

Serial No. 03
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 281 of 2017 with
WP(C) No. 360 of 2017

Date of Order: 05.02.2024

Meghalaya College Teachers
Association

Vs.

State of Meghalaya

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. R. Mazumdar, Adv.

For the Respondent(s) : Mr. A. Kumar, AG. with
Ms. R. Colney, GA.
Mr. J.N. Rynjah, GA. for R 1 & 2.
Ms. P. Bhattacharjee, Adv. for R 3.
Mr. B.A. Wanswett, Adv. vice
Mrs. P.D. Bujarbaruah, Sr. Adv. for 4&5.
Ms. K. Gurung, Adv. vice
Dr. N. Mozika, DSGI for R 11 & 12.

1. Heard Mr. R. Mazumdar, learned counsel for the petitioner association, who has submitted that the rejoinder to the additional affidavit filed on behalf of the State respondent Nos. 1 & 2 has been filed before this Court on 14.12.2023.

2. The learned counsel has submitted that the main grievance of the petitioner association is with regard to the non-implementation of the

provisions of the Meghalaya Non-Government School and College Employees Centralized Provident Fund Scheme Act, 1969. However, the grievance of the petitioner association is that the respondent authorities have till date, failed to maintain the Centralized Provident Fund in any 'Scheduled Bank' as defined in the said Act of 1969.

3. Under the relevant provision of the Act, a Scheduled Bank is a Nationalized Bank that has entered into an agreement with the Government to deal with the Provident Fund of Aided Educational Institutions in the State of Meghalaya. In the case involving the parties herein, though the State respondents have asserted that the Government of Meghalaya has implemented the said Meghalaya Non-Government School and College Employees Centralized Provident Fund Scheme Act, 1969 in letter and spirit, for which a Notification dated 29.05.2023 in this regard was brought out, there is no indication whatsoever that such agreement or Memorandum of Understanding (MOU) was ever executed by the State Government with any Nationalized Bank.

4. In fact, vide the said Notification dated 29.05.2023, the Meghalaya Non-Government School and College Employees Centralized Provident Fund was constituted and subsequently, the bye-laws of the Central Pension and Provident Fund Scheme in this regard was also

approved by the Board of Trustees. Such bye-laws have not been registered till date. The situation as it stands today is that the contribution of the employer and subscriber are still being deposited into a Savings Bank Account which is not in keeping with the relevant provision of the said 1969 Act.

5. The learned counsel, has, therefore submitted that if a direction by this Court be issued upon the State respondents to create the said Centralized Provident Fund Account in any Nationalized Bank, the grievance of the members of the petitioner association would be alleviated.

6. In response, Mr. A. Kumar, learned Advocate General, has submitted that the relevant prayer made by the petitioner association in the amended writ petition, have been duly complied with, inasmuch as, the Notification dated 29.05.2023 have been issued and the Board of Trustees have also been constituted. At this point of time, this Court, may issue a direction to the Board of Trustees to pursue the matter of execution of the said agreement with any Nationalized Bank for creation of the Centralized Provident Fund Account.

7. This Court has given due consideration to the submission made, and on perusal of the additional affidavit dated 29.11.2023 filed by the State respondent Nos. 1 & 2 and also the rejoinder to the same filed by the

petitioner association, what is understood is that by the said Notification dated 29.05.2023, the Centralized Provident Fund for all Non-Government School and College in the State of Meghalaya have been constituted, for which contributions by employer and employees to the said fund is required to be made. For such fund to be maintained, a Centralized Provident Fund Account is required to be created in a Nationalized Bank. Admittedly, the said Bank Account have not yet been opened till date.

8. Under such circumstances, this Court hereby directs the State Government or the Board of Trustees or any other appropriate authority to immediately embark on the exercise to create the said Centralized Provident Fund Account in any Nationalized Bank by executing the required MOU and thereafter for the said Account to be made operational. This exercise is to be completed within a period of 2(two) months from the date of this order.

9. The State respondent is directed to file a compliance report on expiry of the said two months' period.

10. List this matter on 08.04.2024.

11. As far as WP(C) No. 360 of 2017 is concerned, Mr. R. Mazumdar, learned counsel for the petitioner association has submitted that the counter affidavit filed by the State respondent Nos. 1 & 2 has been

received, however, it is prayed that the rejoinder affidavit/response may be allowed to be filed in due course.

12. Ms. P. Bhattacharjee, learned counsel for the respondent No. 3 also prays that she may be allowed some time to file a response to the counter affidavit filed by the State respondents. On prayer made, the same is allowed.

13. Let the rejoinder affidavit/response be filed within the next date fixed.

14. List this matter after 3(three) weeks.

(B. Bhattacharjee)
Judge

(W. Diengdoh)
Judge

Meghalaya
05.02.2024
"D. Nary, PS"