

BEFORE
MANIPUR LOKAYUKTA
3rd Floor, Directorate Complex, 2nd M.R., North AOC, Imphal

COMPLAINT CASE NO. 5 OF 2020

Mr. Kh. Enoch of Lower Phaibung Village Senapati.

... COMPLAINANT

- i) Shri M.L. Markson S/o Late Lakho of Laii Village, Paomata Tadubi Block, Senapati District, the then Chairman for the period from 31.07.2015 to 06.03.2019 (Ex-member of 1-Laii DCC).
- ii) Shri A. Kapani S/o Th. Ashikho of Chakumai, Mao Maram Tadubi Block, Senapati District, the Caretaker Chairman for the period from 07.03.2019 till date (Ex-member of 14-Tadubi DCC).
- iii) Shri P. Veini S/o (L) Pani of Phaibung Khullen, Senapati District, Ex-member of 17-Phaibung DCC, Senapati District.
- iv) Shri Rangnamei Rang Peter, IAS S/o Rangnamei Paoshiba of Katomei village, Senapati District, P.O. & P.S. Senapati a/p Luwangsangbam, Imphal East, the then CEO of ADC, Senapati for the period from September, 2013 to July, 2017 (now Deputy Commissioner, Kamjong District).
- v) Shri Stiff Khapudang, MCS S/o Aleng Khapudang of Konkan village, Kamjong District, Manipur, the then CEO of ADC, Senapati for the period from 13.07.2017

to 09.09.2019 and 11.10.2019 to 06.09.2021 (now Additional Deputy Commissioner, Noney District).

- vi) Smt. Regina Hongray, MCS, W/o George Kangung Moram of Mantripukhri, Imphal East, the then CEO of ADC, Senapati for the period from 10.09.2019 to 10.10.2019 (Now Joint Secretary, Works & Finance Deptt.).
- vii) Shri A. Theiba S/o (L) A. Ngaiyo of Yaikongpao village, Senapati District, in-charge Executive Engineer of ADC, Senapati.
- viii) Shri Mutum Shyamsunder Singh S/o (L) M. Jugindro Singh of Kwakeithel Konjeng Leikai, P.S. Singjamei, Imphal West District, Section Officer of ADC, Senapati.
- ix) Shri Meivei Duo Kh. S/o Kushei of Phaibung Khullen, Senapati District (work agency).
- x) Shri R.S. Luckyson S/o Seipaolu of Phaibung Khunou, Senapati District (work agency).
- xi) Shri D.H. Lao S/o Hralu Lao of Phaibung Khullen, Senapati District (work agency).
- xii) Shri Chisou S/o Dailu of Phaibung Khullen, Senapati District (work agency).
- xiii) Shri P. John S/o Pami of Phaibung Khullen, Senapati District (work agency).
- xiv) Shri Ng. Ngaoni S/o Ngaolu of Phaibung Khullen, Senapati District (work agency).
- xv) Smt. Tionani Duo D/o Mercy of Phaibung Khullen, Senapati District (work agency)

xvi) Shri D.D. Pearson Duo S/o Dalu of Phaibung Khullen,
Senapati District (work agency).

... RESPONDENTS

BEFORE

MR. JUSTICE T. NANDAKUMAR SINGH, HON'BLE CHAIRPERSON
MR. AMEISING LUIKHAM, HON'BLE MEMBER

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| <i>For the Complainant</i> | In Person |
| <i>For the Respondents</i> | 1. Mr. Ajoy Pebam, Advocate assisted by Mr. L. Rojeshon, Advocate for Respondent Nos. 1, 2, 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15 & 16. 2. Mr. M. Digendra, Advocate and Mr. Ch. Genius, Advocate for Respondent No. 5. 3. Mr. P. Ibomcha Singh, Advocate assisted by Mr. Paulianmung Tonsing, Advocate for Respondent No. 6. |

DATE OF ORDER : 18.09.2023

JUDGMENT AND ORDER

[1] Heard the complainant of the Complaint Case and also Mr. Ajoy Pebam, Advocate assisted by Mr. L. Rojeshon, Advocate for Respondent Nos. 1, 2, 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15 & 16; Mr. M. Digendra, Advocate and Mr. Ch. Genius, Advocate for Respondent No. 5; and Mr. P. Ibomcha Singh, Advocate assisted by Mr. Paulianmung Tonsing, Advocate for Respondent No. 6.

[2] The present case i.e. Complaint Case No. 5 of 2020 was heard along with Complaint Case No. 1 of 2021 and Complaint Case No. 4 of 2020 as the similar question of fact and law are involved and accordingly, common orders

were passed in the course of hearing of the complaint cases i.e. Complaint Case No. 4 of 2020, Complaint Case No. 5 of 2020 and Complaint Case No. 1 of 2021. We are now of the considered view that separate judgment and order is required to be passed in each of the Complaint Case i.e. Complaint Case No. 4 of 2020, Complaint Case No. 5 of 2020 and Complaint Case No. 1 of 2021 so that better and effective direction could be made after taking decision under Section 20 (3) of the Manipur Lokayukta Act, 2014. Accordingly, we are writing separate judgment and order in the present Complaint Case i.e. Complaint Case No. 5 of 2020 for taking decision as to whether there exists a prima facie case, and proceed with one or more of the following 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;
- (c) closure of the proceedings against the public servant and to proceed against the complainant under section 47.

[3] The present case was filed by the Complainant, Mr. Kh. Enoch, S/o Shri Khulu of Lower Phaibung Village Senapati, Teshil Chilivai Phaibung, District Senapati against Shri P. Veini, S/o (L) Pani of Phaibung Khullen, Senapati District, Ex-Member of 17 – Phaibung DCC, Senapati District Council and others alleging that they have misappropriated/misused the fund released:

- (a) Under the 13th Finance Commission (2014-2015) released amount Rs. 35,00,000/- (Thirty five lakhs) only. Sanctioned for construction of teacher's quarter Barrack type.
- (b) Under the 14th Finance Commission (2016-2020) released Rs. 1,20,00,000/- (One crore twenty lakh) only sanctioned for construction of IVR.

- (c) Under the 3rd State Finance Commission (2017-2018) released Approx. Rs. 1,00,00,000/- (One Crore) only sanctioned for construction of teacher's Quarter. Under the 15th Finance Commission (2020-2021) released Rs. 50,00,000/- (Fifty Lakhs only).
- (d) Government have sanctioned funds under the ADC Senapati in the department of Agriculture, Horticulture and Fisheries. Approximately Rs. 1,00,00,000/- (One crore only) per department, per member, ADC, in between 2016-2020.

[4] The Manipur Lokayukta, under its order dated 22.12.2020, after hearing the oral submission of the complainants and also after perusal of the supporting documents, made the observation in the present complaint that the present complaint is concerned with 17- Phaibung DCC, Senapati District Council and also made a considered view that there exists a prima facie case for conducting a Preliminary Inquiry and accordingly, decided for conducting a Preliminary Inquiry against the respondents and directed the Director (Inquiry), Manipur Lokayukta to conduct a Preliminary Inquiry and submit the report within the period prescribed under Section 20 of the Manipur Lokayukta Act, 2014 and Manipur Lokayukta Rules. In that order dated 22.12.2020, it was made clear that Director (Inquiry), Manipur Lokayukta and his team while conducting the Preliminary Inquiry shall keep in view the powers and jurisdictions 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. The Director (Inquiry), Manipur Lokayukta under his letter dated 01.02.2021 requested the Manipur Lokayukta for constituting a Technical Appraisal Team for assisting the Inquiry Officer in ascertaining as to whether the work has been properly executed or not and also as to whether the measurement of the work alleged to have been executed had been entered properly in the measurement book (MBs). After consideration of the application

and also requirement of assistance of the Technical Appraisal Team in the course of conducting the Preliminary Inquiry, we passed an order dated 06.02.2021 in Misc. Case No. 1 of 2021 (Reference Complaint Case No. 5 of 2020) for constituting a Technical Appraisal Team consisting of (i) Mr. Telheiba Kongsam, EE/Thoubal Division (from the PWD, Manipur) and; (ii) Mr. Longjam Rojendro Singh, Executive Engineer, DRDA (from the RD&PR Department, Govt. of Manipur).

[5] The Inquiry Officer, who is conducting the Preliminary Inquiry brought to our notice for passing an order that the continuance of Shri S. Khapudang, CEO/SPIO ADC, Senapati will be against the public interest and also will be in the way of free and fair proceeding of the Preliminary Inquiry.

[5.1] After consideration of the material available on record as well as the application submitted by the complainants, we passed an order dated 25.02.2021 in Misc. Case No. 4 of 2021 (Ref. Complaint Case No. 4 of 2020); Misc. Case No. 3 of 2021 (Ref.: Complaint Case No. 5 of 2020); and Misc. Case No. 1 of 2021 (Ref.: Complaint Case No. 1 of 2021) recommending the State Government to transfer Shri S. Khapudang, CEO/SPIO ADC, Senapati from the present place of posting as CEO/SPIO ADC, Senapati in public interest as well as for free and fair proceeding of the Preliminary Inquiry of the present case to any office deemed appropriate by the State Government. The said recommendation was made in the larger interest. The relevant portion of the order dated 25.08.2021, which is a common order passed in Misc. Case No. 4 of 2021 (Ref. Complaint Case No. 4 of 2020); Misc. Case No. 3 of 2021 (Ref.: Complaint Case No. 5 of 2020); and Misc. Case No. 1 of 2021 (Ref. : Complaint Case No. 1 of 2021) is reproduced hereunder:

“3. We have also perused the material available on record as well as the application submitted by the complainant. On such perusal, we are of the considered view that the present inquiry is against the CEO, ADC, Senapati District, Hon’ble Members of ADC, Senapati District and others mentioned in the present Complaint

Case. As on date, as per the information received, it is clear that many of the documents required in the Preliminary Inquiry of the present case are in the custody of the present CEO, ADC, Senapati District namely, Mr. S. Khapudang, SPIO/CEO, ADC, Senapati District. Therefore, it cannot be ruled out that the documents, which are already requisitioned long time back by the Inquiry officer in the course of the Preliminary Inquiry, still lying in the custody of Mr. S. Khapudang, SPIO/CEO, ADC, Senapati District will not be tampered. Over and above, many staff working under the present CEO, ADC, Senapati District are required to be examined. In such case, there is sufficient material that the continuance of Mr. S. Khapudang as SPIO/CEO, ADC, Senapati District will hamper the free and fair proceeding of the Preliminary Inquiry. In the public interest at large and also in the interest of the ADC, Senapati District in particular and also for the free and fair proceeding of the Preliminary Inquiry, we are of the considered view that continuance of Mr. S. Khapudang as SPIO/CEO, ADC, Senapati District will be against the public interest and also will be in the way of free and fair proceeding of the Preliminary Inquiry.

4. For the reasons above said, we, invoking our jurisdiction under Section 32 of the Manipur Lokayukta Act, 2014, recommend to the State Government to transfer Mr. S. Khapudang, SPIO/CEO, ADC, Senapati District from his present place of posting as SPIO/CEO, ADC, Senapati District in the public interest as well as for free and fair Preliminary Inquiry of the present case to any office deemed appropriate by the State Government. This recommendation is made in the larger interest.”

[6] The Inquiry Officer in the course of conducting Preliminary Inquiry in compliance with the requirement under Section 20 (2) of the Manipur Lokayukta Act, 2014 called the comments on the allegations made in the complaint, material information, documents collected in the Preliminary Inquiry

from the public servants and competent authority and obtained their comments. Thereafter, the Inquiry Officer had submitted the Preliminary Inquiry Report to the Manipur Lokayukta through the Director (Inquiry), Manipur Lokayukta. The Director (Inquiry), Manipur Lokayukta under this letter dated 04.02.2022 had submitted the Preliminary Inquiry Report of the present case i.e. Complaint Case No. 5 of 2020 on 04.02.2022.

[7] It is pertinent to mention that this complaint case is for the works of the 17-Phaibung DCC, Senapati District Council. The Preliminary Inquiry Report dated 04.02.2022 was submitted against:

- i) Shri M.L Markson S/o Late Lakho of Laii Village, Paomata Tadubi Block, Senapati District, the then Chairman for the period from 31.07.2015 to 06.03.2019 (Ex-member of 1-Laii DCC)
- ii) Shri A. Kapani S/o Th. Ashikho of Chakumai, Mao Maram Tadubi block, Senapati District, the Caretaker Chairman for the period from 07.03.2019 till date (Ex-member of 14-Tadubi DCC).
- iii) Shri P. Veini S/o (L) Pani of Phaibung Khullen, Senapati District, Ex-member of 17-Phaibung DCC, Senapati District.
- iv) Shri Rangnamei Rang Peter, IAS S/o Rangnamei Paoshiba of Katomei village, Senapati District, P.O. & P.S. Senapati a/p Luwangsangbam, Imphal East, the then CEO of ADC, Senapati for the period from September 2013 to July 2017 (now Deputy Commissioner, Kamjong District).
- v) Shri Stiff Khapudang MCS S/o Aleng Khapudang of Konkan village, Kamjong District, Manipur, the then CEO

of ADC, Senapati for the period from 13.07.2017 to 09.09.2019 and 11.10.2019 to 06.09.2021 (now Additional Deputy Commissioner, Noney District)

- vi) Smt. Regina Hongray, MCS, W/o George Kangung Moram of Mantripukhri, Imphal East, the then CEO of ADC, Senapati for the period from 10.09.2019 to 10.10.2019 (Now Joint Secretary, Works & Finance Deptt.)
- vii) Shri A. Theiba S/o (L) A. Ngaiyo of Yaikongpao village, Senapati District, in-charge Executive Engineer of ADC, Senapati.
- viii) Shri Mutum Shyamsunder Singh S/o (L) M. Jugindro Singh of Kwakeithel Konjeng Leikai, P.S Singjamei, Imphal West District, Section Officer of ADC, Senapati.
- ix) Shri Meivei Duo Kh. S/o Kushei of Phaibung Khullen, Senapati District (work agency).
- x) Shri R.S. Luckyson S/o Seipaolu of Phaibung Khunou, Senapati District (work agency).
- xi) Shri D.H. Lao S/o Hralu Lao of Phaibung Khullen, Senapati District (work agency).
- xii) Shri Chisou S/o Dailu of Phaibung Khullen, Senapati District (work agency).
- xiii) Shri P. John S/o Pami of Phaibung Khullen, Senapati District (work agency).
- xiv) Shri Ng. Ngaoni S/o Ngaolu of Phaibung Khullen, Senapati District (work agency).
- xv) Smt. Tionani Duo D/o Mercy of Phaibung Khullen, Senapati District (work agency)

- xvi) Shri D.D. Pearson Duo S/o Dalu of Phaibung Khullen, Senapati District (work agency).

