

**BEFORE**  
**MANIPUR LOKAYUKTA**  
*3<sup>rd</sup> Floor, Directorate Complex, 2<sup>nd</sup> M.R., North AOC, Imphal*

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**COMPLAINT CASE NO. 4 OF 2021**

*In the matter between:*

Mr. Waikhom Jotinkumar Singh, aged about 43 years, S/o W. Dhaballo Singh, Thoubal Achouba Makha Leikai, Ex-Ward Development Committee Member, Ward No. 8 of Thoubal Municipal Council, P.O. and P.S. – Thoubal.

... *Complainant*

1. Mr. H. Pradeep Kumar Singh, Executive Officer, Thoubal Municipal Council, Thoubal.
2. Mrs. Waikhom (O) Sanathoi Devi (52), W/o W. Amujao Singh of Thoubal Achouba Pakhangkhong Leirak (Ex-Councillor, Ward No. 8, Thoubal Municipal Council), Ex-Chairman of Ward Development Committee, Ward No. 8, a resident of Thoubal Achouba Pakhangkhong Leirak, P.O. & P.S. – Thoubal.
3. Mr. Yumnam Kullachandra Singh, Executive Engineer of Thoubal Municipal Council, a resident of Thoubal Leishangthem Keli Makhong, P.O. & P.S. – Thoubal.
4. Mrs. Moirangthem Bimola, Section Officer (S.O), Member Secretary Ward Development Committee, Ward No. 8, Thoubal Municipal Council, a resident of Khangabok Awang Leikai, P.O. & P.S. – Thoubal.
5. Mr. Thongam Jiten Meitei, First Class Contractor, a resident of Athokpam Awang Leikai, P.O. & P.S. – Thoubal.

..... *Respondents/Opposite Parties*

**BEFORE**

***Mr. Justice T. Nandakumar Singh, Hon'ble Chairperson  
Mr. Ameising Luikham, Hon'ble Member***

For the Complainant : Mr. Th. Ibohal Singh, Ld. Senior Counsel  
assisted by Mr. Kashianand Kh., Advocate.

For Respondent No. 1: Mr. Romeshchandra Yumnam, Advocate.

For Respondent No. 2: Mr. Th. Mahira, Advocate.

For Respondent No. 3: Mr. Y. Nirmolchand Singh, Ld. Senior  
Advocate assisted by Mr. U. Augusta Singh,  
Advocate.

For Respondent No. 4: Mr. O. Kiranjit Singh, Advocate.

For Respondent No. 5: Mr. R.K. Kulajit Singh, Advocate.

**DATE OF ORDER : 23/12/2022**

**JUDGMENT AND ORDER**

[1] Heard Mr. Th. Ibohal Singh, Ld. Senior Counsel assisted by Mr. Kashianand Kh., Advocate appeared on behalf of the Complainant. Also heard Mr. Romeshchandra Yumnam, learned counsel appeared on behalf of respondent no. 1; Mr. Th. Mahira Singh, learned counsel appears on behalf of respondent no. 2; Mr. Y. Nirmolchand Singh, Ld. Senior Advocate, assisted by Mr. U. Augusta Singh, Advocate, learned counsel appeared on behalf of respondent no. 3; Mr. O. Kiranjit Singh, learned counsel appeared on behalf of Respondent No. 4 and Mr. R.K. Kulajit, learned counsel appears on behalf of respondent no. 5.

[2] By our order dated 16.03.2021, after perusal of the complaint filed by Mr. Waikhom Jotinkumar Singh against the 5 (five) Respondents namely : (i) Mr. H. Pradeep Kumar Singh, Executive Officer, Thoubal Municipal Council, Thoubal; (ii) Mrs. Waikhom (O) Sanathoi Devi, Ex-Councillor, Ward No. 8, Thoubal Municipal Council, Ex-Chairman of Ward Development Committee, Ward No. 8;

(iii) Mr. Yumnam Kullachandra Singh, Executive Engineer of Thoubal Municipal Council; (iv) Mrs. Moirangthem Bimola, Section Officer (S.O), Member Secretary Ward Development Committee, Ward No. 8, Thoubal Municipal Council and (v) Mr. Thongam Jiten Meitei, First Class Contractor, and supporting documents annexed thereto, we were of the considered view that there is a prima facie case for an order to the Director (Inquiry), Manipur Lokayukta to ascertain whether a prima facie case is made out for investigation and also for further proceeding. Accordingly, we direct the Director (Inquiry), Manipur Lokayukta to conduct a Preliminary Inquiry and submit a report within the period prescribed under the Manipur Lokayukta Act, 2014.

