

Serial No. 01
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 279 of 2021 with
WP(C) No. 359 of 2021

Date of Decision: 26.04.2024

In WP(C) No. 279 of 2021

Smti. Priyanchi R. Marak
W/o Shri. Septerwin R. Marak
R/o Chidarebokma, West Garo Hills District, Meghalaya

.....Petitioner

-Versus-

1. The State of Meghalaya
Represented by the Chief Secretary
Govt. of Meghalaya, Shillong
2. Deputy Commissioner
(Revenue) North Garo Hills District, Resubelpara, Meghalaya.
3. The Deputy Secretary
Revenue and Disaster
Department, Meghalaya, Shillong.
4. The Joint Secretary
Revenue & Disaster Management
Department, Shillong, Meghalaya
5. District A.H. and Veterinary
Officer, North Garo Hills,
Resubelpara, Meghalaya.

.....Respondents

In WP(C) No. 359 of 2021

Smti. Cerine N Marak,
W/o (L) Silka D Shira,

R/o Dilma, P.O. Mendipathar,
North Garo Hills District, Meghalaya
[Substituted as per Court's order dated 22.08.2023]

.....Petitioner

-versus-

1. State of Meghalaya
Represented by the Commissioner & Secretary, Revenue and
Disaster Management Department,
Government of Meghalaya, Shillong

2. The Deputy Commissioner,
North Garo Hills District, Resubelpara, Meghalaya

3. The District Animal Husbandry &
Veterinary Officer, Resubelpara,
(Gangdubi) North Garo Hills District,
Meghalaya

.....Respondents

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

In WP(C) No. 279 of 2021

For the Petitioner/Appellant(s)	:	Mr. H.L. Shangreiso, Sr. Adv. with Ms. P. Biswakarma, Adv.
For the Respondent(s)	:	Mr. A. Kumar, AG with Mr. A.H. Kharwanlang, Addl. Sr. GA

In WP(C) No. 359 of 2021

For the Petitioner/Appellant(s)	:	Mr. S. Deb, Adv.
For the Respondent(s)	:	Mr. A. Kumar, AG with Mr. A.H. Kharwanlang, Addl. Sr. GA

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

COMMON JUDGMENT

1. These two writ petitions although filed separately by two petitioners, involved a dispute which arose from a common source, that is, the grievance of the respective petitioner wherewith their fundamental and legal rights have allegedly been violated by the relevant authorities, particularly the fact that in spite of the petitioners having fulfilled their contractual obligation in the area of supply of cattle, poultry and pig feed, the respondents have failed to make payment of the same even after many long years.

2. It is in this background that this Court would consider it convenient to take up both the matters and to pass a common order.

3. In the case of Priyanchi Marak [WP(C) No. 279 of 2021], it is the submission of the learned Sr. counsel for the petitioner Mr. H.L. Shangreiso that the petitioner was selected to take on the task of supply of animal and poultry feed to animals and poultry affected by the flash flood/landslide which occurred in the North Garo Hills areas on 22.09.2014. The selection was the result of a resolution passed in the meeting held on 05.12.2014 which was chaired by the Addl. Deputy Commissioner (Rev), North Garo Hills whereby a Committee in connection with the approved rate for supply of feed on an urgent and emergency need, was convened.

4. In the said meeting, it was decided and approved that the rate per kilogram for transportation cost and for supply of feed for the animals and poultry feed in North Garo Hills shall be ₹ 35/- (rupees thirty-five) only.

Consequently, three firms/suppliers were selected for the said purpose, the petitioner being one of them, being duly notified vide communication No.DVOR/Flood/2014-2015/3150, dated 08.12.2014 issued by the District A.H. & Vety. Officer, Resubelpara (Gangdubi), North Garo Hills. It was also mentioned in the said letter that the petitioner is to supply 3428.5715 quintals of cattle feed and 1428.5715 quintals of pig feed.

