

**BEFORE
MANIPUR LOKAYUKTA**

3rd Floor, Directorate Complex, 2nd M.R., North AOC, Imphal

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COMPLAINT CASE NO. 2 OF 2019

In the matter between:

Mr. Charanga Corneleus, S/o Charanga Leiba Maring,
resident of Machi Village, P.O. – Pallel & P.S. Machi, District
Tengnoupal, Manipur – 795135.

... Complainant

1. Mr. K. Premkumar Singh, SE-III, PWD, Manipur.
2. Mr. O. Inaoba Singh, the then in-charge EE, TPL Division,
PWD, Manipur.
3. Mr. Soiminthang Singson, In-charge EE, TPL, Division.
4. Mrs. Veineilam Haokip, In-charge AE, Sub Div – II, TPL
Division.
5. Mr. Mology Maring, SO of Sub Div – II, TPL Division.
6. Mr. Rouwaithang Maring, Chairman of Machi Village.
7. Mr. Hemkhopao, Special Contractor of Chassad Avenue.

..... Respondents/Opposite Parties

BEFORE

Mr. Justice T. Nandakumar Singh, Hon'ble Chairperson

Mr. Ameising Luikham, Hon'ble Member

For the Complainant : In person.

For the Respondents : Mr. Th. Modhu, Advocate,
Mr. A. Sachikumar, Advocate
- for Respondent Nos. 1,2,4 & 5.

Mr. Dijen, Advocate
- for Respondent No. 3.

Mr. Iboyaima Sharma, Advocate
- for Respondent Nos. 6 & 7.

Date of Order : 22.07.2020

JUDGEMENT AND ORDER

[1] Parties arrayed after consideration of the parties mentioned in the complaint and Preliminary Inquiry Report dated 30.12.2019 are as follows:

Mr. Charanga Corneleus, S/o Charanga Leiba Maring, resident of Machi Village, P.O. – Pallel & P.S. Machi, District Tengoupal, Manipur, presently staying at Tribal Colony, New Checkon, P.S. Porompat, District Imphal East.

... COMPLAINANT

-versus-

1. Mr. K. Premkumar Singh, SE-III, PWD, Manipur.
2. Mr. O. Inaoba Singh, the then in-charge EE, TPL Division, PWD, Manipur.
3. Mr. Soiminthang Singson, In-charge EE, TPL, Division.
4. Mrs. Veineilam Haokip, In-charge AE, Sub Div – II, TPL Division.
5. Mr. Mology Maring, SO of Sub Div – II, TPL Division.
6. Mr. Rouwaithang Maring, Chairman of Machi Village.
7. Mr. Hemkhopao, Special Contractor of Chassad Avenue.

... RESPONDENTS/OPPOSITE PARTIES

[2] Heard Mr. Charanga Corneleus, the Complainant in person, Mr. Th. Modhu Singh, learned counsel appearing for the Respondent Nos. 1, 2, 4 and 5 (Mr. K. Premkumar Singh, Mr. O. Inaoba Singh, Mrs. Veineilam Haokip and Mr. Mology Maring), Mr. Dijen, learned counsel appearing for the Respondent No. 3 (Mr. Soiminthang Singson) and Mr. Iboyaima Sharma, learned counsel appearing for the Respondent Nos. 6 and 7 (Mr. Rouwaithang Maring and Mr. Hemkhopao).

[3] Parties are heard only for the purpose of taking decision under Section 20 (3) of the Manipur Lokayukta Act, 2014 as to whether there exists a prima facie case and proceed with one of the following actions namely, (a) investigation by

any agency; (b) initiation of the departmental proceedings or any other appropriate action against the Respondent concerned public servants by the competent authority; and (c) closure of the proceeding against the Respondents/the public servants and to proceed against the complainant under section 47. Since the present order being in the nature of interlocutory order not the final order, very detailed reasoned order may not be required inasmuch as a very detailed and reasoned order will be in the way of giving free hand to the investigating agencies to investigate the case made out in the complaint and the detailed Preliminary Inquiry Report. Accordingly, for passing this order of interlocutory nature, it may not be required to discuss the fact of the case in detail as it has been already mentioned in the Preliminary Inquiry Report dated 30.12.2019 submitted by the Inquiry Wing, Manipur Lokayukta.