[3] In pursuance to our order dated 16.03.2021, Director (Inquiry), Manipur Lokayukta vide his letter dated 05.07.2022 submitted the Preliminary Inquiry Report dated 29.06.2022 of the present case. Thereafter, vide our order dated 14.07.2022, wherein we have quoted the offences/irregularities of the officials/public servants and the conclusion part of the Preliminary Inquiry Report dated 29.06.2022 issued notices to the 5 (five) accused persons namely : (i) Mr. H. Pradeep Kumar Singh, Executive Officer, Thoubal Municipal Council, Thoubal; (ii) Mrs. Waikhom (O) Sanathoi Devi (52), W/o W. Amujao Singh of Thoubal Achouba Pakhangkhong Leirak (Ex-Councillor, Ward No. 8, Thoubal Municipal Council), Ex-Chairman of Ward Development Committee, Ward No. 8, a resident of Thoubal Achouba Pakhangkhong Leirak, P.O. & P.S. – Thoubal; (iii) Mr. Yumnam Kullachandra Singh, Executive Engineer of Thoubal Municipal Council, a resident of Thoubal Leishangthem Keli Makhong, P.O. & P.S. – Thoubal; (iv) Mrs. Moirangthem Bimola, Section Officer (S.O), Member Secretary Ward Development Committee, Ward No. 8, Thoubal Municipal Council, a resident of Khangabok Awang Leikai, P.O. & P.S. – Thoubal and (v) Mr. Thongam Jiten Meitei, First Class Contractor, a resident of Athokpam Awang Leikai, P.O. & P.S. – Thoubal, against whom Preliminary Inquiry Report has been submitted and the complainant for their appearance on 25.07.2022.

[4] The complainant and respondents appeared before Manipur Lokayukta and submitted their comments to the Preliminary Inquiry Report. Ample opportunities were also given to the complainant as well as to the respondents for submission of their cases/comments to the Preliminary Inquiry Report. After hearing the submission of the complainant as well as the respondent, we are now at the stage contemplated under Section 20 (3) of the Manipur Lokayukta Act, 2014. Accordingly, the present Judgment and Order as provided under Section 20 (3) of Manipur Lokayukta Act, 2014, is only for deciding as to whether there exists a *prima facie* case and proceed with one or more actions namely : (a) investigation by any agency; (b) initiation of the departmental proceedings or any other appropriate action against the concerned public servants by the competent authority; and (c) closure of the proceedings against the public servant and to proceed against the complainant under section 47. Such being the situation, we are not making any final decision in any of the points which are being discussed in the course of the present judgment and order. However, we are expressing our considered views taking into consideration of the Preliminary Inquiry Report dated 29.06.2022 submitted by the Inquiry Officer, written comment of the complainant, written comments of the respondents to the finding(s) of the preliminary inquiry against the respondents in the Preliminary Inquiry Report as well as the comment of the competent authority as provided under section 20 (2) of the Manipur Lokayukta Act, 2014 on the allegations made in the complaint basing on the materials, information and documents collected during the preliminary inquiry and also the oral submissions of the parties at length, as to whether there exists a *prima facie* case and proceed with one or more of the action mentioned under Section 20 (3) of the Manipur Lokayukta Act, 2014. Since the present judgment and order is not the final judgment and order for the offences alleged to have been committed by the respondents, very detailed discussion to the extent as to whether prosecution have proved the prosecution case beyond reasonable doubt against the respondents or not is not required.

[5] The succinct fact of the complainant in the complaint is that the Thoubal Municipal Council is a corporate body established under the Manipur Municipality Act, 1994 and the Respondents i.e. Respondent No. 1 is the Executive Officer of Thoubal Municipal Council, Thoubal, Respondent No. 2 is the Ex-Chairman of the Ward Development Committee, Ward No. 8, Respondent No. 3 is the Executive Engineer of Thoubal Municipal Council, Respondent No. 4 is the Member Secretary of the Ward Development Committee, Ward No. 8, Thoubal Municipal Council, Thoubal and Respondent No. 5 is a First Class Contractor. The Ward Development Committee of Ward No. 8, Thoubal Municipal Council under the Chairmanship of the then Councillor i.e. Respondent No. 2, Smt. Waikhom (O) Sanathoi Devi prepared the work programme under letter dated 15.01.2020 for construction of pucca drain at W. Basanta to W. Kerani Singh Ingkhol Mapa, Ward No. 8 and issued the work orders to the Respondent No. 5, Shri Jiten Meitei, First Class Contractor. It is also alleged that the Respondents hatched a conspiracy amongst themselves for misappropriation of the fund in executing the said contract work and they had executed the work by reducing the size of the constructed drain and also the walls of the drain. It is also further alleged that the necessary depths of the drain, the quality and size of the drain walls were also not maintained. The complainant and some other local people inspected the executed work and found out that the work had been done for nominal sake without adhering to the estimate and maintaining the terms and conditions of the works provided in the sanction order as well as the work order.

