

MISC. CASE NO. 12 OF 2022
(Reference : Complaint Case No. 2 of 2020)

DATE OF ORDER : 21.10.2022

[1] Perused the office note dated 20.10.2022, wherein it is indicated that Shri Shrey Vats, IPS, Superintendent of Police, Kakching District, Manipur, who is the Investigating Officer of FIR Case No. 4(02)2022 CB-PS U/s 7(b)/13 PC Act & 120-B/34 IPC, filed an application being No. : B-34(I NST)/SP-KCG/2019/8837 dated 20.10.2022 to the Chairperson, Manipur Lokayukta praying for passing an order for granting him to conduct search and seizure under section 26 (1) of the Manipur Lokayukta Act, 2014 at the residence of N. Sarat Singh (Accused person no. 1), Managing Director, MSPCL located at Thangmeiband Yumnam Leikai, Imphal or at the office of the MSPCL located at Electricity Complex, Keishampat Junction, Imphal. Register this application as separate Misc. Case.

[2] Facts and circumstances leading to the registration of the said FIR Case No. 4(02)2022 CB-PS U/s 7(b)/13 PC Act & 120-B/34 IPC is more fully mentioned in our order dated 07.02.2022 passed in present case, as such, in order to avoid repetition of the facts and circumstances leading to the said FIR against the 12 (twelve) persons namely, (1) Shri. N. Sarat Singh, the then Chief Engineer (Power) now re-engaged as Managing Director, MSPCL; (2) Shri. Th. Kaminimohon Singh, the then EE/Transmission Construction Div. No. I (now re-engaged as General Manager, MSPCL); (3) Shri. M. Budhachandra Sharma, the then EE/Sub-Station Construction Div. No. II (now re-engaged as General Manager, (MSPCL), (4) Smt. Lucy Haokip, General Manager (Finance & Accounts), MSPCL; (5) Shri Ranendra Nandeibam,

General Manager (Finance & Accounts), MSPCL; (6) Shri. Thokchom Bimol Singh, DGM/Sub-Station Division No. III, MSPCL; (7) Shri A. Rajendra Sharma, the then AE/Lokchao Sub-station (now re-engaged as DGM/transmission Div. No. III, MSPCL); (8) Shri Y. Chandramani Singh, the then AE Sub-Station Sub-Division No. III (now retired); (9) Shri Gurumayum Tapan Kumar Sharma, Manager (Electrical), MSPCL, SDD-III; (10) Shri Lunkholal Lupho, Manager, Sub-Division XI, TD-III; (11) Shri O. Yaiskul Singh, the then S.O. Transmission Construction Div. No. I (now retired); and (12) M/s Shyama Power (India) Pvt. Ltd. 15 & 16, Harton Complex, Electronic City, Sector – 18, (part) Gurgaon – 122015, Haryana (India), our order dated 07.02.2022 will be taken as a part of this order for the purpose of reference of the facts and circumstances required for passing this order. Under our earlier order dated 07.02.2022, passed in the present case, Manipur Lokayukta, the service of Shri Shrey Vats, IPS (2017(RR) at present SP, Kakching is to investigate the present case. In the said order dated 07.02.2022, it is specifically mentioned that the investigating officer shall take necessary action to complete the investigation of the case within 6 (six) months from the date of registration of the case at the Crime Branch Police Station, Imphal and that the Investigating Officer while conducting the investigation will not be under the supervision of his senior officer of this department or the station where the present case is to be registered i.e. Crime Branch Police Station, Imphal. Therefore, Investigating Officer, Shri Shrey Vats, IPS, Superintendent of Police, Kakching District, Manipur has submitted the present application dated 20.10.2022 stating that documentary evidences which are missing are suspected to be secreted away and has asked for passing an order

granting permission to conduct search and seizure under section 26 (1) of the Manipur Lokayukta Act, 2014 at the residence of N. Sarat Singh, Managing Director, MSPCL located at Thangmeiband Yumnam Leikai, Imphal or at the office of the MSPCL located at Electricity Complex, Keishampat Junction, Imphal.