[4] San unnecessary details, the concise fact sufficient for passing the present order are briefly noted hereunder. The complainant filed the present complaint against (1) Respondent No. 3, Shri Soiminthang Singson, Executive Engineer, Tengnoupal Division, PWD, Manipur, (2) Respondent No. 5, Shri Ch. Mology, Section Officer/Junior Technical Assistant, Tengnoupal Division, PWD, Manipur, (3) Respondent No. 2, Shri Oinam Inaoba, the then Executive Engineer, Tengnoupal Division, PWD, Manipur, (4) Respondent No. 1, Shri K. Premkumar Singh, Superintending Engineer – III, PWD, Manipur, (5) Respondent No. 6, Shri D. Rouwaithang, Chairman of Machi Village as Public Authority, elected under the Manipur (Village Authorities in Hill Areas) Act, 1956, (6) Concerned Contractor (Respondent No. 7, Shri Hemkhopao, Spl. Contractor of Chassad Avenue and Sub-contractors and (7) Other unknown alleging that the respondents had committed criminal misconduct and acts punishable under the Prevention of Corruption Act and various provisions of Indian Penal Code in executing the contract work, “Improvement of road from Khunbi to Machi – 10 kms”. The said contract work was awarded to Mr. Hemkhopao, Special Contractor of Chassad Avenue (Respondent No. 7) under the Work Order dated 19.03.2018 issued by Mr. O. Inaoba Singh, the then in-charge EE, TPL Division, PWD, Manipur (Respondent No. 2). Admittedly, the revised estimate for the said

work was prepared. Under the said revised estimate, the said contract work consists of 4 (four) parts namely (i) Construction of road from Khunbi to Machi (0-7.72 Kms), (ii) Construction of road from Machi Gate to SDO office junction (7.72 Km – 9.32 Km), (iii) Construction of road from Machi to Tengnoupal Sansak road (0-7 Km) and (iv) Construction of road from Machi Gate to Police Station (210.0 metre). The respondent No. 7, Special Contractor to whom the work order had been issued had agreed to execute the work as per the revised estimate within the estimated cost mentioned in the work order dated 19.03.2018.

[5] By our order dated 28.09.2019, passed in the present complaint, we had expressed our considered view that a Preliminary Inquiry against the respondents arrayed in the complaint mentioned above to ascertain as to whether there exists a prima facie case for proceeding the present complaint is required; and accordingly we directed the Inquiry Wing, Manipur Lokayukta to conduct an Inquiry and submit its report. In pursuance of our said order dated 28.09.2019, the Inquiry Wing of Manipur Lokayukta had thoroughly conducted a Preliminary Inquiry. The gist of the charges against the respondents for which the Preliminary Inquiry was conducted are :

- 1) Violation of Rule 136.(1).(VII) of General Financial Rules, 2017.
- 2) Violation of Rule No. 3 (1) (i) & (iii) and Rule No. 3 (2) (i) (iii) & (iv) of CCS (Conduct Rules, 1964.
- 3) Violation of Section 5.2.3.(1), Section 7.7.(1), Section 7.10.1.(1), Section 9.4 Appendix – 11 (6) and Section 23.2.(1).(i) of CPWD Manual, 2014.
- 4) Execution of sub-standard works and non-maintenance of quality of work.
- 5) Execution of works not in conformity with the Technical sanction/revised Estimate.
- 6) Conspiracy amongst themselves in deceiving and misleading the senior Officers and the competent authorities to release funds by giving wrong information and concealing the true facts.
- 7) Overpayment by reflecting measurement of works in excess in MB.

- 8) Delivering amounts of money through payment of bills to Hemkhopao Haokip, Spl. Contractor (GSTIN NO. 14AIGPH9586AIZB) for which he is not entitled to be paid.
- 9) Loss and embezzlement of Govt. money.

After through and detail enquiry, the Preliminary Inquiry Report dated 31.12.2019 was submitted before the Manipur Lokayukta.