5. Again, vide order dated 21.01.2015, the District A.H. & Vety. Officer, has called upon the petitioner to supply 1428.5715 quintals of poultry feed to different Dispensaries and Aid Distribution. All the orders were duly complied with by the petitioner for which the District A.H. & Vety. Officer has issued the Utilisation Certificate, annexed as Annexure-5 in this petition. The total claim of this petitioner amounts to ₹ 2,20,00,000/- (rupees two crores twenty lakhs) only.

6. It is also the submission of the learned Sr. counsel that the petitioner has submitted the bills on account of the supply of the said materials to the District A.H. & Vety. Officer and in turn, the Deputy Commissioner(Rev), North Garo Hills District has forwarded the same to the Deputy Secretary, Revenue and Disaster Management vide letter dated 04.10.2018. Not having received any response to the said letter, the Deputy Commissioner(Rev) NGH has once again forwarded another letter of the District A.H. & Veterinary Officer to the Joint Secretary, Revenue and Disaster Management, the same being dated 19.11.2019.

7. The learned Sr. counsel has further submitted that on verbal assurance that the said bills will be cleared, the petitioner has waited for about 7 years for release of the payment, but since no response was

forthcoming, the petitioner filed a representation dated 18.02.2020 before the District A.H. & Vety. Officer. However, even after 9 months of the said representation, no positive reply was received from the relevant respondents, the petitioner/firm was compelled to approach this Court with a writ petition being W.P.(C) No. 424 of 2020. This Court vide order dated 15.12.2020, had disposed of the said petition with a direction to the respondents to decide on the said representation dated 18.02.2020 preferably within four weeks.

8. It is the submission of the learned Sr. counsel that the respondent/ District A.H. & Veterinary Officer had addressed a letter No. DVR/DISTR-166/2020-21/1200 dated 04.01.2021 to the petitioner with an intimation that the order dated 15.12.2020 passed in W.P.(C) No. 424 of 2020 was forwarded on 23.12.2020 to the respondent/Deputy Commissioner(Rcv.) for necessary action, but no response was received. However, it was assured that as and when the fund is made available, the said payment will be made.

9. The learned Sr. counsel has submitted that in spite of the said letter dated 04.01.2021, no action was taken by the relevant authority to settle the bill of the petitioner even after nine months have passed which has eventually compelled the petitioner to prefer this instant writ petition seeking necessary direction to the concerned authority to release the bills of the petitioner.

10. The respondent No. 5 vide the letter dated 04.01.2021 has made it very clear that the bill of the petitioner will be settled by the Government as and when the required fund is made available. Not having received any

positive response even after nine months of waiting for the same, the petitioner has eventually approached this Court, therefore there is no question of delay or laches in filing this instant writ petition. The case of P.C. Sethi & Ors. v. Union of India & Ors. reported in (1975) 4 SCC 67 at para 22 was cited by the learned Sr. counsel in this regard.

11. The case of Silka D. Shira (since deceased) now substituted by the present petitioner Smti. Cerine N. Marak appearing through Mr. S. Deb, learned counsel is similar and identical to the case of Smti. Priyanchi Marak as far as the order for supply of animals, poultry and pig feed to cater to the emergency situation which arose as a consequence of the flash flood which occurred in North Garo Hills District on 22.09.2014 is concerned, however the only difference is the quantity of the feed to be supplied which in this case the petitioner was called upon to supply 6000 quintals of cattle feed, 2500 quintals of pig feed and 10,000 quintals of poultry feed @ ₹ 3500/kg. The total claim of this petitioner amounts to ₹ 6,47,50,000/- (rupees six crores forty-seven lakhs and fifty thousand) only

