



GAHC010237732017

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**THE GAUHATI HIGH COURT**  
**(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**Case No. : WP(C)/3665/2017**

CMJ UNIVERSITY and 5 ORS  
SHILLONG, MEGHALAYA, REP. BY CHANCELLOR SHRI CHANDRA MOHAN  
JHA SWASTI NIWAS, CRINOLINE FALLS, BARIK SHILLONG, MEGHALAYA

2: CMJ FOUNDATION

REP. BY ITS SECRETARY  
SHRI GOVIND JHA  
SWASTI NIWAS  
CRINOLINE FALLS  
BARIK  
SHILLONG  
MEGHALAYA

3: SMT INDU RANI JHA  
W/O SHRI CHANDRA MOHAN JHA  
TRUSTEE MEMBER OF CMJ FOUNDATION  
SWASTI NIWAS  
CRINOLINE FALLS  
BARIK  
SHILLONG  
MEGHALAYA

4: SHRI GOPAL JHA  
S/O SHRI CHANDRA MOHAN JHA  
TREASURER OF CMJ FOUNDATION  
SWASTI NIWAS  
CRINOLINE FALLS  
BARIK SHILLONG  
MEGHALAY

VERSUS

THE UNION OF INDIA and 3 ORS



REP. BY THE SECRETARY, MINISTRY OF FINANCE, DEPTT. OF REVENUE,  
NORTH BLOCK, NEW DELHI-110001

2:THE DIRECTOR OF ENFORCEMENT  
GOVT.OF INDIA  
6TH FLOOR  
LOKNAYAK BHAWAN  
KHAN MARKET NEW DELHI-110003

3:THE JOINT DIRECTOR  
ENFORCEMENT DIRECTORATE  
GOVT. OF INDIA  
GUWAHATI ZONAL OFFICE  
HOUSE NO.20  
BYE LANE NO.1  
RAJGARH ROAD  
GUWAHATI-781003

4:THE ASSISTANT DIRECTOR  
ENFORCEMENT DIRECTORATE  
GOVT. OF INDIA  
GUWAHATI ZONAL OFFICE  
HOUSE NO.20  
BYE LANE NO.1  
RAJGARH ROAD  
GUWAHATI-78100

**Advocate for the Petitioner : MS. J DEKA**

**Advocate for the Respondent : C.G.C.**

**WP(C)/2723/2022**

CMJ UNIVERSITY AND 14 ORS.  
SHILLONG MEGHALAYA  
REP. BY CHANCELLOR OF CMJ UNIVERSITY SWASTI NIWAS CRINOLINE  
FALLS BARIK  
SHILLONG MEGHALAYA

2: CMJ FOUNDATION  
REP. BY ITS SECRETARY SRI GOVINDA JHA SWASTI NIWAS CRINOLINE  
FALLS BARIK  
SHILLONG MEGHALAYA

3: CHANDRA MOHAN JHA  
S/O HARI DEV JHA



CHANCELLOR OF CMJ UNIVERSITY SWASTI NIWAS CRINOLINE FALLS  
BARIK  
SHILLONG MEGHALAYA- 793004

4: INDU RANI JHA  
W/O CHANDRA MOHAN JHA  
TRUSTEE MEMBER OF CMJ FOUNDATION SWASTI NIWAS CRINOLINE  
FALLS BARIK  
SHILLONG MEGHALAYA

5: GOVIND JHA  
S/O CHANDRA MOHAN JHA  
SEC. OF CMJ FOUNDATION SWASTI NIWAS CRINOLINE FALLS BARIK  
SHILLONG MEGHALAYA

6: GOPAL JHA  
S/O CHANDRA MOHAN JHA  
TREASURER OF CMJ FOUNDATION SWASTI NIWAS CRINOLINE FALLS  
BARIK  
SHILLONG MEGHALAYA

7: THE CHANCELLOR  
CMJ UNIVERSITY  
MODERINA MANSION LAITUMKHRAH  
SHILLONG  
MEGHALAYA  
793003

8: THE MANAGING TRUSTEE  
CMJ FOUNDATION MODERINA MANSION LAITUMKHRAH  
SHILLONG  
MEGHALAYA  
793003

9: ADITYA JHA (MINOR)  
THROUGH HIS FATHER GOPAL JHA SWASTI NIWAS  
CRINOLINE FALLS  
BARIK SHILLONG  
MEGHALAYA

10: AKSHAY JHA (MINOR)  
THROUGH HIS FATHER GOPAL JHA  
SWASTI NIWAS  
CRINOLINE FALLS  
BARIK SHILLONG  
MEGHALAYA

11: AYSHMAN JHA (MINOR)



THROUGH HIS FATHER GOVINDA JHA SWASTI NIWAS  
CRINOLINE FALLS  
BARIK SHILLONG  
MEGHALAYA

12: ADITI JHA (MINOR)  
THROUGH HIS FATHER GOVIND JHA SWASTI NIWAS  
CRINOLINE FALLS  
BARIK SHILLONG  
MEGHALAYA

13: THE PRINCIPAL OFFICER  
NORTH EASTERN INDIA TRUST  
THROUGH CHANDRA MOHAN JHA  
SWASTI NIWAS  
CRINOLINE FALLS  
BARIK SHILLONG  
MEGHALAYA

14: THE PRINCIPAL OFFICER  
NORTH EASTERN INDIA TRUST  
THROUGH CHANDRA MOHAN JHA  
SWASTI NIWAS  
CRINOLINE FALLS  
BARIK SHILLONG  
MEGHALAYA

15: THE DIRECTOR  
SHILLONG ENGINEERING AND MANAGEMENT COLLEGE  
THROUGH CHANDRA MOHAN JHA  
SWASTI NIWAS  
CRINOLINE FALLS  
BARIK SHILLONG  
MEGHALAYA  
VERSUS

THE UNION OF INDIA AND 3 ORS.  
REP. BY THE SECRETARY  
MINISTRY OF FINANCE DEPTT. OF REVENUE NORTH BLOCK NEW DELHI-  
110001

2: THE ENFORCEMENT DIRECTORATE  
GOV. OF INDIA  
6TH FLOOR  
LOKNAYAK BHAWAN  
KHAN MARKET  
NEW DELHI-110003  
3: THE DEPUTY DIRECTOR



ENFORCEMENT DIRECTOR GOVT. OF INDIA  
SHILLONG  
SUB ZONAL OFFICE ABRI BUILDING LANGKYRDING  
MAWPAT  
SHILLONG-793012  
4:THE ADJUDICATING AUTHORITY  
UNDER THE PREVENTION OF MONEY  
LAUNDERING ACT  
2002  
NEW DELHI

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Advocate for : MR. B D KONWAR SR. ADV.  
Advocate for : ASSTT.S.G.I. appearing for THE UNION OF INDIA AND 3 ORS.