[6] During the course of the Preliminary Inquiry, the Inquiry Officers had recorded statements of the respondents as well as other witnesses. Over and above, Director (Inquiry), Manipur Lokayukta filed an application dated 11.11.2019 before the Chairperson, Manipur Lokayukta to constitute a Technical Appraisal Team consisting of Engineers (Civil) not below the rank of Executive Engineer to physically verify the standard of the works executed under the said work order i.e. the present contract work. By an order dated 17.11.2019 of the Manipur Lokayukta, one Mr. R.K. Okendro Singh, SW to ACE(I), Manipur State Rural Road Development Agency was allowed to head the Technical Appraisal Team to physically verify the standard of the executed works. Inquiry officers had also examined and verified all the documents related with the present contract work officially collected from difference sources including the official of the State Government, officials of the PWD, Manipur and other authorities as well as Civil organisation and also the report from the Print and Electronic media. The Inquiry Wing submitted the said detailed Preliminary Inquiry Report dated 30.12.2019 which consists of 57 (fifty-seven) documents i.e. materials exhibits/annexures. The documents/files were also requisitioned from the office of the PWD, Manipur. The Inquiry report speaks as follows :

“(A) Letter no. EE/TPL/Case/2019-20/127 dated 21.10.2019 of Executive engineer, Tengnoupal Div. PWD for forwarding the following certified photocopies :-

- 1) **Work order no. EE/TPL/CDA/WO/2017-18 dated 19.03.2018 issued by EE,TPL Div,PWD**
- 2) **Estimate being no. EE/TPL/Estimate/2018-19 dated-nil- prepared by EE/ Chandel Div. PWD**
- 3) **Technical sanction being no. SSW/TS/5054/2017-18/5 dated 26.02.2018 issued by the Chief Engineer, PWD.**

- 4) Technical sanction being no. SSW/ Revised-TS/5054/2017-18/21 dated 24.03.2018 issued by the Chief Engineer, PWD, Manipur.
- 5) Letter no. SE-III/2/TS(P)/TPL/2012-13/6 dated 23.03.2018 of SE-III, PWD
- 6) DARPAN copies showing progress details as updated on 13.10.2018 and 15.03.2018

The above documents were received by preparing a Memo being no. M-1 and placed on a file marked M-1.

(B) Letter no. EE/TPL/Case/2019-20/128 dated 22.10.2019 of Executive engineer, Tengnoupal Div. PWD for forwarding the following certified photocopies :-

- 1) Order no. 43/195/2017-W dated 26.02.2018 issued by Sectt: Works Deptt, Govt. of Manipur for according Administrative approval (A/A) and Expenditure sanction (E/S)
- 2) Letter no. 9/162/2018-FD(8) dated 27.03.2018 of the Sectt: Finance Deptt, Govt. of Manipur for releasing funds under special CDA
- 3) Letter no. 42/171/2018-W dated 20.03.2019 issued by Sectt: Works Deptt, Govt. of Manipur for reallocating funds for CDA
- 4) Letter no. 9/259/2019-FD(8) dated 16.03.2019 of the Sectt: Finance Deptt, Govt. of Manipur for releasing funds under CDA
- 5) Technical sanction being no. SSW/TS/5054/2017-18/5 dated 26.02.2018 issued by the Chief Engineer, PWD along with the Estimate
- 6) Technical sanction being no. SSW/ Revised-TS/5054/2017-18/21 dated 24.03.2018 issued by the Chief Engineer, PWD, Manipur along with the revised Estimate.
- 7) Work order no. EE/TPL/CDA/WO/2017-18 dated 19.03.2018 issued by EE, TPL Div, PWD along with the schedule of quantity.
- 8) Agreement (in original) bearing no. EE/TPL/Agreement/ 2017-18 for the work " Impvt. of Khunbi to Machi road – 10km"
- 9) Transfer/ posting order dated 27.12.2016, 19.12.2017, 16.05.2018, 12.07.2018, 02.08.2018, 16.08.2018 and 24.09.2018 issued by the Sectt: Works Deptt. Govt.of Manipur.
- 10) Transfer/posting order no. 421 dated.19.03.2018 issued by Chief Engineer, PWD.
- 11) Work allocation/ posting order no.4 dated 06.10.2018 issued by Executive engineer, TPL DIV. PWD
- 12) Measurement book no.3 (in original) for the work " Impvt. of Khunbi to Machi road – 10km"
- 13) Page no. 42 and 43 of bill register for the month of March 2018 and page no. 48 and 49 of bill register for the month of March 2019.
- 14) Letter no. EE/TPL/A-19/2017/1372 dated 21.03.2018 of the EE/TPL Div. along with its enclosures
- 15) Letter no. 40/60/2018-W dated 28.03.2018 of the Sectt: Works Deptt. Govt. of Manipur along with its enclosures.
- 16) Letter no. EE/TPL/Demand (CDA)/2018-19/195 dated 15.03.2019 of the EE/TPL Div. along with its enclosures.
- 17) Statement (in original) showing the work amount executed so far in respect of the work "Impvt. of Khunbi to Machi road – 10km"
- 18) Statement (in original) showing the total bill generated/ paid so far in respect of the work "Impvt. of Khunbi to Machi road – 10km."
- 19) Sheet of cheque issue register containing the period of 30.03.2018 for the voucher no. 13 to 26.