[6] Manipur Lokayukta while exercising powers under the Act, of course, is acting as a quasi-judicial authority but its functions are investigative in nature and Manipur Lokayukta is placed somewhere in between an investigator and judicial authority, having the element of both. Decision rendered by Manipur Lokayukta, called a report, may not bear the stamp of a judicial decision, as would that of a court or, to a lesser extent, a tribunal, but in formulating the report, Manipur Lokayukta is required to consider the point of view of the person complained against and ensure that the investigation reaches its logical

conclusion, one way or the other, without any interference and without any fear. It would be beneficial to quote the relevant part of the Administrative Reforms Commission's report dated 14.10.1966, which was constituted by the President of India vide Notification No. 40/3/65-AR(P) dated 05/01/1996 as under :

**“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 proceeding 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] No doubt, Manipur Lokayukta has the power and jurisdiction for investigation or preliminary verification, the object of recommendation is only to enable the smooth inquiry and investigation without being hampered by the person concerned and also not to provide an opportunity to temper with the record and to destroy the record. The power and nature of Lokayukta had been discussed and decided in a number of cases by the Hon'ble Supreme Court and held that the proceeding before Lokayukta should not be subjected to judicial interference and they should have the maximum latitude and power in obtaining the information relevant to their duties. There is nothing wrong in mentioning the true fact that while Manipur Lokayukta is dealing with the complaint case for corruption involving several crores of rupees, the judicial interference is a routine matter but in spite of routine judicial interference in the

proceeding of the case, Manipur Lokayukta, at their best level with great difficulties, made an endeavor to fulfill the object for establishing Manipur Lokayukta for the state of Manipur to inquire into the allegations of corruption against certain public functionaries and for matters connected therewith or incidental thereto.

[7] Before discussing the findings of the Preliminary Inquiry Report of the complaint, it would be worth to see the relevant portion of Manipur Municipality Community Participation Act, 2010. Section 3 and section 10 of the Manipur Municipality Community Participation Act, 2010 and the relevant portion of Standard Operating Procedures for CPWD Works Manual - 2019 i.e. SOP No. 5/20 (Physical Measurement Books) are quoted hereunder :

**“3. (1) There shall be a Ward Development Committee for each Ward in a Municipality to be constituted by the State Government immediately after the constitution of the Municipality.**

**(2) Each Ward Development Committee shall consist of –**

- (a) the Councilors of the Ward, who shall be the Chairperson of the Ward Development Committee;**
- (b) two persons to be elected from the Ward;**
- (c) two persons representing the civil society from the Ward, nominated by the State Government;**

**Explanation. - For the purposes of this section, 'civil society' means any non—government organisation or association or persons, established, constituted, or registered under any law for the time being in force and working for social welfare, and includes any community-based organization, professional institution and civic, health, educational, social or cultural body or any trade or industrial organization and such other association or body as the State Government may decide.**

**(3) A person shall be disqualified to continue as such member, if Under the provisions of this Act or any other law for the time being in force, he would be disqualified for being elected as a member of a Municipality.**

**(4) The Executive Officer shall be entitled to take part in the meetings and deliberations of the Ward Development Committee. The Chairman of the Ward Development Committee may request the representatives of concerned municipal departments as special invitees to participate in the meetings whenever problems respecting their departments are to be discussed.**

**(5) Any official of the Municipality nominated by the Executive Officer of the Municipality shall be the Secretary of the Ward Development Committee. All minutes of the proceedings of the meeting of the Ward Development Committee shall be recorded by the Secretary and copy of minutes of the proceedings of each meeting shall be forwarded by him to the Municipality.**

**(6) The term of office of the Ward Development Committee shall be co- extensive with the duration of the Municipality.”**

**“10. The activities of the Ward Development Committee are as follows:**

**(a) Preparation of a Calendar: At the first meeting of the Ward Development Committee for each budget year, the Ward Development Committee shall decide upon specific obligatory agenda for each of the monthly meetings of the Ward Development Committee, remaining in that calendar year, in addition to the specific obligatory agenda for the first meeting of the following budget year. Nothing in sub-section (a) shall prevent:**

**(1) the convenor of a ward Development Committee from adding additional agenda for any meeting of the Ward Development Committee;**

**(2) any other member of the ward Development Committee may, at a meeting of the Ward Development Committee, move a resolution to add to the specific obligatory agenda decided upon for the meeting in question or any subsequent meeting.**

**(b)Preparation and compilation of plans: The Ward Development committee shall prepare the Annual Ward Plan and forward the same to the concerned Municipality for its integration with the Annual Municipal Plan.**

**(c) Preparation of Ward budget:**

**(1) A Ward level budget calendar shall be prepared annually in accordance with Schedule appended to this Act. The Ward Development Committee shall ensure that the budget calendar is strictly adhered to and prepare the budget for their Ward six weeks before the Municipal Budget. The Municipality may suggest changes that may be effected into the Ward level Budget after discussion with the Ward Development Committee.**



**(2) The Municipality Budget shall –**

- (i) aggregate all the Ward Budgets which have been prepared in accordance with sub-section (1) of this section;**
- (ii) have additional account heads for specific receipts and expenditures at the Municipality level.**

**(d) Maintenance of Accounts:**

**(1) Constitution of the Ward Finance Committee- A committee of three persons shall be constituted in every Ward as the Ward Finance Committee.**

**(i) The constitution of the Ward Finance Committee shall be through nomination held within one month of the constitution of the Ward Development Committee. The Chairperson shall nominate the Ward Finance Committee members.**

**(ii) The Ward Finance Committee shall also appoint from amongst themselves, one person as the Chairperson, who shall be the authorized signatory for maintenance and use of accounts.**

**(2) Functions and Duties of the ward Finance Committee-**

**(i) The Ward Finance Committee shall prepare the annual budget for the Ward and place it before the meeting of the Ward Development Committee which will deliberate upon, and approve the budget. The approved Budget shall be presented by the Ward Finance Committee to the Municipality within seven months from the closure of the previous financial year.**