**BEFORE**

**HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI**

For the Petitioners : Ms. VD Makhija, Sr. Advocate;  
Mr. Amanpreet Singh, Advocate.

For the Respondents : Shri RKD Choudhury, Dy. SGI.

Dates of Hearing : 19.07.2022, 21.07.2022, 28.04.2023 &  
06.06.2023.

Date of Judgment : 15.09.2023.

**15.09.2023.**

**Judgment & Order**

The extra-ordinary jurisdiction conferred upon this Court by Article 226 of the Constitution of India is being sought to be invoked by means of these petitions which have been filed against certain actions by the Enforcement Directorate in exercise of powers under Section 5 of the Prevention of Money

Laundering Act, 2002 (hereafter referred to as the Act).

**2.** In the first writ petition, WP(C)/3665/2017, there are four numbers of petitioners with the CMJ University and the CMJ Foundation as the petitioner nos. 1 and 2. The challenge in this petition is against a provisional attachment order dated 25.04.2017 issued under Section 5 (1) of the PMLA. In the prayer portion, apart from a prayer for setting aside the aforesaid order dated 25.04.2017, it has also been prayed for quashing the complaint lodged under Section 5 (5) of the Act.

**3.** In the second writ petition, there are 15 numbers of petitioners which includes the 4 petitioners in the earlier case. The challenge in this petition is with regard to the provisional attachment order dated 30.1.2011 issued under Section 5 (1) of the PMLA relating to ECIR No. 02/GWZO/PMLA/2014 dated 07.07.2014 and also against the original complaint No. OC 1591/2021. In this petition, while the petitioner nos. 1 and 2 are the CMJ University and the CMJ Foundation, the rest of the petitioners are either officers of the petitioner nos. 1 and 2 or are connected to the same.

**4.** Before going to the issue which has arisen for determination, it would be convenient if the facts of the case are narrated in brief. The reference to the petitioner numbers would, however, be in the context of the second writ petition.

**5.** The petitioner no.1-University came into being through a statute of the State of Meghalaya which was enacted in the year 2009 under the name, "CMJ

University Act, 2009". It is the projected case of the petitioners that the Board of Trustees of the CMJ Foundation vide resolution dated 29.07.2009 had appointed the petitioner no. 3 as the Chancellor and accordingly, the approval of the Visitor who was the Governor of the State was sought for. However, there were certain delay and accordingly, a deemed provision was invoked and it is claimed that on 17.06.2010, the University came to be fully established. It is further projected that the Board of Trustees had two members nominated by the State Government. It is further claimed that the University Grants Commission (UGC) vide communication dated 25.11.2010 had informed that the petitioner no. 1 was a State Private University and was empowered to award degrees under Section 22 of the UGC Act, 1956 through its main campus with the approval of the statutory Council.

**6.** On 04.04.2013, the Deputy Secretary to the Governor, State of Meghalaya had asked the petitioner-University to provide details regarding appointment of the Chancellor, Off-Campus Centres, details of the Ph.D degrees, and numbers of students admitted which, as per the petitioners were accordingly provided. However, vide a subsequent communication dated 11.04.2013, the Visitor informed that the appointment of the Chancellor of the University was irregular as it was not approved by the Visitor. Nonetheless, it has been claimed that vide communication dated 18.04.2013, the petitioner Foundation had informed the authority that the University has been conducting courses only through its main campus on regular basis. Thereafter, vide communication dated 22.04.2013, the University furnished the list of students who were awarded degree of M.Phil and Ph.D. However, a further letter was issued on 26.04.2013 seeking information regarding list of students enrolled in M.Phil programme, their addresses and

date of enrollments and similar information with regard to Ph.D. It was specifically asked as to whether any Ph.D degree was awarded during the year 2010-2011.

**7.** It is projected that before any response could be made by the University, the office of the Governor had lodged a criminal complaint on 26.04.2013 against the petitioner-University and its officials with regard to the functioning of the same. Accordingly, there was registration of Case No. 2(4) of 2013 u/s 420/406/466 IPC. Consequently, the petitioner no. 3 and certain other officials of the University were arrested and subsequently enlarged on bail. It was followed by an order dated 30.04.2013 by the Visitor stating therewith that many irregularities were committed by the University and therefore, fresh admissions were barred. On 07.05.2013, there was seizure of the documents by the police.

**8.** The aforesaid order dated 30.04.2013 was the subject matter of a writ proceedings before the Hon'ble Meghalaya High Court in WP(C) No. (SH)/106/2013 which was, however, dismissed vide judgment and order dated 16.05.2013 and against the said dismissal WA No. 16 (SH)/2013 was preferred which was also dismissed on 31.05.2013. The aforesaid judgment was challenged in the Hon'ble Supreme Court by filing SLP (Civil) No. 19617/2013.

**9.** In the meantime, on 12.06.2013, the Visitor had recommended the State Government to consider dissolution of the University. Accordingly, the said order was brought to the notice of the Hon'ble Supreme Court and an order was passed on 13.09.2013 disposing the SLP with a direction to the State



Government to take appropriate action under Section 48 of the Act.

**10.** Pursuant to such direction of the Hon'ble Supreme Court, the State Government had issued a show cause notice dated 12.11.2013 to the University which was replied on 25.11.2013. The same was followed by another show cause notice dated 24.01.2014. Thereafter, vide the order dated 31.03.2014, the University was dissolved with immediate effect. The said order was passed under Section 48 (2) and (3) of the Act. It has been alleged that no reasonable opportunity was afforded before the said order. The aforesaid order was the cause of action in another writ petition, being WP(C)/177/2014 before the Hon'ble Meghalaya High Court.

**11.** It is alleged that the CID in the investigation had frozen various bank accounts of the University, the Foundation and even the personal accounts, the total amount being in the tune of more than Rs. 43 crores. Subsequently, on 10.06.2014, the Enforcement Directorate was requested for taking action against the petitioners under the Prevention of Money Laundering Act, 2002 (hereinafter referred to as the PMLA). Accordingly, complaint, being ECIR No. 02/GWZO/PMLA/2014 was registered on 07.07.2014. Thereafter on 04.08.2014, NBWA was issued against petitioner nos. 5 and 6 followed by a similar order on 08.09.2014 in respect of petitioner nos. 3 and 4. The aforesaid two orders dated 04.08.2014 and 08.09.2014 were the subject matter of challenge in Crl. Pet. No. 32/2014.

**12.** It has been averred that on 20.04.2015, the IO had submitted Final Report in respect of FIR No. 2 (04)/2013 which was registered by the CID.