[8] After careful consideration of the Preliminary Inquiry Report dated 04.02.2022 and also the document available at that stage, comments of the public servants and competent authority, we are of the considered view that a prima facie case is established against the said 16 (sixteen) persons for committing the offences punishable under Section 7(b)/13 PC Act 120-B/34 IPC and directed the Deputy Registrar, Manipur Lokayukta to issue notice to the complainants as well as to the said 16 (sixteen) persons for their appearance before Manipur Lokayukta. Vide our order dated 04.03.2022, the said 16 (sixteen) persons had been made Respondents in the present complaint Case i.e. Complaint Case No. 5 of 2020 and all of them had been furnished with a copy of the Preliminary Inquiry Report and the Respondent had filed their comments to the said Preliminary Inquiry Report and written arguments. The complainants as well as the Respondents were heard at length on a number of sittings of the Manipur Lokayukta in the present complaint. Manipur Lokayukta also had taken extreme care so that the Respondents as well as the complaint would have ample opportunity to put up their case before the Manipur Lokayukta. As the present judgment and order is not the final judgment and order for the offences alleged to have been committed by the Respondents as per the Preliminary Inquiry Report, the very detailed discussion to the extent as to whether prosecution case has proved the prosecution case beyond reasonable doubt against the Respondents or not is not required. The present judgment and order is only for deciding as to whether there exists a prima facie case, and proceed with one or more of the following 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;
- (c) closure of the proceedings against the public servant and to proceed against the complainant under section 47.

[9] The funds, for which allegation is made for misappropriation, are under the 3rd State Finance Commission, 14th Finance Commission and 15th Finance Commission. Guidelines for implementation of the Finance Commission Award were issued by the Ministry of Finance for each Finance Commission:-

- (i) Guidelines issued by Ministry of Finance for the 13th Finance Commission vide No. 12(2)FCD/2010 dated 23rd September, 2010.
- (ii) Guidelines for release of Grants to 'Excluded Areas' i.e. areas not covered under Part IX & IXA of the Constitution under the 14th Finance Commission vide Office Memorandum No. 13(34)/FFC/FCD/2017-18 dated 20.10.2017. Page 4 of this OM, mentions:

“Objective of Grant-in-aid/special financial assistance:-

The Grant for excluded areas is intended to be used to support and strengthen the delivery of basic civic services including water supply, sanitation including septic management, sewage and solid waste management, storm water drainage, maintenance of community assets, maintenance of roads, footpaths, street-lighting, burial and cremation grounds and any other basic service within the functions assigned to Autonomous District Councils/ designated agency under relevant legislations.”

[10] It may be seen that in spite of the objectives of the 14th FC award of grant in aid/special financial assistance contained in the guidelines for release of grants to excluded areas i.e. areas not covered under part IX and IX A of the constitution to use the fund to support and strengthen the delivery the **basic**

civic services including water supply, sanitation including supplies tank management of community assets, maintenance of roads, footpaths street light and cremation grounds **and any other basic service**, the Preliminary Inquiry Report shows that all the funds have not been used for the basic civic services, inasmuch as some funds had been used to benefit individual beneficiaries.

[11] At district level, Autonomous District Councils (ADC) shall constitute a committee who will be responsible for identification, planning and implementation of projects/works under Schedule VI Areas. However, in Non-Schedule VI Areas, designated agency ADCs/Council or any other administrative structure available in the excluded areas perform the same functions as mentioned for Schedule VI Areas.

[11.1] Such projects/works as well as benefits accruing to individuals would not fall within the objective of the 14 FC award for support and strengthening the delivery of basic civic services and any other basic service within the function assign to ADC/designated agency under relevant legislations.

[11.2] The Guidelines for release of Grants to 'Excluded Areas' i.e. areas not covered under Para IX & IXA of the Constitution of the Government of India issued vide F.No.13(34)/FFC/FCD/2017-18 dated 20.10.2017 provides under caption "Fund flow mechanism and release of grants that "The concerned ADCs/designated agency may decide to channelize the funds to local village councils for ensuring the proper, efficient and effective implementation of the projects/ works and maintain full accountability and transparency". This part of the guidelines implies that the ADC/ designated agency have the option to decide for implementation of the works through local village councils.

[11.3] The Government of Manipur felt the need of framing a comprehensive guidelines for implementation of the civil works up to Rs. 20.00 lakhs under the Department of Tribal Affairs & Hills and accordingly, the Government of

Manipur issued an Office Memorandum being No. 14/50/2019-TA&H(Art) dated 19.03.2020 that the Village Beneficiary Committee (VBC) of 5 (five) members for each work shall be constituted duly recommended by the Chairman and Secretary of the Village as Implementing Agency of civil work upto Rs. 20.00 lakhs. All members of the Committee shall be resident of the village with at least one women representative. The VBC shall nominate Chairman, Vice Chairman and Finance Secretary from amongst themselves. Chairman and Finance Secretary shall be joint signatories of the Bank Account open for the purpose. For easy reference the Office Memorandum dated 19.03.2020 is reproduced hereunder :

**“MANIPUR GAZETTE
EXTRAORDINARY
PUBLISHED BY AUTHORITY**

**No. 145 Imphal, Tuesday, September 8, 2020 (Bhadra
17,1942)**

**GOVERNMENT OF MANIPUR
SECRETARIAT: TRIBAL AFFAIRS & HILLS DEPARTMENT**

**OFFICE MEMORANDUM
Imphal, the 19th March, 2020**

No. 14/50/2019-TA&H (Art): Having felt the need to frame comprehensive guidelines for implementation of civil works upto Rs. 20.00 lakhs under the Department of Tribal Affairs & Hills, the following guidelines are issued here below:

(i) Village Beneficiary Committee (VBC) of 5 (five) members for each work shall be constituted duly recommended by the Chairman and Secretary of the Village as Implementing Agency of civil work upto Rs. 20.00 lakhs. All members of the Committee shall be resident of the village with at least one women representative. The VBC shall nominate Chairman, Vice Chairman and Finance Secretary from amongst themselves. Chairman and Finance Secretary shall be joint signatories of the Bank Account open for the purpose.

(ii) Land required for creation of any asset under the schemes of the Department shall be donated/gifted to the Directorate of Tribal Affairs and Hills for the purpose mandated under the scheme before commencement of any construction activity.

(iii) Implementation of civil works of upto Rs. 20.00 lakhs by Village Beneficiary Committee with technical assistance by the Engineering Cell of the Department without tender.

2. This Office Memorandum is issued with the approval of State Cabinet on its Sitting held on 03.03.2020.

3. This Office Memorandum shall come into force with immediate effect.

**LETKHOGIN HAOKIP,
Additional Chief Secretary
(Tribal Affairs & Hills),
Government of Manipur”**

[11.4] The Government of Manipur issued an Office Memorandum being No. 19/8/2021- Hills(FC) dated 29.11.2021 for release of fund in 6 (six) Autonomous District Councils. Under that Office Memorandum, all Autonomous District Councils shall adopt 70:30 mode of release of fund for all the civil works to the Agencies in respect of State Grants-in-aid, State Finance Commission (SFC) and Central Finance Commission(CFC) Award. For easy reference, the Office Memorandum dated 29.11.2021 is reproduced hereunder:

**“GOVERNMENT OF MANIPUR
SECRETARIAT HILLS DEPARTMENT**

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OFFICE MEMORANDUM
Imphal, the 29th November, 2021

Subject: - Mode of release of fund in 6(six) Autonomous District Councils.

No. 19/8/2021- Hills(FC): All Autonomous District Councils shall adopt 70:30 mode of release of fund for all the civil works to the Agencies in respect of State Grants-in-aid, State Finance Commission (SFC) and Central Finance Commission(CFC) Award.

2. The Mode of release of funds should be strictly followed by all the Chief Executive Officers of 6(six) Autonomous District Councils.

3. The O.M. shall into force with immediate effect.

**Sd/-
(D.K. Thangboi)
Addl. Secretary (Tribal
Affairs & Hills),
Government of Manipur
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Copy to:-

1. PS to Hon'ble Minister (Tribal Affairs & Hills), Manipur.
2. Caretaker Chairman of ADC, CCp, Chandel, Tml, Kpi, Spti & Ukl.
3. PS to Addl. Chief Secretary (Tribal Affairs & Hills), Govt. of Manipur.
4. Director (Tribal Affairs & Hills), Manipur.
5. Deputy Commissioner, CCp, Chandel, Tml, Kpi, Spti & Ukl.
6. Chief Executive Officer of ADC, CCp, Chandel, Tml, Kpi, Spti & Ukl.
7. Office copy/Guard file."

[12] The Governor of Manipur in exercise of the powers conferred by Section 51 read with Section 53 of the Manipur (Hill Areas) District Councils Act, 1971 (76 of 1971) makes Rules called "The Manipur (Hill Areas) District Councils Rules, 1972 (hereinafter referred to as "Rule 1972"). The Government of Manipur, Planning & Development Department vide No. SPL. O(R)R/DC/72 dated 13th March, 1972 notified the Rule 1972 and was published in the Manipur Gazette Extraordinary No. 162-E-116 Imphal, Monday, March 13 1972. Rule 86 (2) B of the Rule 1972 clearly provides the write off of stores and tools and plants belonging to the Engineering Department. It is provided that in regard to stores and tools and plants belonging to the Engineering Department, the provisions of C.P.W.D. Code shall continue to apply until the State Government issues its own P.W.D. Code in which case the latter shall become applicable to the Council for the purpose of this rule.

[12.1] Rule 93 of the Rule 1972 provides that 'No work to be executed without proper sanction'. No work shall be executed on behalf of the Council until detailed estimate of the cost has been prepared in the prescribed Form together with the necessary plans, and technical sanction thereto has been accorded by a competent Engineering Officer where the cost does not exceed Rs. 50,000/- and the Governor where the cost exceeds Rs. 50,000/- subject to the provisions of rule 110, the expenditure sanction for all works shall be accorded by the Council.

[12.2] Rule 95 of the Rule 1972 provides that no tender shall be called for if the work is undertaken by the Council departmentally. No work exceeding Rs. 5000/- in value shall be allotted except on the basis of tender.

[12.3] Under Rule 97 of the Rule 1972 it is provided that the provisions of C.P.W.D. Codes etc. will be applicable for the works undertaken by the District Councils. For easy reference Rule 90, Rule, 91, Rule 93, Rule 95, Rule, 96 and Rule 97 of the Rule 1972 are reproduced hereunder:

“90. General Instructions:- (i) The detailed procedure to be observed in dealing with the transaction relating to the Council and in keeping and rendering accounts of such transactions shall, consistently with the provisions in these Rules, be prescribed by the Governor in consultation with the Accountant General concerned and embodied in an Account Code.

(ii) Audit:- The Account of the Councils shall be subject to the Audit of the Accountant General. The Councils may have its own internal audit organization also. The account of the Council shall also be open for audit by the Internal Audit wing of the State Government.

91. Administrative approval for works:- (1) No original work shall be undertaken on behalf of the Council until administrative approval has been accorded to the work by the Chairman, in the case of a work not exceeding Rs. 5,000/- in value and subject to the provisions of rule 93 by the Council in all other cases.

(2) The Chairman or the Council, as the case may be, shall not accord administrative approval to any work unless estimates and plans have been approved by the authority specified in these rules.

(3) Before according such administrative approval to any work, the Chairman, the Council or the Governor as the case may be, satisfy himself or itself that:-

(a) funds for the execution of the work are available, and

(b) funds are likely to be forthcoming annually for maintenance after completion of the work.

93. No work to be executed without proper sanction:- No work shall be executed on behalf of the Council until detailed estimate of the cost has been prepared in the prescribed Form together with the necessary plans, and technical sanction thereto has been accorded by a competent Engineer Officer where the cost does not exceed Rs. 50,000/- and by the Governor where the cost

exceeds Rs. 50,000/- subject to the provision of rule 110, the expenditure sanction for all works shall be accorded by the Council.

95. Tenders:- (1) No tender shall be called for if the work is undertaken by the Council departmentally.

(2) Subject to the provision of sub rule (1) no work exceeding Rs. 5,000/- in value shall be allotted except on the basis of tender.

(3) All tenders shall be opened by the Chief Executive Officer or by any other officer authorized by the Council in this behalf and thereafter the tenders shall be accepted by the following authorities:

(i) Tenders upto Rs. 5,000/- and Assistant Engineer.