**(ii) The Ward Finance Committee shall also maintain Ward-level bank accounts for all the receipts and expenditure activities of the Ward.**

**(iii) The Ward Finance Committee shall ensure that all fund transfers ' shall be made out of this account to appropriate account heads of the Municipality.**

**(iv) The Ward Finance Committee shall present accounts every three months at the meeting of the Ward Development Committee.**

**(v) The Ward Finance Committee shall prepare a quarterly report of the financial transactions of the Ward Development Committee, which shall include details of its receipts and expenditures and also its projections and suggestions for the next quarter. This report shall be made available to every member of the Ward Development Committee one week before the date fixed for meeting of the Ward Development Committee for discussion of the report.**

(vi) The report of the Ward Finance committee shall be made available for public scrutiny.

**(e) Supervisory Mechanism:**

**(1) The Municipality shall take up the responsibility of providing administrative and infrastructure support to the Ward Development Committee for its proper functioning.**

(2) The ward Development Committee shall create mechanisms for checks and balances over the Government personnel in their Ward. The Ward Development Committees shall have the power to recommend to the competent authority for imposition of penalties in respect of a Government employee for misconduct and negligence of duties.

**(f) Ward Development:**

There shall be a Ward information and Statistics Committee which shall be formed for various developmental and planning works. The constitution and functions of the Committee are given below:-

**(1) Constitution of the Ward Information and Statistics Committee:**

(i) A committee of three persons shall be constituted in every Ward as the Ward Information and Statistics Committee.

(ii) The constitution of the Ward. Information and Statistics Committee shall be through nominations by the Chairperson held within one month of the constitution of the Ward Development Committee:

Provided that members of the Ward Finance Committee shall not be members of the Ward Information and Statistics Committee:

Provided further that the members of the Ward Information and Statistics Committee shall also appoint from amongst themselves, one person as the presiding member who will preside over the meetings of the Ward Information and Statistics Committee.

**(2) Duties of the Ward Information and Statistics Committee:**

(i) It shall be the duty of the Ward Information and Statistics Committee to compile, maintain and Update annually the following information about the Ward in the format prescribed by the concerned Municipality for this purpose. Such information shall include:

(A) Economic Information: Including the number and nature of commercial establishments in the Ward and employment data in these establishments;

**(B) Information relating to Land Use:** includes the changes in patterns of land use, data relating public spaces and civic amenity sites, traffic patterns and public transportation hubs and preservation and restoration of environment, natural resources and heritage sites.

**(C) Infrastructure Index** including the extent of infrastructural development, current and pending projects, and the infrastructural requirements of the Ward.

**(ii)** The report prepared in accordance with sub-clause (B) of clause (f) (2) shall be used by the Ward Development Committee in determining and enforcing the Zoning provisions. It shall be made available on a quarterly basis to the meetings of the Ward Development Committee, reflecting changes since the presentation of the previous report.

**(iii)** The report prepared in accordance with sub clause (C) of clause (f) (2) above shall be used by the Ward Development Committee in allocation of development expenditure by the ward Finance Committee. It shall be made available on a quarterly basis to the meetings of the Ward Development Committee, reflecting changes since the presentation of the previous report.

**(iv) Spatial Planning:** The Ward Development Committee shall:

- (A)** participate in all development plans of the city;
- (B)** enforce zoning and land use regulations;
- (C)** participate in the creation and enforcement of new instruments like transferable development rights, etc.

**(g) Comprehensive intervention for urban poor activities:**

The Ward Development Committee shall be responsible for:

**(i) integrating all existing activities undertaken by the State Government;**

**(ii) preparing and maintaining beneficiary list for all the programmes and schemes undertaken by the State Government in co-ordination with the relevant Government agencies;**

**(iii) preparing a report on the housing and public distribution system in each Ward.**

**(h) Ensure Universal access for selected public services:**

The Ward Development Committee shall be responsible in ensuring universal access in selected public services like education, healthcare, water supply and sanitation.

**(i) Alternative Options:**

Without prejudice to the generality of the foregoing provision,

(a) The Ward Development Committee shall be responsible for decentralized management of the following functions:

- (i) primary collection of Solid Waste Management and decentralized; management of solid waste;
- (ii) desilting of drains;
- (iii) maintenance of street-lights;
- (iv) maintenance of parks;
- (v) deweeding of paths;
- (vi) road works including construction maintenance and restoration thereof; and
- (vii) general beautification of the locality.

(b) the Ward Development Committee shall be specifically empowered to examine Various alternative implementation Options in the above mentioned areas;

(c) the proposal with respect to the alternative implementation option by the local communities shall be submitted to the Ward Development Committee and shall be taken up for discussion at the next meeting of the Ward Development Committee.

### **CPWD Works Manual - 2019**

“SOP NO. 5/20: Physical Measurement Books (Refer Para 5.12.1)

1. The payments to contractors and others for the work done or other services rendered are made on the basis of measurements recorded in the Measurement Book.

2. The measurement book is the basis of all accounts of quantities whether of works done by Contractors or by labourers employed departmentally, or materials received. It is so written that the transactions are readily traceable.