Further, in WP(C)/177/2014, the learned Single Judge had passed an order dated 16.07.2015 allowing the writ petition and had quashed the order dated 31.03.2014 and the show cause notices dated 11.12.2013 and 24.01.2014. The petitioners claim that in view of the aforesaid judgment dated 16.07.2015, the University started functioning from the academic year 2015. However, the State Government did not render any assistance in terms of the Act.

**13.** Subsequently, Crl. Pet. No. 32/2014 was also allowed by the learned Single Judge vide judgment and order dated 12.08.2015. The petitioners rely upon certain observations made in the said judgment.

**14.** The petitioners had also filed Crl.M.C./24/2015 before the Hon'ble Meghalaya High Court seeking defreezing of the bank account on the ground that after functioning of the University, lot of dues had arisen. In the said application, the said High Court vide order dated 13.10.2015 had directed release of an amount of Rs. 15.62 crores (approx) out of the total frozen amount of Rs. 43.29 crores (approx). Against the aforesaid order, the State of Meghalaya had filed SLP (Crl.) No.9552/2015 in which, the Hon'ble Supreme Court vide order dated 08.04.2016 had granted liberty to the petitioners to move the trial court seeking disbursement of funds from the frozen accounts subject to depositing any funds withdrawn from the frozen accounts pursuant to the order of the High Court.

**15.** In the meantime, the State had issued a notice dated 21.07.2016 restricting the petitioners from getting new enrollment of students for the academic year 2016-2017. The said notice was, however, the subject matter of

Cont. Cas(C)/19/2016. Thereafter, it is claimed that the State vide a subsequent notice dated 05.09.2016 had withdrawn the earlier notice. At the same time, the State of Meghalaya filed SLP (Crl.) No. 6395 of 2016 against the judgment of the learned Single Judge in Crl. Pet. No.32 of 2014, dated 12.08.2015 which, however, was dismissed vide order dated 26.10.2016. It is the case of the petitioners that in view of such dismissal, the proceeding under the PMLA could not have been initiated.

**16.** On 29.03.2017, a letter was issued by the CID Meghalaya to the Enforcement Directorate for attaching the bank accounts of the petitioners under the PMLA. Pursuant thereto, a provisional attachment order dated 25.04.2017 was passed in respect of the bank accounts of the petitioners in which, amount of Rs. 27.66 (approx) crores was attached as proceeds of crime. Consequently, Original Complaint No. 750/2017 was registered under Section 5 (5) of the PMLA.

**17.** The petitioners thereafter filed an application to permit operation of the respective bank accounts subject to execution of bonds which was allowed by the learned trial court on 03.05.2017.

**18.** In the meantime, assailing the provisional attachment order and the notice under Section 11 of the PMLA, WP(C)/3665/2017 was filed and an order was passed on 22.06.2017 by which the proceeding was stayed. The aforesaid interim order was extended on 09.08.2017 until further orders. The petitioners have alleged that in suppression of the aforesaid developments, the State filed Cont. Pet.(Crl.)/4/2018 before the Hon'ble Supreme Court. At the same time,



Criminal Revision No. 6(H)/2017 was filed before the Addl. Sessions Judge, Shillong by the IO, CID making an allegation that a sum of Rs. 15.10 crores (approx) was not deposited by the petitioners in terms of the order dated 08.04.2016 of the Hon'ble Supreme Court.

**19.** At the same time, challenging the order dated 16.07.2015 passed in WP(C)/177/2014, the State preferred WA/14/2017 in which, the Hon'ble Division Bench while admitting the appeal had passed an interim order 12.06.2017 holding that the admissions and the degrees by the University shall be subject to final judgment to be passed in the appeal and no students are to be admitted in the University. The aforesaid interim order was the subject matter of challenge in SLP(C) No.21890/2017 in which the Hon'ble Supreme Court had passed an order dated 04.09.2017 staying the same. The Hon'ble Supreme Court had also imposed the condition as per which, the petitioners had deposited a total amount of Rs. 15.10 crores (approx) on different dates whereafter, fresh application was moved before the learned trial court for defreezing the account.

**20.** It is contended that though IA(C)/3021/2017 was filed for vacation of the interim order dated 22.06.2017 in WP(C)/3665/2017, the same was extended from time to time.

**21.** On 07.08.2018, the learned Addl. Sessions Judge, Shillong had passed an order dated 07.08.2018 directing an inquiry with the Punjab National Bank so as to verify the stand of the CID. The Punjab National Bank, vide reply dated 19.09.2018 confirmed that the petitioner Foundation had made deposit by

means of FDR for an amount of Rs. 15.10 crores. In the meantime, the Hon'ble Supreme Court vide order dated 13.08.2018 had transferred the writ appeal to this Court to be disposed of within a year and till such time, it was directed that the stay order will continue.

**22.** When the matter was listed before this Court on 28.09.2018, it was observed that the proceeding for provisional attachment under Section 5 (1) of the PMLA was already concluded and a next stage of the proceeding was under Section 8 of the PMLA before the adjudicating authority.

**23.** On 24.10.2018, the learned Addl. Sessions Judge allowed the Foundation to withdraw an amount of Rs. 15.10 crores by taking into consideration the letter issued by the Punjab National Bank with the stipulation that the same would be subject to final outcome of the revision petition. Subsequently, when the Cont. Pet. No. 4/2018 had come up for consideration, the Hon'ble Supreme Court had passed an order dated 19.08.2019 by observing that the petitioners had deposited a sum of Rs. 15.10 crores, the trial court was directed to find out the exact amount withdrawn by the petitioners and thereafter the petitioners were directed to pay the balance amount. It has been alleged that despite such development, the Enforcement Directorate were taking steps to freeze several accounts of the University on the ground that Rs. 15.10 crores was not deposited by the petitioners. On the other hand, a Hon'ble Division Bench of this Court vide order dated 05.11.2019 had disposed of WA No.14/2017 by remanding the matter to the learned Single Judge of the Meghalaya High Court. It is also alleged that on 14.10.2020, the respondents had issued summons to the petitioners in spite of the matter being sub judice. Accordingly, the

petitioners had filed IA(C)/1935/2020 in WP(C)/3665/2017 wherein, the High Court had passed an order dated 17.11.2020 staying the summons. The aforesaid order of the High Court was the subject matter of challenge in SLP(C)/10941/2020 in which, the Hon'ble Supreme Court had confirmed the order dated 13.08.2018. It may be mentioned that by the said order, the matter was transferred to this High Court.