- 20) Sheet of cheque issue register containing the period of 15.03.2019 to 27.03.2019 for the voucher no. 10 to 27.
- 21) Circular no. CE/SSW/Adopt/CPWD/Manuals/2019 dated 02.05.2019 issued by the Chief Engineer, PWD along with its enclosures.
- 22) Page no. 5 and 6 of Issue register for the period of 21.03.2018 to 07.04.2018.

The above documents were received by preparing a Memo being no. M-2 and placed on a file marked M-2.

The following documents were collected on production by the following officials/persons by preparing the following collection memos.

- A) Vide collection memo dated 26.10.2019 on production by Shri Soiminthang Singson, in charge EE of TPL. Div.
- 1) Certified photocopy of Letter no. EE/TPL/Contract/2017-18/ 20 dated 28.03.2018 of EE/TPL Div. along with its enclosures
 - 2) Certified photocopy of letter no. - nil- dated 28.03.2018 of Hemkhopao of Chassad Avenue, 1st class contractor
 - 3) Certified photocopy of Letter no. EE/TPL/A-19/2017-18 dated 21.03.2018 of EE/ TPL Div. along with its enclosures.
 - 4) Certified photocopy of Letter no. EE/TPL/Liabilities/ 2017-18/15 dated 21.03,2018 of the EE/ TPL Div. along with its enclosures.
 - 5) Certified photocopy of Letter no. EE/TPL/Demand (GDA) /2018-19/ 195 dated 15.03.2019 of EE/ TPL Div. along with its enclosures.
 - 6) Office order no. 4 dated 06.10.2018 issued by EE/TPL Div. along with its enclosures.
 - 7) Measurement Book No. 18/TPL for the work "Impvt. of Khunbi to Machi Road -10 km "
 - 8) A declaration (in original) issued by EE/TPL Div.certifying that 2 (two) nos. of MBs were used for the work "Impvt. of Khunbi to Machi Road -10 km " viz. MB no. 3/TPL and 18/TPL.

The above documents were collected by preparing a Memo being no. M-3 and placed on a file marked M-3.

During the further course of enquiry, requisitions of documents relating to the release of E/S and CDA in respect of the work " Impvt. of Khunbi to Machi road – 10km" were made from the Sectt: Works Deptt. Govt. of Manipur and the following documents were received vide the following forwarding letter.

- A) Letter no. 25/8/2019-W/Case/Lok dated 04.11.2019 of Sectt: Works Deptt. Govt. of Manipur for forwarding the following authenticated photocopies.
- 1) Letter no. 58/6(5054-R&B)/2017-B/4127 dated 22.03.2018 of the Chief Engineer, PWD along with its enclosures.
 - 2) FD no. 9/162/2018-FD (8) dated 27.03.2018 issued by Sectt: Finance Deptt. Govt. of Manipur for release of funds under special CDA
 - 3) Letter no. 40/60/2017-W dated 28.02.2018 of the Sectt: Works Deptt. Govt. of Manipur for allotment of CDA
 - 4) Page no. 3 NF to page no. 6 NF of Sectt: Works Deptt. File no. 42/171/2018-W

- 5) Letter no. CE/PWD/R&B (5084)/Est./ 2018-19/1390 dated 27.02.2019 of Chief Engineer, PWD along with its enclosures for proposal to accord E/S
- 6) Order no. 42/171/2018-W dated 13.03.2019 of the Sectt: Works Deptt. Govt. of Manipur for according E/S
- 7) FD no. 9/259/2019-FR(8) dated 16.03.2019 of the Sectt: Finance Deptt. Govt. of Manipur for release of funds under CDA
- 8) Letter no. 42/171/2018-W dated 20.03.2019 of the Sectt: Works Deptt. Govt. of Manipur for allotment of CDA. The above documents were collected by preparing a Memo being no. M-4 and placed on a file marked M-4.

The following documents were also collected on production by the following officials/ persons by preparing the following collection memos.