3. These books are considered as very important accounts records and maintained very carefully and accurately as these may have to be produced as evidence in a court of law, if and when required.

4. All the measurement Books belonging to a Division, are numbered serially. A register is maintained in from CPWA 92 showing the serial number of each book.

5. A similar register is maintained in the Sub-Divisional Office showing the names of persons, i.e. Assistant Engineer/Junior Engineer, to whom the Measurement Books are issued.

6. Recording of measurements

**A. Entries at commencement of measurements**

Each set of measurements to be recorded should commence with entries stating:

- (i) In the case of bills for works done:
  - (a) Full name of work as given in the agreements/estimate.
  - (b) Location of work.
  - (c) Name of contractor.
  - (d) Number and date of agreement.
  - (e) Date of written order to commence work.
  - (f) Date of actual completion of work.
  - (g) Date of recording measurements.
  - (h) Reference to previous measurements.
  
- (ii) In the case of bills for supply of materials;
  - (a) Name of supplier.
  - (b) Number and date of supply order/agreement.
  - (c) Purpose of supply in one of the following forms as applicable to the case:
    - (i) Stock (for all supplies for stock purposes).
    - (ii) "Purchase" for direct issue to the work (full name of the work as given in the estimate is mentioned).
    - (iii) "Purchase" for (full name of work as given in estimate) for issue to contractor ..... on..... :
  - (d) Date of written order to commence the supply.
  - (e) Date of actual supply.
  - (f) Date of recording measurements.

**B. Writing of abstract**

- (i) A suitable abstract should then be prepared which should collect in the case of measurements for works done.

**C. Nomenclature of item**

- (i) In case of extra/substituted item of work that is not covered in the agreement, the full nomenclature is reproduced in the Measurement Book and the bill form.
- (ii) The full nomenclature of the items is adopted in preparing abstract of final bill in the Measurement Book and also in the bill form for final bills.

**D. Cross reference in case of running account bill**

If the measurements are taken in connection with a running contract, a reference to the last set of measurements, if any, is given.

**E. Recording of date of completion**

- (i) If the entire job or contract has been completed, the date of completion is duly recorded.

(ii) If the measurements taken are the first set of measurements on a running account, or the first and final measurements, this fact is suitably noted against the entries in the Measurement Book, and in the latter case, the actual date of completion is recorded.

#### **F. Neat recording of measurements**

All measurements are recorded neatly in the Measurement Book.

#### **G. Signature of the contractor**

The signature of the contractor or his/her authorized representative is obtained in the Measurement Book for each set of measurements.

#### **H. Measurements in ink**

The measurements is recorded in ink.

#### **I. Making corrections in measurements**

(i) No entry is erased or overwritten. If a mistake is made, it is corrected by crossing out the incorrect words or figures and inserting the correction. The correction thus made is initiated and dated by the officer recording/checking measurements.

(ii) When any measurements are cancelled or disallowed these must be endorsed by the dated initials of the Officer ordering the cancellation or by a reference to his/her orders, initiated by the Officer who made the measurements, the reasons for cancellation being also recorded.

#### **J. Page number**

(i) The pages of the Measurement Books are machine numbered.

(ii) Entries are recorded continuously and no blank page left or torn out. Any pages or space if left out blank inadvertently is cancelled by diagonal lines, the cancellation being attested and dated.

#### **K. Recorded of measurements only by authorized persons**

All items of work in a project irrespective of their cost is measured and recorded by the Junior Engineer-in-charge of the work. It is, however, open to the Assistant Engineer or the Engineer in Charge to record measurements for any particular item of work himself.

#### **L. Measurement of repetitive works**

In case of works of repetitive type, detailed measurements of 20% of the total number of units, subject to a minimum of 20 units, need only be recorded.

#### **M. Certification of measurements**

**The person recording the measurement should record a dated certificate "Measured by me" over his/her full signature in the Measurement Book.**

##### **11. Preparation of bill**

**(i) On completion of the abstract, the Measurement Book is submitted to the Sub-Divisional Officer, who after carrying out his/her test check should enter the word "Check and bill" with his/her dated initials. The Sub-Divisional Clerk should then check the calculation of quantities in the abstract, and the bill in case of work carried out by contract, and should then place the Measurement Book and the bill before the Sub-Divisional Officer who, after comparing the two, should sign the bill and the Measurement Book at the end of the abstract.**