**24.** As regards WA/14/2017, the same was disposed of vide order dated 06.05.2021 whereby, the order dated 16.07.2015 of the learned Single Judge was set aside and the matter was remanded back to the learned Single Judge for adjudication on merits. The said order dated 06.05.2021 was, however, again the subject matter of challenge in SLP No. 7081/2021 in which the Hon'ble Supreme Court had passed an order dated 01.06.2021 directing maintenance of *status quo* as regards functioning of the University. It has been alleged that the State did not take any steps under the Act against the University and on the other hand, allowed the University to function for seven academic sessions from 2015 to 2021. It has further been alleged that during these period more than 1800 students were enrolled in the University and the State Government never raised any objections regarding the degrees conferred and there was no complaints from the UGC also. As such, it has been projected that the Enforcement Directorate lacked jurisdiction under the PMLA to term such degrees as fake. It is also averred that the fees received from the students which were deposited in the bank accounts cannot be treated as proceeds of crime and therefore, the attachment of the bank accounts could not have been done.

**25.** On 30.11.2021, fresh provisional attachment Order No. 1 of 2021 was issued for attaching various bank accounts and immovable properties of the petitioners concerning a huge amount of Rs. 13.54 crores (approx). This was followed by registration of a fresh Original Complaint No. 1591 of 2021 under Section 5 (5) of the PMLA in which, show cause notices have been issued on 17.01.2022. The petitioners claim to have submitted detailed reply on 24.02.2022.

**26.** It is the action of initiation of the fresh proceeding under the PMLA by means of provisional attachment Order No.1/2021 involving attachment of various bank accounts and immovable properties of the petitioners vide order dated 30.11.2021 which is the subject matter of the second writ petition.

**27.** I have heard Ms. VD Makhija, learned Senior Counsel assisted by Shri AP Singh and Shri J Singh, learned counsel for the petitioners whereas the respondents are represented by Shri RKD Choudhury, learned Dy. SGI.

**28.** Ms. Makhija, learned Senior Counsel for the petitioners has submitted that the entire proceeding is bad in law as the same is based on irrelevant factors and extraneous considerations. It is submitted that the same is also vitiated by *bias* and *mala fide*. It is submitted that from a reading of the facts and circumstances, it would be apparent that the preconditions required for initiating a proceeding under the PMLA are absent and therefore, the proceeding would suffer from jurisdictional error and therefore, liable to be declared *non est* in law.

**29.** It is submitted that from the very initiation when the University was established by an enactment of the State, there was an apparent rift and difference of opinion between the then Governor of the State of Meghalaya who was the *ex-officio* Visitor of the University and the petitioners and therefore, the entire action was triggered at the instance of the then Governor. Submission has been made that there has been inconsistencies on the part of the respondents which is apparent during the registration of the proceedings under the PMLA on 07.07.2014. It is pointed out that the FIR states that Rs. 83 crores was the income at the time of seizure and Rs. 9.6 cores was from Off-Centres. The FIR did not disclose anything regarding fake degrees. It has also been pointed out that the amount seized by the CID was Rs. 43 crores (approx). It is submitted that on 13.10.2015, the learned Trial Court had directed release of an amount of Rs. 15.62 crores (approx) and therefore at the time of initiation of the proceedings under the PMLA, the residual amount was about Rs. 25 cores which was sought to be attached.

**30.** The learned Senior Counsel has submitted that to comply with the direction of the Hon'ble Supreme Court, fresh FDs were executed by taking loans.

**31.** Attention of this Court has been drawn to the recent case of the Hon'ble Supreme Court in ***Vijay Madanlal Choudhary & Ors. Vs. Union of India & Ors.***, reported in **2022 SCC OnLine SC 929**. wherein, there is elaborate discussions on the Act and the definition of crime. It is submitted that the provisions of the Act are draconian as the objective is that proceeds of crime cannot be allowed to be utilized in any other manner and the facts of these cases do not justify



invocation of such provisions. Reference has also been made to the case of the Hon'ble Gujarat High Court in **R/Special Civil Application No. 19387/2022**, dated 17.02.2023 (**Welspun Steel Resources Pvt. Ltd. Vs. Union of India**). With regard to the expression "reason to believe", it is submitted that there has to be a factual and tangible basis to come to the said conclusion, which is absent in the present case.

**32.** The learned Senior Counsel has also assailed the proceeding by submitting that when the cases in the predicate offence were stayed, the proceedings under the PMLA are required to be kept in abeyance. In this regard, reliance has been placed upon the case of Hon'ble Karnataka High Court in **WP(C)/19337/2022, decided of on 14.12.2022 (Ms. C Uma Reddy Vs. Directorate of Enforcement & Ors.)** In the said case, certain courses were suggested which include keeping in abeyance the provisional order, furnishing of adequate security and continuation of the interim order. It is pointed out that the Hon'ble High Court of Meghalaya vide order dated 10.08.2022 has stayed the predicate offence. Reference is also made to the order dated 15.06.2022 of the learned Trial Court.

**33.** It is submitted that till date, no documents pertaining to degree has been seized and what has been seized are the provisional certificates. It is clarified that certificate of submission of thesis is not a degree and neither a provisional certificate is a degree. The learned Senior Counsel has, however, referred to the orders dated 19.11.2013 and 29.01.2014 of the Hon'ble Allahabad High Court.

**34.** With regard to the campus of the University, it is submitted that initially,

the same was being run in the city of Shillong as the petitioners were already in the business of running educational institutions. However, subsequently, a plot of about 50 acres has been taken and in 30 acres, the University building is there.

**35.** Ms. Makhija, learned Senior Counsel submits that the first attachment order is unsustainable as the only basis of issuing the same was on "reasons to believe" whereas, there were no materials to substantiate the same. In the second provisional Attachment Order dated 30.11.2021, the ECIR number is identical with the earlier order dated 25.04.2017 and it was based on the same documents and therefore, in absence of fresh materials, the same could not have been issued. It is further submitted that the investigation is also the same which were reflected from the first order of attachment.

**36.** With regard to the allegation of change in the FD numbers, it is submitted that there was no trail of any laundering and such change in the FD numbers had occasioned only because the money had to be redeposited as per the direction of the Hon'ble Supreme Court. It is submitted that the immovable properties were purchased in the year 2012 and even the account of minors were attached which is wholly unreasonable.

**37.** The learned Senior Counsel has questioned the jurisdiction of the authorities by submitting that the proceedings were initiated on an erroneous presumption that the entire Rs. 83 crores (approx) were proceeds of crime. It is submitted that in absence of any action by the UGC and the action taken under Section 48 of the University Act being stayed by the Hon'ble Supreme Court,

there was no jurisdiction to invoke the said Act. It is submitted in the alternative that even for argument sake, the maximum involvement can be of Rs. 43 crores and in any case, a proceeding under the PMLA cannot go ahead of the predicate offence.