- A) Vide collection memo dated 07.11.2019 on production by Rouwaithang Maring, Chairman of Machi village.
 - 1) Certified photocopy of proceeding of joint meeting held on 29.05.2018
 - 2) Certified photocopy of resolution (extract) of joint meeting held on 02.06.2018
 - 3) Certified photocopy of resolution (extract) of General emergency assembly held on 23.09.20
 - 4) Certified photocopy of minutes of meeting held on 26.09.2018
 - 5) Certified photocopy of notice issued by Rouwaithang Maring, Chairman Machi village
 - 6) Certified photocopy of press release note issued by Rouwaithang
 - 7) Photocopy of invitation card of "The Maring Paryao-Thilhai" festival.

The above documents were collected by preparing a Memo being no. M-5 and placed on a file marked M-5.

- B) Vide collection memo dated 08.11.2019 on production by Yumnam Ranjit Singh of Kakwa Khongnang Pheidekpi
 - 1) Photocopy of minutes of meeting held on 26.09.2018
 - 2) Photocopy of minutes of General emergency held on 11.11.2018
 - 3) Photocopy of daily newspaper (unknown) dated- nil - with the caption "TERMINATE" issued by Rouwaithang.
 - 4) Photocopy of press release dated 22.11.2018

The above documents were collected by preparing a Memo being no.M-6 and placed on a file marked M-6.

In response to the letter no.2/(COMPLT)/ML/DIR (INQ)/2019/12 dated 12.11.2019 of Director (Inquiry), Manipur Lokayukta and from the observations on the work site inspection on 16.11.2019 & 23.11.2019, Shri RK. Okendro Singh, SW to ACE-I, RED, Technical appraisal team vide letter no. SW to ACE-I/LOK/2019-20/1 dated 25.11.2019 furnished his report to the Chairperson, Manipur Lokayukta.

The above report after getting endorsement from Chairperson, Manipur Lokayukta is placed on a file marked M-7.

Further, the following documents were collected on production by the following official/ person by preparing the following collection memo.

- A) Vide collection memo dated 05.12.2019 on production by L. Kholen Meitei, LDC of TPL Div.
1) List of Approvers of DARPAN in respect of PWD, Manipur
2) Certified photocopy of letter no. EE/TPL/ES/2017-18/80 dated 24.08.2018 of EE, TPL Div. along with its enclosures
The above documents were placed on a file marked M-8.”

[7] From the materials annexed in the Preliminary Inquiry Report and statements of the complainant as well as others whose names are clearly mentioned in the Preliminary Inquiry Report, it is apparent that the portions of the work i.e. Khunbi to Machi and Machi Junction to SDO office mentioned in the work order dated 19.03.2018 were already executed, before the work order dated 19.03.2018 was issued, by a group of people led by one Shri Y. Ranjit Singh of Moreh in connection with the then upcoming cultural festival of Maring Tribe namely “The Maring Paryo-Thillhai” which was scheduled to be held at Machi in the month of May, 2018. As there was no technical sanction for the said work at that time, the said work was executed without any technical supervision. There is no provision for sub-contract in the agreement between the contractor and the State Government for the contract work under the work order dated 19.03.2018. After issuance of the contract work dated 19.03.2019, Mr. Hemkhopao (Respondent No. 7) under verbal agreement allowed Mr. Y. Ranjit Singh and his party on his behalf to execute the contract work. The contractor, Mr. Hemkhopao (Respondent No. 7) and the concerned Engineers (Respondent Nos. 1, 2, 3, 4, 5 and 7) had colluded and purported that the said 2 (two) items of work which had already been executed before the issuance of the work order are the works executed after issuance of the work order dated 19.03.2018 with intention to adjust and compensate as the works executed under the terms and conditions of the contract work under the said work order dated 19.03.2018. The Respondent No. 2, Mr. O. Inaoba Singh, the then in charge of EE. TPL Division in collusion with other respondents, knowingly and intentionally prepared the liability statement of the said work items which were executed on the portion of Khunbi to Machi road and Machi Junction to SDO Office before the issuance of the work order as if the works were executed under the terms and conditions of the

