

**COMPLAINT CASE NO. 4 OF 2022**

**05.10.2022**

1] Complainant appeared in person.

2] By our order dated 14.09.2022 passed in the present complaint case, (i) Commissioner (Revenue), Government of Manipur; (ii) Deputy Commissioner, Imphal West and (iii) Sub-Deputy Collector, Imphal West (Central), Lamphelpat, Imphal were directed to give their comment to the allegations made against them and also as to why the Commissioner (Revenue), Government of Manipur has not taken any action on the recommendation of the Director, State Vigilance and Anti-Corruption Department, Manipur dated 05.10.2001, within 3 (three) week.

3] We have perused the office note dated 16.09.2022, wherein it is stated that copies of the order dated 14.09.2022 along with a complete set of the present Complaint case were served to (i) Commissioner (Revenue), Government of Manipur; (ii) Deputy Commissioner, Imphal West and (iii) Sub-Deputy Collector, Imphal West (Central), Lamphelpat, Imphal by Special Messenger and the concerned departments have acknowledged the receipt of the same on 16.09.2022.

4] We have also perused the office note dated 05.10.2022, wherein it is indicated that no comment(s) has been received from (i) Commissioner (Revenue), Government of Manipur; (ii) Deputy Commissioner, Imphal West and (iii) Sub-Deputy Collector, Imphal West (Central), Lamphelpat, Imphal in compliance with our order dated 14.09.2022.

5] Section 20 (1) (a) of the Manipur Lokayukta Act, 2014 provides that on receipt of a complaint, if Lokayukta decides to proceed further, it may order Preliminary inquiry against any public servant by its Inquiry Wing or any agency to ascertain whether there exists a prima facie case for proceeding in the matter. For deciding as to whether there exists a prima facie case for taking up preliminary inquiry by the Inquiry Wing of Manipur Lokayukta, it is not even required to call for an explanation from the public servant concerned. However, for fair play (i) Commissioner (Revenue), Government of Manipur; (ii) Deputy Commissioner, Imphal West and (iii) Sub-Deputy Collector, Imphal West (Central), Lamphelpat, Imphal against whom allegation have been made in the complaint were

given chance to file their comment by furnishing a complete set of the complaint case along with the copy of our order dated 14.09.2022. In spite of giving chance to file their comments they did not even care to file any reply or comment in pursuance to our order dated 14.09.2022.

6] In our order dated 14.09.2022, we have already mentioned the gist of the allegations made in the present complaint against (i) Commissioner (Revenue), Government of Manipur; (ii) Deputy Commissioner, Imphal West and (iii) Sub-Deputy Collector, Imphal West (Central), Lamphelpat, Imphal. In order to avoid repetition of our order, para nos. 2, 3, 4, 5, 6 and 7 of our order dated 14.09.2022 are reproduced hereunder :

**“2. In the complaint, it is alleged that his homestead land situated at Naga Mapal Singjubung Leirak, Imphal West, 9 Khwai Lalambung under Jamabandi Patta No. 167 (Old) 74 (New) measuring an area of .0971 hectare is inherited from his father. Photocopies of old Patta No. 167 (Old), 74 (New) along with the relevant trace map are enclosed as Annexure I and II to the complaint. On perusal of the old Patta No. 167 (Old), it is clear that the area of the said Patta is .0971 hectare. It is further alleged that his homestead land having an area of .0971 hectare under the old Patta No. 167 while preparing the correspondence new Patta No. i.e. New Patta No. 74 which is correspondent with new Patta No. 98, the actual area i.e. .0971 hectare had been reduced to .0860 hectare.**

**3. The complainant after coming to know the reduction of the said area of his homestead land from .0971 hectare to .0860 hectare, without any reason, filed an application to the Director, State Vigilance and Anti-Corruption Department, Manipur requesting to look into the alteration made in the area of his land. The Director, State Vigilance and Anti-Corruption Department, Manipur registered a case being Vigilance Case No. 37/SP-V/2001 in the year, 2001. Director, State Vigilance and Anti-Corruption Department, Manipur conducted an inquiry in the said case and submitted his report dated 05.10.2001 to the Commissioner (Revenue), Government of Manipur, Imphal with the finding that new Patta No. 74 having an area of .0860 hectare by reducing an area of .0111 hectare had been issued by (1) Shri S. Khomba Singh, the then Circle Mandol, now SK in the office of ASO-IV (2) Shri S. Yaima Singh, the then SK, now retired as ASO in 1999 on the basis of survey report conducted in 1990-92 headed by Shri M. Harekrishna Singh, the then Deputy Settlement, Officer, Shri Ningen Chanroi, the then Asst. Settlement Officer and Shri W. Munal Singh, the then Circle Mandol (now retired).**