12. On the contention of the learned Advocate General appearing for the respondents that there are disputed question of facts involved in this case, the learned Sr. counsel has submitted that the respondent No. 5/District AH & Veterinary Officer, North Garo Hills in his affidavit-in-opposition filed before this Court on 20.03.2023 at para 19 through 31, he has confirmed the factual aspects as has been stated by the petitioner that due to the occurrence of flash flood in the North Garo Hills District in the month of September, 2014 which caused large scale destruction in the region, thus, necessitating urgent relief and rehabilitation measures to be taken, one of such measures being providing of necessary feed for the

affected animals and poultry, the urgent and emergency nature of the situation prompted the relevant authority to issue supply order to the petitioner for supply of the said poultry and animal feed which was done so. It is also the admission of the respondent No. 5 that the bills of the petitioner presented before him was forwarded to the competent authority by the respondent No. 2/Deputy Commissioner, North Garo Hills District. The only reason why such bills were withheld was because of the objection raised by the relevant State authority in the Revenue & Disaster Management Department, that proper procedure, especially the provision of para 6(ii) of the State Disaster Response Fund (SDRF) and National Disaster Response Fund (NDRF) which pertains to provision of fodder/feed concentrate including water supply and medicines in cattle camps, have not been adhered to by the petitioner.

13. The learned Sr. counsel has submitted that this contention is totally misplaced since the respondent No. 5 in due course has clarified that the said animal and poultry feed has been supplied to the relief camps and the State Government cannot repudiate in court the contents of the affidavit filed by a Senior Government Official by a contradictory affidavit filed by another Government Official. In this regard, the case of Sanjay K. Sinha-II & Ors. v. State of Bihar & Ors., (2004) 10 SCC 734, para 15 and also the case of Central Warehousing Corporation v. Adani Ports Special Economic Zone Limited (APSEZL) & Ors., (2022) 15 SCC 110, para 57 as well as the case of Lloyd Electric and Engineering Limited v. State of Himachal Pradesh & Ors., (2016) 1 SCC 560, para 14 was cited in support of this contention.

14. The learned Sr. counsel has also pleaded arbitrariness on the part

of the relevant respondent authority in not clearing the bills of the petitioner when apparently in the case of a similarly situated contractor and supplier namely M/s Gautam Enterprises, Tura, West Garo Hills, pursuant to similar work orders dated 27.11.2014, 08.12.2014 and 21.01.2015 where utilization certificate was issued by the respondent No. 5 in 2015 itself, the respondent authorities have sanctioned and released an amount of ₹ 1,02,66,200/- to the said supplier, whereas, in the case of the petitioner the bills have not been cleared till date.

15. Apart from the authorities cited above, the petitioner has also relied upon the following cases in support of its case.

- i. Ram Chand & Ors. v. Union of India & Ors., (1994) 1 SCC 44, para 16;
- ii. Bharat Singh & Ors. v. State of Haryana & Ors., (1988) 4 SCC 534, para 13;
- iii. State of Punjab v. Bandheep Singh & Ors., (2016) 1 SCC 724, para 4;
- iv. Bhartiya Seva Samaj Trust Through President & Anr. v. Yogeshbhai Ambalal Patel & Anr., (2012) 9 SCC 310, para 8, 28 and 29;
- v. State of Orissa & Ors. v. Mangalam Timber Products Ltd., (2004) 1 SCC 139, para 4.

16. Also heard Mr. S. Deb, learned counsel for the petitioner in [WP(C) No. 359 of 2021] who, in his submission on the factual matrix of

the case has also referred to the same set of circumstances as was pointed by the learned Sr. counsel in [WP(C) No. 279 of 2021]. The fact that the supply order was given to this petitioner for supply of cattle, poultry and pig feed for distribution at the relief camps has not been disputed by the respondents, resulting in a response by the respondent No. 5 to the submission of the bills in this respect, whereby vide letter No. DVR/Disaster-166/2021-22/5072 dated 26.10.2021 the original deceased petitioner was informed that he is yet to receive the payment from the Disaster and Revenue Department to enable him to make payment to the petitioner is a clear indication that there is no dispute in this regard, submits the learned counsel.