**(ii) All corrections made by the clerical staff is in red ink."**

[8] Three works for which the present complaint is filed and preliminary inquiry has been conducted are (i) Construction of Pucca Drain from Waikhom Basanta Singh Ingkhol of eastern portion up to Waikhom Kerani Singh Ingkhol of eastern portion; (ii) Construction of Pucca Drain at Waikhom Basanta Singh Ingkhol machin to Waikhom Kerani Singh Ingkhol machin (continuation); and (iii) Construction of Pucca Drain at W. Bimol Singh Ingkhol Mapa to W. Kubera Singh Pakhangkong Leirak. The said three works were awarded to Mr. Thongam Jiten Meitei, First Class Contractor. The particulars of the work order awarded to Mr. Thongam Jiten Meitei, First Class Contractor are (i) Construction of Pucca drain at W. Basanta to W. Kerani Singh Ingkhol mapa, W/No. 8 (Rs. 3,87,363/-) (at page no. 20 of the Preliminary Inquiry Report) and Abstract Cost is Rs. 4,87,650/- (at page no. 21 of the Preliminary Inquiry Report); (ii) Construction of pucca drain with tapping at W. Basanta Ingkhol machin to W. Kerani mapa (84.12 m) Due Course (Rs. 4,37,000/-) (at page no. 32 of the Preliminary Inquiry Report) and the Abstract of Cost is Rs. 4,37,650/- (at page no. 33 of the Preliminary Inquiry Report); and (iii) Construction of pucca drain at Waikhom Kubera Singh ingkhol mapa to Waikhom Basanta Singh ingkhol mapa (Rs. 5,98,723/-) (at page no. 47 of the Preliminary Inquiry Report) and the Abstract of Cost is Rs. 7,53,200/- (at page no. 48 of the Preliminary Inquiry Report).

[8.1] As per the Preliminary Inquiry Report, even though the above said works were awarded to Mr. Thongam Jiten Meitei, First Class Contractor, the works were executed by the husband of Mrs. Waikhom (O) Sanathoi Devi, Ex-Councillor, Ward No. 8, Thoubal Municipal Council/Ex-Chairman of Ward Development Committee, Ward No. 8, Mr. W. Amujao Singh. The cheques for the bills in the name of Mr. Thongam Jiten Meitei, First Class Contractor were received by the Chairperson, of Ward Development Committee, Mrs. W. (O) Sanathoi Devi and also that there is no supervision by the Executive Officer, Thoubal Municipal Council i.e. Respondent No. 1, Mr. H. Pradeep Kumar Singh and Respondent No. 3, Executive Engineer, Thoubal Municipal Council, Shri Yumnam Kullachandra Singh.

[8.2] On perusal of the relevant portion of the Manipur Municipality Community Participation Act, 2010, it is clear that the Executive Officer being the administrative head of the Thoubal Municipality Council has the responsibility to oversee and supervise the activities of the Ward Development Committee and ensure proper implementation of all developmental works under the funds provided to the Council. The relevant sections of Manipur Municipality Community Participation Act, 2010 quoted above will speak very clearly in this regard.

[8.3] The Respondent No. 3, Executive Engineer, Thoubal Municipal Council is the head of the Engineering Section/Cell in the Council and as its head and senior most officer, he has the responsibility, duties and function to ensure that various instructions under the CPWD Manual, relevant provisions of the Act and Rules etc. are adhered and followed. It would appear from the Preliminary Inquiry Report that he has not discharged any of his duties that follow his post and office and has given a free hand to his subordinate to execute the works beyond their competence in violation of all engineering norms.



[8.4] Further, on perusal of the Technical Inspection report and examining the Measurement Books entries available at page nos. 111 to 113 of the Preliminary Inquiry Report, the execution of the three works under the three work orders mentioned above are not in the terms and details mentioned in the work orders and Abstract of Cost. The Measurement Books are not properly maintained, payment of the bills are not on the basis of the measurement recorded in the Measurement Books. Examination of Measurement Books, Offences and irregularities of the officials/public servants and Conclusion as mentioned in the Preliminary Inquiry Report are reproduced hereunder :

**“Examination of Measurement Book Entries: The following observation were made after examination of the relevant Measurement Books (MBs) by the technical team:**

- 1) Clerical errors in addition of values in the Abstract of Cost
- 2) Competent Authority not signing the records in MB.

**Non-destructive test for measurement the strength of concrete (Rebound Hammer Test) was also conducted during the technical inspection. The experts have inferred that the structure of the drain is a rubble masonry one and not of cement concrete.**

**Therefore, the technical report has found that in the structure of the drain the stone aggregate used in the construction of drains were visually found to be a bit on the higher side as compared to the nominal size of 40mm and 20 mm as given in the estimates in addition to the clerical errors and lack of signature of authority in the MBs.**

**It is seen that Clearance of Final Bill without referring to the MBs in at fault as per procedure. Running Account Bills of the projects have not been prepared by the office. The Councillor/Chairperson is the Work Agency. The Contractor is the middleman with 1% commission for the use of his name as work agency.**

**Particulars of cheque issued to Th. Jiten for construction of pucca drain in ward no. 8 by TMC**

Sl. No.	Date	Cheque no.	Amount	Remarks
1	22.04.2020	00017	Rs. 2,30,000/-	14 <sup>th</sup> FC 1 <sup>st</sup>
2	24.06.2020	00019	Rs.1,57,600/-	Installation 2018-19
3	10.07.2020	00022	Rs.2,00,000/-	14 <sup>th</sup> FC 2 <sup>nd</sup>
4	10.08.2020	00024	Rs. 1,87,600/-	Installment 2018-19
5	03.07.2020	00021	Rs.6,00,000/-	14 <sup>th</sup> FC 2019-2020
6	10.08.2020	00023	Rs.4,86,500/-	
7	08.06.2020	00018	Rs.3,00,000/-	3 <sup>rd</sup> SFC 2019-20
8	24.06.2020	00020	Rs.2,98,700/-	

The cheque have been encashed (as shown in page 176), but after getting his commission (as recorded in the statement in page 103), it is handed over to the Councillor to carry out the work/projects as seen from the worksite photos submitted by the Councillor as shown in Annex R (29 pages).