4. After the said finding, the Director, State Vigilance and Anti-Corruption Department, Manipur recommended for awarding major penalty against those above mentioned revenue officers and also submitted the draft memorandum, article of charges, statement of imputation, list of documents and list of witnesses framed against them. A copy of the said inquiry report of the Director, State Vigilance and Anti-Corruption Department, Manipur dated 05.10.2001 is also enclosed in the present complaint. For easy reference, the relevant portion of the inquiry report is reproduced hereunder:

“In inviting on the above subject and reference, I am to state that the vigilance commission has conducted an enquiry into the alleged irregularities committed by the office of Director of Settlement and Land Records, Manipur, Lamphelpat, Imphal in recording the area of 0971- hectare in respect of the homestead plot of land under patta No. 74(old), 98(new) dag No. 1142, belonging to Shri Konthoujam Dorendro Singh, Youth officer, in the Department of Youth Affairs & Sports, Manipur, R/o Lalambung Singjubung Leirak, Imphal West.

During the course of enquiry, it has been revealed that the Jamabandi under patta No. 167(old), 74(new) of village No. 89, Khwai Lalambung, Imphal west standing in the name of Shri Konthoujam Bacha Singh, was mutated in the name of the petitioner, Shri Konthoujam Dorendra Singh, vide Mutation Case No. 920 dated 1977/SDC/IW(c) dated 3/2/78, measuring an area of 24 hectares (0971 Hectors), When Shri Konthoujam Dorendra Singh obtained a Jamabandi of the said land being patta No. 74(old) 98(New), standing in his name has been recorded the area measuring 0860 and as such therein difference of the area recorded in the old patta and another patta obtained on 25-3-96 = 0971-0860 = 111 hectares (smaller in area by 111 hectares between old & new pattas).

Further enquiry reveals that the new patta No. 98, dag No. 1142 having 0860 hectares, issued in the name of Shri K. Dorendra Singh, was prepared by (1) Shri S. Khomba Singh, the then Circle Mandol, now SK in the office of ASO-IV (2) Shri S. Yaima Singh, the then SK, now retired as ASO in 1999 on the basis of survey report conducted in 1990-92 headed by Shri M. Harekrishna Singh, the then Deputy Settlement, Officer, Shri Ningen Chanroi, the then Asst. Settlement Officer and Shri W. Munal Singh, the then Circle Mandol (now retired).

This Commission therefore recommends to award major penalty against (1) Shri S. Khomba Singh, then Circle Mandol, now SK, attached to ASO-IV of the directorate of Settlement & Land Records, Manipur, Lamphelpat & (2) Shri S. Yaima Singh, then SK, now retired of Directorate of Settlement and Land Records, Lamphelpat, for their alteration & falsification of Govt. records, i.e. in the relevant Jamabandi Register/Survey maps to favour certain neighbours of Shri K. Dorendra Singh, without any authority (2) to correct/rectify the altered area of 0860 hectares into the original area of 0971 hectares and (3) to inform Shri K. Dorendra Singh to file a case to the director of Settlement and Land Records for rectification of the wrongly recorded area 0860 hectares to original area of 0971 hectares.

The draft Memorandum, Article of charges, statement of imputation, List of documents and List of Witnesses, framed against (1) Shri. S. Khomba Singh, the then Circle Mandol, now SK in the office of ASO-IV, Directorate of Settlement & Land Records and (2) S. Yaima Singh, then S.K., (now retired) of the office of Director of Settlement & Land Records, Manipur, Imphal are enclosed at Annexures-I, II, III & IV respectively for perusal/vetting and taking further necessary action from your end.

Action taken on the above recommendation may kindly be communicated to this Commission early.”

