

COMPLAINT CASE NO. 3 OF 2020
WITH
COMPLAINT CASE NO. 9 OF 2021

19.11.2021

1. Heard Mr. L. Sevananda Sharma, learned counsel appearing for the complainant, Mr. M. Gunedhor, learned counsel appearing for respondent Nos. 1,2,3,4,5,6,8,9,10,11,12,13,14,15,16,17,18,19 and 21 and Mr. Juno Rahman S, learned counsel appearing for respondent Nos. 20 and 22.

2. Mr. M. Gunedhor, learned counsel for all the respondents except 20 and 22 rightly pointed out that there is some procedural lapse in conducting the preliminary inquiry by the inquiry officer inasmuch as in compliance of the provision of Section 20 (2) of the Manipur Lokayukta Act. 2014, the inquiry officer on the basis of the material, information and documents collected should seek the comment on the allegations made in the complaint from the public servant and the competent authority. We have carefully perused the preliminary inquiry report and after looking at the provision of section 20 (2) and the preliminary inquiry report, it is clear that the inquiry officer did not seek any comment from the competent authority in compliance of the provision of Section 20 (2) of the Manipur Lokayukta Act, 2014. Mr. M. Gunedhor, learned counsel for the respondent Nos. 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 and 21 further submits that there is no exception for extending the period for submission of the preliminary inquiry report as mentioned in Section 20 (2) of the Act. His submission will be dealt with in the later part of this order.

3. Chapter VII of the Manipur Lokayukta Act, 2014 which consists of Sections 20,21,22,23 and 24 speaks on unequivocal terms that it is only a procedure of conducting a preliminary inquiry and investigation. For proper understanding of Chapter VII of the Manipur Lokayukta Act, 2014, we quote the head note of Chapter VII, which read as under:

“Chapter VII
Procedure in respect of Preliminary Inquiry and Investigation”

4. The Hon'ble Supreme Court (3 Judges) in **Salem Advocate Bar Association, T.N. Vs. Union of India (2005) 6 SCC 344** held that the rules of procedure are made to advance the cause of justice and not to defeat it. Construction of the rule of or procedure which

promotes justice and prevents miscarriage has to be preferred. The rules of procedure are the handmaid of justice and not its mistress. Further, the Hon'ble Supreme Court (Constitution Bench) in **Rupa Ashok Hurra Vs. Ashok Hurra and Another (2002) 4 SCC 388** held that manifest injustice is curable in nature rather than incurable and this Court would lose its sanctity and thus would belie the expectations of the founding fathers that justice is above all. Para No. 69 of the SCC in Rupa Ashok Hurra's case (supra) read as follows :

“69. ... Manifest injustice is curable in nature rather than incurable and this Court would lose its sanctity and thus would belie the expectations of the founding fathers that justice is above all. There is no manner of doubt that procedural law/procedural justice cannot overreach the concept of justice and in the event an order stand out to create manifest injustice, would the same be allowed to remain in silentio so as to affect the parties perpetually or the concept of justice ought to activate the Court to find a way out to resolve the erroneous approach to the problem? Mr. Attorney-General, with all the emphasis in his command, though principally agreed that justice of the situation needs to be looked into and relief be granted if so required but in the same breath submitted that the Court ought to be careful enough to tread on the path, otherwise the same will open up a Pandora's box and thus, if at all, in rarest of the rare case, further scrutiny may be made. While it is true that law courts have overburdened themselves with the litigation and delay in disposal of matters in the subcontinent is not unknown and in the of any further appraisal of the matter by this court, it would brook no further delay resulting in consequences which are not far to see but that would by itself not in my view deter this Court from further appraisal of the matter in the event the same, however, deserves such an additional appraisal – the note of caution sounded by Mr. Attorney-General as regards opening up of a Pandora's Box, strictly speaking, however, though may be very practical in nature but the same apparently does not seem to go well with concept of justice as adumbrated in our Constitution. True it is, that practicability of the situation needs a serious

consideration more so when this court could do without it for more than 50 years, which by no stretch of imagination can be said to be period not so short. I feel in necessary, however, to add that it is not that we are not concerned with the consequences of reopening of the issue but the redeeming feature of our justice delivery system, as is prevalent in the country, is adherence to proper and effective administration of justice in strict. In the event there is any affectation of such administration of justice either by way of infraction of natural justice or an order being passed wholly without jurisdiction or affectation of public confidence as regards the doctrine of integrity in the justice delivery system, technicality ought not to outweigh the course of justice – the same being the true effect of the doctrine of *ex debito justitiae*. The oft-quoted statement of law of Lord Hewart, C.J. in *R. V. Sussex Justices, ex p McCarthy* that it is of fundamental importance that justice should not only be done, should manifestly and undoubtedly be seen to be done, had this doctrine underlined and administered therein. ...”