(ii) Tenders upto Rs. 50,000/- and Executive Engineer.

(iii) In all other cases, Council with previous approval of the Governor.

(4) Where no tender is received in spite of calls, the work shall be allotted by the Council on the basis of negotiation and with the previous approval of the Governor where the cost exceeds Rs. 50,000/-

Provided that before invoking this sub-rule tenders shall have been called for at least twice after giving, on each occasion, notice of not less than three weeks.

96. Revised administrative approval:- If the detailed estimates of any project when prepared, exceed the amount administratively approved by 10 per cent, or more, or if it becomes apparent during the execution of any work that the amount administratively approved will be exceeded by 10 per cent or more owing to increase of rates or other causes, the revised administrative approval of the competent authority to the increased expenditure shall be obtained without delay. Similarly, revised administrative approval shall be obtained to important modifications of the proposal originally approved, even though the cost thereof may be covered by saving on other items.

97. Applications of C.P.W.D. Codes etc. :- For all other purposes not provided for in the Act or these rules, the provisions of all the codes, Rules and regulations, which are applicable for a work undertaken by the Government of Manipur shall be deemed to be applicable in the case of a work undertaken by the Council.”

[13] The Standard Operating Procedures (SOPs) for CPWD Works Manual are to be read in conjunction with the provisions of CPWD Works Manual,

2019. Relevant portions of Chapter 5 (Contract Management) of the CPWD Works Manual 2019 are reproduced hereunder:

“5.6.4 Responsibility for Quality of Work

The officer who records/test checks the measurements for an item of work will be responsible for the quality, quantity/measurements and dimensional accuracy of that item of work. In respect of all works, the responsibility of various officers for checking of materials and workmanship of items of works shall be as given in SOP 5/10. The T/S Authority shall be responsible for the overall quality of work.

5.12 Measurement of Work

All measurements are to be done as per provisions of GCC and abstract of schedule of measurements and payments are to be entered through PFMS portal of CPWD using E-MB module.

5.12.1 In Case Physical Measurement Books are Used

The procedures on operation of MB i.e. writing of MB, Recording of measurement, Movement of MB, Transfer of MB, Review of MB, Loss of MB etc. are given in SOP 5/20.

5.12.3 Measurements for Inadmissible Items

Items claimed by the contractor which in the wisdom of the Engineer in Charge are not admissible for payment, measurements should be recorded without prejudice for record purposes only under heading “Inadmissible items claimed but not included in the payment” so that in case it is subsequently decided to admit the contractor’s claims in DRC/Arbitrations/Court proceedings, there should be no difficulty in determining the quantities of such work done.

5.12.5 Advance Payments for Work Done and Measurement/Not Measured

Advance payments can be made to the contractor on a running account bill form for the work done and measurements submitted by him, but not checked, on receipt of an application from the contractor for financial aid in the shape of part payment. It can be paid by the Engineer in Charge as a lump-sum advance payment on Hand Receipt Form 28, subject to the conditions given in SOP 5/22.

SOP NO. 5/10 Responsibility of Officers for Quality of Work (Refer Para 5.6.4)

1. To ensure that materials duly approved are used in the work, samples of various materials are approved by the Engineer in Charge and by NIT approving authority not below the rank of SE for projects above the powers of EE.
2. Wherever necessary the above mentioned authorities approve the sources for respective materials.
3. Approved samples of materials are signed by the approving authority and the contractor and preserved till the end of the project.

4. Samples of various materials, fittings are approved well in advance and displayed at sites of works with make and name of the manufacturer/supplier.

5. The material non-conforming to specifications are promptly rejected and removed from site.

6. It is incumbent upon the Engineer in Charge to keep a watch over regular testing of materials before making payment at the stage of each running bill. For this purpose, a proforma as per Annexure-54 is prescribed.

7. Samples for tests are taken mostly by the Junior Engineers, or some by the Assistant Engineers.

8. Samples for 10% of mandatory tests are collected by the Engineer in Charges. 10% of the field tests are got done by the Engineer in Charges in their presence.

9. A Guard file is maintained at all work sites, containing copies of all inspection reports to-date.

10. Site Order book, Record of test., etc. are put up for entries and reviewed by the inspecting officers

11. The inspecting officers of the rank of Superintending Engineer and above not only confine themselves to review of progress, coordination and general matters, but also inspect the work from quality Assurance aspects.

12. The Engineer in Charge invariably reviews and signs the guard file of earlier inspections, Site Order Book, Register of tests carried out etc.

13. Checklist

(i) As and when any important item is taken up for execution, the Junior Engineer/Assistant Engineer should go through the specifications and invariably make a checklist.

(ii) This Checklist is got approved from the Engineer in Charge, and is shown to the inspecting officers.

(iii) The important items inter-alia include foundation work, including reinforcement and shuttering, brickwork, cast-in-situ mosaic flooring, doors & windows, plumbing, including water supply pipe lines, roof treatment, earth filling etc. which are a few illustrative items for checklist purposes.

(iv) Sample checklists for items of concrete for raft, columns/beams/slabs, water supply lines, brickwork and plastering are given in Annexure- 26 for guidance.

14. To avoid dampness and leakage, the Engineer in Charge ensures that necessary tests are carried out for proper slopes of canopies, chajjas, terracing, drainage and sanitary works before these are covered/concealed, and also ensure rectification of defects noticed.

15. The Engineer in Charge ensure availability of the required test equipments for field tests, as well as an updated copy of specifications, copies of agreement at sites of works.

16. In respect of all works, the responsibility of various officers for checking of materials and workmanship is given in Annexure- 27

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:

In the case of bills for works done:

Full name of work as given in the agreements/estimate.

Location of work.

Name of contractor.

Number and date of agreement.

Date of written order to commence work.

Date of actual completion of work.

Date of recording measurements.

Reference to previous measurements.

In the case of bills for supply of materials;

Name of supplier.

Number and date of supply order/agreement.

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..... :

Date of written order to commence the supply.

Date of actual supply.

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."

[14] In spite of the existence of guidelines issued by Government of India, Ministry of Finance, Department of Expenditure, Finance Commission Division vide F. No. 13(34)/FFC/FCD/2017-18 dated 20.10.2017, the Department of Tribal Affairs & Hills issued an Office Memorandum being No. 22/202/2018-(Hills) dated 09.11.2018 issued by the Department of Tribal Affairs & Hills, Government of Manipur. For easy reference, the said Office Memorandum dated 09.11.2018 is reproduced hereunder:

**"GOVERNMENT OF MANIPUR
SECRETARIATE: HILLS DEPARTMENT**

**OFFICE MEMORANDUM
Imphal, the 9th November, 2018**

Subject: Implementation/execution of work under State Fund, State Finance Commission and Central Finance Commission Grant to 6 ADC Manipur.

No.22/202/2018- (HILLS): Having felt the need to utilize the fund granted from the State Fund, State Finance Commission and Central Finance Commission in a rational way and to achieve optimal welfare of hill people. It is crucial to streamline effective method of implementation of the grant in the line of the guideline of the State Finance Commission and Central Finance Commission.

- 1 The Autonomous District Councils shall be responsible for identification, planning and implementation of projects/works for creation of durable community assets based on locally felt needs.**
- 2 The Autonomous District Councils shall submit identified works/projects to the Government for approval.**
- 3 In no case, Autonomous District Councils shall change the identified and approved works /projects without prior approval of the Government.**
- 4 The Autonomous District Councils, as usual, shall have the flexibility to select appropriate Agency/Individual from the local areas through which the work shall be executed under the supervision of respective technical staff of the councils.**
- 5 The Senior-most Technical Officer, PWD of respective Autonomous District Councils shall perform all duties, responsibilities and function as the Executive Engineer and shall have technical sanctioning power not exceeding Rs.50 (fifty) lakh.**
- 6 The Autonomous District Councils shall maintain proper Register for the funds allocated to Agencies/Individuals. All Agencies/Individuals who execute works/projects shall promptly submit Completion Report so that the Councils may submit Utilization Certificate to the Government on time.**
- 7 This O.M. shall be strictly adhered to for the time being in force.**

**Sd/-
(Letkhogin Haokip)
Additional Chief Secretary (Tribal Affairs & Hills)
Government of Manipur**

Copy to:

- 1 Secretary to Her Excellency, Governor of Manipur, Raj Bhavan, Imphal**
- 2 PPS to Hon'ble Dy. Chief Minister, Manipur**
- 3 PPS to Hon'ble Minister (TA &H), Manipur**
- 4 PS to all Hon'ble Chairman, ADC (CDL, SPTI, TML, CCPUR, KPI, UKL), Manipur**
- 5 Accountant General, Manipur**
- 6 Director (Ptg & Sty), Manipur for publication in the Manipur Gazette (Extraordinary)**
- 7 All Chief Executive Officer, ADC (CDL, SPTI, TML, CCPUR, KPI, UKL), Manipur**
- 8 All Treasury Officers/Sub-Treasury Officer, Manipur**
- 9 Guard file."**

[14.1] From the reading of the two communications namely guidelines issued by Government of India, Ministry of Finance, Department of Expenditure, Finance Commission Division vide F. No. 13(34)/FFC/FCD/2017-18 dated 20.10.2017 and Office Memorandum being No. 22/202/2018-(Hills) dated 09.11.2018 issued by the Department of Tribal Affairs & Hills, Government of Manipur, it is clear that the latter OM, particularly para 4, appears to have ignored the advice which stated that ***“The concerned ADCs/designated agency may decide to channelize the funds to local village councils for ensuring the proper, efficient and effective implementation of the projects/works and maintain full accountability and transparency.”***

[14.2] Accordingly, we passed a common order dated 27.03.2023 in the present complaint cases for seeking clarification from the Department of TA & Hills, Government of Manipur. The order dated 27.03.2023 is reproduced hereunder:

**“COMPLAINT CASE NO. 1 OF 2021
WITH
COMPLAINT CASE NO. 4 OF 2020
AND
COMPLAINT CASE NO. 5 OF 2020**

27.03.2023

- 1. Complainant(s) appeared in person. The learned counsels for the Respondents are also present.**
- 2. Submissions of the learned counsels appearing for the Respondents and the Complainant(s) are heard at length.**
- 3. Sections 21 of the Manipur Lokayukta Act, 2014 provides that at any stage of the proceeding, if the Lokayukta considers it necessary to inquire into the conduct of any person other than the accused; or is of opinion that the reputation of any person other than an accused is likely to be prejudicially affected by the preliminary inquiry, the Lokayukta shall give to that person a reasonable opportunity of being heard in the preliminary inquiry and to produce evidence in his defence, consistent with the principles of natural justice. Further, Section 22 of**

the Manipur Lokayukta Act, 2014 clearly provides that Lokayukta may require any public servant or any other person who, in its opinion, is able to furnish information or produce documents relevant to such preliminary inquiry or investigation, to furnish any such information or produce any such document. For easy reference Sections 21 and 22 of the Manipur Lokayukta Act, 2014 are quoted hereunder:

“21. If, at any stage of the proceeding, the Lokayukta-

(a) Considers it necessary to inquire into the conduct of any person other than the accused; or

(b) Is of opinion that the reputation of any person other than an accused is likely to be prejudicially affected by the preliminary inquiry.

the Lokayukta shall give to that person a reasonable opportunity of being heard in the preliminary inquiry and to produce evidence in his defence, consistent with the principles of natural justice.

22. Subject to the provisions of this Act, for the purpose of any preliminary inquiry or investigation, the Lokayukta or the investigating agency, as the case may be, may require any public servant or any other person who, in its opinion, is able to furnish information or produce documents relevant to such preliminary inquiry or investigation, to furnish any such information or produce any such document.”

4. Office Memorandum of the Government of Manipur dated 09.11.2018 issued by the Additional Chief Secretary (Tribal Affairs & Hills), Government of Manipur under the subject – Implementation/execution of work under State Fund, State Finance Commission and Central Finance Commission Grant to 6 ADC, Manipur clearly provides among other that :

(i) The Autonomous District Councils shall be responsible for identification, planning and implementation of projects/works for creation of durable community assets based on locally felt needs.

(ii) The Autonomous District Councils shall submit identified works/projects to the Government for approval.

5. On bare perusal of the Office Memorandum dated 09.11.2018, it is clear that it is the responsibility of the Autonomous District Councils to identify and implement the project for creation of the durable community assets based

on locally felt needs. Further, it is clear from the O.M. dated 09.11.2018 that it is for the Department of Tribal Affairs and Hills to approve the works/projects of the ADC .

6. There is also Guideline issued by the Ministry of Finance, Department of Expenditure, Finance Commission Division, Government of India for release of Grants to 'Excluded Area' i.e. areas not covered under Part IX & IXA of the Constitution. The objective of the Guideline is also mentioned therein. For easy reference, of some relevant contents of the Guideline for release of Grants to 'Excluded Areas' mentioned therein are quoted hereunder:

"Objective of Grant-in-aid/special financial assistance:-

The Grant for excluded areas is intended to be used to support and strengthen the delivery of basic civic services including water supply, sanitation including septic management, sewage and solid waste management, storm water drainage, maintenance of community assets, maintenance of roads, footpaths, street-lighting, burial and cremation grounds and any other basic service within the functions assigned to Autonomous District Councils/ designated agency under relevant legislations.

Identification and Prioritization of works/Projects:-

The works/projects should cover subjects which have been transferred to the Autonomous District Councils/ designated agency and should mainly focus on delivery of the basic civic services to the people. The works/project should show measurable outcomes. It may be noted that any cost escalation and / or committed liability beyond the funds allocated for the projects shall not be provided by the Central Government.