[3] In our earlier order dated 07.02.2022, we made the observation that the relevant Measurement Books (MBs) of RA Bills for the 1st to 4th are missing. The accused person no. 7, Shri A. Rajendra Sharma, the then AE/Lokchao Sub-station (now re-engaged as DGM/Transmission Div. No. III, MSPCL) had already informed the missing of the MBs of the FR Bills to the higher authority i.e. Accused person No. 1, N. Sarat Singh, MD, MSPCL. Over and above, in our earlier order dated 07.02.2022, we made observation that many of the Stock and Balance registers maintained by the division of the MSPCL are suspected to be new registers and also the writings/entries made in the registers are suspected to be new one. Only because of the interim bail order dated 14.02.2022 passed in Cril. Misc. (AB) Case No. 5 of 2022 and dated 11.04.2022 in Cril. Misc. (AB) Case No. 17 of 2022 passed by the Ld. Sessions Judge, Imphal East (Special Judge (Lokayukta), Manipur), the Investigating Officer of the FIR i.e. FIR Case No. 4(02)2022 CB-PS U/s 7(b)/13 PC Act & 120-B/34 IPC, was denied to have custodial interrogation of the accused persons for search and seizure of the missing documents which are very important in the investigation of the present case. The said interim bail orders have already been made absolute by the order of the Ld. Sessions Judge, Imphal East (Special Judge (Lokayukta), Manipur) dated 08.06.2022 passed in Cril. Misc.

(AB) Case No. 5 of 2022 and Cril. Misc. (AB) Case No. 17 of 2022. Against the said order of the Ld. Sessions Judge, Imphal East (Special Judge (Lokayukta), Manipur), the Investigating Officer filed a Criminal Petition No. 30 of 2022 before the Hon'ble High Court of Manipur praying for setting aside the order dated 08.06.2022 passed in Cril. Misc. (AB) Case No. 5 of 2022 and consequently, cancel the Anticipatory Bail granted to the Accused persons. The said Criminal Petition No. 30 of 2022 is still pending before the Hon'ble High Court of Manipur.

[4] The Investigating Officer, in spite of many handicaps, has to complete the investigation of the present case inasmuch as under the provision of Manipur Lokayukta Act, 2014, there is a timeframe for completion of the investigation. The Apex Court in a catena of cases held that Chapter VII of the Code of Criminal Procedure, 1973 (Cr.P.C.) prescribes the procedure for investigation. Investigation starts after the police officer receives information in regard to an offence. Under the Code "investigation consists generally of the following steps: (i) proceeding to the spot; (ii) ascertainment of the fact and the circumstance of the case; (iii) discovery and arrest of the suspected offender; (iv) collection of evidence relating to the commission of the offence which may consist of (a) the examination of various persons (including the accused) and the reduction of their statements into writing, if the officer thinks fit, (b) the search of places for seizure of things considered necessary for the investigation and to be produced at the trial; and (v) formation of the opinion as to whether on the material collected there is a case to place the accused before a Magistrate for trial and if so taking the necessary steps for the same by the filing of a

charge-sheet under S. 173. It would be suffice to refer to the decisions of the Apex Court in (i) **The State of Madhya Pradesh vs. Mubarak Ali AIR 1959 SSC 707** and (ii) **H.N. Rishbud & Anr. Vs. State of Delhi AIR 1955 SC 196.**

[4.1] The Apex Court in plethora of cases held that formation of an opinion by the police officer as to whether, on the material covered and collected a case is made out to place the accused before the Magistrate for trial, and the submission of either a charge-sheet, or a final report is dependent on the nature of the opinion, so formed. The formation of the said opinion, by the police is the final step in the investigation, and that final step is to be taken only by the police and by no other authority. From the *ratio decidendi* of the cases decided by the Apex Court, it is crystal clear that the statutory power of Police to investigate cannot be interfered with by any authority (reference : (i) **Union of India vs. Prakash P. Hinduja & Anr. (2003) 6 SCC 195,** (ii) **State of W.B. vs. S.N. Basak AIR 1963 SC 447,** (iii) **Abhinandan Jha vs. Dinesh Mishra AIR 1968 SC 117,** (iv) **Emperor vs. Khwaja Nazir Ahmad AIR 1945 PC 18** and (v) **H.N. Rishbud vs. State of Delhi AIR 1955 SC 196.**

[5] The Manipur Lokayukta, keeping in view of the investigating power and the domain of the investigating officer, is to consider the present application dated 20.10.2022 filed by the Investigating Officer of the present case. Under section 26 (1) of the Manipur Lokayukta Act, 2014, 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. For easy reference, section 26 of the Manipur Lokayukta Act, 2014 is quoted 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."

[5.1.] Section 26 of the Manipur Lokayukta Act, 2014 cannot be read in isolation of section 56 and section 57 of the Manipur Lokayukta Act, 2014. Section 57 clearly provides that the provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force. For easy reference sections 56 and 57 of the Manipur Lokayukta Act, 2014 are reproduced hereunder:

"56. The provisions of this Act, shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

57. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force."