17. On the issue of disputed question of facts, the learned counsel has submitted that the respondent/District Animal Husbandry & Veterinary Officer, NGH has clearly indicated at para 18, 19 and 20 of the affidavit-in-opposition that on enquiry due to the emergent nature of the situation, the petitioner being identified as one such firm who can supply the required items on short notice, therefore vide resolution passed in the meeting held on 05.12.2014, wherein the price of ₹ 35/- per kg for the feed was approved, following the norms laid down at para 6(ii) of the State Disaster Response Fund(SDRF) and National Disaster Response Fund(NDRF), the supply order was given to this petitioner. There is no scope of disputed questions of facts, further submits the learned counsel.

18. The learned counsel has further submitted that on perusal of para 26 of the said affidavit of the respondent No. 3/District Animal Husbandry and Veterinary Officer, what can be understood is that it is only at the stage when the petitioner has submitted the bills that the State Government

through the Revenue and Disaster Management Department has raised certain objections for the clearance of the bills, the only objection being that the feed was not supplied to the relief camps, which is a violation of the provision of 6(ii) (supra), when however, the same Officer, that is, the District Animal Husbandry and Veterinary Officer has subsequently clarified that the feed was indeed supplied at the relief camps, though such fact was inadvertently not mentioned at the first instance.

19. The learned counsel has also endorsed the submission of the learned Sr. counsel of the petitioner Smti. Priyanchi R. Marak to say that the issue of parity has to be considered by this Court when for the same supply order given to three firms, including the petitioners herein, the final bill was paid only to one firm, thereby occasioning arbitrariness in the process.

20. Per contra, Mr. A. Kumar, learned Advocate General appearing on behalf of the respondents contesting the contention of the petitioners has submitted that the case of the petitioners refers to an alleged supply of cattle, pig and poultry feed pursuant to the letters of the District A&H and Veterinary Officer, North Garo Hills dated 08.12.2014 and 21.01.2015 on account of the situation which arose after the flash flood/landslide which occurred on 22.09.2014 in the North Garo Hills District.

21. The learned AG has also submitted that the petitioners has approached this Court only in the month of October, 2021, that is after almost seven years of the alleged supply with a prayer for direction to make payment of the bill amounting to ₹ 2,20,00,000/- (Rupees two crore

twenty lakh) only and in the other case, for payment of the bill amounting to ₹ 6,00,00,000/- (rupees six crores) only. These petitions are therefore not maintainable solely on the ground of delay and laches.

22. On the issue of delay and laches, the learned AG has cited the following authorities:

- i. City and Industrial Development Corporation v. Dosu Aardeshir Bhiwandiwalla, (2009) 1 SCC 168, para 26 and 30;
- ii. Karnataka Power Corporation Ltd. through its Chairman & Managing Director & Anr. v. K. Thangappan & Anr. (2006) 4 SCC 322, para 6.

23. It is also the submission of the learned AG that an observation of the entirety of the case of the petitioners would reveal that there is apparent a question of disputed facts for which the petitioners could not have approached this Court by way of a writ petition since there is an alternative remedy by way of a civil suit.

24. On the factual aspects, the learned AG has submitted that the case of the petitioners was based on a resolution passed in a meeting held on 05.12.2014 in the office chamber of the Additional Deputy Commissioner (Rev), North Garo Hills District wherein a sum of ₹ 35 per kg for transportation and supply of feed for animal and poultry for the affected people in North Garo Hills was agreed to and that three firms/suppliers for supply of the said cattle and poultry feed was also selected in the said meeting, the petitioners being such firms/suppliers. However, such

resolution was required to be approved by the State Executive Committee, Disaster Relief Management Authority following adherence to certain norms. Such approval cannot be given beyond 30 days extendable to 60 days. Even the selection of suppliers in case the supply amount is greater than 50,000/- the same has to be by a bidding process which was not done so and as such, the decision by the concerned Government Officials cannot bind the Government if the proper procedure was not followed.