The ADC/designated agency shall ensure that there is not duplication of expenditure on the same project. The expenditure should be incurred as per the prescribed Finance Manual/Guidelines/Rules of the respective State Government applicable for the excluded areas.

Fund Flow mechanism and release of Grants

.... The Autonomous District Council/designated agency may decide to channelize the funds to local village councils for ensuring the proper, efficient and effective implementation of the project/works and maintain full accountability and transparency.

Maintenances of Accounts

The Autonomous District Council/designated agency shall be responsible for maintenance of the books of accounts for the funds allocated and disbursed to Village Council as per the norms and procedure as prescribed under the relevant Rules and guidelines of CAG/AG of the State concerned.”

7. On bare perusal of the said Guideline, it is crystal clear that the object for Grant-in-Aid is to support and strengthen the delivery of the basic civic services and also the maintenance of account clearly shows that the Autonomous District Councils/designated agency shall be responsible for maintenance of the books of accounts for the funds allocated and disbursed to Village Council.

8. On conjoint reading of the said Office Memorandum dated 09.11.2018 and also the said Guideline for release of Grants to ‘Excluded Areas’ mentioned above, it is crystal clear that it is the responsibility of the Autonomous District Councils to identify and implement project for creation of the durable community assets based on the locally felt needs, it is the duty of the Government to approve work/project to be identified by the Autonomous District Councils focusing on the delivery of the basis civic services to the people. The Office Memorandum dated 09.11.2018 and the said Guideline clearly laid down that the grant in aid to the Autonomous District Councils would be for the support of the delivery of the basis civic service for the people and not for any individuals.

9. In the course of hearing of the present complaint and also on perusal of the Preliminary Inquiry Report, it appears that the Autonomous District Councils while identifying and implementing the project under grant-in-aid, did not comply with the said Office Memorandum dated 09.11.2018 which states that the grant-in-aid is for the creation of the durable community assets based on locally felt needs inasmuch as some of the projects are prepared by the Autonomous District Councils for some individuals and not for community and Government has approved the said plans/projects submitted by the Autonomous District Councils for individuals. It appears that the Government, while approving the said plans/projects submitted by the Autonomous District Councils has lost sight of the said Office Memorandum dated 09.11.2018 of the Government of Manipur more particularly para nos. 1 and 2 of the said Office Memorandum dated 09.11.2018.

10. **In the above factual circumstances, we by invoking our jurisdiction under sections 21 and 22 of the Manipur Lokayukta Act, 2014 direct the Administrative Secretary (Tribal Affairs & Hills), Government of Manipur to furnish information or produce documents as to how and under what circumstances, the department had approved the plan and project identified by the Autonomous District Councils for individuals under the Grant-in-aid under the State Fund, State Finance Commission and Central Finance Commission within 10 (ten) days from the date of receipt of this order.**

11. **Deputy Registrar, Manipur Lokayukta is directed to communicate this order to the Administrative Secretary (Tribal Affairs & Hills), Government of Manipur for information and necessary action. Also furnish a copy of this order to the complainant(s) as well as the learned counsels appearing for the respondents.**

12. **List this case on 17.04.2023.**

**Sd/-
MEMBER**

**Sd/-
CHAIRPERSON**

[14.3] The letter dated 28.03.2023 sent to the department of TA&H seeking clarification is reproduced below:-

**“No. 1/Dy. Reg/Corr/Mn.Lokayukta/ 2021
OFFICE OF THE MANIPUR LOKAYUKTA
3rd FLOOR, DIRECTORATE COMPLEX, 2nd M.R., NORTH A.O.C,
IMPHAL**

Imphal, 28th March, 2023

To,

**The Administrative Secretary (Tribal Affairs and Hills)
Government of Manipur.**

Subject: Request for furnishing comment within 10 days of receipt of this letter.

Ref: Manipur Lokayukta’s order dated 27.03.2023 passed in Complaint Case No. 1 of 2021, Complaint Case No. 5 of 2020 and Complaint Case No. 4 of 2020.

Sir/ Madam,

I am directed to furnish herewith a copy of the order cited above for information and to request you to kindly furnish your Comment to Manipur Lokayukta within 10 (ten) days from the date of receipt of this letter.

Attention is drawn to Para No. [10] of the order which requires the departments concerned to take necessary action.

Yours faithfully,

*Sd/-
(S. Khupboi Aimol)
Deputy Registrar: Manipur Lokayukta.*

Enclosed : As stated above.

Copy to:

- 1. P.S. to Hon'ble Chairperson, Manipur Lokayukta.**
- 2. P.S. to Hon'ble Member, Manipur Lokayukta.**
- 3. To parties concerned.**
- 4. Guard file."**

[14.4] Before the reply to the Lokayukta's letter dated 28.03.2023 was received from the ACS 9TA & Hills), Government of Manipur, we passed an order dated 04.04.2023 in Complaint Case No 6 of 2021 seeking clarification of Para No. 4 of the Office Memorandum dated 09.11.2018 from the same authority i.e. ACS (TA & Hills), Government of Manipur. The order dated 04.04.2023 passed in Complaint Case No. 6 of 2021 reads as follows:

"Complaint Case No. 6 of 2021
04.04.2023

- 1. After the conclusion of hearing of the present case and kept in CAV, while preparing the judgment and order, it has been come to our notice the Office Memorandum being No. 22/202/2018-(Hills) dated 09.11.2018 issued by the Department of Tribal Affairs & Hills, Government of Manipur. For easy reference, the said Office Memorandum dated 09.11.2018 is reproduced hereunder:**

**"GOVERNMENT OF MANIPUR
SECRETARIATE: HILLS DEPARTMENT**

OFFICE MEMORANDUM
Imphal, the 9th November, 2018

Subject: Implementation/execution of work under State Fund, State Finance Commission and Central Finance Commission Grant to 6 ADC Manipur.

No.22/202/2018- (HILLS): Having felt the need to utilize the fund granted from the State Fund, State Finance

Commission and Central Finance Commission in a rational way and to achieve optimal welfare of hill people. It is crucial to streamline effective method of implementation of the grant in the line of the guideline of the State Finance Commission and Central Finance Commission.

- 1. The Autonomous District Councils shall be responsible for identification, planning and implementation of projects/works for creation of durable community assets based on locally felt needs.**
- 2. The Autonomous District Councils shall submit identified works/projects to the Government for approval.**
- 3. In no case, Autonomous District Councils shall change the identified and approved works /projects without prior approval of the Government.**
- 4. The Autonomous District Councils, as usual, shall have the flexibility to select appropriate Agency/Individual from the local areas through which the work shall be executed under the supervision of respective technical staff of the councils.**
- 5. The Senior-most Technical Officer, PWD of respective Autonomous District Councils shall perform all duties, responsibilities and function as the Executive Engineer and shall have technical sanctioning power not exceeding Rs.50 (fifty) lakh.**
- 6. The Autonomous District Councils shall maintain proper Register for the funds allocated to Agencies/Individuals. All Agencies/Individuals who execute works/projects shall promptly submit Completion Report so that the Councils may submit Utilization Certificate to the Government on time.**
- 7. This O.M. shall be strictly adhered to for the time being in force.**

Sd/-

(Letkhogin Haokip)

**Additional Chief Secretary (Tribal Affairs & Hills)
Government of Manipur**

Copy to:

- 1. Secretary to Her Excellency, Governor of Manipur, Raj Bhavan, Imphal**
- 2. PPS to Hon'ble Dy. Chief Minister, Manipur**
- 3. PPS to Hon'ble Minister (TA &H), Manipur**
- 4. PS to all Hon'ble Chairman, ADC (CDL, SPTI, TML, CCPUR, KPI, UKL), Manipur**
- 5. Accountant General, Manipur**
- 6. Director (Ptg & Sty), Manipur for publication in the Manipur Gazette (Extraordinary)**

7. *All Chief Executive Officer, ADC (CDL, SPTI, TML, CCPUR, KPI, UKL), Manipur*
8. *All Treasury Officers/Sub-Treasury Officer, Manipur*
9. *Guard file.”*

2. At present, we are very much concern with para no. 4 of the Office Memorandum dated 09.11.2018 – “Autonomous District Councils, as usual, shall have the flexibility to select appropriate Agency/Individual from the local areas through which the work shall be executed under the supervision of respective technical staff of the councils.” The Government of Manipur in exercise of the power conferred by Clause (X) of Sub-Section (2) of Section 51 of the Manipur (Hill Areas) District Councils Act, 1971 framed the Rules namely, “The Manipur Grant-in-aid to Autonomous District Councils Rules, 1981” (hereinafter referred to ‘Rules of 1981’). The present case is concerned with the Grant-in-aid under 14th Finance Commission and under State Finance Commission during the year 2015-2020. Rule 15 of the Rules of 1981 clearly provides the power to give necessary direction by the Government of Manipur regarding spending of Grant-in-aid by the Councils. Rule 15 of the Rules of 1981 is reproduced hereunder:

“15. The grant-in-aid shall be spent by the Councils in accordance with provisions of the Manipur (Hill Areas) District Councils Acts, 1971 and Manipur (Hill Areas) District Councils Rules, 1972 or in accordance with any directive that may be given by the Government of Manipur without prejudice to the aforesaid Act and Rules.”

3. It is so well settled law that Executive instruction cannot be issued in derogatory to the Act and Rules but Executive instruction could be issued in supplementing the Act and Rules where there are grey areas in the Act and Rules. Therefore, it is well settled law that Executive instruction cannot be issued in violation of the Act and Rules. Hence, the said directions of the Government of Manipur in the form of Office Memorandum dated 09.11.2018 more particularly para no. 4 cannot in in derogation of the relevant Act and Rules but in supplementary of the Act and Rules. Rule 13 of the Rules of 1981 also provides that grants-in-aid shall be governed by the provisions of the rules 148 and 153 of General Financial Rules, 1963 as amended from time to time and other Orders issued thereunder by the Government of Manipur without prejudice to the Manipur (Hill Areas) District Councils Act, 1971 and the Manipur (Hill Areas) District Councils Rules, 1972. Rule 95 of the Manipur (Hill Areas) District Councils Rules, 1972 mandates that there shall be tenders for the work more than Rs. 5000/- and also the Rule 95 of the Manipur (Hill Areas) District Councils Rules, 1972 further provides that all the CPWD Code, rules and regulation which are applicable for a work undertaken by the Government shall be deemed to be applicable in the case of a work undertaken by the Councils.

4. From the records, it appears that para no. 4 of the Office Memorandum dated 09.11.2018 issued by the Department of

Tribal Affairs & Hills, Government of Manipur is not clear, more particularly, - “as usual, shall have the flexibility to select appropriate Agency/Individual from the local areas through which the work shall be executed under the supervision of respective technical staff of the councils.” We are of the considered view that Government of Manipur is not oblivious of the power and jurisdiction to issue the Executive instruction and the manner of issuing the executive instruction and also the limit of power in issuing the executive instruction. It is well settled law that executive instruction cannot be issued in derogation or infraction of the Act and Rules.

5. In the above context, we are seeking clarification regarding para no. 4 of the Office Memorandum dated 09.11.2018 issued by the Department of Tribal Affairs & Hills, Government of Manipur from the Government of Manipur. Deputy Registrar, Manipur Lokayukta is directed to seek clarification in this regard by writing a letter to the Administrative Secretary (Tribal Affairs & Hills), Government of Manipur. Deputy Registrar, Manipur Lokayukta is further directed to enclose a copy of this order while writing the letter for clarification to the Administrative Secretary (Tribal Affairs & Hills), Government of Manipur.

6. It is made clear that the Administrative Secretary (Tribal Affairs & Hills), Government of Manipur shall furnish the clarification seek for within 14 (fourteen) days from the receipt of the said letter of Deputy Registrar, Manipur Lokayukta.

7. Await clarification from the Administrative Secretary (Tribal Affairs & Hills), Government of Manipur.

SD/-
MEMBER

SD/-
CHAIRPERSON”

[14.5] With reference to Lokayukta’s letter dated 28.03.2023 a reply was received from the department of TA&H dated 17.04.2023 and is reproduced below:-

“GOVERNMENT OF MANIPUR
SECRETARIAT:- TRIBAL AFFAIRS AND HILLS DEPARTMENT

Imphal, 17th April, 2023

No. TA/26/2023-e-TA & H

To

The Deputy Registrar
Manipur Lokayukta
3rd Floor, Directorate Complex
2nd M.R. North AOC, Imphal

Subject:- Requesting for furnishing comments within 10 days of receipt of letter; Reply thereof.

Ref:- Manipur Lokayukta order dated 27.03.2023 passed in Complaint case No.1 of 2021, complaint case No. 5 of 2020 and complaint case No. 4 of 2020.

Sir,

In inviting a reference to your letter No. 1/Dy.Reg/Corr/Mn./Manipur Lokayukta/2021, dated 28th March 2023, I am directed to submit herewith comments of Tribal Affairs and Hills Department in connection with the above complaint cases.

Whenever allocation of funds under Finance Commission awards are received by the Tribal Affairs and Hills Department, proposals are called from the Autonomous District Councils. Once these proposals are received by Government Department, it is processed for administrative approval. Thereafter, concurrence of Finance Department is sought for issue of Expenditures sanction and release of funds.

It is respectfully submitted that Government has kept in view O.M dated 9.11.2018. The actual documents can be submitted if required by the Manipur Lokayukta.

