

**COMPLAINT CASE NO. 5 OF 2020**

**22.12.2020**

1. Perused the office note dated 22.12.2020 and also the complaint. The complaint is in proper format and bears the Court fee stamp of Rs. 5/- and the complainant has deposited a sum Rs. 1000/- by way of Demand Draft. As provide under Rule 15 of the Manipur Lokayukta Rules, 2018, the complaint is also supported by the affidavit and the complainant has also annexed some documents in support of the allegations made in the complaint.

2. This case is pari materia with Complaint Case No. 4 of 2020 which is mostly concerned with 16-Phuba DCC, Senapati District Council and 18 – Ngari Khullen DCC, Senapati District Council. The present complaint is concerned with 17-Phaibung DCC, Senapati District Council. As the present case is similar with the earlier case i.e. Complaint Case No. 4 of 2020, reason(s) for directing the Director (Inquiry), Manipur Lokayukta and his team to conduct a Preliminary Inquiry and submit the report within the period provided under Section 20 (1) of the Manipur Lokayukta Act, 2014 and Manipur Lokayukta Rules, 2018, mentioned in the order dated 07.12.2020 passed in Complaint Case No. 4 of 2020, would be similar with the reasons for which we will direct the Director (Inquiry), Manipur Lokayukta to conduct the Preliminary Inquiry in the present case. For avoiding repetition of the reasons for directing the Director (Inquiry), Manipur Lokayukta to conduct Preliminary Inquiry, the order dated 07.12.2020 passed in Complaint Case No. 4 of 2020 is reproduced hereunder :

“

**COMPLAINT CASE NO. 4 OF 2020**

**Date : 07.12.2020**

1. As per our order dated 02.12.2020, both the complainants appeared before us in person and submitted their case at bar. We have given our anxious consideration to their case submitted before us. The case made out in the complaint, a portion of which is reproduced below :

- a) Under the 13<sup>th</sup> Finance Commission (2014-2015) final bills released amount Rs. 35,00,000/- (thirty five lakhs) only (the amount may be more or less). Sanctioned for construction of teacher's quarter Barack type.
- b) Under the 14<sup>th</sup> Finance Commission (2016-2020) released Rs. 1,20,00,000/- (One crore twenty lakhs) only sanctioned for construction of IVR and other works.
- c) Under the 3<sup>rd</sup> State Finance Commission (2017-2018) released Approx. Rs. 1,00,00,000/- (One Crore) only (the amount may be more or less) sanctioned for construction of teacher's Quarter.
- d) Under the 3<sup>rd</sup> Finance & 15<sup>th</sup> Finance Commission (2020-2021) the Approx. amount released is around Rs. 50,00,000/- (fifty lakhs) only (the amount may be more or less).

2. It appears from the oral submission and supporting documents that the present case is concerned with 16-Phuba DCC, Senapati District Council and 18-Ngari Khullen DCC, District Council and the complaint made before us are that they have no complete knowledge as to the total amount of fund sanctioned under the said Finance Commissions mentioned above and also the works executed by the Respondents for which the Finance Commission had released the sanctioned amount mentioned above.

3. It is also stated that they have approached the Deputy Commissioner/Public Relation Officer, Senapati District, Manipur by filing an application dated 24.10.2019 under RTI Act, 2005 for furnishing information of the 5 (five) queries made by the complainants in the said RTI application. The said 5 (five) queries are :

- 1) Total fund sanctioned and released of different work Programs under various Deptts. Of 16 Phuba DCC ADC Senapati Dist., Govt. of Manipur between 2015-2019.
- 2) Detail Fund Utilisation statements submitted against the fund released under various heads between 2015-2019.
- 3) Detail beneficiary list, work agents of different Schemes 2015-2019.
- 4) Various work plans/Programs approved for to be implemented yet.

**5) Non-submission of work programs report of the fund released.**

4. Ultimately, Manipur Information Commission in Appeal No. 12 of 2020 and Appeal No. 13 of 2020 passed orders dated 02.03.2020 and 26.05.2020 directing the SPIO to provide the requested information regarding the fund sanctioned and released for different work programmes under various departments, fund utilisation statements, detail beneficiary lists, work agents of different schemes, various work plans/programmes and non-submission of work programme, report of the fund released specially for 16-Phuba (DCC) Autonomous District Council, Senapati and 18-Ngari Khullen DCC, District Council. On the failure of the SPIO to furnish the said information as per the said order of the Commission, Commission again passed an order dated 21.07.2020 directing the SPIO/Chief Executive Officer, ADC, Senapati to pay a penalty of Rs. 25,000/- (Rupees twenty-five thousand) for failure to provide information to the appellants of the said two appeals and the said penalty shall be paid within a period of 1 (one) month from the date of receipt of that order.