25. In this regard, the learned AG has submitted that in the event such natural disaster occurs in the region, the norms for assistance from the State Disaster Response Fund (SDRF) and National Disaster Response Fund (NDRF) have been laid down in the 'Revised List of Items and Norms of Assistance from State Disaster Response Fund (SDRF) and National Disaster Response Fund (NDRF)', dated 28.11.2013 wherein at Sl. No. 6 under the heading 'Animal Husbandry-Assistance to Small and Marginal Farmers', Item 6(ii) provides for provision of fodder/feed concentrate including water supply and medicines in cattle camps and the rate and period for providing such relief have also been indicated therein in the next column, the rate of compensation being ₹ 50/- per day for large animals and ₹ 25/- per day for small animals, the period of assistance being 30 days which may be extended upto 60 days in the first instance.

26. It is the contention of the State respondent that the norms mentioned herein above have not been complied with by the petitioners since admittedly the flash flood had occurred on 22.09.2014 and orders for supply of the animal, poultry and pig feed have been placed only on 08.12.2014 and 21.01.2015, that is after 77 and 121 days respectively which is beyond the prescribed number of days as found in the provision

of 6(ii) of the 'Revised List of Items and Norms of Assistance from State Disaster Response Fund (SDRF) and National Disaster Response Fund (NDRF)', dated 28.11.2013.

27. Again, as per the said norms at 6(ii) (supra) the feed was supposed to be supplied at specific relief camps set up for the purpose. However, the feed allegedly supplied by the petitioners has not been done so at such relief camps as no such relief camps were set up at the relevant point of time which fact is evident from the communication No.DVR/FLOOD-168/2015-16/1412 dated 16th October, 2015 issued upon the Deputy Commissioner (Rev), North Garo Hills by the District A.H. & Vety. Officer, North Garo Hills wherein it is admitted that relief camps for flood affected livestock could not be set up during the flood for the reasons stated therein. The subsequent clarification issued by the District A.H. & Vety. Officer vide communication No.DVR/FLOOD-168/20116-17/1032 dated 21st October, 2016 that the earlier communication was a mistake when in fact relief camps have been set up during such period, would only expose the contradictory stand made by the concerned Government Official.

28. The learned AG has therefore submitted that this instant petition is not maintainable since there are disputed question of facts arising from contractual matters, the transaction purportedly entered into by the petitioners and the relevant Government Officials being contractual in nature, therefore, such dispute cannot be raised by way of a writ petition. In this regard, the following authorities have been cited:

- i. Kerela State Electricity Board & Anr. v. Kurien E. Kalathil

& Ors., (2000) 6 SCC 293, para 10 and 11;

ii. Union of India & Ors. v. Puna Hinda, (2021) 10 SCC 690, para 24;

iii. Joshi Technologies International Inc. v. Union of India & Ors., (2015) 7 SCC 728, para 55, 59 and 69;

29. Facts as stated hereinabove need not be repeated but would be referred to if found appropriate. The first issue which requires decision is whether this petition is maintainable or not on the ground of the same being barred by delay and laches, the respondent maintaining that for a purported transaction which took place in the year 2014-15 the petitioners have approached this Court only after seven years or so without any explanation as to why the delay was caused. The respondent has cited the case of City and Industrial Development (supra), para 26 and 30, as well as the case of Karnataka Power Corporation Ltd (supra), para 6, wherein in the relevant para the Hon'ble Supreme Court has observed that inordinate delay and failure to explain such delay when approaching a Constitutional Court is not ordinarily permitted. However, it is observed that such delay or laches would be taken into account if it causes hardship, injustice and inconvenience on third parties.

