

HIGH COURT OF MEGHALAYA
AT SHILLONG

PIL No.6/2019

Date of Order: 27.02.2020

Shri Sajan Ch. Marak

Vs.

Union of India & ors

Coram:

Hon'ble Mr. Justice Mohammad Rafiq, Chief Justice
Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s)

: Mr. N Syngkon, Adv

For the Respondent(s)

: Ms. A Paul, ASG for R/1

Dr. N Mozika, Sr.Adv with

Ms. SA Shallam, Adv for R/2

Mr. ND Chullai, AAG with

Ms. A Thungwa, GA for R/3-8

Mr. K Paul, Adv for R/9

i) Whether approved for reporting in
Law journals etc.:

Yes

ii) Whether approved for publication
in press:

Yes/No

Per Mohammad Rafiq, 'CJ'

1. This writ petition by way of Public Interest Litigation [PIL] has been filed by Shri Sajan Ch. Marak, inter alia, with the prayer that the respondents be directed by issuance of a writ of mandamus to close down all running illegally teer-counters in the State and to provide age limit restrictions for entering into the betting of teer and to ensure that the distance in terms of Section 6 of the Meghalaya Regulation of the Game of Arrow Shooting and the Sale of Teer Tickets Act, 2018 [for short 'the Act of 2018] between ticket counters/teer-counters is maintained by the owner and further to direct the respondents to implement the Meghalaya Goods and Service Tax Act in terms of service code tariff 999692 (gambling and

betting services including similar online services) for ongoing business of betting in the form of teer in the State of Meghalaya.

2. Mr. N Syngkon, learned counsel appearing for the petitioner argued that most of the teer-counters in Garo Hills area are running illegally without any license under the Act of 2018. There is no age restriction for entering into the betting of teer and the distance in terms of Section 6 of the Act of 2018 is also not maintained by the owners of teer-counters. Learned counsel in particular, has made allegation against the respondent No.9-All Garo Hills Archery Association and suggested that lot of teer-counters in Garo Hills are being run on the basis of No Objection Certificate [NOC] given by the said respondent No.9-Association, which is an association for sports and has no authority to issue such NOC or license. In fact, the respondent No.9-Association has been illegally collecting an amount of ₹350/- per day from each teer-counter in Tura area and is also illegally collecting a sum of ₹2000/- per month from each counter for being paid to the Taxation Department, for which no receipt is issued to the teer-counters or bookmakers.

3. Learned counsel for the petitioner submits that as per reply received by the petitioner through Right to Information [RTI], there are only forty two licensed Book Makers in Tura, Circle-I area and fifty three in Tura Circle-II area. However, to the utmost surprise of the petitioner, there are approximately 250 teer-counters running illegally in Tura area alone. None of them is also having any valid license under the new Act of 2018. None of them is paying GST even though GST has been implemented. It is contended that as per the information received under

RTI, the revenue collection for the year 2014-15 for the entire district of West Garo Hills is ₹24,02,550/- (Rupees twenty four lakhs two thousand five hundred and fifty). But if collection made by respondent No.9-Association from all teer-counters in Tura alone at ₹250/- (Rupees two hundred fifty) is counted, then also this money in Tura area alone is ₹85,700/- (Rupees eighty five thousand and seven hundred) per day and ₹22,75,000/- (Rupees twenty two lakhs and seventy five thousand) per month. Extra monthly tax collected in the name of Taxation Department from each counter is ₹2000/- (Rupees two thousand) if calculated for a month, would reach the total amount of ₹5,00,000/- (Rupees five lakhs) and per annum ₹60,00,000/- (Rupees sixty lakhs), which shows that a huge loss is being caused to the State exchequer.

4. Learned counsel argued that most of the teer-counters in Garo Hills are being run illegally as benami through renting of license or on the basis of NOC issued by respondent No.9-Association. The business of teer betting is going on in the entire State of Meghalaya including West Garo Hills District, in violation of Section 6 (1) of the Act of 2018, which provides that the counter for the sale of teer-tickets and stake money thereof should be located at a distance of not less than 1000 feet or 300 meters from the nearest place of worship or educational institution, which provision is being brazenly violated.

5. Mr. ND Chullai, learned Additional Advocate General submits that the State has filed a detailed counter affidavit rebutting all the allegations made by the petitioner. The respondent-State has no knowledge with regard to illegal teer-counters or any other illegal activities in Garo

Hills or Tura or in other parts of the State. Mere allegation by the petitioner does not substantiate to such averments. Neither Superintendent of Taxes, Tura Circle-I nor the office of the Superintendent of Taxes, Tura Circle-II are aware of any such illegal activities. The Taxation Department being the agency empowered under the repealed Meghalaya Amusement & Betting Tax (Amendment) Act, 1982 [for short the Act of 1982], is under the Act of 2018 is committed to enforce the provision of the new Act and Rules framed therein. No license as organizer or bookmaker under the Act of 2018 has been granted to the respondent No.9-Association.