Yours faithfully,

Sd/-

(V. Vumlunmang)

Additional Chief Secretary (TA & Hills)
Government of Manipur

Copy to:-

1. PPS to Hon'ble Minister (TA & Hills) Manipur
2. PS to Additional Chief Secretary (TA & Hills)
Government of Manipur
3. Chief Executive Officer, ADC, Senapati
4. Office copy."

[14.6] The reply from the ACS, Department of TA&H, Govt. of Manipur dated 17.04.2023 was examined and it is clear that the reply has not addressed the issues raised in the order of the Lokayukta dated 27.03.2023. In view of this, the Lokayukta was constraint and compelled to order for the seizure of the file where the decision was taken to issue the OM date 09.11.2018 to understand the rationale and the examination of the matter warranting such OM by the department of TA&H.

[14.7] The Lokayukta felt it necessary to make an Order date 07.06.2023 directing the I.O. concerned to seize the particular file wherein the OM dated 09.11.2018 was issued. The Lokayukta's order is reproduced below:-

"COMPLAINT CASE NO. 6 OF 2021

07.06.2023 1. Administrative Secretary (Tribal Affairs & Hills), Government of Manipur has been requested to furnish clarification as to the para no. 4 of the Office Memorandum dated 09.11.20218 issued by the department of Tribal Affairs & Hills, Government of Manipur. Rule 15 of "the Manipur Grant-in-Aid to Autonomous District Councils Rules, 1981" clearly provides that the Grant-in-Aid shall be spent by the Councils in accordance with provisions of the Manipur (Hill Areas) District Councils Act, 1971 and Manipur (Hill Areas) District Councils Rules, 1972 or in accordance with any directive that may be given by the Government of Manipur without prejudice to the aforesaid Act and Rules. Therefore, any directive given by the Government of Manipur in the matter relating with the spending Grant-in-Aid shall be without prejudice to the Act and Rules i.e. Manipur Grant-in-Aid to Autonomous District Councils Rules, 1981, Manipur (Hill Areas) District Councils Act, 1971 and Manipur (Hill Areas) District Councils Rules, 1972.

2. It appears prima facie that the Office Memorandum dated 09.11.2018 issued by the department of Tribal Affairs & hills, Government of Manipur cannot be read harmoniously with the Act and Rules i.e. Manipur (Hill Areas) District Councils Act, 1971, Manipur (Hill Areas) District Councils Rules, 1972 and Manipur Grant-in-Aid to the Autonomous District Councils Rules, 1981. Accordingly, Manipur Lokayukta vide its order dated 04.04.2023 passed in Complaint Case No. 6 of 2021 sought clarification as to how and under what circumstances the

Office Memorandum dated 09.11.2018 had been issued by the Administrative Department (TA& Hills) Government of Manipur.

3. In response to the said order of the Manipur Lokayukta dated 04.04.2023 passed in Complaint Case No. 6 of 2021, the Additional Chief Secretary (TA & Hills), Government of Manipur, Mr. V. Vumlunmang sent a reply vide his letter dated 20.04.2023 to the Deputy Registrar, Manipur Lokayukta. On perusal of the said reply dated 20.04.2023, it seems that it is not a reply to the clarification sought for by the Manipur Lokayukta under its order dated 04.04.2023 passed in the present complaint. In other words, the Administrative Secretary (TA & Hills), Government of Manipur has not given any reply to the clarification sought for by the Manipur Lokayukta under its order dated 04.04.2023.

4. In the above circumstances, we require to see the file having No. 22/202/2018- (HILLS) under which Office Memorandum dated 09.11.2023 had been issued and any other files related with the said Office Memorandum.

5. Under Section 26 of the Manipur Lokayukta Act, 2014, if Manipur 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, may authorised an officer who is conducting the inquiry of the related case to search and seize such documents. Further, section 22 of the Manipur Lokayukta Act, 2014 provides that “subject to the provisions of this Act, for the purpose of any preliminary inquiry or investigation, the Lokayukta or the investigating agency, as the case may be, may require any public servant or any other person who, in its opinion, is able to furnish information or produce documents relevant to such

preliminary inquiry or investigation, to furnish any such information or produce any such document.”

6. The Administrative Secretary (TA & Hills), Government of Manipur has been given ample opportunity to give clarification to the queries sought for under our order dated 04.04.2023 passed in Complaint Case No. 6 of 2021 and also to produce related files i.e. file No. 22/202/2018- (HILLS) and other related files for issuing Office Memorandum dated 09.11.202. But as on today, the Manipur Lokayukta is not getting a proper response.

7. In the above factual backdrop, for the ends of justice and also for fair and proper proceeding of the Complaint Case No. 6 of 21021, Shri P. Shanker Singh, Addl. SP, who is conducting the Preliminary Inquiry of the present case is authorised to seize the file being no. No. 22/202/2018- (HILLS) of the department of (TA & Hills), Government of Manipur and other files, if any, relating to Office Memorandum dated 09.11.2023 and submit the file along with necessary report to Manipur Lokayukta on or before 14.06.2023.

8. Registry is directed to furnish a copy of this order to Shri P. Shanker Singh, Addl. SP, Inquiry Officer of Complaint Case No. 6 of 2021 for necessary compliance.

Sd/-
MEMBER Sd/-
CHAIRPERSON”

[14.8] Examination of the file indicates that the proposal for issue of guidelines was initiated by the letter addressed to the ACS, TA&H from the CEO/ADC, Senapati vide his letter dated 6th November, 2018. In the TA&H department a new file was opened and submitted by the Under Secretary who had discussed the matter without naming the person with whom he had discussed the matter and the file was marked to the Deputy Secretary and ACS (TA&H), Govt. of Manipur. Only the signatures of Shri R.A. Ransing, Under Secretary (TA&H),

Shri Letkhogin Haokip, IAS (Rtd) ACS of the Department of Tribal Affairs & Hills, Govt. of Manipur and Shri N. Kayisii Minister (TA&H) are found in the note sheet side of the file, but there is no signature of the Deputy Secretary. The proposal was submitted by the ACS to Shri N. Kayisii, (current MLA) who was the Cabinet Minister of the Department of Tribal Affairs & Hills, Govt. of Manipur at the relevant point of time and he had approved the proposal. As required under section 20(1) of the Manipur Lokayukta Act, 2014 opportunity has been given to the aforesaid two public servants and the then Hon'ble Minister (Shri N. Kayisii) to give their written reply as to whether there exists a prima facie case against them for proceeding with an investigation vide order dated 22.06.2023 passed in Complaint Case No. 1 of 2021, Complaint Case No. 4 of 2020 and Complaint Case No. 5 of 2020. Relevant portions of which read as follows :

“2. On perusal of the said Office Memorandum dated 09.11.2018 relating with the fund awarded under the various Finance Commissions, it is clear that the said file had been processed on neck breaking speed i.e. the file was initiated, processed and cleared on the same date i.e. 09.11.2018. On 09.11.2018 the file was initiated and processed by the then Under Secretary, the then Additional Chief Secretary and finally approved on the same day i.e. 09.11.2018 by the then Minister concerned for issuing the said Office Memorandum dated 09.11.2018. Para no. 4 of the Office memorandum dated 09.11.2018 is in contradictory and cannot be read harmoniously with the Guidelines for Release and Utilization of Grant recommended by the Thirteenth Finance Commission (FC-XIII) for Rural and Urban Local Bodies (Local Bodies Grant) being No. F.12(2) FCD/2010 and Guidelines for release of Grants to ‘Excluded Areas’ i.e. areas not covered under Part IX & IXA of the Constitution vide Office Memorandum No. F. No. 13(34)/FFC/FCD/2017-18 dated 20.10.2017 and the provisions of the Manipur (Hill Areas) District Councils Rules, 1972, Rules governing Grant-in-Aid to Autonomous District Councils of Manipur State, 1981.

3. The said Office Memorandum dated 09.11.2018 is in clear infraction of

- (i) the Rule Nos. 90, 91, 93, 95, 96 and 97 of the Manipur (Hill Areas) District Councils Rules, 1972;**
- (ii) Rule Nos. 13 and 15 of the Rules governing Grant-in-Aid to Autonomous District Councils of Manipur State, 1981;**

- (iii) the said Guidelines for release of grants to 'Excluded Areas' i.e. areas not covered under part IX and IXA of the Constitution dated 20.10.2017 issued by Ministry of Finance, Department of Expenditure, Finance Commission Division, Government of India; and
- (iv) Rule Nos. 34A (c), 55 (xxii) (d) and Schedule Nos. 11 and 18 of the Rules of Business of the Government of Manipur.
-

4. It is fairly settled law that no administrative instruction/office memorandum whatsoever be the reason cannot be issued in violation of the Act and Rules. It appears from the record that para no. 4 of the said office memorandum dated 09.11.2018 has sown the seed for mis-appropriation/mis-use of fund awarded under the said Finance Commissions for the Autonomous District Councils of Manipur without following the provisions of the said Rules and Guidelines issued by the Ministry of Finance Department of Expenditure, Finance Commission Division. Therefore, a notice is to be issued for clarification/show cause to the then Under Secretary, (TA & Hills), Government of Manipur (Dr. R.A. Ransing, MSS); the then Additional Chief Secretary (TA & Hills), Government of Manipur (Mr. Letkhogin Haokip, IAS now retired); and the then Minister (TA & Hills), Government of Manipur (Mr. N. Kayisii (present MLA Tadubi Assembly Constituency)) as to why the said Office Memorandum dated 09.11.2018 was issued for giving flexibility to select appropriate agency/individuals from the local area to which work shall be executed under the supervision of the respective technical staff on the ground that District Councils is a political institution. There is no law under which political institution can act in the manner they desire in violation of Act and Rules.

6. At this stage, we are not making any observation and finding that the Autonomous District Councils and authority concerned has mis-appropriated the fund awarded under the different Finance Commissions for Autonomous District Councils but we are only considering the allegation for mis-appropriation of fund at the present stage of Preliminary Inquiry and in compliance of the principle of natural justice, we are giving notice to the then under Secretary Dr. R.A. Ransing, MSS now Deputy Secretary (TA & Hills), Government of Manipur, the then Additional Chief Secretary (TA & Hills), Government of Manipur (Mr. Letkhogin Haokip, IAS now retired); and the then Minister (TA & Hills), Government of Manipur (Mr. N. Kayisii (present MLA Tadubi Assembly Constituency)) for submitting their show-cause.

7. Issue notice to the then under Secretary Dr. R.A. Ransing, MSS now Deputy Secretary (TA & Hills), Government of Manipur, the then Additional Chief Secretary (TA & Hills), Government of Manipur (Mr. Letkhogin Haokip, IAS now retired); and the then Minister (TA & Hills), Government of Manipur (Mr. N. Kayisii (present MLA Tadubi Assembly Constituency)) for submitting their show-cause on or before 3 (three) weeks from the date of receipt of this order."

[14.9] The letter addressed to Shri N. Kayisii, (current MLA), Shri Letkhogin Haokip, IAS (Rtd.) and Shri Dr. R.A. Ransing, MSS, Under Secretary, TA&H (now Deputy Secretary) was sent to show-cause within a specified period. The letter dated 26th June 2023 is reproduced below:-

**“No. 1/Dy. Reg/Corr/Mn.Lokayukta/2021
OFFICE OF THE MANIPUR LOKAYUKTA
3rd FLOOR, DIRECTORATE COMPLEX, 2nd M.R., NORTH
A.O.C, IMPHAL**

Imphal, 26th June, 2023

To

- 1. Dr. R.A. Ransing, Deputy Secretary, (TA & Hills)**
- 2. Mr. Letkhogin Haokip (the then Addl. Chief Secretary, (TA & Hills))**
- 3. Mr. N. Kayisii (MLA, Tadubi Assembly Constituency)**

Subject: Forwarding of Manipur Lokayukta’s order dated 22.06.2023 passed in Complaint Case No. 1 of 2021, Complaint Case No.4 of 2020 and Complaint Case No. 5 of 2020.

Sir,

I am directed to issue notice herewith the above cited order for information and further necessary compliance.

Kindly take note of para No. [7] of the above order dated 22.06.2023 which is reproduced hereunder;

- 7. Issue notice to the then under Secretary Dr. R.A. Ransing, MSS now Deputy Secretary (TA & Hills), Government of Manipur; the then Additional chief Secretary (TA & Hills), Government of Manipur (Mr. Letkhogin Haokip), IAS now retired); the then Minister (TA & Hills), Government of Manipur (Mr. N. Kayisii, present MLA Tadubi Assembly Constituency) for submitting their show-cause on or before 3 (three) weeks from the date of receipt of this order.**

Yours faithfully,

Sd/-
(Robert Singh Ksh.)
Secretary: Manipur Lokayukta

Enclosed : As stated above.

Copy to:

1. P.S. to Hon'ble Chairperson, Manipur Lokayukta.
2. P.S. to Hon'ble Member, Manipur Lokayukta.
3. Guard file."

[14.10] Individual replies to Lokayukta's letter was received from Shri N. Kayisii, (current MLA), Shri Letkhogin Haokip, IAS (Rtd.) and Shri Dr. R.A. Ransing, Under Secretary, TA&H (now promoted to Deputy Secretary) on 11th July it is found that their comments/clarification on the matter are similar in content. One letter is reproduced below:-

"To

The Secretary
Manipur Lokayukta
3rd Floor, Directorate Complex,
2nd MR, North A.O.C, Imphal

Ref: - Notice No.1/Dy. Reg/Corr/Mn.Lokayukta/2021, dated 23.06.2023 issued by the Secretary, Manipur Lokayukta

Subject: Humble Show Cause Statement to the notice referred above.

Respected Sir,

With reference to the notice referred above, I am submitting the following as my Show Cause Statement.