30. The petitioners has contended that there is no question of delay or laches considering the facts and circumstances of the case wherein the petitioners having pursued the matter all along and finally being assured of a positive reaction from the relevant respondent vide the impugned letter dated 04.01.2021 (Annexure-11 to the petition) by which the respondent No. 5 has assured that payment will be made to the petitioner

as and when the fund is made available, therefore, the issue is still subsisting and hence no delay has been caused in the process of preferring this instant writ petition.

31. The argument of the petitioner in this regard is found acceptable by this Court and the authority in the case of P.C. Sethi (supra) at para 22 of the same is also found relevant wherein the Hon'ble Supreme Court has observed that *"The learned Counsel for the respondents strenuously contended that the petition may be dismissed on account of delay and laches. In view of the entire circumstances of the case and the hopes held out by the Government from time to time we are not prepared to accede to this submission"*. Therefore, there is no question of delay or laches while filing this petition.

32. The next issue which requires attention is the contention of the respondent that from the summary of facts and circumstances, recounted by the petitioner, the genesis being the resolution of the meeting held of 05.12.2014 (Annexure-II) and also another letter of even date which revealed the communication from the respondent No. 2 to the respondent No. 5 (Annexure-II) indicating therein that the petitioner has been selected as a supplier of animal and poultry feed. The sequence of events showing that the petitioner has complied with the order to supply such animal and poultry feed but was not yet paid for the cost of materials and transport charges, would only confirm that the entire matter relates to a contract between the petitioner and the Government on one side and as such any dispute arising out of such contract can only be agitated in a proper forum and not by way of writ proceedings.

33. To illustrate some of the areas of dispute between the parties concerned, the respondents has pointed a finger at the manner in which the alleged supply order was procured, when the purpose was for emergency relief to those who are affected by the flash flood which occurred on 22.09.2014, including animals and poultry, however, such supply order was issued only in the month of December, 2014 and January, 2015 which is about 73 and 121 days respectively after the disaster has occurred. This is contrary to what has been specified under the relevant rules, particularly the provision of para 6(ii) of the State Disaster Response Fund (SDRF) and National Disaster Response Fund (NDRF) which pertains to provision of fodder/feed concentrate including water supply and medicines in cattle camps, the petitioner having failed to prove that the supply of such animal and poultry feed was made at the relief camps set out for the purpose, when there is no evident as to whether such relief camps have been set up or not in view of the varying stand of the respondent No. 5 who has initially admitted that there was no relief camps set up but had later on issued a clarification that such relief camps have been set up.

34. The petitioner has also questioned the contradictory stand taken by the respondents No. 1, 3 and 4 as against the stand taken by the respondents No. 2 and 5 respectively, wherein the officials at the State level have questioned the manner in which the matter was handled by the District Officer, that is the respondent No. 5 to say that he has no authority to convene the said meeting dated 05.12.2014 and the approval of the three firms/suppliers (including the petitioners) for supply of cattle and poultry feed, the purchase amount being above ₹ 50,000/- was illegal and in

violation of the relevant Government order which calls for issuance of tender for any work whose amount is above ₹ 50,000/-.

35. It is the contention of the petitioner that the Government cannot speak in two contradictory voices and that the contents of the affidavit filed by a Sr. Government Official, that is the respondent No. 5 herein cannot be repudiated in court by the Government. In the case of Central Warehousing Corporation (supra) at para 57 wherein the Hon'ble Supreme Court has also referred to para 14 of the Lloyd Electric and Engineering Ltd. case, the same reads as follows:

“57. We are of the considered view that it does not augur well for the Union of India to speak in two contradictory voices. The two departments of the Union of India cannot be permitted to take stands which are diagonally opposite. We may gainfully refer to the following observations made by a three-Judges Bench of this Court in the case of Lloyd Electric and Engineering Limited v. State of Himachal Pradesh and Others [(2016) 1 SCC 560]

“14. The State Government cannot speak in two voices. Once the Cabinet takes a policy decision to extend its 2004 Industrial Policy in the matter of CST concession to the eligible units beyond 31-3-2009, up to 31-3-2013, and the Notification dated 29-5-2009, accordingly, having been issued by the Department concerned viz. Department of Industries, thereafter, the Excise and Taxation Department cannot take a different stand. What is given by the right hand cannot be taken by the left hand. The Government shall speak only in one voice. It has only one policy. The departments are to implement the government policy and not their own policy.”

