



Serial No. 01
Daily List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 364 of 2023

Date of CAV: 12.03.2025

Date of pronouncement: 04.04.2025

1. RITHS Trust, (Rajitlal Institute of Technology and Health Sciences Trust), represented by its Chairman, Dr. P.L. Rajitlal, J-11, Janvilla Lane, Sasthamangalam, P.O. Thiruvananthapuram, Kerela State Pin Code- 695 010.
2. Dr. P. L. Rajitlal, aged 54, J-11, Janvilla Lane, Sasthamangalam, P.O. Thiruvananthapuram, Kerela State Pin Code- 695 010
3. Rajitlal University, represented by its sponsor, RITHS Trust, represented by its Chairman Dr.PL Rajitlal, J-11, Janvilla Lane, Sasthamangalam, P.O. Thiruvananthapuram, Kerela State Pin Code- 695 010

...Petitioners

- Versus -

1. State of Meghalaya represented by the Chief Secretary to the Government of Meghalaya, Main Secretariat Building, Shillong, Meghalaya, Pincode – 793001.
2. The Commissioner & Secretary to Government, Department of Education, Government of Meghalaya, Meghalaya Chief Secretariat, Myntdu Building, Shillong, Meghalaya, Pincode – 793001.
3. The Commissioner & Secretary, Meghalaya Legislative Assembly, Meghalaya Legislative Assembly Secretariat, MG Road, Shillong, Meghalaya, Pincode – 793001.
4. The HD Education Bhiladi, Alwar, Rajasthan – 301019.
5. The Early Childhood Technical and Vocation Education Society, Reg No. 5/46253, Near Front Side Hari Mandir, Mang Jwala Nagar, New Delhi-110032.

...Respondents

**Coram:**

Hon'ble Mr. Justice I.P. Mukerji, Chief Justice
Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioners : Mr. S.V. Ranjan, Adv.
 Ms. D.F. Mawrie, Adv.

For the Respondents : Mr. N.D. Chullai, AAG with
 Ms. Z.E. Nongkynrih, GA
 Mr. B. Deb, Adv. [For R4&5]

i)	Whether approved for reporting in Law journals etc.:	Yes
ii)	Whether approved for publication in press:	Yes

J U D G M E N T

(Made by Hon'ble, the Chief Justice)

This is an extraordinary writ.

The Rajitlal University Act, 2011 (Act of 2020) was enacted by the Meghalaya Legislative Assembly. It received the assent of the Hon'ble Governor on 31st January, 2020. The Assembly on 22nd September, 2023 repealed the Act by Rajitlal University (Repealing) Act, 2023.

This writ challenges the repealing Act as ultra vires the Constitution with a prayer for an ad interim order staying the operation of the repealing Act. No interim order was passed by this Court.

There are three petitioners. The first is RITHS Trust described as the sponsor in the Act. The second is the Chairman of the first writ petitioner.



Equally, extraordinary is the Act which I describe in the subsequent paragraphs.

The unique feature of this Act is that the sponsor described in Section 2 (xxii) thereof i.e, RITHS Trust was given the right to establish the University according to the provisions of the Act. The Act as such, did not found or establish it under Section 3(1).

Under Section 3(2), this sponsor was required to make an application to the State government containing a detailed proposal to set up the University.

Upon satisfaction of the State government under Section 4(1), the sponsor would be called upon to create an endowment fund according to the guidelines issued by the UGC. Section 4(2) provides that on being satisfied that these conditions had been fulfilled by the sponsor, the State government would by notification formally establish the University.

Under Section 5, the University would be self-financing.

By Rajitlal University (Repealing) Act, 2023, the Rajitlal University Act, 2011 was repealed. It was preceded by the Rajitlal University (Repealing) Ordinance 2023.

The following statement of object and reasons was made in support of the legislation.



“STATEMENT OF OBJECT AND REASONS

The Rajitlal University Act, 2011 (Act No. 1 of 2020) was passed by the Meghalaya Legislative Assembly in the year 2011 and received the Governor's assent on 31st January, 2020. Sub-section (2) of the Rajitlal University Act, 2011 says that “the sponsor shall make an application containing the proposal to establish the University to the State Government.

However, even after three years of the Act being published in Gazette of Meghalaya, the sponsors of the University has so far not shown any interest to approach the State Government with an application to establish the University; as such it is clear indication that the sponsors are not at all serious about establishing the University in the State. Under such circumstances it is felt that if Rajitlal University Act, 2011 is allowed to remain in existence, there is every possibility that fraudsters may use the Act to lure innocent students to sale fake degrees to them which may bring bad name to the State of Meghalaya. Now, consequent upon which the Rajitlal University (Repealing) Ordinance, 2023 (Ordinance No. 3 of 2023) has been promulgated by the Hon'ble Governor on the 25th August, 2023. It is considered necessary to regularise the Rajitlal University (Repealing) Ordinance, 2023 (Ordinance No. 3 of 2023) by way of an Act.

Hence, the Bill.

RAKKAM A. SANGMA,
Minister I/c Education Department.

ANDREW SIMONS,
Commissioner and Secretary,
Meghalaya Legislative Assembly.”

The most extraordinary and ingenious feature of this transaction between the petitioners and the government was that the latter did not enter into any contract with the petitioners for founding a University. The University was sought to be set up through legislation. The said Act did not set it up. There was a machinery provided in the Act itself for



setting it up in future. As the provisions of the Act suggest, it was not born out of the said Act but would be born on fulfilment of the conditions of the Act by the writ petitioners.

No contractual rights vested in the petitioners, for breach of which they could have filed an action for specific performance or damages or any other legal remedy.

Under Article 246 of the Constitution of India, the state legislature has the power to legislate in respect of Entry 25 of List III i.e., the Concurrent List relating to “education, including technical education, medical education and universities.” In exercise of such power, the said Act was enacted and also thereafter repealed. The power to enact and to repeal is the sole prerogative of the legislature.

We are not aware of any power residing in the Court to compel the legislature to enact a law or to stay or set aside the repeal thereof. The only power that the Court has is to determine whether the enactment is a fraud on the Constitution or legislative power or ultra vires the Constitution or violative of any provision thereof. If it be so, it has the power to declare the Act as ultra vires or to declare a part of it or some sections of it as ultra vires or invalid.

What the writ petitioners want is a writ of mandamus issued by the Court to quash the repealing Act.



The petitioners have no right to question the legislature on what legislation it shall enact or shall not make or whether it would repeal a particular Act. Under the doctrine of separation of powers provided in our Constitution, Parliament and State Legislatures are the sole judge of what law they are to make. Neither can the petitioners question the truth of the assertion made in the object and reasons in support of the repealing Act.

Furthermore, three years have elapsed since the Act was enacted. The petitioners have not provided any fund in terms of the endowment fund as contemplated under the Act. We cannot rule that the repealing Act is a fraud on the legislative power of the Meghalaya Assembly.

For the above reasons, we find this writ to be an absolute abuse of the process of Court. It is hereby dismissed as frivolous.

In the facts and circumstances of the case, there shall be no order as to costs.

(W. Diengdoh)
Judge

(I.P. Mukerji)
Chief Justice