

Serial No. 01
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

PIL No. 4 of 2021 with
MC(PIL) No. 2 of 2021

Date of order: 28.03.2023

Registrar General, vs State of Meghalaya & ors
High Court of Meghalaya

Managing Director, Indigo vs Registrar General,
High Court of Meghalaya & ors

Coram:

Hon'ble Mr. Justice Sanjib Banerjee, Chief Justice
Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner : Mr P. Yobin, Amicus Curiae

For the Respondents : Mr K. Khan, AAG with
Ms R. Colney, GA
Dr N. Mozika, DSGI with
Ms A. Pradhan, Adv.

The matter pertains to augmenting the facilities at the existing airport at Umroi. As of now ATRs and Bombardiers and like smaller aircraft are able to land at the existing facility and the length of the runway and the surrounding hills do not make it feasible for wide-bodied aircraft to call at Umroi.

The nearest big airport outside the State which serves the entire State of Meghalaya is at Guwahati. The distance of about 120 km between the Lokpriya Gopinath Bordoloi Airport at Guwahati and

Shillong takes more than three hours to cover by road. The distance from Umroi to Shillong takes about half an hour.

Given that Meghalaya is a hilly State, but it has also large tracts of plains, the closest place to Shillong that can have a bigger airport appears, possibly, to be in Ri-Bhoi district or in the West Khasi Hills.

Upon previous preliminary and somewhat firm reports of the Airports Authority of India indicating that Umroi may not be the ideal location for expansion of the airport to receive bigger aircraft, since the runway and the flight-path have to be extended by felling hills at high cost and the cloud and fog that engulf the airport and its surroundings, particularly in the monsoon, this Court suggested to the State to explore whether land was available for a greenfield airport project to be started.

The AAI says that it is the responsibility of a State desirous of having an airport at any location to provide the land to AAI and the entire cost of building the airport and all the facilities connected therewith is taken over by AAI.

In this State, since very little land is owned by the State government and most of the land belong to the tribes which inhabit the State, an effort was made by the State towards the middle and end of the last year to invite offers from landowners for selling land for the proposed

new airport. Pursuant to advertisements issued, only one major offer came and the pre-feasibility study conducted by AAI indicated that the cost would be too high to level the land for the construction of a runway since the difference in height from the lowest point in the relevant land to the highest was about 180 metre.

AAI suggests that instead of the State seeking offers from landowners to sell their land for the project, the State and the AAI could jointly identify certain pockets where it may be feasible to put up a new airport to receive wide-bodied aircraft. Feasibility studies could be conducted at two or three places to identify one or two of the proposed sites for the State to thereafter acquire the requisite land and make it over to AAI.

It appears to this Court that in the development trajectory that Meghalaya seems to have embarked on, a better serviced airport is an absolute necessity for the further prosperity of the State, including as a tourist hub. However, at the end of the day it is for the State government to decide and if both the State and the Union are reluctant to set up a new airport, it is not a matter that the Court can interfere with or impose its will. This is because any new project would require a cost-benefit analysis to be made and however strong the perception may be that a new

airport may give a fillip to the State or its development, the numbers have to be worked out on paper and the Court obviously lacks the expertise in such regard.

What remains the Court's concern, however, is that only relevant considerations should be taken into account in preparing a cost-benefit analysis for setting up a new airport closer to Shillong than the Guwahati airport. The decision in such regard should not be tinged with extraneous considerations as to the prejudice that any private operator handling any nearby airport may suffer as a consequence.

Since the State says that it is eager to have its own airport with adequate facilities, the State, in consultation with AAI or even the officials stationed at the Umroi airport, should make an attempt to identify a few pockets of land and, thereupon, AAI may be invited to give a preliminary opinion as to whether any of such pockets would be feasible for a greenfield airport project. It is only upon the preliminary satisfaction that one of the several pockets identified would be feasible that the acquisition activity may be undertaken by the State. And yes, such exercise has to be conducted discreetly to avoid the burgeoning of middlemen to artificially jack up land prices.

Again, it may be a matter of policy which the State has to consider and the Court has to yield to the State in such regard. The Court will only remind the State to take relevant considerations into account and eschew considering private interests in the decision-making process.

As requested by the State, let the matter appear six weeks hence.

List on May 9, 2023.

(W. Diengdoh)
Judge



(Sanjib Banerjee)
Chief Justice

Meghalaya
28.03.2023
"Sylvana PS"