present contract work. The Respondent No. 1, Mr. K. Premkumar Singh, SE-II, PWD, Manipur, in spite of his knowledge of the above facts, concealed it to his senior officers and had forwarded the proposal letter of the EE, TPL Division, to the Chief Engineer, PWD through Addl. CE, PWD by enclosing the DARPAN copy updated by him on 15.03.2018 by showing purportedly as the work progress of the present work for moving the competent authority for release of funds under CDA. Further, at the instance of Mr. O. Inaoba Singh (Respondent No. 2), Mr. Mology Maring (Respondent No. 5) had purportedly shown the measurements of the works i.e. the said works executed without prescribed technical standard as the work executed after issuance of the work order in the M.B. Because of the collusive actions of the respondents, bill for an amount of Rs. 1,36,54,790/- (Rupees one crore thirty-six lakhs fifty-four thousand and seven hundred ninety) was prepared and paid to the Respondent No. 7, Mr. Hemkhopao, Special Contractor through Cheque No. 025630 dated 30.03.2018 after deducting the necessary taxes for the said works i.e. Khunbi to Machi and Machi Junction to SDO office which were executed before the issuance of the work order dated 19.03.2018 not according to the specification laid down for the works.

[8] Many months after the payment of 1st R/A bill, Respondent No. 3, Mr. Soiminthang Singson, in-charge EE, TPL Division, after taking charge of the Division on August 2018 from the Respondent No. Mr. O. Inaoba Singh, had submitted a proposal vide letter dated 24.08.2018 to the SE- III for moving the competent authority for according E/S and early release of CDA for the remaining unreleased amount of Rs. 150.00 lakhs (Rupees one hundred fifty lakhs) only by enclosing a statement showing liability for an amount of Rs. 150.00 lakhs (Rupees one hundred fifty lakhs) only and showing the physical progress as 100% even before any work was executed after the payment of 1st R/A bill but actually the contract work was taken up in the late part of 2018 in the portion of Machi Junction to Tengnoupal Sansak Road. It is alleged that works of road surface dressing and shingling (GSB) in the whole stretch of 7 km in the said portion of Machi Junction to Tengnoupal Sansak for a work value of Rs. 58,80,385/- (Rupees fifty-eight lakhs eighty thousand three hundred and eighty-

five) only was reported to have been completed and measured only on 02.03.2019 by Mrs. Veineilam Haokip, in-charge AE, TPL Division (Respondent No. 4) and Mr. Mology Maring, SO (Respondent No. 5) as per MB. During the execution of the work, Mr. Mology Maring (Respondent No. 5), SO failed to give the technical supervision over the work thus resulting in execution of sub-standard work and non-adherence to quality of work. Respondent No. 4, Mrs. Veineilam Haokip as the Assistant Engineer had failed to test check the quality of the work before the bill was prepared. Equally, Mr. Soiminthang Singson, Respondent No. 3 had also failed on his part to check the quality of the work as per the SOP 5/24 for CPWD Works Manual: Test Checking of Measurements. The relevant portion of which are reproduced hereunder :

“SOP No 5/24 : Test Checking of Measurements

1. Test check by the Assistant Engineer

(i) The Assistant Engineer satisfies himself/herself before passing a bill for payment, or before submitting it to the Divisional Officer for payment, that the work or supply billed for has actually been carried out/completed in accordance with the terms and conditions of the contract.

(ii) The Assistant Engineer is to personally inspect all the works of any magnitude and submit the same to division office before for payment.

(iii) He/she is required to check measure the works in his/her charge as below:

(a) All items of work in a project irrespective of their cost, are and recorded by the Junior Engineer-in-charge of the work. It is, however, open to the Assistant Engineer to record measurements for any particular item of work himself. In case of Junior Engineer, the Assistant Engineer records measurements.

(b) The Officer accepting the tender for any work may stipulate and require the Assistant Engineer to record measurements himself or exercise 100% check on the measurements recorded by his subordinate for any item including those, which, owing to their situation, cannot subsequently be checked measured or which have very

high unit rates or which in the opinion of the Officer are important.

....

(v) In case of works at headquarters of the Sub-Division, AE should check measure not less than 50% of the value of the measurements recorded by his/her Junior Engineer before any running/final bill is paid. In case of works outside headquarters of the Sub-Division, the Assistant Engineer should check measure upto 50% of the value of work done before preparing final bills or before making payment of alternate running/final bills.”

