehicle was under the custody of the Government, they met with an accident on the same day at Byrnihat, Ri-Bhoi District, in which

one occupant of the vehicle succumbed to his injuries and damaged the vehicle totally. At present, the vehicle is lying in the office of the Superintendent of Police, Baghmara, South Garo Hills District, Meghalaya.

4. The learned GA appearing on behalf of the respondent No. 1-4 submits that the vehicle was supposed to be driven by the driver of the petitioner, but for the reasons best known to them, the vehicle was handed over to the police. She also further contended that the vehicle is insured, so the damages if any, shall be borne by the Insurance Company.

5. After hearing the submissions advanced by the learned counsel for the parties, it is an admitted fact that the said vehicle bearing Registration No. ML-09-A-6341 has been requisitioned by the Deputy Commissioner, Baghmara, South Garo Hills District, Meghalaya and they were using the vehicle and met with an accident. It is also a fact that the petitioner is paying the premium of loan every month. If it is so, in my considered view, the State Government is liable to pay the compensation to repair the vehicle in a proper condition.

6. The Deputy Commissioner, Baghmara, South Garo Hills District, Meghalaya is hereby directed to assess the extent of damage caused to the vehicle along with the petitioner and the expert mechanics and to make appropriate compensation for repairing the vehicle and also to release the vehicle in favour of the petitioner.

7. This whole exercise is to be completed within 15(fifteen) days from the date of receipt of a copy of this judgment and order.

8. With this observation and direction the petition is allowed and stands disposed of.

(S.R. Sen)
Judge

Meghalaya
27.09.2018
"D. Nary, PS"