# **When the law requires a certain thing to be done in a particular manner, it has to be done in such manner or not at all – Meghalaya High Court**

While it is true that as to whether the security of the State is at stake is a matter that the President or the Governor, as the case may be, must be satisfied with, the three limbs of the second proviso to Article 311(2) of the Constitution cannot be made into watertight compartments. These were upheld by the High Court of Meghalaya through the learned bench of **Hon’ble Justice Sanjib Banerjee** and **Hon’ble Justice W. Diengdoh** in the case of **Sanjeeb Ch. Marak Vs. State of Meghalaya & ors. (MC(WA)/1/2022)**

The crux of the case is a confidential report was issued by the Department alleging that the appellant had provided information relating to police operations and the movement of the banned and dangerous property called the Garo National Liberation Army. The dismissal order was directed at the damage suffered by the police and a confidential report thus dismissing the appellant immediately without any formal investigation. The plaintiff has questioned the action of not holding the investigation and writing it down in writing by the appropriate authorities. According to him, “the mandatory inquiry may not be dispensed with unless the reasons therefore are recorded as to why it is not reasonably practicable to hold such inquiry”. Thus, the eviction order has no legs. Also, in the event of internal security, the satisfaction of the President or the Governor is also required.

The appellate authority recorded that the papers had been examined and it was evident that the case was that the appellant had links with the banned outfit and had passed on information about police movements and operations to the outlawed organisation. The appellate authority found that “the act was very grave in nature considering the fact that he was a member of the police force.” The appellate authority recorded that the conduct of the appellant had exposed police personnel to great risk and rendered several operations futile and such conduct was unbecoming of a member of a police force. The appellate authority expressed satisfaction that senior police officials had dealt with the matter in an appropriate manner and the obvious lack of loyalty on the part of the appellant called for his summary dismissal. Again, the letter of the Article 311(2)(b) of the Constitution may not have been complied with in the appellate authority finding any express reason for it not being reasonably practicable for an inquiry to be held against the appellant before punishing him. The writ court found that the appellant herein had admitted to having links with the banned organisation. The writ court also held that since the matter pertained to the security of the State, the decision to summarily remove the appellant from service did not warrant any interference.

The learned bench of **Hon’ble Justice Sanjib Banerjee** and **Hon’ble Justice W. Diengdoh**, subsequently, dismissed the petition and observed that that the provisions of Art 311(2)(b) had been complied with and that some latitude had to be given to the police authorities especially in a scenario where no case of malice in fact was made out. Also, a judicial note was given that it would be impractical to disclose the confidential information which would expose the identity of the sources or risk such sources to be cross-examined or their identities revealed. Also stating “*It is elementary that when the law requires a certain thing to be done in a particular manner, it has to be done in such manner or not at all. The rule applies with more vigour in respect of any mandate as found in any provision of the suprema lex which is the Constitution. At the same time, no adjudication is made without reference to the context and the surrounding circumstances, be they geographical or situational or even time-specific or the like. It is also possible that the reason for dispensing with the inquiry is self-evident in the order impugned despite it not being expressly spelt out*”