**38.** As regards the second provisional order of attachment, it is submitted that in view of the stay operating vide order dated 22.06.2017 coupled with the fact that it is the same materials which are being sought to be relied upon as was in the first order of attachment, the second order is wholly without jurisdiction.

**39.** It is, accordingly submitted that the proceedings under the PMLA are required to be kept in abeyance and the order of attachment be directed to be vacated and the bank accounts be de-freezed. It is further prayed that the securities offered by the petitioners may be directed to be accepted. It may be mentioned that the petitioners have deposited Title Deeds of certain plots of land and also an Indemnity Bond.

**40.** *Per contra*, Shri RKD Choudhury, learned Deputy Solicitor General, Union of India has opposed the writ petition tooth and nail. He has submitted that apart from the aspect of incorrect projection of facts on behalf of the petitioners, even the interpretation made are not tenable and therefore, liable to be rejected.

**41.** Shri Deb Choudhury, learned Dy. SGI has submitted that under Section 4(2) of the CMJ University Act, the University was started. However, degrees were awarded from the first year itself. He submits that the records would

reveal that 20,570 nos. of illegal degrees have been awarded by the petitioner—University. In August, 2010 itself, Bachelors Degree were awarded even prior to functioning of the University. He submits that it was only on 17.06.2010 that the Governor had accorded sanction to the Act of 2010 and therefore, it was legally not possible for the University to function.

**42.** By referring to the WA/14/2017 preferred by the State in the Hon'ble Meghalaya High Court, Shri Choudhury submits that on 06.05.2021, the said appeal was allowed and the matter was remitted for a decision on merits within a period of 2(two) weeks, the said decision was put to challenge in the Hon'ble Supreme Court which vide order dated 01.06.2021 had directed maintenance of *status-quo*. The learned Dy. SGI accordingly submits that since the period of two weeks granted by the High Court was already over, the order of *status-quo* has to be construed with the situation when the University was not functioning. He submits that an amount of Rs.83 (rupees eighty three) crores (approx.) was involved in the predicate offence. To substantiate the said submission, he has referred to the paragraph 9 of the charge sheet which would reveal the involvement of the aforesaid amount and an amount of Rs.89 (rupees eighty nine) crores was already withdrawn. Whereas under the first attachment order Rs.43 (rupees forty three) crores was involved, out of the same, Rs.27 (rupees twenty seven) crores was frozen by the E.D.

**43.** Shri Deb Choudhury, learned Dy. SGI has submitted that the period in issue is from 2010-2013 and some of the affected students were from the State of Uttar Pradesh. Since the order of de-recognition had affected them, such de-recognition was challenged in the Hon'ble Allahabad High Court and the learned

Single Judge vide order dated 19.11.2013 had dismissed the petition and had upheld the de-recognition. The Hon'ble Division Bench of the Allahabad High Court vide judgment dated 29.01.2014 had dismissed the appeal and had affirmed the findings of the learned Single Judge.

**44.** The learned Dy. SGI submits that the Act in question requires an Endowment Account. To show compliance of the said requirement, on 20.05.2010, the petitioners had opened such an account for endowment fund for an amount of Rs.2.10 crores. However, on the very next day i.e., 21.05.2010, the account was closed and the funds were withdrawn. It is accordingly submitted that the conduct of the petitioners does not justify any indulgence by this Court under the equitable jurisdiction.

**45.** As regards the proceeding before the learned CJM, Shillong, the learned Dy. SGI has submitted that the petitioners had not only withdrawn an amount of Rs.15.10 crores but had also withdrawn Rs.12.79 crores (approx.) out of the amount of Rs.27.66 crores attached by the E.D. it is submitted that the order dated 03.05.2017 of the learned CJM, Shillong was grossly misused.

**46.** With regard to the Hon'ble Supreme Court's order, the petitioner Foundation had deposited an amount of Rs.15.10 crores as FDs in the Bank between 09.03.2017 to 24.03.2017 which was in violation of the direction of the Hon'ble Supreme Court that the amounts were to be deposited back to the same accounts from which they had withdrawn. However, all the accounts amounting to Rs.15.10 crores were closed on 05.05.2017 and rather, the Foundation had taken loans to part finance the said FDs and the loan accounts

were also closed on 05.05.2017 by closing the FDs. In this connection, the State had filed a contempt petition in the Hon'ble Supreme Court as its orders were violated. The Hon'ble Supreme Court vide order dated 19.08.2019 had disposed of the contempt petition by accepting that the petitioners had deposited an amount of Rs.15.10 crores in the form of Fixed Deposit in the Punjab & National Bank, Greater Kailash, New Delhi. Though the order of the Hon'ble Supreme Court was to keep this amount frozen, the said amount was already withdrawn by the petitioners on 15.05.2017 i.e., more than two years earlier from the date of the order of the Hon'ble Supreme Court.

**47.** With regard to the aspect of "reasons to believe", the learned Dy. SGI has submitted that most of the accounts were in the name of the Foundation and investments were also done. There are details of purchase of seven plots of land at Bihar which have apparently been purchased from the proceeds of crime. It is submitted that the proceeds of crime is approximately Rs.83 crores whereas the amount withdrawn was about Rs.81 crores. It is accordingly submitted that if the accounts are de-freezed, the entire amount will be withdrawn.

**48.** With regard to the allegation of meeting day-to-day expenditures, Shri Deb Choudhury submits that since the University was not legally functioning, there is no necessity of any day-to-day expenditure and therefore, the above ground is wholly untenable. It is submitted that the investigation under the PMLA is distinct from the police investigation. Therefore, it is submitted that stay of the proceeding of the predicate offence may not require consequential stay of the PMLA proceeding.

**49.** With regard to the case of ***Vijay Madanlal (supra)***, the learned Dy. SGI has submitted that under paragraph 107 thereof, the Hon'ble Supreme Court has laid down the requirement to proceed independently. Further, in support of the said submission, reference has been made to Section 44 (1) (d) wherein it has been stated that the proceeding would be a different and distinct trial.

**50.** With regard to the offer of furnishing securities, the learned Dy. SGI has submitted that the Act does not envisage any such provisions. He submits that presently, there is only Rs.14 crores (approx.) under attachment whereas the proceeds of crime has been quantified as Rs.83 crores (approx.). He accordingly submits that the petitioners not having approached the Court of Equity with clean hands, and accordingly not entitled to any equitable relief.

**51.** Shri Deb Choudhury, learned Dy. SGI also submits that the Act itself provides for an alternative remedy and therefore, the writ petition itself is not maintainable. He has also referred to an order dated 27.09.2022 passed by the Hon'ble Meghalaya High Court in WP(C)/81/2019 and submits that the matter is similarly pending before the adjudicating authority under Section 8 of the Act. He submits that due opportunity would be granted to the petitioners by issuance of show cause notices whereafter the parties would be heard. Further, Section 26 provides for an appeal.

