



Serial No. 64
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 404 of 2024

Date of Decision: 30.06.2025

Shri. Ashok Kumar Roy
S/o Late Brahamdeo Roy

:::Petitioner

-Vs-

1.The State of Meghalaya through the
Commissioner and Secretary, to the
Government of Meghalaya,
Home Department, Shillong

2.The Director, Office of the Director
of Higher and Technical Education, Shillong

3.Lady Keane College, Shillong,
East Khasi Hills District, Meghalaya

4.The Principal, Lady Keane College, Shillong,
East Khasi Hills District, Meghalaya

5.The Secretary, Governing Body of the Lady
Keane College, Shillong, East Khasi Hills District,
Meghalaya

:::Respondents



Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Petitioner/Appellant(s) :	Mr. K. Paul, Sr. Adv. with Mr. S. Chanda, Adv.
For the Respondent(s) :	Mrs. T. Yangi. B, AAG with Ms. Z.E.Nongkynrih, GA (For R 1&2) Mr. S. Sen, Adv. (For R 3-5).

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

JUDGMENT AND ORDER (ORAL)

1. By this second round of litigation, the petitioner is before this Court assailing a Memorandum dated 18.10.2024, whereby a fresh inquiry against the petitioner in respect of same and similar allegations which was subject matter of WP(C) No. 146 of 2024, which was decided on 09.09.2024, has been proposed. The present writ petition is based on the sole ground that in view of the directions of this Court passed in WP(C) No. 146 of 2024, the respondent College is estopped from initiating fresh



proceedings in respect of the allegations which have already been covered by the inquiry report dated 25.11.2006.

2. Mr. K. Paul, learned Senior counsel assisted by Mr. S. Chanda, learned counsel for the petitioner has submitted that this Court by the order dated 09.09.2024, in WP(C) No. 146 of 2024, at Para – 7 thereof, of the said judgment had issued explicit directions to the respondents No. 3, 4 and 5, to complete the delayed disciplinary proceedings based on the inquiry report dated 25.11.2006, within a period of 6(six) weeks. However, he submits the respondents instead of adhering or complying with the same have instead by the impugned Memorandum dated 18.10.2024, proposed to conduct a fresh inquiry which is perverse and violative of the directions passed by this Court. It is further submitted that even a cursory examination of the inquiry report would reflect that the writ petitioner has nowhere been seen or held to be complicit or culpable with the alleged misappropriation and forgery that had occurred in the College of the respondents No. 3, 4 and 5.

3. The learned Senior counsel submits that the action of the respondents No. 3, 4 and 5 in not concluding the inquiry in the stipulated time period, cannot be condoned, as also the illegal act of initiating a fresh inquiry on the same allegations for which an inquiry had already been faced by the writ petitioner. He therefore prays that the impugned Memorandum dated



18.10.2024, and the disciplinary proceedings as far as the writ petition is concerned be set aside and quashed.

4. Mr. S. Sen, learned counsel for the respondents No. 3, 4 and 5 who are the main answering respondents, has submitted that the respondents felt the need for a fresh inquiry, inasmuch as, the writ petitioner is party to grave misconduct, which is criminal in nature, and that the earlier inquiry though gone into, the report was found to be inadequate and lacking, when the same was placed before the Governing Body of the College. He submits that it was on this consideration that the same was not acted upon and the decision taken to go for a fresh inquiry. He then submits that the criminal case that was registered against the writ petitioner is still pending before the Court of the Chief Judicial Magistrate, and the same is at the stage of evidence. The learned counsel on another limb of submission, has contended that delay in the conduct of disciplinary proceedings is not a ground for quashing the same, especially taking into account the seriousness of the alleged misconduct. In support of his submissions, the learned counsel has cited the following two decisions:

- (i) *Secretary, Ministry of Defence & Ors. vs. Prabhash Chandra Mirdha, (2012) 11 SCC 565*
- (ii) *Chairman, Life Insurance Corporation of India & Ors. vs. A. Masilamani, (2013) 6 SCC 530*



5. Heard learned counsel for the parties. Before addressing the issues raised in the present petition, this Court considers it expedient for the sake of convenience to reproduce the entire order dated 09.09.2024, passed in WP(C) No. 146 of 2024, hereinbelow:

Serial No. 03
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 146 of 2024

Date of order: 09.09.2024

Ashok Kumar Roy

...Petitioner

- Versus -

1. *The State of Meghalaya,
through the Commissioner and Secretary to the Government of
Meghalaya, Home Department, Shillong.*
2. *The Director,
Office of the Director of Higher and Technical Education,
Shillong.*
3. *Lady Keane College,
Shillong, East Khasi Hills District, Meghalaya.*
4. *The Principal,
Lady Keane College,
Shillong, East Khasi Hills District, Meghalaya.*
5. *The Secretary,
Governing Body of the Lady Keane College, Shillong,
East Khasi Hills District, Meghalaya*

...Respondents

Coram:

Hon'ble Mr. Justice H.S. Thangkhiew, Chief Justice (Acting)



Appearance:

For the Petitioner : Mrs. R. Dutta, Adv.