I have gone through the Order dated 22.06.2023 passed by the Hon'ble Manipur Lokayukta in Complaint Case No. 1 of 2021, Complaint Case No. 4 of 2020, and Complaint Case No. 5 of 2020. By the said order, I was directed to submit my explanation as to how and why the said Office Memorandum dated 09.11.2018 was issued by the State Government.

The Government of India has decided to provide budgetary support for the development of all areas not covered under the ambit of Fourteenth Finance Commission known as "Excluded Areas" i.e. areas not covered under Part IX and IXA of the Constitution. Accordingly, an Officer Memorandum dated 20.10.2017

was issued by the Ministry Of Finance, Department of Expenditure, Finance Commission Division. The said Office Memorandum deals with the guidelines for release of Grants to “Excluded Areas” i.e. areas not covered under Part IX and IXA of the Constitution.

Para (iii) of the Guidelines under the column Modalities for Planning and Execution states that “the above-mentioned Committee/designated agency will have the flexibility to spend the amount for development activities in these “Excluded Areas”. Para (ii) states that the designated agency should be the Autonomous District Councils/Councils or any other administrative structure available in the excluded areas.

Fund flow mechanisms and release of Grants are elaborately explained under the column “Fund flow mechanism and release of Grants”. In the said column, it has been states that “the concerned ADCs/designated agency may decide to channelize the funds to local village councils for ensuring the proper, efficient and effective implementation of the projects/works and maintain full accountability and transparency”.

The then Chief Executive Officer, Autonomous District Council, Senapati wrote a letter dated 06.11.2018 to the then Addl. Chief Secretary (TA&Hills), Manipur requesting the Department of Tribal Affairs and Hills, Government of Manipur to formulate a guideline or rules for implementation of the Development Schemes/Programmes by the Autonomous District Councils, Manipur.

For effective implementation of the Development Scheme/Programmes by the ADCs, the then Under Secretary (TA & Hills), open a file and file has been processed to frame a standing guideline for implementation development work under the State Fund, State Finance Commission and central Finance Commission Grant to 6 (six) ADCs, Manipur. As the State fund, State Finance Commission and central Finance Commission Grant have to utilize in a rational way and to achieve optimal welfare of hill people, the then Under Secretary (TA & Hills) put up the file along with the draft Office Memorandum to then Addl. Chief Secretary (TA & Hills) on 09.11.2018 for approval. The Addl. Chief Secretary (TA & Hills), thereafter, put up the file along with the draft Office Memorandum to me and the same was approved by me on 09.11.2018.

I beg to submit that the Office Memorandum dated 09.11.2018 was issued by the State Government with a motive to streamline effective method of implementation of the grant in the line of the guidelines of State Finance Commission and Central Finance Commission and Para 4

of the Office Memorandum dated 09.11.2018 was added in the line of the guidelines framed by Office Memorandum dated 20.10.2017 issued by the Ministry of Finance, Govt. of India as guidelines of the 14th grants to excluded areas so that the objective of the grants/basic civic services are delivered on the ground to hill people. Further, it is humbly submitted that the OM dated 09.11.2018 does not supersede the principal Acts/Rules of the Manipur (Hill Areas) District Councils Act, 1971, the Manipur (Hill Areas) District Councils Act, 1972, the Manipur Grant-in-Aid to Autonomous District councils Rules, 1981, General Financial Rules (GFR), CPWD Code, and Operational Guidelines of the State and Central Finance Commission Grants and Tender Procedures.

In view of the facts stated above, I humbly request the Hon'ble Manipur Lokayukta to accept the explanation given by me in the interest of justice.

Dated/Imphal:
The 11th July, 2023

Yours faithfully,

Sd/-
(N. Kayisii)
The then Minister (TA & Hills)
Government of Manipur
Now Member of the Manipur
Legislative Assembly”

[14.11] Reading OM of Dept. of TA & Hills O.M dated 09.11.2018 along with GOI guidelines issued vide F. No. 13(34)/FFC/FCD/2017-18 dated 20.10.2017, it would appear that the matter has been over-simplified by the Department of TA&H insofar as no reference to the GOI guidelines for implementation of the 14th FC Award, the Manipur (Hill Areas) District Council Rules, 1972 and the Rules Governing Grant-in-aid to Autonomous District Councils of Manipur state notified on 20.06.1981 has been made, the requirement for consideration for Implementation by the local village councils was ignored, no reference to the requirement to abide by the provisions of the various rules was mentioned. On the contrary the ADC was allowed to have flexibility to select appropriate agency/individual from the local areas through whom the work would be executed leaving room for indulging in corrupt practises. The O.M dated 09.11.2018 which is not supplementary to the GOI

guidelines dated 20.10.2017, makes no reference to the “Manipur (Hill Areas) District Council Rules, 1972” and the “Rules Governing Grant-in-aid to Autonomous District Councils of Manipur state” gives an impression that the implementation/execution of works under State Fund, State Finance Commission and Central Finance Commission Grant to 6 ADC Manipur is to be done as per the OM dated 09.11.2018 which goes against the GOI guidelines contained in F.No. 13(34)/FFC/FCD/2017-18 dated 20.10.2017, the provisions of the “Manipur (Hill Areas) District Council Rules, 1972” and the “Rules Governing Grant-in-aid to Autonomous District Councils of Manipur state”.

[15] The Inquiry Officer in his Preliminary Inquiry report had clearly mentioned that during the course of inquiry of the present case, the relevant documents viz. MBs, Sanction order, APRs etc. for the work programmes were collected from the office of ADC, Senapati. The complainants as well as the concerned officials and those involved in the execution of the work programmes were examined in connection with the implementation of the work programmes under the 14th FC & 3rd SFCA during the year 2015-20. And it was found that general practice followed by the Hon'ble Chairperson, elected Members and other officials of the ADC, Senapati during the implementation of 14th FC and 3rd SFCA are as under :

- i) With the allocation of funds under 14th Finance Commission and 3rd SFCA for different years, the Autonomous District Council, Senapati was asked to submit their work programmes to the Hills Dept. Govt. of Manipur. The council then convened a meeting and took a resolution for framing the work programmes commensurate with the available fund and select the work agencies for executing the works. The work programmes and the work agencies were as proposed by the member of each DCC. No call of tender for selecting the work agencies.

- ii) With the approval of the Chairman of the Council, the work orders were issued in the name of the selected work agencies. The council took the resolution to pay advance payment of bill amount before execution of work to the work agencies to start the work. On getting approval from the Chairman of the ADC, Senapati, the Chief Executive Officer (CEO) issued Sanction Orders for payment of 1st instalment and the sanction amounts were E-transferred to the accounts of the respective work agencies. The work agencies submitted the work completion reports to the CEO for release of the final bill. The CEO and the E.E. prepared the final bill on the MB. The CEO after getting approval from the Chairman, sanction orders were issued. Final payments were made to the work agencies by e-transfer through their accounts. The cheques were signed both by the Hon'ble Chairman and the CEO as they are the joint signatory of the ADC account.
- iii) In the resolution taken by the Council for advance payment to the work agencies, the member also resolved to personally supervise and monitor proper work execution in their respective DCCs.
- iv) The office of ADC, Senapati reported to have implemented the work programmes under the Guidelines issued in respect of 13th FC, 14th FC & 15th FC and 3rd SFCA.

[16] During the period of 2015-20, the following amounts of funds as Grant-in-aid for execution of work programmes under the 14th Finance Commission and 3rd State Finance Commission Awards were sanctioned for the Autonomous District Council (ADC), Senapati by the Secretariat: Hills Deptt., Govt. of Manipur.

14th Finance Commission

| Year | Amount Sanctioned |
|-------------|--------------------------|
| 2017-2018 | Rs. 31,62,79,623/- |
| 2018-2019 | Rs. 11,30,96,859/- |
| 2019-2020 | Rs. 11,30,96,859/- |

3rd State Finance Commission Award

| Year | Installment | Amount Sanctioned |
|-------------|-----------------------------|--------------------------|
| 2015-2016 | 1 st installment | Rs. 3,01,99,853/- |
| | 2 nd installment | Rs. 3,32,25,057/- |
| 2016-2017 | 1 st installment | Rs. 3,19,02,044/- |
| | 2 nd installment | Rs. 3,84,92,766/- |
| 2017-2018 | | Rs. 5,75,47,801/- |
| | Additional | Rs. 1,82,92,583/- |
| 2018-2019 | | Rs. 9,45,80,401/- |
| 2019-2020 | | Rs. 10,95,00,004/- |
| 2020-2021 | | Rs. 13,21,01,689/- |

The following DCCs received the following funds from the under mentioned Finance Commissions during the following years.

17-Phaibung DCC

14th Finance Commission

| Year | Amount Sanctioned |
|-------------|--------------------------|
| 2017-2018 | Rs. 1,20,00,000/- |
| 2018-2019 | Rs. 40,00,000/- |
| 2019-2020 | Rs. 40,00,000/- |

Grand total = Rs. 2,00,00,000/-

3rd State Finance Commission Award

| Year | Amount Sanctioned |
|-------------|---------------------------|
| 2015-2016 | Information not furnished |
| 2016-2017 | Rs. 20,00,000/- |
| 2017-2018 | Rs. 20,00,000/- |
| 2018-2019 | Rs. 40,00,000/- |
| 2019-2020 | Rs. 60,00,000/- |
| 2020-2021 | Rs. 40,00,000/- |

Grand total = Rs. 1,80,00,000/-

From the allocated fund under the 14th Finance Commission & 3rd State Finance Commission Award, the following work programmes along with their work agencies as proposed by the members of each DCCs were approved by the council for execution in respect of the 17-Phaibung DCC during the year 2015-20 and the council passed resolutions in this regard. **(page no. 61-63)**

17 – PHAIBUNG KHULLEN DCC

14th FCA 2017-18

| Sl. No | Name of the Work | Agency | Amount |
|--------|---|---------------|---------|
| 1 | Construction of IVR from Phaibung Khullen to Paddy Field | Mevei Duo Kh | 2000000 |
| 2 | Shingling Road from Phaibung Khullen to Christian compound to Holy Cross School | Mevei Duo Kh | 1000000 |
| 3 | Construction of IVR from Phaibung Khunou to Feikho | R.S. Luckyson | 2000000 |
| 4 | Construction of IVR from Phaibung Lower to Vourei River | R.S. Luckyson | 2000000 |
| 5 | Construction of Public Toilet at Phaibung Khullen | R.S. Luckyson | 1000000 |
| 6 | Construction of Public Toilet at Phaibung Khunou | D.H. Lao | 1000000 |
| 7 | Construction of Public Toilet at Phaibung Lower | D.H. Lao | 1000000 |
| 8 | Construction of Pucca Drainage at Phaibung Khullen | D.H. Lao | 1000000 |
| 9 | Construction of Market Shed at Phaibung Khullen | D.H. Lao | 1000000 |

Total Rs. 1,20,00,000/-

14th FCA 2018-19

| Sl. No | Name of the Work | Agency | Amount |
|--------|--|----------|---------|
| 1 | IVR from Phaibung Khunou to Lower Phaibung | D.H. Lao | 2000000 |
| 2 | Drain from Phaibung Khullen main road to Holy Cross School | D.H. Lao | 2000000 |

Total Rs. 40,00,000/-

14th FCA 2019-20

| Sl. No | Name of the Work | Agency | Amount |
|--------|---|----------|---------|
| 1 | IVR from Phaibung Khunou to Vourei | Chisou | 2000000 |
| 2 | Retaining wall near Phaibung Lower Playground | D.H. Lao | 2000000 |

Total Rs. 40,00,000/-

17 – PHAIBUNG KHULLEN DCC**3rd SFCA 2015-16**

Data/ information not furnished by the office of ADC, Senapati.

3rd SFCA 2016-17

| Sl. No | Name of the Work | Agency | Amount |
|---------------|--|---------------|---------------|
| 1 | Extension of Additional Class Room at Shanatsiina P/S | P. John | 1000000 |
| 2 | Construction of Suspension Bridge at Silirie between Phaibung Khullen & Chingmai Khullen | P. John | 1000000 |

Total Rs. 20,00,000/-**3rd SFCA 2017-18**

| Sl. No | Name of the Work | Agency | Amount |
|---------------|---|---------------|---------------|
| 1 | IVR from Phaibung Khullen to Phaibung Khunou | P. John | 1000000 |
| 2 | Construction of additional class room at Shanatsiina Phaibung Khullen | Ng. Ngaorai | 1000000 |

Total Rs. 20,00,000/-**3rd SFCA 2018-19**

| Sl. No | Name of the Work | Agency | Amount |
|---------------|--|---------------|---------------|
| 1 | Construction of IVR from Phaibung Khullen to Phaibung Khunou | Tionani Duo | 2000000 |
| 2 | Construction of Medical Dispensary at Phaibung Khullen | Tionani Duo | 2000000 |

Total Rs. 40,00,000/-**3rd SFCA 2019-20**

| Sl. No | Name of the Work | Agency | Amount |
|---------------|---|---------------|---------------|
| 1 | Construction of IVR from UTC Road to Phaibung Khullen | D.H. Lao | 2000000 |
| 2 | Additional classroom at Madouna Mathak Sagai UJB School, Phaibung Khullen | D.H. Lao | 2000000 |
| 3 | Check Dam at Zatho, Phaibung Khullen | D.H. Lao | 2000000 |

Total Rs. 60,00,000/-**3rd SFCA 2020-21**

| Sl. No | Name of the Work | Agency | Amount |
|---------------|---|----------------|---------------|
| 1 | Construction of Retaining Wall near Lower Phaibung Playground | D.H. Lao | 2000000 |
| 2 | Construction of IVR from UT Road junction to Phaibung Khunou | DD Pearson Duo | 2000000 |

Total Rs. 40,00,000/-

[17] It is clear from the Preliminary Inquiry report as well as material available on record, at that stage, that there was no floating of tender for the contract works and the prescribed procedure has not been followed for allocation of the contract work to the contractors. Over and above, the work order are not in the prescribed format inasmuch as the work order does not speaks the detail plan and also nothing is mentioned as to what are the material to be used and dimension of the work and specification of the work.