**52.** The learned Dy. SGI has submitted that at each and every stage, the petitioners are attempting to circumvent the Court proceedings. He has raised the following specific points in this connection:

- (i) The Chancellor was self appointed without the approval of the Visitor of the University.
- (ii) The Endowment Account was opened and immediately closed to show compliance to the Act. It is submitted that a University cannot run without an endowment account.
- (iii) The petitioners had even misled the Hon'ble Supreme Court by projecting that Fixed Deposits were created in the Punjab National Bank, New Delhi.
- (iv) The petitioners had adversely affected the career of numerous students all across the country by issuance of fake degrees and this fact is endorsed by the Hon'ble Allahabad High Court.
- (v) Around 27000 degrees and diplomas have been issued by the University illegally.
- (vi) Whereas the University has started in the 2010, the degrees were given in the same year.

**53.** Shri Amanprit Singh, learned counsel assisting the Senior Counsel for the petitioners has additionally submitted in the rejoinder that the University, as such has been established by a statute and the Governing Body of the University includes Government representatives. He submits that 52 acres of land have been purchased and accounts were opened as per resolutions in meetings. He denies that the involvement is Rs. 83 crores and only about Rs.47 crores was there. With regard to the allegation that degrees were immediately given, it has been tried to be explained that the erstwhile Shillong Engineering



College was taken over by the petitioner University and therefore, degrees could be awarded to such students. He further submits that one Dr. Mustafa Raza Khan had allegedly written a letter on 28.08.2019 to the E.D. whereas he was enrolled way back in April, 2011 and his *viva-voce* was held on 18.02.2013. He further submits that there is no complaint from the UGC on the functioning of the University.

**54.** As regards the allegation of misleading the Hon'ble Supreme Court with regard to the withdrawal, the letter dated 11.09.2018 issued by the PNB would clarify the issue and the learned counsel reiterates that the withdrawal was done after permission was granted by the learned Sessions Court on 24.10.2018.

**55.** With regard to the Endowment Fund Account, the learned counsel for the petitioners University submits that the said account was initially opened by the Foundation. However, as the requirement was to be fulfilled by the University, the account opened by the Foundation was withdrawn and thereafter, a new account was opened by the University. The aforesaid submission is however vehemently objected to by Shri Deb Choudhury, the learned Dy.S.G.I. who has contended that for the first time such submission has been made without any pleadings to support.

**56.** With regard to the degrees, Shri Singh, the learned counsel has submitted that around 300 Ph.D. Guides were appointed on contractual basis and in this regard, he refers to page 3011 of Volume-VII of the pleadings. He has also submitted that the Hon'ble Allahabad High Court vide order dated 16.03.2023 has held the degrees to be valid.

**57.** With regard to the functioning of the University, it is submitted that the University is a UGC recognized University in the State of Meghalaya. He further submits that when the validity of the degrees are subject matters which are *sub judice*, it would be prejudicial to presume that everything are proceeds of crime. Additionally, he submits that the original Title Deeds of the 52 acres of land have already been placed on record, the value of which would be more than the entire amount involved. He has also referred to the Google map to contend that the campus of the petitioner University has indeed been constructed and the same being functional, interest of justice would require interference by this Court. He has also submitted that the requirement of approval of the Visitor cannot be construed to mean a prior approval.

**58.** The rival submissions made by the learned counsel for the parties have been duly considered and the materials placed before this Court have been carefully examined.

**59.** The relief which has been prayed for is for setting aside the provisional attachment order dated 25.04.2017 and for quashing the complaint lodged under Section 5 (5) of the Act. In the second writ petition, the prayer is for interfering with the provisional attachment order being PAO No. 1 of 2021 dated 30.11.2021 (wrongly typed as 30.11.2011 in the prayer of the writ petition) which was issued under Section 5 (1) of the Act relating to ECIR No. 02/GWZO/PMLA/2014 dated 07.07.2014 and also for quashing the original complaint being OC No. 1591 of 2021 lodged under Section 5 (5) of the Act.

**60.** With regard to the ground urged by the learned Senior Counsel for the petitioners with regard to “reasons to believe” by submitting that there were no materials, it would be relevant to refer to the case of ***Calcutta Discount Co. Ltd. v. ITO***, reported in **AIR 1961 SC 372**, the relevant extract of which is quoted hereinbelow:

*“6. To confer jurisdiction under this section to issue notice in respect of assessments beyond the period of four years, but within a period of eight years, from the end of the relevant year two conditions have therefore to be satisfied. The first is that the Income Tax Officer must have reason to believe that income, profits or gains chargeable to income tax have been under-assessed. The second is that he must have also reason to believe that such “underassessment” has occurred by reason of either (i) omission or failure on the part of an assessee to make a return of his income under Section 22, or (ii) omission or failure on the part of an assessee to disclose fully and truly all material facts necessary for his assessment for that year. Both these conditions are conditions precedent to be satisfied before the Income Tax Officer could have jurisdiction to issue a notice for the assessment or reassessment beyond the period of four years but within the period of eight years, from the end of the year in question.*

7....

8. Before we proceed to consider the materials on record to see

*whether the appellant has succeeded in showing that the Income Tax Officer could have no reason, on the materials before him, to believe that there had been any omission to disclose material facts, as mentioned in the section, it is necessary to examine the precise scope of disclosure which the section demands. The words used are "omission or failure to disclose fully and truly all material facts necessary for his assessment for that year". It postulates a duty on every assessee to disclose fully and truly all material facts necessary for his assessment. What facts are material, and necessary for assessment will differ from case to case. In every assessment proceeding, the assessing authority will, for the purpose of computing or determining the proper tax due from an assessee, require to know all the facts which help him in coming to the correct conclusion. From the primary facts in his possession, whether on disclosure by the assessee, or discovered by him on the basis of the facts disclosed, or otherwise — the assessing authority has to draw inferences as regards certain other facts; and ultimately, from the primary facts and the further facts inferred from them, the authority has to draw the proper legal inferences, and ascertain on a correct interpretation of the taxing enactment, the proper tax leviable. Thus, when a question arises whether certain income received by an assessee is capital receipt, or revenue receipt, the assessing authority has to find out what primary facts have been proved, what other facts can be inferred from them, and taking all these together, to decide what the legal inference should be."*

**61.** In the instant case, as mentioned above, an attempt has been made on behalf of the petitioners to submit that there were no materials which can form reasons to believe and in absence of such conditions precedent, the authorities do not assume the jurisdiction to proceed. However, a perusal of the materials would show that the impugned action is preceded by a subjective satisfaction arrived at by the competent authority based upon information received regarding commission of an offence. Running of the University without any authority, grant of degrees which appeared to be fake, withdrawal of endowment fund and closure of such account are few of the relevant factors which were available before the authorities to come to such satisfaction.