5. The complainant further alleged that the Commissioner (Revenue), Government of Manipur is not taking any tangible action on the basis of the said inquiry report of the Director, State Vigilance and Anti-Corruption Department, Manipur dated 05.10.2001 address to the Commissioner (Revenue), Government of Manipur. After the transfer of the revenue record of the said homestead land of the complainant from the Director of Settlement, Government of Manipur to the Deputy Commissioner, Imphal West, the complainant filed an application dated 02.04.2018 to the Deputy Commissioner, Imphal West requesting for correction of the area of .0860 hectare which is wrongly recorded in place of the correct area of .0971 hectare under the old Patta No. 167 recorded in the name of Shri K. Dorendro Singh of 89 Khwai Lalambung, Imphal West. It is further stated that the matter is now pending before the Sub-Deputy Collector, Imphal West (Central).

6. In the premises stated above, it would be pertinent to mention the offences and penalty provided under the Prevention of Corruption Act, 1988. For easy reference, the amended Section 7 and Section 13 of the Prevention of Corruption Act, 1988 are quoted hereunder:

“7. Offence relating to public servant being bribed.—Any public servant who,—

(a) obtains or accepts or attempts to obtain from any person, an undue advantage, with the intention to perform or cause performance of public duty improperly or dishonestly or to forbear or cause forbearance to perform such duty either by himself or by another public servant; or

(b) obtains or accepts or attempts to obtain, an undue advantage from any person as a reward for the improper or dishonest performance of a public duty or for forbearing to perform such duty either by himself or another public servant; or

(c) performs or induces another public servant to perform improperly or dishonestly a public duty or to forbear performance of such duty in anticipation of or in consequence of accepting an undue advantage from any person, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine.

**Explanation 1.**—For the purpose of this section, the obtaining, accepting, or the attempting to obtain an undue advantage shall itself constitute an offence even if the performance of a public duty by public servant, is not or has not been improper.

**Illustration.**—A public servant, 'S' asks a person, 'P' to give him an amount of five thousand rupees to process his routine ration card application on time. 'S' is guilty of an offence under this section.

**Explanation 2.**—For the purpose of this section,—

(i) the expressions “obtains” or “accepts” or “attempts to obtain” shall cover cases where a person being a public servant, obtains or “accepts” or attempts to obtain, any undue advantage for himself or for another person, by abusing his position as a public servant or by using his personal influence over another public servant; or by any other corrupt or illegal means;

(ii) it shall be immaterial whether such person being a public servant obtains or accepts, or attempts to obtain the undue advantage directly or through a third party.”

**“13. Criminal misconduct by a public servant.—1 [(1) A public servant is said to commit the offence of criminal misconduct,—**

(a) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use any property entrusted to him or any property under his control as a public servant or allows any other person so to do; or

(b) if he intentionally enriches himself illicitly during the period of his office.

**Explanation 1.**—A person shall be presumed to have intentionally enriched himself illicitly if he or any person on his behalf, is in possession of or has, at any time during the period of his office, been in possession of pecuniary resources or property disproportionate to his known sources of income which the public servant cannot satisfactorily account for.

**Explanation 2.** — The expression “known sources of income” means income received from any lawful sources.]

(2) Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which shall be not less than 2 [four years] but which may extend to 3 [ten years] and shall also be liable to fine.”

7. This Lokayukta is of the considered view that before registering a case for offences under the Prevention of Corruption Act, 1988 and Indian Penal Code (IPC), it would be proper to call for the status position of the applications dated 02.04.2018 and 26.05.2022 addressed to the Deputy Commissioner, Imphal West and the Sub-Deputy Collector, Imphal West (Central) respectively. Further, as the recommendation of the Director, State Vigilance and Anti-Corruption Department, Manipur was addressed to the

**Commissioner (Revenue), Government of Manipur vide letter being no. 37/SP-V/2001 dated 05.10.2001, it would be necessary to call for his comment and make it his responsibility to ensure logical conclusion of the recommendation dated 05.10.2001 of the Director, State Vigilance and Anti-Corruption Department, Manipur.”**

7] After careful application of our mind to the material available on record more particularly the complaint case and supporting documents, we are of the considered view that there exists a prima facie case for conducting preliminary inquiry against (i) Commissioner (Revenue), Government of Manipur; (ii) Deputy Commissioner, Imphal West and (iii) Sub-Deputy Collector, Imphal West (Central), Lamphelpat, Imphal. Accordingly, the Inquiry Wing, Manipur Lokayukta headed by Director (Inquiry), Manipur Lokayukta is directed to conduct a preliminary inquiry by entrusting the same to the Dy. S.P. attached to Inquiry Wing, Manipur Lokayukta. Director (Inquiry), Manipur Lokayukta has to provide all necessary support and supervision to the Dy. SP/Inquiry Officer while conducting the preliminary inquiry.

