

COMPLAINT CASE NO. 2 OF 2020

20.05.2022

1. Complainant and his power of attorney holder appear in person. Mr. A. Jankinath Sharma, learned counsel for respondent nos. 3 and 4 and Mr. M. Devananda Singh, Advocate appears on behalf of Secretary (Power), Government of Manipur.

2. We have perused the letter of Mr. Rarry Mangsatabam, Counsel for the Manipur Lokayukta dated 19.05.2022 addressed to the Secretary, Manipur Lokayukta communicating the order dated 19.05.2022 passed in W.P. (C) No. 161 of 2022 and 3 (three) connected Writ Petitions. We have also perused the order dated 19.05.2022 of the learned Single Bench of the Hon'ble High Court of Manipur passed in W.P. (C) No. 171 of 2022 with W.P. (C) No. 161 of 2022; W.P. (C) NO. 168 of 2022 and W.P. (C) No. 255 of 2022. Further, we have also perused the Affidavit dated 20.05.2022 filed on behalf of the Secretary (Power), Government of Manipur as per our order dated 29.04.2022 passed in the present case, which annexed a copy of the order dated 19.05.2022 of the learned Single Bench of the Hon'ble High Court of Manipur passed in in W.P. (C) No. 171 of 2022 with W.P. (C) No. 161 of 2022; W.P. (C) No. 168 of 2022 and W.P. (C) No. 255 of 2022.

3. Today, the proceeding of the present case is adjourned keeping in view of (i) the order dated 18.05.2022 passed by the learned Division Bench of the Hon'ble High Court of Manipur in PIL No. 10 of 2022, (ii) the order dated 17.05.2022 of the learned Division Bench of the Hon'ble High Court of Manipur passed in WA No. 62 of 2022 and (iii) other Writ Petitions before the High Court of Manipur in which Manipur Lokayukta is a party.

3.1 The learned Division Bench of the Hon'ble High Court of Manipur comprising of Hon'ble the Chief Justice Mr. Sanjay Kumar and Hon'ble Mr. Justice Lanusungkum Jamir passed judgment and order dated 18.05.2022 in PIL No. 10 of 2022 filed by one Shri Laitonjam Meghanchandra Singh against (i) State of Manipur, represented by its Chief Secretary, Government of Manipur, (ii) Principal Secretary/Commissioner/Secretary (Power), Government of Manipur, (iii) The Manipur State Power Company Ltd. (MSPCL), represented by its Managing Director, (iv) Office of the Lokayukta Manipur through its Secretary, (v) Shri N. Sarat Singh, then Chief Engineer (Power), MSPCL and 2 (two) Others seeking for a direction to the Respondent Nos. 1 and 2 to pass appropriate order in terms of the judgment and order of the Hon'ble Manipur Lokayukta dated 07.02.2022 passed in Complaint Case No. 2 of 2020 particularly at para 25(d) and (E), wherein the Division Bench held that

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On the last date of hearing, viz., 19.04.2022, this Court was informed by the learned Advocate General, Manipur, that a decision with regard to the continuance of the Managing Director, MSPCL, viz., respondent No. 5, in the context of the recommendation made by the Lokayukta, Manipur, was placed before the State Cabinet but a decision was yet to be taken.

Section 32(1) of the Manipur Lokayukta Act, 2014, indicates that where the Lokayukta, while making a preliminary enquiry into allegations of corruption, is prima facie satisfied, on the basis of the evidence available, that the continuance of a public servant in his post is likely to affect such preliminary enquiry or that such public servant is likely to destroy or in any way tamper with the evidence or influence witnesses, then the Lokayukta may recommend to the State Government for transfer or suspension of such public servant from the post held by him till such period as may be specified in the order. Section 32(2) provides that the State Government shall ordinarily accept the recommendation of the Lokayukta made under Section 32(1), except for reasons to be recorded in writing in a case where it is not feasible for administrative reasons.

In the light of this statutory mandate, it is not open to the State Government to refuse to discharge its duty under Section 32(2) and keep the matter in abeyance, pending decision in cases filed before this Court. Discharge of this statutory function by the Government is not to be linked with pendency of litigation. All the more so, when there are no orders passed by this Court interdicting the State Government from discharging its function under Section 32(2) of the Act of 2014.