**62.** This Court is of the view that the reliefs prayed for appear to be pre-emptive in nature whereby proceedings under the Act, which are yet to reach a final stage, has been sought to be interfered with. Under those circumstances, this Court is of the opinion that the burden on the part of the petitioners would be on a higher pedestal to make out a case that the proceedings under the Act as well as the provisional attachment order are *prima facie* bad in law. Such *prima facie* projection would necessarily require the party to show that either there is a jurisdictional error in the proceedings or that there is blatant violation of the provisions of the Act. This Court in exercise of the extra ordinary powers under Article 226 of the Constitution of India has to confine its scrutiny only to the decision making process.

**63.** The Hon'ble Supreme Court in a catena of decisions has laid down the law regarding the power and ambit of a writ court exercising powers of judicial review. In the landmark case of ***Tata Cellular Vs. Union of India***, reported in

**(1994) 6 SCC 651**, the Hon'ble Supreme Court laid down as follows:

*"74. Judicial review is concerned with reviewing not the merits of the decision in support of which the application of judicial review is made, but the decision making process itself:"*

**64.** In connection with the issue involved in this petition, the observations made by the Hon'ble Allahabad High Court in the judgment dated 19.11.2013 and 29.01.2014 would also be relevant. The petitioners in those cases were candidates who had obtained graduation degrees from the petitioner-University and the issue was as to whether the degrees of graduation awarded by the petitioner-University were valid or not.

**65.** The learned Single Judge of the Hon'ble Allahabad High Court in the judgment dated 19.11.2013 had taken into consideration the observation of a Committee constituted by the UGC which had given a report dated 01.08.2013. The said observations and recommendations have been extracted in the judgment which is also quoted hereinbelow:

*"On receiving the Visitor's decision, the Chairman, UGC constituted a Committee Chaired by Prof. Mihir K. Chaudhari, Vice-Chancellor, Tezpur University, Tezpur and eight Members of eminence and repute to visit the University and make on the spot assessment of fulfilment of criteria in terms of programmes, faculty, infrastructural facilities, financial viability etc. The said Committee submitted its report dated 1.8.2013. The observations of the Committee as also its recommendations as contained in the report are produced below:*

### *Observation of the Committee*

*(i) The University appears to have functioned from a hired building being shared with several commercial agencies. The inner part of the building is shabbily maintained.*

*(ii) The security, fire safety, hygiene in the premises are practically absent.*

*(iii) In view of the large number of students and faculty numbers as claimed by the University (which could not even be verified), the space used by the University is grossly inadequate.*

*(iv) No academic ambience was visible.*

*(v) No students' amenities in the form of recreation rooms, canteen, health centre and so forth were found,*

*(vi) Since no interaction was possible with any of the stakeholders and also since no academic ambience<sup>3</sup> was discernable, the Committee has serious doubts regarding the claims made by the University on running the different academic programmes. Consequent upon the observations made above, it appears to the Committee that the complaints received by the UGC are likely to be correct.*

### *Recommendations of the Committee*

*In view of the fact that CMJ University does not have the requisite infrastructure for running all the academic programmes as well as the fact that a large number of complaints has been received by the UGC highlighting deviations from the UGC norms and standards, the Committee strongly recommends that appropriate*

*action be taken by the UGC.*

*The report of the UGC Expert Committee was considered by the UGC in its meeting dated 01.10.2013 and was duly approved. Further the Secretary, UGC vide letter dated 21.10.2013 has communicated the same to the Visitor of the University. The UGC in the said letter has further requested the Visitor to take appropriate action not only against the University but also about the validity of the degrees already awarded. Contents of the letter dated 21.10.2013 of the Secretary, UGC is reproduced below:*

*D.O. No. F8-21/2010 (CPP-I/PU)                      October, 2013*

*Dear Shri Rao,*

*As you are aware, an Expert Committee was constituted by the UGC to look into the violations as reported by your Secretariat, various complaints received by the UGC and also to ascertain whether the CMJ University (Private University), Modrina Mansion, Laitumkhrah, Shillong (Meghalaya) is fulfilling the norms and standards of UGC and other statutory Council(s). The UGC Expert Committee also included nominees from AICTE and NCTE. The Committee visited the campus of C.M.J. University on 1 August, 2013 and submitted its report to the UGC. The report was placed before the Commission at its 495<sup>th</sup> meeting held on 1 October, 2013. The Commission considered the report and approved the same.*

*A copy of the report as submitted by the UGC Expert Committee along with the observations of the Committee on the information*



*submitted by CMJ University to UGC is enclosed for your perusal and further necessary action at your end. You are requested to take appropriate action against CMJ University as per the provisions of the University Act or any other law as the Hon'ble Governor's Secretariat deems fit. You are also requested to take a decision about the validity of degrees already awarded by the CMJ University in the past keeping in view that only those degrees can be termed as valid for which courses were conducted by CMJ University in regular mode at its main campus and that too with the prior approval of Statutory Council(s) concerned, wherever required. Further, Ph.D. can be conducted by any University in regular mode at the main campus and as per the provisions contained in the UGC M.Phil/Ph.D. Regulations, 2009.*

*Decision taken by the Secretariat may kindly be informed as the UGC is receiving lot of queries about CMJ University and validity of degrees already awarded by it.*

*With regards*

*Yours sincerely,*

*(Akhilesh Gupta)*

**66.** The Hon'ble Allahabad High Court had made the further observation:

*“The Visitor of the University has already taken a decision regarding cancellation of the Degrees awarded by the University from 2009 to 2013 as incorporated in its decision reproduced above. Photographs have also been placed on record to show that the University runs from a*

*commercial complex which houses several other commercial set-ups. It has already come on record in the various reports that the University has no infrastructure but functions from a tenanted accommodation. There is no space for accommodating the large number of students and the faculty as projected by it and there is no environment for studies.”*

**67.** The aforesaid judgment dated 19.11.2013 was put to challenge by the petitioners in that case before the Hon’ble Division Bench of the Hon’ble Allahabad High Court. However, the appeal was dismissed vide the aforesaid order dated 29.01.2014. Certain observations of the Hon’ble Division Bench which are relevant to the issue are extracted hereinbelow:

*“12. We are not inclined to differ with the view of the learned Single Judge for a number of reasons. First and foremost, in the exercise of powers conferred on the Visitor by Section 13(3)(b) of the Act which mandates that the directions of the Visitor shall be binding on the University, extensive directions were issued to the University based on the serious doubt and cloud cast on the credibility of the University relating to the unavailability of infrastructure, the grant of illegal admissions and the absence of faculty. Independently, the UGC also verified the existing infrastructure by an on the spot assessment and the report of its Expert Committee is indicative of the fact that the University functions from a hired building which is shared by certain commercial agencies, infrastructural facilities are practically absent and virtually no academic ambience exists. The Visitor has, in terms of the provisions of Section 45 of the Act recommended let of the University following which the Supreme Court has, by its order passed in the Special Leave Petition of the CM Foundation, observed that the State Government is required to*

*take action under Section 4% of the Act.*

*13. In this background, in a petition under Article 226 of the Constitution, no fault can be found with the order of the learned Single Judge declining to grant the relief as prayed for commanding the State to appoint the appellant on the post of Anudeshak in the subjects of Arts and Physical Education. The appellants have no vested right to claim such an appointment and the writ Court while considering such a plea must, above all, be guided by the grave danger in imposing on the whole body of students, teachers who are to be recipients of degrees of a University which is under a serious cloud both in regard to its credibility and integrity. The jurisdiction under Article 226 of the Constitution has to be guided by the need to render substantial justice and the claim of the appellants in this case was seriously outweighed by the public interest in ensuring that the students whom the appellants claim an entitlement to teach are not left in the lurch by persons who have obtained degrees ostensibly in pursuit of courses granted by such a University.”*

**68.** This Court is of the view that when the challenge to the action of the respondent authority in declaring the degrees awarded by the petitioner-University was negated, there may not remain much scope for the petitioners to make out a case for assailing the PMLA proceedings, the edifice of which is the action of grant of fake degrees by the petitioner-University.

**69.** At this stage, the submission made by Shri A Singh, learned counsel for the petitioners in his rejoinder by placing reliance upon a judgment dated 16.03.2023 of the Hon'ble Allahabad High Court that by the said judgment,

degrees conferred by the petitioner-University has been held to be valid is required to be examined.

**70.** This Court has carefully examined the aforesaid judgment dated 16.03.2023 of the Hon'ble Allahabad High Court passed in a writ petition no. 37062/2014. Though the operative part of the judgment found in paragraph 12 states that the BA degrees of the petitioners were valid, the same was based on the judgment of the Hon'ble Meghalaya High Court in WP(C)/177/2014 and the amendment in Section 48 vide amendment dated 16.10.2019 of the CMJ Act. The amendment has been quoted in the judgment itself which is also extracted hereinbelow for the sake of convenience:

*“Provided if the University is dissolved at the instance of the Sponsor as provided in sub-section (1), making arrangement for the affected students of the University, until the last batch of regular courses of studies of University are completed, shall be the responsibility of the University in consultation with the UGC, AICTE and other Regulatory Bodies.”*

**71.** The said judgment has also taken note and rather based its finding on an RTI reply of the petitioner-University vide letter dated 02.05.2022 which has also been extracted in the judgment and reads as follow:

“Date-02.05.2022

*Subject: Information under RTI Act 2005.*

*with reference to the letter cited above, we would like to inform you that, the university was closed by an impugned office order of Government of Meghalaya dated 31.03.2014 Subsequently. The Meghalay High Court*

*vide WPC No. 177/2014 has quashed and set aside, the office order dated 31.03.2014. After the University reopened in November 2015, Student verification process started with original documents due to the official documents seized by the Govt. of Meghalaya. As per the record, the Student named Desh Deepak Registration No. 10111010119125 and Suneel Kumar Registration No. 10111010119126 of Bachelor of Arts Degree has completed their verification, therefore, the verification of both the above student is complete according to the records of the university and the degree of both the above students is valid."*

**72.** What intrigues this Court is that the RTI reply is given by the petitioner-University whose entire action is under cloud and is rather, part of criminal cases with allegations of huge misappropriation of public money leading to registration of PMLA proceedings. Secondly, the Hon'ble Allahabad High Court while being apprised of the judgment of the learned Single Judge of the Hon'ble Meghalaya High Court dated 16.07.2015, the order of the Division Bench of the Hon'ble Meghalaya High Court dated 06.05.2021 in WA/14/2017 which was preferred against the said judgment dated 16.07.2015 was suppressed. The said judgment has been annexed as Annexure-20 in the affidavit of the respondents filed on 20.02.2023 in WP(C)/2723/2022. It may be mentioned that the said writ appeal preferred by State of Meghalaya was allowed and the impugned judgment dated 16.07.2015 passed in WP(C)/177/2014 was set aside. This Court has also noticed that the earlier judgments of the Hon'ble Allahabad High Court, namely, that by the learned Single Judge dated 19.11.2013 which was affirmed by the Hon'ble Division Bench dated 29.01.2014 were not even placed before the learned Single Judge while considering the aforesaid

WP(C)/37062/2014 instituted by two petitioners. In any case, the aforesaid judgment is a judgment *in persona* and cannot be treated to be a judgment *in rem*.

**73.** From the rival pleadings and the arguments advanced, this Court has also noticed that the particular *lis* constitutes numerous questions of fact which are disputed. Few instances of such disputed questions of fact are extracted hereinbelow:

Petitioners' version	Respondents' version
On 17.06.2010, the University was fully established and functioning.	The Governor accorded sanction to the Act only on 17.06.2010 and therefore, it was not possible for the university to function.
Claim that the Campus was newly established.	No such Campus was established.
Endowment fund account was opened which is a requirement for an University.	Endowment fund account though opened was closed on the very next date.
During 2015 to 2021, it is claimed that more than 1800 students were enrolled.	Claim of enrollment denied as the University was not even functional legally.
Claim to have deposited an	No deposit made as per direction of

amount of Rs. 15.10 crores as per order dated 19.08.2019 of the Hon'ble Supreme Court.	Hon'ble Supreme Court and fraud was played.

**74.** A writ court in exercise of powers under Article 226 of the Constitution of India cannot embark upon a matter involving disputed questions of fact and in this case, almost all the factual issues are disputed in nature.

**75.** In view of the aforesaid facts and circumstances and the discussions made, this Court is of the opinion that no case for interference, at this stage, has been able to be made out in these two writ petitions. Accordingly, both the writ petitions stand dismissed. Interim order passed earlier stands vacated.

**76.** During the course of the proceedings, the petitioners had deposited certain Title Deeds of lands and Indemnity Bond in the Registry. Since the writ petitions have been dismissed and the interim order vacated, those may be returned to the petitioners through their learned counsel.

**77.** No order as to costs.

**JUDGE**

**Comparing Assistant**