

## COMPLAINT CASE NO. 1 OF 2023

09.06.2023

1. In pursuance of our order dated 12.05.2023, complainant appeared in person along with his counsel. We have given our anxious consideration to the allegations and assertions made in the complaint.

2. The complainant stated that the Government of India, Ministry of Jal Shakti, Department of Water Resources, Government of India introduced the Accelerated Irrigation Benefits Programme (AIBP) effective from October, 2013. The Complainant also has drawn our attention to the Form of Complaint more particularly para no. 1, wherein it is stated that Expenditure Statement of the works implemented during the period from 2013 upto February, 2018 for the construction of M.I. Dams in respect of Minor Irrigation No. IV, M.I. Deptt., Manipur. He further stated that various photographs of the work sites of the Minor Irrigation Dams in respect of the Minor Irrigation Division No. IV has been annexed in the complaint.

3. Since the allegations and assertions in para nos. 1 and 2 only mentioned above the erection of dams in respect of Minor Irrigation Division No. IV, we have called for the personal appearance of the complainant to find out as to whether his complaint is confined to only Minor Irrigation Division No. IV; to this query the Complainant submitted very clearly that his allegations and assertions is in respect of 102 on-going Minor Irrigation Schemes under PMKSY (AIBP-102). He also drew out attention to the brief report i.e. para No. 4 wherein it is stated that

*"4. In 2015 and 2016 also more particularly by an orders dated 10/07/2015 and 06/10/2015, sum of Rs. 12,28,00,000/- (Rupees Twelve crores twenty eight lakhs) only were sanctioned for the AIBP Capital Assets for States Annual Plan, 2015-16 for the 102 ongoing Minor Irrigation Schemes were paid by the Director (CADWM), Ministry of Water Resources, Government of India, New Delhi and Rs. 5,18,60,000/- (Rupees Five crore eighteen lakhs and sixty thousand) only were also sanction under Pradhan Mantri Krishi Sinchai Yojna (PMKSY) Capital Assets for State Annual Plan, 2015-16. Likewise a sum of Rs. 22,53,40,000/- (Rupees twentytwo crores fifty three lakhs forth thousand) only were also sanctioned for the 102 ongoing M.I. Schemes by an order dated 04/12/2015 issued by the Senior Joint Commissioner, Ministry of Water Resources, River Development & Ganga Rejuvenation States Project Wing, Government of India. However, no work has been executed in connection with the said sanctioned amount. Similarly by an order dated 26/10/2016, a sum of Rs. 20,00,00,000/- (Rupees Twenty Crore) only were sanctioned in connection with 102 ongoing M.I. Schemes by the Director (CADWM), Ministry of Water Resources, RD & GR, Government of India but till today the said works have never been executed by the Department of Minor Irrigation, Manipur and as such all the money sanctioned in connection with the said development schemes for the welfare of the public have been distributed by the competent authorities amongst themselves by making table made utilization certificates."*

4. We have also taken into consideration as to whether the present complaint is barred by limitation as provided under Section 53 of the Manipur Lokayukta Act, 2014. On conjoint reading of the brief report and the complaint it is crystal clear that the complaint is in respect of the on-going Minor Irrigation Schemes and also that the fund was sanctioned in instalment by different orders and it is clear the a sum of Rs. 20,00,00,000/- (Rupees Twenty Crore) only were sanctioned in connection with 102 on-going M.I. Schemes by the Director (CADWM), Ministry of Water Resources, RD & GR, Government of India on 26.10.2016. It is also mentioned that the expenditure statement for the works implemented during the period from 2013 till February, 2015 for the construction of Minor Irrigations Dams in respect of the Minor Irrigation are also enclosed. We have perused the expenditure statement annexed in the present complaint running from page 7 to 15 and also the photographs annexed to the complaint running from page nos. 17 to 33. We also have taken into consideration the allegations and assertions made by the complainant supported by documents and also the submission of the complainant that most of the 102 Minor Irrigation Schemes were not executed but the Commissioner/Secretary (Minor Irrigation), the Executive Engineers concerned and other subordinate staffs such as Assistant Engineers, Section Officers including the contractors had misappropriated the fund for the said 102 Minor Irrigation Schemes without executing the said schemes thereby indulging in corrupt practices.

5. Section 53 of the Manipur Lokayukta Act, 2014 read as follows:

*“53. The Lokayukta shall not inquire or investigate into any complaint, if the complaint is made after the expiry of a period of seven years from the date on which the offence mentioned in such complaint is alleged to have been committed.”*

Therefore, the period of 7 (seven) years is to be counted from the date on which the offence, mentioned in the complaint, is alleged to have been committed. It is clear that as on 26.10.2022, 102 Minor Irrigation Schemes, for which the present complaint is filed, is not completed and is continuing. As per established procedure, schemes would be said to have been completed only on submission of all Utilization Certificates (UCs) along with a Completion Certificate (CC). Even if, 26.10.2022, on which the instalment amount of Rs. 20 crore had been sanctioned for the project, is taken as the date for completion of the project, the period of 7 (seven) years is not completed on the date of filing of the present complaint inasmuch as the present complaint was filed on 02.05.2023. However, we are not making any final decision as to whether the present complaint is

barred by limitation as provided under Section 53 of the Manipur Lokayukta Act, 2014 at this stage. The final decision regarding the limitation of the present complaint will be decided after getting the Preliminary Inquiry Report. At the present stage, we are of the prima facie view that the present complaint is not barred by limitation. It is made clear that opportunity of being heard before deciding the question of limitation would be provided to the respondents against whom the Preliminary Inquiry Report is submitted. It is well settled position of law that one cannot decide his own case i.e. *Nemo debtesse judex in propria* [Reference : **Financial Commissioner (Taxation vs. Punjab & Ors. (1996 9 SCC 281)**].

6. We are not making any finding regarding the complaint, however, at this stage our concern is as to whether there exists a prima facie case for preliminary inquiry or not. On such consideration, we are of the considered view that there is prima facie case for conducting a Preliminary Inquiry.

7. Accordingly, Director (Inquiry), Manipur Lokayukta is directed to conduct a Preliminary Inquiry of the present complaint by entrusting to any of the Inquiry Officers attached to Manipur Lokayukta and submit a report within the period provided under Section 20 of the Manipur Lokayukta Act, 2014.

8. It is also made clear that the Inquiry Officer 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.

9. Registry is directed to furnish a copy of this order and other relevant documents to the Director (Inquiry), Manipur Lokayukta and also to the complainant.

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

Sd/-  
**MEMBER**

Sd/-  
**CHAIRPERSON**