**“Offences/ Irregularities of the Officials/ Public Servants:**

H. Pradeep Kumar Singh, Executive Officer, Thoubal Municipal Council, Thoubal has performed his executive duty of nominating one official of the Municipality as Member Secretary. As the executive head, under section 3 (4) of Manipur Municipality Community Participation Act,2010 he has failed to look into meetings and deliberations of the Ward Development Committee(WDC) as he has not participated in any WDC meeting and failing to ensure proper working by the sub ordinates. He has violated section 3(2)(i) of CCS (Conduct)Rules 1964 which is reproduced below: *“every Government Servant holding a supervisory post shall take all possible steps to ensure the integrity and devotion to duty of all Government Servants for the time being under his control and authority.”*

Waikhom (O) Sanathoi Devi (52) W/O W. Amujao Singh of Thoubal Achouba Pakhangkhong Leirak (Ex-Councillor, Ward No. 8, Thoubal Municipal Council), Ex- Chairman of Ward Development Committee, Ward No. 8, a resident of Thoubal Achouba Pakhangkhong Leirak, P.O. & P.S. – Thoubal has undertaken the role of the Chairperson of the Ward Development Committee but failed to look into the *deviations from official procedure with regard to final bill payment* and the actual construction work being carried out *not conforming to standards as required* and violated section 3(2)(i) of CCS (Conduct)Rules 1964. The Chairperson is also in violation of section 60 of the Manipur Municipalities Act, 1994 (page 177) for being the work agency of the above projects under inquiry in the ward

Yumnam Kullachandra Singh, Executive Engineer of Thoubal Municipal Council, a resident of Thoubal Leishangthem Keli Makhong, P.O. & P.S. – Thoubal has failed to perform his duty. He has *not signed any of the MBs* as required after inspection being the competent authority and also failed to put up the MBs before the Executive Officer for final approval. Therefore the *final bill payment without looking into the MBs* and depending only on photographs as mentioned in the notesheets is erroneous. He has violated section 3(1)(ii) of CCS (Conduct)Rules 1964 and failed to maintain devotion to duty

Moirangthem Bimola, Section Officer (S.O), Member Secretary Ward Development Committee, Ward No.8, Thoubal Municipal Council, a resident of Khangabok Awang Leikai, P.O. & P.S. – Thoubal has performed her duty of inspection but *failed to put up the MBs before the Executive Engineer as well as the Executive Officer for final approval*. Therefore the final bill payment without looking into the MBs and depending only on photographs as mentioned in the notesheets is erroneous. And in doing so, she has violated section 3(1)(ii) of CCS (Conduct)Rules 1964 and failed to maintain devotion to duty.

Thongam Jiten Meitei, First Class Contractor, a resident of Athokpam Awang Leikai, P.O. & P.S. – Thoubal has carried out the assigned works but *failed to carry out the construction as per the detailed estimates and measures* and has violated section 3(1)(vi) of CCS (Conduct) Rules 1964 and failed to maintain high ethical standards and honesty.

**“Conclusion:**

Hence, in keeping view of the records and evidences in hand, the inquiry has found that the allegation that the size of the constructed drains is much smaller is not true. It is proved by the technical inspection report that the average dimensions of the width of the drains is on the higher side of the estimates as per the drawings. In addition to this the thickness of the drain is on the higher side of the estimates.

The allegation that the necessary depth of the drain is not maintained is not true. It is proved by the technical inspection report that the average dimensions of depths of the drain matches with the dimension in the drawing.

The technical report also observed that in the structure of the drain the stone aggregate used in the construction of drains were visually found to be *a bit on the higher side* as compared to the nominal size of 40mm and 20 mm as given in the estimates. Hence, the sanctioned projects/ works of construction of pucca drain in Ward no 8 is executed on the field with deviation in the aggregate stone sizes.

As per the detailed estimates, the structure of the drain to be built must be a cement concrete one but it was found to be of rubble masonry because the aggregate stone sizes are more than 40 mm.

Though the construction works/ projects have been carried out but there have been deviations in terms of the stone sizes and the type of CC structure. Final Bill Payments have been carried out without referring to the MBs. Running Account Bills has not been prepared. The Executive Engineer of Thoubal Municipal Council has not signed the Measurement Books (MBs) violating office procedure. The Section officer who is also serving as the Member Secretary failed to put up the MBs before the Executive Engineer as well as the Executive Officer for final approval. The Executive officer of Thoubal Municipal Council has not ensured the sub-ordinates to perform their duty. Lack of Competency resulting in Procedural lapses on the part of the Govt Officials has been made out. Departmental Inquiry may be initiated against the officials/ public servants i.e. 1) H. Pradeep Kumar Singh, Executive Officer 2) Yumnam Kullachandra Singh, Executive Engineer & 3) Moirangthem Bimola, Section Officer as per provisions of Central Civil Services (Classification, Control & Appeal) Rules 1965 (page 178). The Work Contractor failed to carry out the construction as per the detailed estimates and measures. The Chairperson (Ward no8) Waikhom (O) Sanathoi Devi (52), W. Amujao Singh (Ex- Councillor) & Thongam Jiten Meitei, First Class Contractor colluded and conspired to become