“2. Test check by the Engineer in Charge

- (i) The Engineer in Charge should test check 10% of the measurements recorded by his/her subordinates at least every alternate bill for works at his/her headquarter, and at least every third bill for works outside his/her headquarter, Measurements selected by EE is independent of measurements test checked by AE. However this will not apply to items, the measurement of which are checked 100% by AE. In respect of works costing up to 20% of his/her tender acceptance power at places outside the headquarter of the division, and in case of works costing up to 10% of his/her tender acceptance power at the headquarter of the division, the Engineer in Charge may, in his/her discretion, authorize payment without any test check by him. He/she, however, have to accept general responsibility for the correctness of the bill as a whole.”

[9] SOP No. 5/23 for CPWD Works Manual: Manual clearly provides for avoidance of sub-standard work and acceptance of the sub-standard work at reduced rates. Relevant portions are as follows :

“1. Avoidance of sub-standard work

- (iii) All such defects/deficiencies in the items of works are to be noted in time and recorded in the Site Order Book. It is the duty of the field staff to point out such defects in the work in time during the progress of the work.

(iv) These defects should also be brought to the notice of the Engineer in Charge immediately on their occurrence by the Junior Engineer/Assistant Engineer, so that he/she may take timely action to issue notices to the contractor either to rectify the defects or even to get the work dismantled and re-done if necessary as per clauses 3 and 16 of the agreement. The Engineer in Charge is also on his/her own inspect the work as frequently as possible and take timely action to issue such notices to the contractor.

(v) Every attempt is made to issue such notices regarding the defective/deficient items immediately on their occurrence during the progress of the work. Timely action alone can prevent occurrence of defects/deficiencies that is difficult or impossible to rectify later on.”

“2. Acceptance of sub-standard work

(i) In general, sub-standard works should not be allowed to occur, as they reflect poorly on the professional competence of the field staff and adversely affect the image of the Department.

(ii) Acceptance of work below specification and/or below acceptable levels of workmanship, and the resulting payment at reduced rates for such defective/deficient works is resorted to only for those items where materials conforming to the required specifications are not available, or where it is structurally impossible to get the work re-done or where in opinion of Chief Project Manager/Project Manager/Superintending Engineer in-charge it is expedient to do so.

(iii) Acceptance of sub-standard work at reduced rates is done only under exceptional circumstances by the Chief Project Manager/Project Manager/Superintending Engineer or by the next higher authority in case where an officer of the rank of SE/EE is the Engineer in charge.

(iv) The total value of quantities of items at agreement rate for which the Chief Project Manager/Project Manager/Superintending Engineer or the official as defined above accepts sub-standard work in a contract does not exceed 5% of the contract value. In case total value of such items exceeds 5% prior approval of Chief Engineer/Chief Project Manager would be necessary.

(v) Before a sub-standard work is accepted by the Department, the Engineer-in-charge, after getting prior approval of competent authority, should write a letter to the contractor, for and on behalf of

the President of India, regarding acceptance of the same and the provisional rates pending the decision of the competent authority with regard to final rates. In reply to this letter, the contractor should send his/her consent for acceptance of the terms specified by the Department. For this purpose two forms, as per Annexure 34 and 35 is used.

(vi) The decision of the Superintending Engineer/Project Manager/Chief Project Manager/Chief Engineer regarding the quantum of reduction as well as justification thereof in respect of rates for sub-standard work that is decided is final, and would not be open to arbitration under clause 25 of the agreement.”

[10] As per the Preliminary Inquiry report, there were no records of proper test checking the executed contract work by the Respondents in the manner provided under the concerned SOP for CPWD Works Manual. It is also made out from the Preliminary Inquiry report and documents available that because of the collusive actions of the Engineers i.e. Respondent Nos. 1 to 5 and Respondent No. 7 (Mr. Hemkhopao, Special Contractor of Chassad Avenue), 2nd R/A bill for an amount of Rs. 43,55,500/- (Rupees forty-three lakhs fifty-five thousand five hundred) only was paid on 20.03.2019 for the sub-standard work for the said portion i.e. Machi Junction to Tengnoupal before rectifying/or correcting the defects.

[11] Mr. R.K. Okendro Singh, SW to ACE-I, RED, head of the Technical Appraisal Team constituted by the Manipur Lokayukta, officers/police officer of the Inquiry Wing, Respondents and Complainant visited the work site on 16.11.2019 and 23.11.2019 for verifying the standard of the executed contract work or as to whether the contract work was executed as per the prescribed technical standard and terms and conditions of the agreement. Mr. R.K. Okendro Singh submitted his inspection report under his letter dated 25.11.2019 (Annexure I-3 to I-24). In his report it is clearly mentioned that the contract work was executed without maintaining the prescribed technical standards.