[6] It is no more *res integra* that the Lokayukta while exercising its power under the Act is acting as quasi-judicial authority but its functions are more investigative in nature. It would be worthwhile to see the report of the Administrative Reforms Commission constituted by the Hon'ble President of India vide Notification No. 40/3/65-AR(P) dated 5-1-1966, which led to the creation of the institutions of Lokpal and Lokayukta (Reference: **Justice Chandrashekaraiyah vs. Janekera C. Krishna & Ors. (2013) 3 SCC 117**). Para no. 25 of the Commission report read as follows:

"25. The following would be the main features of the institutions of Lokpal and Lokayukta:

(a) They should be demonstrably independent and impartial.

(b) Their investigations and proceedings should be conducted in private and should be informal in character.

(c) Their appointment should, as far as possible, be non-political.

(d) Their status should compare with the highest judicial functionaries in the country.

(e) They should deal with matters in the discretionary field involving acts of injustice, corruption or favouritism.

(f) Their proceedings should not be subject to judicial interference and they should have the maximum latitude and powers in obtaining information relevant to their duties.

(g) They should not look forward to any benefit or pecuniary advantage from the executive Government.

Bearing in mind these essential features of the institutions, the Commission recommend that the Lokpal be appointed at the Centre and Lokayukta at the State level."

[6.1] As per the report of the Administrative Reforms Commission, the proceeding of the Lokayukta should not be subjected to judicial interference and they should have the maximum latitude and powers in obtaining information relevant to their duties. As the Manipur Lokayukta Act, 2014 is in addition to, and not in derogation of, any other law for the time being in force, we are required to see the provisions of The Code of Criminal Procedure, 1973 which deals with Search Warrant while deciding the present application dated 20.10.2022 of the Investigating Officer of the present case. Chapter VII B (Search warrants) consists of sections 93 to 98 and Chapter VII C (General provisions relating to searches) consists of sections 99 to 101. Section 93 confers power on the Court to issue Search Warrant under three different situations. The Apex Court in **V.S. Kuttan Pillai vs. Ramakrishnan & Anr. (1980) 1 SCC 264** held (para 15 of the SCC) that

"15. It was, however, urged that Section 93(1) (c) must be read in the context of Section 93(1) (b) and it would mean that where documents are known to be at certain place and in possession of a certain person any general search warrant as contemplated by Section 93(1) (c) will have to be ruled out because in such a situation Section 93 (1) (a) alone would be attracted. Section 93 (1) (b) comprehends a situation where the Court issues a search warrant in respect of a document or a thing to be recovered from a certain place but it is not known to the Court whether that document or thing is in possession of any particular person. Under clause (b) there is a definite allegation to recover

certain document or thing from a certain specific place but the Court is unaware of the fact whether that document or thing or the place is in possession of a particular person. Section 93(1) (c) comprehends a situation where a search warrant can be issued as Court is unaware of not only the person but even the place where the documents may be found and that a general search is necessary. One cannot, therefore, cut down the power of the Court under Section 93 (1) (c) by importing into it some of the requirements of Section 93 (1) (b). No canon of construction would permit such an erosion of power of the Court to issue a general search warrants. It also comprehends not merely a general search but even an inspection meaning thereby inspection of a place and a general search thereof and seizure of documents or things which the Court considers necessary or desirable for the purpose of an investigation, inquiry, trial or other proceeding under the Code. The High Court accordingly sustained the general search warrant in this case under Section 93(1) (c)."

[6.2.] Keeping in view of relevant provisions of the Cr.P.C. discussed above, the power and jurisdiction of the investigating officer under the given case and also General Power and jurisdiction of the Lokayukta as held by the Hon'ble Supreme Court in a catena of cases, we invoke our power and jurisdiction under section 26 read with section 56, 57 and 29 of the Manipur Lokayukta Act, 2014 for consideration of the application dated 20.10.2022. We have carefully considered the application dated 20.10.2022 of the Investigating Officer of the present case.

[7] In para nos. 2, 3 and 4 of the application dated 20.10.2022 filed by the Investigating Officer of the present case, the reasons for seeking permission for granting permission, to conduct search and seizure at the residence of N. Sarat Singh (Accused person no. 1), Managing Director, MSPCL located at Thangmeiband Yumnam Leikai, Imphal or at the office of the MSPCL located at Electricity Complex, Keishampat Junction, Imphal, are clearly mentioned. Para nos. 2, 3 and 4 of the said application dated 20.10.2022 are reproduced hereunder:

"Several documentary evidence including the Measurements Books are missing and are suspected to be secreted away by the accused person namely N. Sarat Singh, Managing Director, MSPCL (who is Accused no.1) either at his residence located at Thangmeiband Yumnam Leikai, Imphal or at the office of MSPCL located at Electricity Complex, Keishampat Junction, Imphal. Measurement books are extremely important documents which would help ascertain the timeline of the works undertaken and would need to be discovered and produced for this case. There was no reasonable explanation pertaining to the circumstances leading to the loss of Measurement Books nor was an FIR lodged nor any action on part of Chief Engineer as stipulated in the Standard operating procedures of CPWD Works Manual, 2019 was undertaken. Recovery of Measurement Books is crucial for Investigation.