**the work agency of the above projects, hence are charged u/s 120B(2)IPC.**

**Submitted for kind perusal and necessary actions please.”**

[9] We have given our anxious consideration to the offences/irregularities of the officials/public officers and the Conclusion part of the Preliminary Inquiry Report, by keeping it in juxtaposition with the material available on record and also the written comments of the competent authority and accused public servants/individuals, and are of the considered view that there are enough materials for coming to the decision that there exists prima facie case for investigation. Accordingly, we pass the following orders by invoking our jurisdiction under Sections 20 (3), 28 and 32 of the Manipur Lokayukta Act, 2014 :

A) Preliminary Inquiry report shall be taken as an Ejahar for the purpose of registration of the case against the above mentioned 5 (five) accused persons i.e.

(i) Mr. H. Pradeep Kumar Singh, Executive Officer, Thoubal Municipal Council, Thoubal;

(ii) Mrs. Waikhom (O) Sanathoi Devi (52), W/o W. Amujao Singh of Thoubal Achouba Pakhangkhong Leirak (Ex-Councillor, Ward No. 8, Thoubal Municipal Council), Ex-Chairman of Ward Development Committee, Ward No. 8, a resident of Thoubal Achouba Pakhangkhong Leirak, P.O. & P.S. – Thoubal;

(iii) Mr. Yumnam Kullachandra Singh, Executive Engineer of Thoubal Municipal Council, a resident of Thoubal Leishangthem Keli Makhong, P.O. & P.S. – Thoubal;

(iv) Mrs. Moirangthem Bimola, Section Officer (S.O), Member Secretary Ward Development Committee, Ward No. 8, Thoubal Municipal Council, a resident of Khangabok Awang Leikai, P.O. & P.S. – Thoubal; and

(v) Mr. Thongam Jiten Meitei, First Class Contractor, a resident of Athokpam Awang Leikai, P.O. & P.S. – Thoubal

- B) For registration of the case, we have decided, for convenience, that the case should be registered at the Crime Branch Police Station, Imphal.
- C) While invoking our jurisdiction, as indicated above in the larger interest of the public as well as smooth investigation, decided to utilise the service of **Mrs. Diana Konjengbam, MPS, Additional SP, Crime Branch, Imphal**. She while conducting the investigation will not be under the supervision of her senior officer(s) of her department or the station where the present case is to be registered. It is also made clear that the Investigating Officer shall conduct the investigation with full co-ordination with the Director (Inquiry), Manipur Lokayukta. Entrusting the investigation of the present case to **Mrs. Diana Konjengbam, MPS, Additional SP, Crime Branch, Imphal** will be in addition to her normal duty wherever she is posted without disturbing her posting and as such entrustment of the present case for investigation will not amount to new transfer and posting.

- D) The Investigating Officer, **Mrs. Diana Konjengbam, MPS, Additional SP, Crime Branch, Imphal** shall take necessary action to complete the investigation of the present case within 6 (six) months from the date of registration of the case at the Crime Branch Police Station, Imphal. It is also made clear that the Investigating Officer while investigating the present case will not be under the supervision of her senior officer(s) of her department or the station where the present case is to be registered, and it is for the purpose of maintaining the sanctity of Manipur Lokayukta and for not interfering with the proceeding of the case before the Manipur Lokayukta and inquiry and investigation are parts of the proceeding of the case filed before Manipur Lokayukta.
- E) The Director General of Police, Manipur shall ensure the registration of the case at the Crime Branch Police Station, Imphal for the matter indicated above and registration of the present case as indicated above in the Crime Branch Police Station will be done immediately upon receipt of this order; and for registration of the case at the Crime Branch Police Station, Imphal under our order further approval of any authority of the police department or Government of Manipur will not be required. We are passing this order in discharging our statutory duties. The Investigating Officer, **Mrs. Diana Konjengbam, MPS, Additional SP, Crime Branch, Imphal** shall report the registration of the present case at the Crime Branch Police Station to the Manipur Lokayukta through the Director (Inquiry), Manipur Lokayukta, without any delay.

F) Chief Secretary, Government of Manipur and Director General of Police, Manipur shall ensure that the place of posting of the assigned Investigating Officer of this case may not be disturbed without the prior notice to the Manipur Lokayukta.

[10] Deputy Registrar, Manipur Lokayukta is directed to send a copy of this order to:

- i) the Chief Secretary, Government of Manipur;
- ii) the Director General of Police, Manipur;
- iii) the Director (Inquiry), Manipur Lokayukta;
- iii) Mrs. Diana Konjengbam, MPS, Additional SP, Crime Branch, Imphal - for information and necessary prompt action; and
- iv) Parties of the present case.

[11] Await investigation report.

Sd/-  
**MEMBER**

Sd/-  
**CHAIRPERSON**