5. It is no more *res integra* that while considering the non-compliance with a procedural requirement, it has to be kept in view that such a requirement is designed to facilitate justice and further its ends and therefore, if the consequence of non-compliance is not provided, the requirement may be held to be directory. (Reference : Topline Shoes Ltd. Vs. Corporation Bank, AIR 2002 SC 2487, pp 2490, 2491 : (2002) 6 SCC 33.) The rules of procedure are to be construed not to frustrate or obstruct the holding of enquiry under the substantive provision. Therefore, certain irregularities in the procedure of the preliminary inquiry shall not obstruct in the holding of the inquiry under the substantive provision. It is now well settled that mere lapses or some error in the procedure, should not deny justice to the parties as held by the Apex Court in catena of cases cited above.

6. We have also carefully perused the aim and object of the Manipur Lokayukta Act, 2014 which is to provide for the establishment of a body of Lokayukta for the State of Manipur to

inquire into allegations of corruption against certain public functionaries and for matters connection therewith or incidental thereto. If the present case is to be rejected only on the error of mere procedural lapses the aim and object of Manipur Lokayukta Act, 2014 will be frustrated. In view of the above discussions and the decisions of the Apex Court in plethora of cases, we are of the considered view that the provision of Chapter VII of Manipur Lokayukta Act, 2014 consisting of Sections 20,21,22,23 and 24 is merely a way to achieve the aim and object of the Act and a means for speedy disposal of the proceeding. The time frame given in a procedure is only to expedite the inquiry not to delay the proceeding on ground of certain lapses.

7. On the basis of the above discussion and keeping in mind of the decisions of the Apex Court discussed above, we are of the considered view that even if a time frame is mentioned in Chapter VII of the Manipur Lokayukta Act, 2014 there should be a proper reason for extending the period as mentioned in relevant provision of Manipur Lokayukta Act, 2014 i.e. Section 20 (2) of Manipur Lokayukta Act, 2014. The Apex Court in Miscellaneous Application No. 665 of 2021 in Suo Motto Writ Petition (C) No. 3 of 2020 passed numerous orders on 08.03.2021, 15.03.2021, 27.04.2021 which held that in computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 02.10.2021 shall stand excluded. Consequently, the balance period of limitation remaining as on 15.03.2021, if any, shall become available with effect from 03.10.2021. The period from 15.03.2020 till 02.10.2021 shall also stand excluded in computing the periods prescribed under Sections 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within the court or tribunal can condone delay) and termination of proceedings. On bare perusal of the orders passed by the Hon'ble Supreme Court in the case mentioned above, it is clear that the order has been passed by the Apex Court in exercise of its jurisdiction under Article 142 read with Article 141 of the Constitution of India. In view of the order passed in the Misc.

Application No. 665 of 2021 in SMW(C) No. 3 of 2020 dated 23.09.2021, the Hon'ble Supreme Court, disposed of all the IAs. One of the orders i.e. order dated 23.09.2021 passed by the Apex Court in Miscellaneous Application No. 665 of 2021 in SMW(C) No. 3 of 2020 for disposing of all the connected IAs is reproduced hereunder :

9. We dispose of the M.A. No. 665 of 2021 with the following directions:-

I. In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 02.10.2021 shall stand excluded. Consequently, the balance period of limitation remaining as on 15.03.2021, if any, shall become available with effect from 03.10.2021.

II. In cases where the limitation would have expired during the period between 15.03.2020 till 02.10.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 03.10.2021. In the event the actual balance period of limitation remaining, with effect from 03.10.2021, is greater than 90 days, that longer period shall apply.

III. The period from 15.03.2020 till 02.10.2021 shall also stand seclud in computing the periods prescribed under Sections 23(4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.

IV. The Government of India shall amend the guidelines for containment zones, to state.

“Regulated movement will be allowed for medical emergencies, provision of essential goods and services and services, and other necessary functions, such as, time bound application, including for legal purposes, and educational and job- related requirements.”

10. As a sequel to disposal of MA No. 665/2021, pending interlocutory applications, including the applications for intervention/impleadment, also stand disposed of.

8. Mr. M. Gunedhor, learned counsel appearing for respondent Nos. 1,2,3,4,5,6,8,9,10,11,12,13,14,15,16,17,18,19 and 21 cited the decision dated 19.06.2020 of Hon'ble Supreme Court in Criminal Appeal No. 452 of 2020 (S. Kasi vs. State Through The Inspector of Police Samaynallur Police Station Madurai District) and draws our attention to para No. 17 of the judgment wherein it stated that the limitation for filing petitions/applications/suits/appeals/all other proceedings was extended to obviate lawyers/litigants to come physically to file such proceedings in respective Courts/Tribunals. The order was passed to protect the litigants/lawyers whose petitions/application/ suits/ appeals/ all other proceedings would become time barred they being not able to physically come to file such proceedings. The order was for the benefit of the litigants who have taken remedy in law as per the applicable statute for a right.

9. The present case is different from the case in S. Kasi's case (supra). Mr. M. Gunedhor, learned counsel appearing for respondent Nos. 1,2,3,4,5,6,8,9,10,11,12,13,14,15,16,17,18,19 and 21 further submits that there cannot be a roving inquiry. In the present case, there is no question of roving inquiry inasmuch as we simply direct the Inquiry Officer to seek comment on the basis of the material, information and documents collected on the allegations made in the complaint. Section 20 (2) of the Manipur Lokayukta Act, 2014 speaks that comments should be called from the competent authority on the basis of the material, information and documents collected on the allegations made in the complaint.