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4. The Hon’ble Division Bench of the High Court of Manipur comprising of Hon’ble Chief Justice and Mr. Justice M.V. Muralidaran passed an order dated 17.05.2022 allowing the Writ Appeal being W.A. No. 62 of 2022 filed by the Office of Manipur Lokayukta against Thokchom Kaminimohon Singh & 14 Ors. wherein the Hon’ble Division Bench held that

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“[4] The subject miscellaneous case was filed by the appellant before the learned Judge under this provision. The learned Judge, however, took note of the order dated 07-03-2022 passed by this Bench in WP(C) Nos. 161 & 168 of 2022, directing the Registry to list those cases before a Single Bench and held that he was bound thereby. He accordingly refused to entertain the subject miscellaneous case on that short ground.

[5] At this stage, we may clarify that the order dated 07-03-2022 was passed by this Bench upon being informed that there was no necessity, in terms of Rule 3(1) in Chapter IV-A of the Rules of 2019, for listing writ petitions filed against the orders of the Lokayukta, Manipur, before a Division Bench. That was the only reason why the aforesaid order dated 07-03-2022 was passed. This aspect was also referred to by the learned Judge in the order under appeal, but the learned Judge rightly opined that in the light of that order, it would not be proper on his part to entertain the subject miscellaneous case.

[6] However, in the light of the underlying reason for the passing of the order dated 07-03-2022, it is manifest that the said order would not impair or impinge upon the right of the learned Judge to exercise power under Rule 3(1)(d) in Chapter IV-A of the Rules of 2019, if he so chooses. It would always be open to a learned Single Judge to refer a matter for consideration by a Division Bench, if he is of the opinion that it warrants such consideration. We therefore clarify that the order dated 07-03-2022 passed by this Bench, directing the listing of the writ petitions before a Single Bench, would not have any impact upon the discretion and power of the learned Judge under the aforesaid Rule 3(1)(d).

[7] The order under appeal is accordingly set aside and MC(WP(C)) No. 93 of 2022 in WP(C) No. 161 of 2022 is remitted to the learned Judge for consideration afresh on its own merits. We make it clear that we have not touched upon the merits thereof and all issues, including the very maintainability of the miscellaneous case at the behest of a party, are left open for consideration by the learned Judge in accordance with law.

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The writ appeal is allowed to the extent indicated above.

Registry is directed to list MC(WP(C)) No. 93 of 2022 in WP(C) No. 161 of 2022 before the learned Judge on 19-05-2022.”

5. The order of the Hon'ble Single Bench of the High Court of Manipur passed in W.P. (C) No. 171 of 2022 with W.P. (C) No. 161 of 2022; W.P. (C) No. 168 of 2022 and W.P. (C) No. 255 of 2022 that

“19-05-2022

Heard Mr. N. Ibotombi, learned senior counsel, Mr. H.S. Paonam, learned senior counsel and Mr. H. Ishwarlal, learned senior counsel appearing for the petitioners. Heard also, Mr. M. Rarry, learned counsel appearing for the respondent No. 1 and Mr. H. Debendra, learned Government Advocate appearing for the State respondents.

Mr. M. Rarry, learned counsel placed before this court an order dated 17-05-2022 passed by the Division Bench of this court in WA No. 16 of 2022 wherein the order dated 18-04-2022 passed by this court in MC(WP(C)) No. 93 of 2022 has been set aside and remitting the said application before this court for re-hearing on 19-05-2022. The learned counsel submitted that inadvertently, the registry of this court did not list the said application along with these batch of writ petitions and accordingly, a prayer has been made for taking up these writ petitions along with the said misc. application on 23-05-2022.

As prayed for, list these cases again on 23-05-2022 along with MC(WP(C)) No. 93 of 2022. In the meantime, Mr. M. Rarry, learned counsel representing the Lokayukta, Manipur is directed to convey to the Lokayukta not to proceed with the connected cases pending before it till Monday.”

7. The present case is adjourned to 01.06.2022 which would be suitable for the parties more particularly Mr. M. Devananda Singh, Advocate appearing on behalf of Secretary (Power), Government of Manipur, who wants to fix the present case on 01.06.2022.

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8. Registry is directed to furnish a copy of this order, in the course of the day, to:

- (i) The Chief Secretary, Government of Manipur;
- (ii) The Commissioner (Power), Government of Manipur;
- (iii) Mr. Rarry Mangsatabam, Counsel for the Manipur Lokayukta; and
- (iv) the parties of the present case.

Sd/-
MEMBER

Sd/-
CHAIRPERSON