*For the Respondents : Mrs. T. Yangi B., AAG with
Mrs. I. Lyngwa, GA [For R1&2]
Mr. S. Sen, Adv. [For R 3-5]*

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

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

(ORAL)

The writ petitioner, by way of the instant petition has prayed for recall and withdrawal of the suspension order dated 10.08.2026 as also the eviction notice dated 26.02.2024 issued by the respondent Nos. 3, 4 and 5.

2. It appears that the writ petitioner, who was appointed as a Lower Division Assistant (LDA) was placed under suspension as far back as in 09.06.2006, whereafter, a departmental inquiry had been instituted. As the allegations were of a criminal nature with regard to misappropriation and forgery, an FIR was also filed and cases were registered which are still pending before the court of the Judicial Magistrate First Class in GR Case No. 68 of 2007, which is reported is in the stage of evidence.

3. This Court notes and on the submission of the parties that though the disciplinary proceedings were initiated as far back as in 2006, the same is yet to be concluded or any orders passed thereon by the disciplinary authorities. Photocopy of the records have been produced today by learned



counsel for the respondent Nos. 3, 4 and 5 which on perusal thereof, shows that an inquiry report had been submitted as far back as on 25.11.2006. However, after the said inquiry, no further action was taken by the respondent Nos. 3, 4 and 5 and it has been submitted that due to the pendency of the criminal case, no action has been taken by the respondent Nos. 3, 4 and 5 against the petitioner.

4. Mr. S. Sen, learned counsel for the respondent Nos. 3, 4 and 5 on being queried by the Court as to the long delay, has prayed that three months' time be allowed to the respondent Nos. 3, 4 and 5 to conclude the proceedings, inasmuch as, the charges against the delinquent employees are of serious nature. He reiterates his submission that the delay was not deliberate but due to the criminal proceedings that are under way.

5. Mrs. R. Dutta, learned counsel for the petitioner submits that on the long inordinate and unexplained delay, the disciplinary proceedings are liable to be quashed forthwith and the petitioner be reinstated in service with all back wages. She further submits that even the inquiry that had been conducted was not in accordance with set procedure, inasmuch as, the writ petitioner was not afforded any opportunity to defend himself. Therefore, learned counsel prays that the disciplinary proceedings as also the eviction notice be quashed and that the petitioner be reinstated.



6. Having heard learned counsel for the parties and on perusal of the records produced by learned counsel for the respondent Nos. 3, 4 and 5, it seems that the charges against the writ petitioner amongst others is for fraudulent encashment of cheques of the college funds from the Canara Bank extension counter. The records further show that the writ petitioner amongst the other employees stated to be involved, had been summoned and their statements had been recorded. The inquiry report dated 25.11.2006 was thereafter submitted to the authorities but the same has not seen the light of the day till date.

7. On these circumstances, and considering the nature of the infraction as alleged, as also the submission of the learned counsel for the petitioner that the inquiry was not as per the procedure, this Court at this stage directs the respondent Nos. 3, 4 and 5, to complete the said inquiry proceedings based on the inquiry report dated 25.11.2006 within a period of six weeks from today. It is also provided that any proposed action shall be communicated to the writ petitioner, who shall thereafter be afforded opportunity to represent against the same. This order has been passed on the circumstances of the case and the nature of the charges which have been drawn up against the writ petitioner and the other employees who have been similarly charged, and undergoing criminal trial.



8. It may be added herein that on the prayer of the non-payment of subsistence allowance, it has been submitted both by Mrs. T. Yangi, B., learned AAG and Mr. S. Sen, learned counsel for the respondent Nos. 3, 4 and 5 that the release of the same is subject to the funds which are made available to the college. The respondents, however, are directed to ensure that there is no delay in the payment of the subsistence allowance to the petitioner while the matter is still under consideration.

9. With the above direction, writ petition stands disposed of.

Chief Justice (Acting)

6. A perusal of the above noted order especially Para – 7 thereof, reflects that though the inquiry was of the year 2006, and the inquiry report generated on 25.11.2006, this Court though the proceedings stood unconcluded and thus was inordinately delayed, had allowed the respondents to take the matter further, and to conclude the proceedings within a stipulated time frame of 6(six) weeks from the date of the order. However, it appears instead of concluding the proceedings, the respondents by the impugned notification dated 18.10.2024, have sought to institute fresh proceedings against the writ petitioner, on the same Articles of charge, for which the earlier inquiry had been initiated and had culminated in the inquiry report.



7. Suffice it to say that the respondents No. 3, 4 and 5 have apart from sitting over an inquiry since 2006, and in spite of the orders of this Court initiating a fresh inquiry, instead of completing the same within 6(six) weeks, have acted in a way that is irrational, and in fact, in violation of the orders of this Court.

8. In these circumstances therefore, in view of the severe shortcomings of the respondents No. 3, 4 and 5, the impugned Memorandum dated 18.10.2024, as far as it relates to the petitioner stands quashed. This however, will have no bearing in the pending criminal proceedings before the Chief Judicial Magistrate, Shillong, which is stated to be at the stage of evidence.

9. The judgments placed by the learned counsel for the respondents No. 3, 4 and 5 being on a different footing are not discussed or elaborated upon.

10. The writ petition is thus allowed and accordingly disposed of.

Judge

Meghalaya
30.06.2025
"D.Thabab-PS"