36. As far as the stand of the petitioner on the issue of the two contradictory voices of the State respondent, where the respondent No. 5 and 2 respectively have pleaded one version of the factual situation, that

is, in the manner in which the process of supply of the feed was carried out by the petitioners and the respondent No. 1 speaking through the Commissioner and Secretary Revenue Department, raising objections on the said mode and manner carried out by the petitioners while supplying the said feed, such contradictory stand not permissible to be taken in a proceeding such as this, this Court would agree with such proposition and the relevant authorities cited in this regard being valid, however, the fact remains that now it would appear that the apparent contradictory stand taken by the relevant respondents would only prove that there is a dispute as far as the mode and manner in which the supply orders were issued upon the petitioners, notwithstanding the fact that the petitioners may have actually supplied the materials as ordered.

37. Venturing to ignore such a situation replete with disputed question of facts would reduce this Court to a trial court wherein evidence has to be looked into and appreciated, which is not a duty cast upon a constitutional Court, considering the facts and circumstances of this instant case. In this regard, the observations of a Division Bench of this Court in the case of *Adarsh Saraswati Mahila Shiksha and Gramin Vikas Samiti v. State of Meghalaya & Ors.* in MC(WA) No. 16/2023 in W.A. No. 22/2023, at para 7 of Judgment dated 19.07.2023, is found relevant to the factual situation of this instant case, wherein it was observed as follows:

“7. For the wealth of reasons indicated in the order impugned, the writ court held that the writ petition was liable to be dismissed as not maintainable. Indeed, notwithstanding the wide authority available to a Constitutional Court under Article 226 of the Constitution, there is an element of self-restraint that is

exercised. Since writ proceedings are decided on affidavit evidence and on summary procedure, disputed questions of fact which require proof are not entertained. In any event, at the end of the day, the real grievance of the petitioner is that the petitioner has been unfairly treated and has been deprived of the profits that the petitioner was entitled to upon successful completion of the work. Such grievance sounds in money and the relief that the petitioner should pursue should be by way of a suit for damages.”

38. This Court having convinced itself that there appears to be question of disputed facts to be looked into, the relevant authorities cited in this regard may not be off the mark. In the case of Poona Hinda(supra) at para 24 the Hon’ble Supreme Court has held that “...*Though, the jurisdiction of the High Court is wide but in respect of pure contractual matters in the field of private law, having no statutory flavour, are better adjudicated upon by the forum agreed to by the parties. The dispute as to whether the amount is payable or not and/or how much amount is payable are disputed questions of facts.*”

39. In the case of Joshi Technologies International Inc.(supra) at para 69 of the same, the Hon’ble Supreme Court has observed that though there is no bar to the maintainability of a writ petition in a contractual matter where there are disputed questions of fact or even when monetary claim is raised, however discretion is bestowed upon the High Court to refuse to exercise such jurisdiction, when there are serious disputed questions of fact and money claims arising out of contractual obligations are normally not to be entertained, the fact being that there is proper forum for determination of the parties’ right, for example a civil court of competent jurisdiction.

40. It is the considered opinion of this Court that the remedy for redressal of the petitioners' grievances seeking damages would only lie with a civil court. To this extent, discounting the period spent in these proceedings for which condonation is hereby accorded, the parties may approach such forum, if so advised.

41. These petitions are found not maintainable, the same are hereby dismissed.

42. The records produced by the Department before this Court are hereby returned.

43. Petitions disposed of. No costs.

Judge

Meghalaya
26.04.2024
"Tiprilynti-PS"