5. Both the complainants also submitted at bar that against the said order of the Manipur Information Commission, the SPIO/Chief Executive Officer, ADC, Senapati filed Writ Petition before the Hon'ble High Court of Manipur and the said Writ Petition is still pending. However, it is the clear submission of the complainants that the Hon'ble High Court had not yet passed any order for staying the said order of the State Chief Information Commissioner, Manipur Information Commission dated 21.07.2020 and also the said penalty of Rs. 25,000/- against the SPIO/Chief Executive Officer, ADC, Senapati has not yet been paid to the appellants. The State Chief Information Commissioner had already made a clear cut finding that the said information asked for by the complainants are discloseable information. However, the SPIO has not yet furnished the said information to the complainants.

6. Hon'ble Supreme Court in State Inspector of Police, Vishakhapatnam –Vs- Surya Sankaram Karri (2006) 7 SCC 172 had clearly held that when a document being in possession of a public functionary, who is under a statutory obligation to produce the same before the court of law, fails and/or neglects to produce the same, an adverse inference may be drawn against him. The same view also had been taken by the Hon'ble Apex Court in

**Kundan Lal Rallaram, AIR 1961 SC 1316 and M.S. Narayan Menon –Vs- State of Kerala & Anr. (2006) 6 SCC 39. Para 18 of the SCC in Surya Sankarma Karri’s case (supra) reads as follows :**

**“18. It is now well settled that when a document being in possession of a public functionary, who is under a statutory obligation to produce the same before the court of law, fails and/or neglects to produce the same, an adverse inference may be drawn against him. The learned Special Judge in the aforementioned situation was enjoined with a duty to draw an adverse inference. He did not consider the question from the point of view of statutory requirements, but took into consideration factors, which were not germane.”**

**7. Keeping in view of the decisions of the Apex Court in the cases discussed above, we are of the prima facie view that the SPIO/Chief Executive Officer, ADC, Senapati, even if he is in possession of the documents relating with the above information asked for by the complainant, has not furnished the information to the complainants for reasons best known to him, therefore, we are constraint to make an observation that an adverse view may be taken against the SPIO/Chief Executive Officer, ADC, Senapati.**

**8. After, taking overall consideration of the case make out in the complaint and supporting documents and also the oral submission of the complainants, we are of the considered view that a prima facie case for conducting a Preliminary Inquiry had been made out to find out the actual amount of fund released by the State Government mentioned above to the ADC, Senapati for the developmental works and allocation of fund given to 16-Phuba DCC, Senapati District Council and 18-Ngari Khullen DCC, District Council for the years mentioned above and also as to whether works for which the funds had been released had been carried out or not.**

**9. For the foregoing reasons, the Director of Inquiry, Manipur Lokayukta is directed to conduct a Preliminary Inquiry for the points formulated in the above para no. 8 and to find out as to whether prima facie case had been made out for investigation and also for further proceeding**

or not. Accordingly, we direct the Inquiry Wing of Manipur Lokayukta to conduct a Preliminary Inquiry and submit the report within the period provided under Section 20 (1) of the Manipur Lokayukta Act, 2014 and Manipur Lokayukta Rules, 2018.

10. It is also made clear that the Director (Inquiry), Manipur Lokayukta and his team while conducting the Preliminary Inquiry shall keep in view their powers and jurisdiction as provided under Sub-section (1), Sub-section (2), Sub-Section (4), Sub-section (5) and Sub-section (9) of Section 20; Section 21; Section 22; Section 26; Section 28 (2); Section 29; Section 32; Section 36 and other provisions of Manipur Lokayukta Act, 2014.

11. Deputy Registrar, Manipur Lokayukta is directed to furnish a copy of this order and other relevant documents to the Director (Inquiry), Manipur Lokayukta.

12. Deputy Registrar, Manipur Lokayukta is further directed to furnish a copy of this order to (1) the Chief Secretary, Government of Manipur and (2) the Administrative Secretary, Tribal Affairs and Hills, Government of Manipur for taking appropriate action deemed fit.

13. Await report from the Director (Inquiry), Manipur Lokayukta.

Sd/-  
MEMBER

Sd/-  
CHAIRPERSON”

3. The Director of Inquiry, Manipur Lokayukta is directed to conduct a Preliminary Inquiry to find out the actual amount of fund released by the State Government mentioned above to the ADC, Senapati for the developmental works and allocation of fund given to 17-Phaibung DCC, Senapati District Council for the years mentioned in the complaint and also as to whether the works for which the funds had been released had been carried out or not to see as to whether or not there is a prima facie case for investigation and also for further proceeding.

4. It is also made clear that the Director (Inquiry), Manipur Lokayukta and his team while conducting the Preliminary Inquiry shall keep in view their powers and jurisdiction as provided under Sub-section (1), Sub-section (2), Sub-Section (4), Sub-section (5) and Sub-section (9) of Section 20; Section 21; Section 22; Section 26; Section 28 (2); Section 29; Section 32; Section 36 and other provisions of Manipur Lokayukta Act, 2014.

5. Deputy Registrar, Manipur Lokayukta is directed to furnish a copy of this order and other relevant documents to the Director (Inquiry), Manipur Lokayukta.

6. Await report from the Director (Inquiry), Manipur Lokayukta.

Sd/-

**MEMBER**

Sd/-

**CHAIRPERSON**