[18] The Technical Appraisal Team after inspecting the work sites submitted the inspection report dated 16.11.2021 and the gist of the inspection report read as follows :

- i) During the inspection of the work “Medical Dispensary at Phaibung Khullen” under 3rd SFCA, 2018-19 the EE pointed out 3(three) rooms purportedly to have constructed under the work programme. It has been found to have constructed inside the campus of a school building. Further, there is no sign of using the rooms for medical purposes. It may be just an extension of the school class rooms. It is a common view that no educational institute will allow their campuses to be used by other agencies and disturb the academic atmosphere. It may be the work programme under SSA.
- ii) Most of the executed works does not commensurate with the estimated and released amount. In other words, quality of the work has been compromised.
- iii) During the inspection of the work “Construction of Market shed at Phaibung Khullen” under 14th FC, 2017-18, the EE and the Ex-member pointed out two market sheds purportedly to have executed under the said work programme. However, in the estimate prepared for the work and the MB maintained for the work, the work is only for construction of one market shed. As either one of the structure does

not commensurate with the sanctioned amount i.e. Rs. 10,00,000/- (Rupees ten lakhs), they have pointed it to the two market sheds.

- iv) There is repetition of works in the work programme. For instance, it was pointed out during the work inspection that the construction of “IVR from Phaibung Khullen to Phaibung Khunou” under 3rd SFCA, 2017-18 and the “IVR from Phaibung Khullen to Phaibung Khunou” under 3rd SFCA, 2018-19 are the same.
- v) In some cases, the Chairman and the CEO of the related period made payments upto final bills for unexecuted works. In one instance, the Chief of the Phaibung village and Shri Theiba, E.E reported at the time of inspection that both the work of construction of “Retaining wall near Phaibung Lower Playground” under 14th FCA, 2019-20 and “Retaining wall near Lower Phaibung Playground” under 3rd SFCA, 2020-21 are the same repetition of work programme and has not been executed. However, MB was found to have been maintained and work measured and payments upto final bill has been made. Shri Theiba, E.E even though has the knowledge of the unexecuted work, measurements were entered in the MB purportedly to have executed and bills were prepared and encashed.
- vi) Some works are doubtful whether the works has been executed under the said Finance Commissions/fundings as the works which are reported to have executed under older work programmes are found to have recently constructed. For instance, the work “Extension of additional class room at Shanatsiina P/S” under 3rd SFCA, 2016-17 and construction of “additional classroom at Shanatsiina Phaibung Khullen” under 3rd SFCA, 2017-18 which are the same repetition of work programme was found to have constructed recently. There were no signboards or structures to indicate that the work has been executed under the said fundings of the Finance Commission. There

is suspicion that the work might have been executed under the fundings of SSA or other such fundings/scheme.

- vii) Work programmes are very confusing as the exact locations of the work sites are not indicated. For instance the work programme just mentioned construction of Public toilet at Phaibung Khullen or IVR from Phaibung Khullen to Phaibung Khunou. It can be constructed anywhere in the vast area of village or collided with other work programmes like works under MLA Local area development fund/MGNREGS etc.

[19] The inquiry officer also mentioned in his Preliminary Inquiry report that during the examination of the available MBs as furnished by the office of ADC, Senapati, the following irregularities are found:

17 – PHAIBUNG KHULLEN DCC

14th FCA 2017-18

| Sl. No | Name of the Work | Remarks |
|---------------|---|---|
| 1 | Construction of IVR from Phaibung Khullen to Paddy Field | No measurement for 1 st R.A bill, measurement for only final bill. |
| 2 | Shingling Road from Phaibung Khullen to Christian compound to Holy Cross School | No measurement for 1 st R.A bill, measurement for only final bill. |
| 3 | Construction of IVR from Phaibung Khunou to Feikho | No measurement for 1 st R.A bill, measurement for only final bill. |
| 4 | Construction of IVR from Phaibung Lower to Vourei River | No measurement for 1 st R.A bill, measurement for only final bill. |
| 5 | Construction of Public Toilet at Phaibung Khullen | No measurement for 1 st R.A bill, measurement for only final bill. |
| 6 | Construction of Public Toilet at | No measurement for 1 st R.A bill, |

| | | |
|---|--|---|
| | Phaibung Khunou | measurement for only final bill. |
| 7 | Construction of Public Toilet at Phaibung Lower | No measurement for 1 st R.A bill, measurement for only final bill. |
| 8 | Construction of Pucca Drainage at Phaibung Khullen | No measurement for 1 st R.A bill, measurement for only final bill. |
| 9 | Construction of Market Shed at Phaibung Khullen | No measurement for 1 st R.A bill, measurement for only final bill. |

14th FCA 2018-19

| Sl. No | Name of the Work | Remarks |
|--------|--|--------------------------------|
| 1 | IVR from Phaibung Khunou to Lower Phaibung | No measurement for final bill. |
| 2 | Drain from Phaibung Khullen main road to Holy Cross School | No measurement for final bill. |

14th FCA 2019-20

| Sl. No | Name of the Work | Remarks |
|--------|---|--|
| 1 | IVR from Phaibung Khunou to Vourei | No measurement for final bill, only passing of final bill. Not signed by CEO for passing the bill. |
| 2 | Retaining wall near Phaibung Lower Playground | No measurement for final bill, only passing of final bill. Not signed by CEO for passing the bill. |

17 – PHAIBUNG KHULLEN DCC

3rd SFCA 2015-16

Data/ information not furnished by the office of ADC, Senapati.

3rd SFCA 2016-17

| Sl. No | Name of the Work | Remarks |
|--------|---|--------------------|
| 1 | Extension of Additional Class Room at Shanatsiina P/S | MB not maintained. |

| | | |
|---|--|--------------------|
| 2 | Construction of Suspension Bridge at Silirie between Phaibung Khullen & Chingmai Khullen | MB not maintained. |
|---|--|--------------------|

3rd SFCA 2017-18

| SI. No | Name of the Work | Remarks |
|--------|---|--|
| 1 | IVR from Phaibung Khullen to Phaibung Khunou | Measurement for only 1 st R.A bill. |
| 2 | Construction of additional class room at Shanatsiina Phaibung Khullen | MB not maintained. |

3rd SFCA 2018-19

| SI. No | Name of the Work | Remarks |
|--------|--|--|
| 1 | Construction of IVR from Phaibung Khullen to Phaibung Khunou | No measurement for final bill. Only passing of final bill. |
| 2 | Construction of Medical Dispensary at Phaibung Khullen | No measurement for final bill. Only passing of final bill. |

3rd SFCA 2019-20

| SI. No | Name of the Work | Remarks |
|--------|---|--------------------------------|
| 1 | Construction of IVR from UTC Road to Phaibung Khullen | No measurement for final bill. |
| 2 | Additional classroom at Madouna Mathak Sagai UJB School, Phaibung Khullen | No measurement for final bill. |
| 3 | Check Dam at Zatho, Phaibung Khullen | No measurement for final bill. |

3rd SFCA 2020-21

| SI. No | Name of the Work | Remarks |
|--------|---|--------------------------------|
| 1 | Construction of Retaining Wall near Lower Phaibung Playground | No measurement for final bill. |

| | | |
|---|--|--------------------------------|
| 2 | Construction of IVR from UT Road junction to Phaibung Khunou | No measurement for final bill. |
|---|--|--------------------------------|

[20] In the Preliminary Inquiry Report, it is further observed that in some instances, measurements of works of the final bills of the above mentioned works were not entered in the MB. Thus, it is a clear indication that the works are half executed and the final bills were encashed without execution of the remaining work. In most of the cases, MBs were partly maintained i.e. either measurements of only the final R.A bill or final bill is found to have entered. In some cases, entry of passing of final bill is found to have entered without any measurements.

[20.1] The Chairman, CEO and engineers neglected the importance of the MB. The section 7.2 of the CPWD works manual is reproduced as follows :

7.2 Writing of Measurement Book

(1) 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 should be so written that the transactions are readily traceable.

(2) These books should be 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.

[20.2] The Engineering Wing of ADC/SPT, Shri A. Theiba, in-charge E.E and M. Shyamsunder Singh, S.O have failed to give technical supervision to the executed works and also failed to conduct work site inspection to verify whether works have been executed or not. They have even not maintained the MBs properly. Items of works which were not executed were found to have entered in the MBs. MBs for most of the works were not maintained. The payments of works of 1st R.A. bill were not even reflected in the MBs whereas

passing final bill are reflected. Further, in some cases, final bills were prepared without any measurements which indicate that the bill has been prepared without the execution of the work. Thus, they are also responsible for allowing the works to be executed by the work agencies at their own will.

[20.3] Shri M. Shyamsunder stated that he was made to sign on the entries of the MBs for the works he had never inspected. Then, Shri Theiba, in-charge E.E and Shri M. Shyamsunder Singh, S.O of ADC, Senapati have given a free hand to the work agencies. As no technical supervision has been given during the execution of works, it has resulted in compromising the quality of the work i.e. non-maintenance of the quality of the work.

[20.4] It is a normal practice for the elected members to choose the work agencies who are either his/her family members, relatives or close ones. In the name of the work agencies, the works were executed by the members indirectly under their direction. As such the Chairman and the officials of the ADC, Senapati did not question the genuineness of the completion reports submitted by the said work agencies.

[20.5] The elected members prepared the work programmes without considering the ground feasibility i.e. work programme for construction of market shed where there is no need by the villagers, construction of water reservoir where there is no inhabitant, construction of IVR where peoples rarely used the pathway etc. As there is no ground feasibility in the execution of the works, it has resulted in changing of work sites and work programmes without the approval of competent authority. For instance, the work "Construction of Public toilet at Phaibung Khullen" under 14th FC, 2017-18 has been found to have constructed attached to the building of Phaibung Junior High School. They have changed the work sites. As the work programme clearly indicates as "Public toilet", it should be constructed at a public place and not inside a school campus. The engineers have allowed such practices to be carried out by the work agencies.

[20.6] The elected member prepared the work programmes in repetition of the works that has been already included in previous year programme. For instance, the work of "Construction of Retaining wall near Phaibung Lower Playground" under 14th FC, 2019-20 and the work "Construction of Retaining wall near Lower Phaibung Playground" under 3rd SFCA, 2020-21 are the same.

[20.7] No signboards/any structures as done in work programmes MGNREGS, under PMGSY etc. are there indicating that the work has been executed under the said funding. The public/villagers were kept at dark in ascertaining under which fundings the works are being executed. Even most of the villagers were unaware of the works.

[20.8] The elected members being a representative of the people failed to check whether the work programmes proposed by them are executed by the work agencies or not. Instead they kept a closed eye. In other words, it is a clear indication that they are in conspiracy with the work agencies as the work agencies were proposed/nominated by them. In the resolution of the council dated 12.06.2020 for release of 1st instalment to the work agencies, the members also resolve to personally supervise and monitor proper work execution in their respective DCCs. They have forgotten their responsibility.

[20.9] The Chairman and the concerned officials of ADC viz- the CEO of the related period and the engineers of the Engineering Wing failed to verify whether the works has been executed or not. The Chairman and the CEO of the related periods made payments for works in which MBs were not maintained and measurements not made by the concerned E.E of the Engineering Wing. They just rely on the fictitious completion reports submitted by the work agencies. As most of the work agencies were either family members or close relatives of the members of the DCCs, the Chairman as well as the concerned officials of the ADC rarely questions the genuineness/correctness of the completion reports submitted by the work agencies. Moreover, measurements of unexecuted works were also entered in

the MB. One such instance is that, during the work site inspection it was pointed out that the work “Extension of additional class room at Shanatsiina P/S” under 3rd SFCA, 2016-17 is the same with the work “Construction of additional class room at Shanatsiina Phaibung Khullen” No new construction/structures were seen at the work site. However, MBs of both the works were found to have maintained and payments of bill made to the work agencies.

[20.10] Bills were passed on the MB without the signature of the CEO. Thus, it is an indication that the MBs were never put up to the Chairman and the CEO for reporting the progress of the work and the amount of works that has been executed. Further, the Chairman and CEO of the related periods made payments to the work agencies on their own.

[20.11] The measurement entered/recorded in the MBs has no relevancy with the sanction orders issued by the CEO and payments being made. The Chairman and the CEO made payments to the work agencies in their own. The amounts of bills reflected in the MBs to have been passed has no similarity with the amounts in the sanction orders. In one instances, for the work “Construction of IVR from Phaibung Khullen to Phaibung Khunou” under 3rd SFCA, 2018, an amount of Rs. 7,40,000/- (Rupees seven lakhs) was found to have reflected for passing of final bill in the MB, whereas in the sanction order dated 25.09.2019 issued by Smt. Regina Hongray, MCS, an amount of Rs. 7,76,000/- (Rupees seven lakhs seventy six thousand) was sanctioned for payment. Thus, an excess amount of bill has been paid to the work agency. For the same work, during the passing of 1st R.A bill, an amount of Rs. 12,00,000/- (Rupees twelve lakhs) was reflected to have passed in the MB, whereas in the sanction order dated 06.08.2019 issued by Stiff Khapudang, MCS, an amount of Rs. 11,64,000/- (Rupees eleven lakhs sixty four thousand) has been sanctioned(**page no. 105-108**). Thus, there are irregularities in the payment of bills by the office of ADC, Senapati.