10. Now the question is, whether there can be exception while considering extension of period provided under Section 20 (2) of the Manipur Lokayukta Act, 2014. We can take the judicial notice of the abnormal circumstances where the normal life of the citizens has been seriously affected because of the Covid-19 pandemic in the State of Manipur and the state government had passed many order for imposing curfew and certain restriction to the denizens of Manipur, some of which are as under :

Sl. No.	Order Date	File No.
1	23 rd March, 2020	NO. 9/6(1)/2020-H(pt) order by Governor of Manipur
2.	30 th April, 2020	NO. 9/6(1)/2020-H(pt) order by Governor of Manipur
3.	3 rd May, 2020	NO. 9/6(1)/2020-H(pt) order by Governor of Manipur
4.	6 th May,2020	NO. 9/6(1)/2020-H(pt) order by Governor of Manipur
5.	19 th May,2020	NO. 9/6(1)/2020-H(pt) order by Governor of Manipur
6.	1 st June,2020	NO. 9/6(1)/2020-H(pt) order by Governor of Manipur
7.	8 th June, 2020	NO. 9/6(1)/2020-H(pt) order by Governor of Manipur
8.	15 th June, 2020	NO. 9/6(1)/2020-H(pt) order by Governor of Manipur
9.	20 th June, 2020	NO. 9/6(1)/2020-H(pt) order by Governor of Manipur
10.	30 th June,2020	NO. 9/6(1)/2020-H(pt) order by Governor of Manipur
11.	4 th July, 2020	NO. 9/6(1)/2020-H(pt) order by Governor of Manipur
12.	10 th July,2020	NO. 9/6(1)/2020-H(pt) order by Governor of Manipur
13.	13 th July,2020	NO. 9/6(1)/2020-H(pt) order by Governor of Manipur
14.	23 rd July, 2020	NO. 9/6(1)/2020-H(pt) order by Governor of Manipur
15.	30 th July,2020	NO. 9/6(1)/2020-H(pt) order by Governor of Manipur
16.	15 th August, 2020	NO. 9/6(1)/2020-H(pt) order by Governor of Manipur
17.	25 th August, 2020	NO. 9/6(1)/2020-H(pt) order by Governor of Manipur
18.	1 st October, 2020	NO. 9/6(1)/2020-H(pt) order by Governor of Manipur
19.	31 st October, 2020	NO. 9/6(1)/2020-H(pt) order by Governor of Manipur
20.	27 th November, 2020	NO. 9/6(1)/2020-H(pt) order by Governor of Manipur
21.	22 nd December, 2020	NO. 9/6(1)/2020-H(pt) order by Governor of Manipur
22.	30 th December, 2020	NO. 9/6(1)/2020-H(pt) order by Governor of Manipur
23.	11 th February, 2021	NO. 9/6(1)/2020-H(pt) order by Governor of Manipur
24.	19 th February, 2021	NO. 9/6(1)/2020-H(pt) order by Governor of Manipur
25.	23 rd February, 2021	NO. 9/6(1)/2020-H(pt) order by Governor of Manipur
26.	9 th March, 2021	NO. 9/6(1)/2020-H(pt) order by Governor of Manipur
27.	31 st March, 2021	NO. 9/6(1)/2020-H(pt) order by Governor of Manipur
28.	12 th April, 2021	NO. 9/6(1)/2020-H(pt) order by Governor of Manipur
29.	15 th Arpil, 2021	NO. 9/6(1)/2020-H(pt) order by Governor of Manipur
30.	18 th April, 2021	NO. 9/6(1)/2020-H(pt) order by Governor of Manipur
31.	21th April, 2021	NO. 9/6(1)/2020-H(pt) order by Governor of Manipur

11. In the above factual backdrop, in order to do justice and not to derail the inquiry more particularly because there is a minor procedural lapse, we are of the considered view that the present preliminary inquiry report is required to be send down to the Inquiry Officer with a direction to the Inquiry Officer that he should call the comment of the competent authority on the basis of the material, information and documents collected in the course of the preliminary inquiry on the allegations made in the complaint and not for further inquiry.

12. With the above observation, we are of the considered view that there is sufficient material for extension of time for submission of the preliminary inquiry report. Accordingly, the period for submission of preliminary inquiry report, after getting the above mentioned comment from the competent authority, is extended for 4 (four) weeks. In other words, the Inquiry Officer is directed to comply with the procedure prescribed under Section 20 (2) of the Manipur Lokayukta Act, 2014, wherein it is provided that the Inquiry Officer on the basis of the material, information and documents collected should seek the comment on the basis of the allegation made in the complaint from the competent authority and submit the report along with the comment within a period of 4 (four) weeks from today.

13. In the premises stated above, the further proceeding of the present case is deferred for four weeks. List this case on 20.12.2021.

14. Deputy Registrar, Manipur Lokayukta is directed to furnish a copy of this order to the parties of this case as well as to the Inquiry Officer of the present case, today itself.

Sd/-
MEMBER

Sd/-
CHAIRPERSON