Several registers pertaining to the project are suspected to have been prepared later. Payments have been made without supporting documents. These registers which are crucial to ascertain the genuine timeline of execution of works and are suspected to be secreted away by the accused person namely N. Sarat Singh, Managing Director, MSPCL (who is Accused no.1) either at his residence located at Thangmeiband Yumnam Leikai or at the office of MSPCL located at Electricity Complex, Keishampat Junction, Imphal.

All bill payments made by Accused no.2 in the FIR namely Th. Kaminimohon Singh, the then EE/Transmission Construction Div. No. I (line portion) and Accused no.3 in the FIR namely M. Budhachandra Sharma, the then EE/Sub-Station Construction Div. No. II (Civil works and Sub-Station portion) to the turn-key firm were made with the knowledge and approval of Accused no.1 in the FIR namely N. Sarat Singh, the then Chief Engineer (Power) now MD, MSPCL. The accused persons have failed to furnish the records/documents for supply of the line materials and supply of the materials for Sub-Station portion by the turn-key firm and the transport agencies which were perused for making the payments. Such relevant invoices and other documents are suspected to be either at the residence of N. Sarat Singh, Managing Director, MSPCL (who is Accused no.1) located at Thangmeiband Yumnam Leikai, Imphal or at the office of MSPCL located at Electricity Complex, Keishampat Junction, Imphal and is highly required for the investigation."

[7.1.] On careful perusal of the present application dated 20.10.2022 filed by the Investigating Officer and also the material available on record of the present case, we are of the considered view that there are sufficient reasons and belief that the documents mentioned in the said application dated 20.10.2022 may be secreted in the places mentioned therein by N. Sarat Singh, Managing Director, MSPCL (Accused No. 1). Accordingly, we pass this order granting permission to the Investigating Officer of the present case, Shri Shrey Vats, IPS, Superintendent of Police, Kakching District, Manipur to conduct search and seizure at the residence of N. Sarat Singh (Accused person no. 1), Managing Director, MSPCL located at Thangmeiband Yumnam Leikai, Imphal and/or at the office of the MSPCL located at

Electricity Complex, Keishampat Junction, Imphal. Henceforth, we issue the Search and Seizure Warrant, accordingly, to the Investigating Officer and further ordered to return the Search and Seizure Warrant with an endorsement certifying the date and time and the manner in which the Investigating Officer has executed the Search and Seizure Warrant.

[7.2.] A suitable date and time for the search and seizure should be decided by the Investigating Officer, Shri Shrey Vats, IPS, Superintendent of Police, Kakching District, Manipur but it should be conducted as early as possible.

[8] By invoking our jurisdiction under section 28 of the Manipur Lokayukta Act, 2014, for the purpose of conducting search and seizure abovementioned by the Investigating Officer of the FIR Case No. 4(02)2022 CB-PS U/s 7(b)/13 PC Act & 120-B/34 IPC, the service of the Manipur Police Personnel of the Kakching District, Police Set Up, Kakching District, Manipur for the purpose of assisting the Investigating Officer in conducting the search and seizure, indicated above, are utilized. The particulars of the police personnel under Kakching Police Station and Kakching District, Police Set Up, Manipur, who are going to be utilized in the said search and seizure, shall be decided by the Investigating Officer. The said police personnel of Kakching District, Manipur shall promptly assist the Investigating Officer in conducting the abovesaid search and seizure. The Investigating Officer of the present case is authorized to retain the documents and material exhibits if seized under section 26 (1) of the Manipur Lokayukta Act, 2014 in his safe custody.

[9] Director (Inquiry), Manipur Lokayukta shall also extend all possible assistance to the Investigating Officer in conducting the search and seizure including arranging additional manpower if so warranted and in consultation with DGP, Manipur if deemed necessary.

[10] Search and Seizure Warrant issued in pursuant to this order shall be in the form prepared and settled by the Manipur Lokayukta and Secretary, Manipur Lokayukta is authorized to sign the same.

[11] Deputy Registrar, Manipur Lokayukta is directed to furnish a copy of this order, in sealed cover by Special Messenger, to:

- (i) the Director (Inquiry), Manipur Lokayukta; and
- (ii) Investigating Officer, Shri Shrey Vats, IPS, Superintendent of Police, Kakching District, Manipur.

[12] Await compliance report from the Director (Inquiry), Manipur Lokayukta/Investigating Officer.

Sd/-
MEMBER

Sd/-
CHAIRPERSON