[12] The Preliminary Inquiry Report was submitted with the findings that there are materials for substantiating the particular charges labelled against each of the respondents except Respondent No. 6, Mr. Rouwaithang Maring, Chairman of Machi Village. After receiving a copy of the Preliminary Inquiry Report, we passed an order dated 28.01.2020 for issuing notice to all the respondents for their appearance before the Manipur Lokayukta so that they may submit their comments or written statement of defence to the findings against them in the Preliminary Inquiry Report. The Respondents and their counsels appeared before the Lokayukta and also submitted their comments/written statement of defence. The common plea of their defence in their written statements of defence are inter alia that they have discharged their duties with bonafide and also give some justification for the works executed without maintaining technical standard before issuance of the work order which are not at all permissible under the law and also that the defects if any will be rectified as the work is continuing work. Even on perusal of the comments/written statement of defence, it is clear that there are some irregularities which could be pin-pointed only after proper investigation. We have given our anxious consideration of mind to all the materials available in the record as well as the Preliminary Inquiry Report and also the submission of the complainant as well as the learned counsels for the respondents. And, after such consideration and application of our mind, we are of the considered view that there exists a good prima facie case for an investigation by an agency under Section 20 (3) of the Manipur Lokayukta At, 2014. Under Section 28(1) of the Manipur Lokayukta Act, 2014, the Lokayukta has the power and jurisdiction to utilise the service of any officers of the Manipur Government or investigating agency for investigation of the case(s) pending before the Manipur Lokayukta. Over and above, under Section 32 of the Act, the Lokayukta has the power and authority to recommend transfer and suspension of the public servant against whom inquiry is pending before the Manipur Lokayukta. The recommendation made by the Manipur Lokayukta is ordinarily accepted by the Government.

[13] For the foregoing reasons and discussion, we passed the following order:

1. **Mr. Sarangthem Hemanta Singh, MPS, Additional SP (Vigilance)** is directed to investigate the present case by exercising all the powers conferred under the Manipur Lokayukta Act, 2014. Since the present case is especially entrusted to him, he shall conduct the investigation with full coordination with the Director (Inquiry), Manipur Lokayukta i.e. Mr. Koijam Radhashyam Singh, IPS, IGP (Intelligence & Narcotics & Border Affairs). In the course of investigation of the present case, he will not be under the supervision of his superior officer i.e. SP (Vigilance). It is also made clear that the investigation of the present case is in addition to his normal duty. Director General of Police, Manipur is to be informed accordingly. Further, Mr. Sarangthem Hemanta Singh, MPS, Additional SP (Vigilance) is directed to complete the investigation as expeditiously as possible i.e. within a period of 4 (four) months inasmuch as almost all the necessary materials for investigation had already been collected by the Inquiry Wing, Manipur Lokayukta.

2. State Government is directed not to allow (1) Mr. K. Premkumar Singh, SE-III, PWD, Manipur (Respondent No. 1), (2) Mr. O. Inaoba Singh, the then in-charge EE, TPL Division, PWD, Manipur (Respondent No. 2), (3) Mr. Soiminthang Singson, In-charge EE, TPL, Division (Respondent No. 3), (4) Mrs. Veineilam Haokip, In-charge AE, Sub Div – II, TPL Division (Respondent No. 4) and (5) Mr. Mology Maring, SO of Sub Div – II, TPL Division (Respondent No. 5) to handle the present contract work in view of the peculiar facts and circumstances of the case discussed above and the present contract work should be entrusted to some other Engineers. It is up to the State Government to take appropriate steps for entrusting the present contract work to other Engineers, if necessary transferring the present Respondents i.e. Respondent No. 1 to Respondent No. 5 from their present place of posting to the other appropriate place/office. Further,

State Government, in the interest of public at large, may issue necessary order as early as possible so as to avoid any legal complicity and legal consequences.

3. Pending investigation of the present case, the State Government shall withhold the payment of any Bills/Running Bills in connection with the present contract work.

[14] Deputy Registrar, Manipur Lokayukta is directed to furnish a copy of this order to the parties and Mr. Sarangthem Hemanta Singh, MPS, Additional SP (Vigilance). Also, furnish a copy to the State Government for taking up appropriate action promptly.

Sd/-
MEMBER

Sd/-
CHAIRPERSON