8] Section 28 (2) of the Manipur Lokayukta Act, 2014 provides that for the purpose of preliminary inquiry or investigating into any matter pertaining to such inquiry or investigation, any officer or organization or agency whose services are utilized under sub-section (1) may, subject to the direction and control of the Lokayukta,--

- (a) summon and enforce the attendance of any person and examine him;
- (b) require the discovery and production of any document; and
- (c) requisition any public record or copy thereof from any office.

8.1] Therefore, Dy. SP/Inquiry Officer, who is to conduct the preliminary inquiry, has to power to (i) summon and enforce the attendance of any person and examine him, (ii) require the discovery and production of any document, and (iii) requisition any public record or copy thereof from any office. Further, if it is reasonably believed that any document which may be used as evidence for the purpose of inquiry is secreted in any place, the Lokayukta may pass an order for search and seizure of the said documents. This power will be resorted to if it is at all necessary. Inquiry officer conducting the

preliminary inquiry has to see his power and authority under sections 26, 27 and 28 of the Manipur Lokayukta Act, 2014. For easy reference sections 26, 27 and 28 of the Manipur Lokayukta Act, 2014 are reproduced hereunder:

**“26. (1) If the Lokayukta has reason to believe that any document which, in its opinion, shall be useful for , or relevant to, any investigation under this Act, are secreted in any place, it may authorize any agency to whom the investigation has been given to search for and to seize such documents.**

**(2) If the Lokayukta is satisfied that any document seized under sub-section (1) may be used as evidence for the purpose of any investigation under this Act and that it shall be necessary to retain the document in its custody or in the custody of such officer as maybe authorized, it may so retain or direct such authorized officer to retain such document till the completion of such preliminary inquiry or investigation:**

**Provided that where any document is required to be returned, the Lokayukta or the authorized officer may return the same after retaining copies of such document duly authenticated.”**

**“27. (1) Subject to the provisions of this section , for the purpose of any preliminary inquiry, the inquiry Wing of the Lokayukta shall have all the powers of a civil court, under the Code of Civil Procedure, 1908, while trying a suit in respect of the following matters, namely:--**

- (i) summoning and enforcing the attendance of any person and examining him on oath;**
- (ii) requiring the discovery and production of any document;**
- (iii) receiving evidence on affidavits;**

- (iv) requisitioning any public record or copy thereof from any court or office;**
- (v) issuing commissions for the examination of witnesses or documents:**

**Provided that such commission, in case of a witness, shall be issued only where the witness, in the opinion of the Lokayukta, is not in a position to attend the proceeding before the Lokayukta; and**

- (vi) such other matters as may be prescribed.**

**(2) Any proceeding before the Lokayukta shall be deemed to be a Judicial proceeding within the meaning of section 193 of the Indian Penal Code.”**

**“28. (1) The Lokayukta may, for the purpose of conducting any preliminary inquiry or investigation, utilize the services of any officer or organization or investigation agency of the State Government.**

(2) For the purpose of preliminary inquiry or investigating into any matter pertaining to such inquiry or investigation, any officer or organization or agency whose services are utilized under sub-section (1) may, subject to the direction and control of the Lokayukta,--

(a) summon and enforce the attendance of any person and examine him;

(b) require the discovery and production of any document; and

(c) requisition any public record or copy thereof from any office.

(3) The officer or organization or agency whose services are utilized under sub-section (2) shall inquire or, as the case may be, investigation into any matter pertaining to the preliminary inquiry or investigation and submit a report thereon to the Lokayukta within such period as may be specified by it in this behalf.”

9] The Inquiry Officer shall also have to look into the other provisions of the Manipur Lokayukta Act, 2014 for exercising his power and jurisdiction for conducting a proper preliminary inquiry and shall submit the same within the period prescribed under Section 20 (2) and 20 (4) of the Manipur Lokayukta Act, 2014.

10] Registry is directed to furnish a copy of this order along with a copy of the complaint and other relevant documents to the Director (Inquiry), Manipur Lokayukta within 3 (three) days.

11] Await preliminary inquiry report.

Sd/-  
**MEMBER**

Sd/-  
**CHAIRPERSON**