6. Learned Additional Advocate General further submits that it is incumbent on the part of the organizer/bookmaker licensed under the Act of 2018 to obtain registration under the GST and to comply with various provisions once the turnover threshold for obtaining registration is exceeded. It is contended that immediately after the Act of 2018 was notified on 09.10.2018, the registration process was initiated and every efforts is being made to ensure that the teer-counters/bookmakers adhere to the rules as mentioned in Section 6 (1) of the Act of 2018. Since the area of different Circles is quite huge, it requires microscopic monitoring, which is a time consuming process. Learned Additional Advocate General, however, submits that the State respondents are making their best endeavour with the help of district administration, its subordinate offices of Superintendent of Tax, Tura Circle-I and Superintendent of Tax, Tura Circle-II that the entire process is streamlined and the transitional phase is completed at the earliest. In this respect, the Commissioner of Taxes, Government of Meghalaya vide

letter dated 10.06.2019 has instructed all the Superintendent of Taxes to strictly implemented the provisions of the Act of 2018.

7. Mr. K Paul, learned counsel appearing on behalf of respondent No.9-Association has denied the allegation that the respondent No.9-Association has been collecting a sum of ₹350/- (Rupees three hundred and fifty) and in lieu thereof, issuing any NOC to anyone to run the teer-counters. Learned counsel also denied the allegation that the respondent No.9-Association has been collecting a sum of ₹2000/- (Rupees two thousand) to be paid to the Taxation Department as tax. It is contended that even the reply given to the petitioner under RTI by the State authorities annexed at Annexures-1 and 2 in respect of Tura Circle also substantiates this. It is also contended that the respondent No.9-Association is merely a sport association and has got nothing to do with the commercial activities run in the name of individual teer-counter.

8. We have given our anxious consideration to the rival submissions and perused the material placed on record.

9. The sole purpose of filing this PIL is to ensure compliance of various provisions of the Act of 2018 and also to ensure that the State exchequer is not put to any loss of revenue. First and foremost contention of the learned counsel for the petitioner is that many such teer-counters in different parts of the State, especially in Garo Hills and Tura district, are being run without obtaining any license. It appears that the licenses were earlier issued to various owners of different teer-counters under the Act of 1982. Now with the repeal of that Act and enactment of the Act of 2018, licensees of that time are required to obtain fresh license under the Act of

2018. It goes without saying that no such teer-counter can be allowed to run without a valid license. Compliance of Section 6 of the Act of 2018 has to be scrupulously ensured which mandates the teer-counters and bookmakers are required to be located not less than 1000 feet or 300 meters away from the nearest place of worship or educational institution. No doubt the petitioner has not given any specific instances except making certain allegations against the respondent No.9-Association, nevertheless, it is the mandatory duty of the respondent-authorities, especially the Commissioner of Taxes and Superintendent of Taxes located in different districts in the State, particularly Tura Circles I and II, to ensure periodical checking of all such sites where licensees of the earlier Act of 1982 used to run the teer-counters and elsewhere, and if any new teer-counters has been established, and are being run.

10. We therefore disposed of this writ petition with the following directions:-

(i) The respondent-State is directed to ensure that the sites of all teer-counters in the State are inspected, especially those teer-counters, which were run by earlier licenses and if such teer-counters are found to run without new license, they should be immediately closed down and should be allowed to operate only if they obtain the license and fulfill various requirements under the Act of 2018 especially Sections 6 and 16.

(ii) If any operator of teer-counter has an obligation to get himself registered under the Meghalaya Goods and Service Tax Act,

2017, he should be required to obtain necessary registration and make payment of due amount of GST.

(iii) In order to carry out the aforesaid directions, the Commissioner of Taxes is directed to undertake a special derive to inspect/check all such centers throughout the State during the month of March, through different Superintendent of Taxes, with the help of local police and the district administration.

(iv) It is made clear that that the respondent No.9-Association will have no authority to issue any NOC/license, to authorize anyone to run such teer-counters or also would have no authority to collect tax on behalf of the Commissioner of Taxes. If it is found to have indulged in any such illegal activity either in the past or is even now found to indulge in such activity, the Commissioner of Taxes would take appropriate action against it in accordance with law.

11. Writ petition is accordingly disposed of with the above directions.
12. A copy of this order be provided to the learned Additional Advocate General for onward communication and compliance.

(W. Diengdoh)
Judge

(Mohammad Rafiq)
Chief Justice

Meghalaya
27.02.2020
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