[20.12] The CEO of the related periods and the Engineers of the Council have made false entries on the MBs. In the MBs, items of works were entered purportedly to have executed as on date and passed bills. Although, it is a known fact that advance payment has been made to the work agencies before execution of the works, the E.E and the CEO of the relevant period made entries on the MBs as if the payment of 1st R.A. bill were made after the execution of the work.

[20.13] The work agencies have fraudulently withdrawn money/encashed bills either without execution of works or maintaining quality of the work. They have submitted fictitious completion reports by concealing the fact of non-execution of the works/non completion of works or not executing as per the given specification. They were taking the advantage of the nature of the Engineers in which they rarely visit the work sites and failure of the Hon'ble Chairman and the CEO of related periods to verify the claims of completion of the works made by the work agencies. Being the close ones of the members, they were taking the advantage behind the image of the members and have influenced the Chairman as well as the officials of the ADC, Senapati through the elected members. They have violated the agreements with the office of ADC, Senapati to execute the work as per specification.

[20.14] Agreements were signed between the work agency and the office of ADC, Senapati even before the work order has been issued. One instance is the signing of agreement for the work "Construction of IVR from Phaibung Khunou to Fukhro" under 14th FC, 2017-18 between the work agency and the office of ADC, Senapati on 14.10.2018. Whereas, the work order for the said work is found to have issued only on 15.10.2018. Such other instances are also there. Thus, there is no authenticity/genuineness in the official documents/records maintained by the office of ADC, Senapati.

[21] In the Preliminary Inquiry Report, the inquiry officer made a report that It is provided in the Rule no. 95 and Rule no. 97 of “The Manipur (Hill Areas) District Councils Rules, 1972” that tenders should be called for all works except that are undertaken by the council departmentally and the CPWD codes will be applicable in the works undertaken by the Council.

Rule no. 95 and Rule no. 97 of “The Manipur (Hill Areas) District Councils Rules, 1972” are reproduced as follows:-

95. Tenders: - (1) No tender shall be called for if the work is undertaken by the Council departmentally.

(2) Subject to the provisions of sub-rule (1) no work exceeding Rs. 5,000/- in value shall be allotted except on the basis of tender.

(3) All tenders shall be opened by the Chief Executive Officer or by any other officer authorised by the Council in this behalf and thereafter the tenders shall be accepted by the following authorities :-

(i) Tenders upto Rs. 5,000/- an Assistant Engineer.

(ii) Tenders upto Rs. 50,000/- an Executive Engineer.

(iii) In all other cases, Council with previous approval of the Governor.

(4) Where no tender is received in spite of calls, the work shall be allotted by the Council on the basis of negotiation and with the previous approval of the Governor where the cost exceeds Rs. 50,000/-.

Provided that before invoking this sub-rule tenders shall have been called for at least twice after giving, on each occasion, notice of not less than three weeks.

97. Applications of C.P.W.D. Codes etc. :- For all other purposes not provided for in the Act or these rules, the provisions of all the codes, Rules and regulations, which are applicable for a work undertaken by the Government of Manipur shall be deemed to be applicable in the case of a work undertaken by the Council.

The Chairman and the CEO of the related periods in violation of Rule no. 95 of “The Manipur (Hill Areas) District Councils Rules, 1972” have not called for tender of the works. The office of ADC, Senapati have awarded the works to the agencies of their choice (mostly close relatives of the members elected). Thus, other probable successful work agencies were denied of their chance to compete for the work. It has become one of the factors for compromising the quality of the work.

[22] In the Preliminary Inquiry Report, the names of the Work agencies are reported as under:

- a) Shri Meivei Duo Kh. S/o Kushei of Phaibung Khullen, Senapati District (work agency).
- b) Shri R.S. Luckyson S/o Seipaolu of Phaibung Khunou, Senapati District (work agency).
- c) Shri D.H. Lao S/o Hralu Lao of Phaibung Khullen, Senapati District (work agency).
- d) Shri Chisou S/o Dailu of Phaibung Khullen, Senapati District (work agency).
- e) Shri P. John S/o Pami of Phaibung Khullen, Senapati District (work agency).
- f) Shri Ng. Ngaoni S/o Ngaolu of Phaibung Khullen, Senapati District (work agency).
- g) Smt. Tionani Duo D/o Mercy of Phaibung Khullen, Senapati District (work agency)

The above work agencies submitted reports of the unexecuted works/uncompleted works as completed. They have violated their agreements with the office of ADC, Senapati to execute the works as per the specification.

In some cases, the work agencies have diverted the works i.e. executed works which are not in the work programme without the approval of the competent authority. They have submitted fictitious completion reports by concealing the fact of non-execution of the works/non completion of works or not executing as per the given specification. They were taking the advantage of the nature of the Engineers in which they rarely visit the work sites and failure of the Hon'ble Chairman and the CEO of related periods to verify the claims of completion of the works made by them. Being the close ones of the members, they were taking the advantage behind the image of the members. The above mentioned agencies have influenced the Chairman as well as the officials of the ADC/Senapati through their elected members and have fraudulently withdrawn the amounts of money earmarked for the work under 14th FC and 3rd SFCA during the year 2015-20 through their fictitious reports either without execution of works/non completion of works or maintaining quality of the work and executing works which are not in the work programme with the fund meant for a particular work in the work programme.

[23] The complainant vide his written comment filed on 08.08.2022 submitted the relationship of the Work Agencies with Shri P. Veini (Respondent No. 3), Ex-member of 17-Phaibung DCC, Senapati District as under:

| Sl. No. | Name of the Agencies | Relationship with P. Veini | No. of work allotted | Total Amount |
|----------------------|----------------------|---|----------------------|---------------------------|
| 1 | Mevei Duo Kh | Cousin Brother | 1. Work Item | = Rs. 20,00,000/- |
| 2 | R.S. Luckyson | His Active Worker | 3. Works Items | =Rs. 50,00,000/- |
| 3 | D.H. Lao | Cousin Brother | 10. Works Items | =Rs.1,60,00,000/- |
| 4 | P. John | His own Younger Brother | 3. Works Items | =Rs. 30,00,000/- |
| 5 | D.D. Pearson | Cousin Brother | 1. Work Item | =Rs. 20,00,000/- |
| 6 | Tionani Duo | Cousin Brother | 2. Works Items | =Rs. 40,00,000/- |
| 7 | Chisou | Even no name in the Village Population list | 1. Work Item | =Rs. 20,00,000/- |
| Total Amounts | | | | =Rs. 3,40,00,000/- |

[24] In the Preliminary Inquiry Report, it is clearly mentioned that a prima-facie evidence is well established against the above noted 30 (thirty) persons for committing offences punishable u/s 7(b)/13 PC Act & 120-B/34 IPC against the said 16 (sixteen) persons, who are made Respondents in the present complaint case, i.e. Hon'ble Chairman, the Hon'ble elected members, officials of the Autonomous District Council, Senapati and the work agencies were responsible for the misappropriation of the development funds released under the 14th Finance Commission and 3rd State Finance Commission Award in respect of 17 – Phaibung DCC, Senapati District Council during the year 2015-20.

[25] We also had given anxious consideration to the comments submitted by the Respondents. After such consideration, we are not satisfied with the justification and reasons for denying the charges of misappropriation and fraudulent withdrawal of funds released for works under 14th Finance Commission and 3rd State Finance Commission during the year 2015 – 2020 either by not executing the work or partly executing the work, executing the work not under the work programme or not maintaining the quality of the work.

[26] The Apex Court in **R. Venkarkrishna vs. Central Bureau of Investigation (2009) 11 SCC 737** held that the Criminal case can be set in motion by anybody. Further, the Apex Court in **Maharashtra vs. Sayed Mohammed Massod and Anr. (2009) 8 SCC 787** held that materials collected during preliminary investigations are relevant for investigation.

[27] For the foregoing reasons and discussion, we are of the considered view that there exists prima facie case for investigation against the persons listed below:

- 1) **Shri M.L Markson S/o Late Lakho of Laii Village, Paomata Tadubi Block, Senapati District, the then Chairman for the period from 31.07.2015 to 06.03.2019 (Ex-member of 1-Laii DCC)**
- 2) **Shri A. Kapani S/o Th. Ashikho of Chakumai, Mao Maram Tadubi block, Senapati District, the Caretaker Chairman for the period from 07.03.2019 till date (Ex-member of 14-Tadubi DCC).**
- 3) **Shri P. Veini S/o (L) Pani of Phaibung Khullen, Senapati District, Ex-member of 17-Phaibung DCC, Senapati District.**
- 4) **Shri Rangnamei Rang Peter, IAS S/o Rangnamei Paoshiba of Katomei village, Senapati District, P.O. & P.S. Senapati a/p Luwangsangbam, Imphal East, the then CEO of ADC, Senapati for the period from September 2013 to July 2017 (now Deputy Commissioner, Kamjong District).**
- 5) **Shri Stiff Khapudang MCS S/o Aleng Khapudang of Konkan village, Kamjong District, Manipur, the then CEO of ADC, Senapati for the period from 13.07.2017 to 09.09.2019 and 11.10.2019 to 06.09.2021 (now Additional Deputy Commissioner, Noney District)**
- 6) **Smt. Regina Hongray, MCS, W/o George Kangung Moram of Mantripukhri, Imphal East, the then CEO of ADC, Senapati for the period from 10.09.2019 to 10.10.2019 (Now Joint Secretary, Works & Finance Deptt.)**
- 7) **Shri A. Theiba S/o (L) A. Ngaiyo of Yaikongpao village, Senapati District, in-charge Executive Engineer of ADC, Senapati.**
- 8) **Shri Mutum Shyamsunder Singh S/o (L) M. Jugindro Singh of Kwakeithel Konjeng Leikai, P.S Singjamei, Imphal West District, Section Officer of ADC, Senapati.**
- 9) **Shri Meivei Duo Kh. S/o Kushei of Phaibung Khullen, Senapati District (work agency).**

- 10) **Shri R.S. Luckyson S/o Seipaolu of Phaibung Khunou, Senapati District (work agency).**
- 11) **Shri D.H. Lao S/o Hralu Lao of Phaibung Khullen, Senapati District (work agency).**
- 12) **Shri Chisou S/o Dailu of Phaibung Khullen, Senapati District (work agency).**
- 13) **Shri P. John S/o Pami of Phaibung Khullen, Senapati District (work agency).**
- 14) **Shri Ng. Ngaoni S/o Ngaolu of Phaibung Khullen, Senapati District (work agency).**
- 15) **Smt. Tionani Duo D/o Mercy of Phaibung Khullen, Senapati District (work agency)**
- 16) **Shri D.D. Pearson Duo S/o Dalu of Phaibung Khullen, Senapati District (work agency).**
- 17) **Shri R.A. Ransing, MSS, Under Secretary (TA&H) now Deputy Secretary), the then ACS of the Department of Tribal Affairs & Hills, Govt. of Manipur.**
- 18) **Shri Letkhogin Haokip, IAS (now Rtd.) and the then ACS of the Department of Tribal Affaris & Hills, Government of Manipur.**
- 19) **Shri N. Kayisii (now MLA from Tadubi AC), the then Minister for Department of TA&H, Govt. of Manipur.**

Accordingly, we pass the following order by invoking our power and jurisdiction under Sections 20 (3) (a) and 28 of the Manipur Lokayukta Act, 2014:

- A) A direct recruit MPS Officer of the rank not lower than Additional SP serving under the State of Manipur is directed to investigate the present cases by exercising all the powers conferred under the Manipur Lokayukta Act, 2014. The names of the direct recruit MPS Officers were made available before us by the Director

(Inquiry), Manipur Lokayukta. After consideration of the said list, keeping in view of the law and order problems and the practicability of the officers to conduct the investigation of the present case, we have decided to utilise the service of Shri Luthar Nangsha, JAG, i/c CO/11 IRB as Investigating Officer of the present case by invoking our power and jurisdiction provided under Section 28 of the Manipur Lokayukta Act, 2014.

- B) The Preliminary Inquiry Report of the present cases will be treated as Ejahar for the purpose of registration of the case for investigation and the case (FIR) should be registered at the Crime Branch Police Station, Manipur. The Investigating Officer is not required to confine his investigation within the four corners of the Preliminary Inquiry Report. Director General of Police (DGP), Manipur shall ensure registration of FIR at the Crime Branch Police Station, Manipur without less possible delay. It is made clear that for registration of the FIR as per the direction of Manipur Lokayukta, approval from the State Government or any other authority is not required. Superintendent of Police, Crime Branch has to take up the prompt action for registration of FIR within 48 hours.
- C) The Investigating Officer while conducting the investigation will not be under the supervision of his superior officers of the department or the station where the present case is registered. It is also made clear that he shall conduct the investigation with full co-ordination with the Director (Inquiry), Manipur Lokayukta and also that the investigation of the present case is in addition to his normal duty as such entrustment of the present case for investigation will not amount to new transfer and posting. The Investigating Officer shall take necessary action to complete the

investigation within a period of six months from the date of passing this order or from the date of receiving the records.

- D) Chief Secretary, Government of Manipur and Director General of Police, Manipur shall ensure that the place of posting of the assigned Investigating Officer of these cases should not be disturbed without the prior consent of Manipur Lokayukta.
- E) A general recommendation is made herein, not necessarily related to this particular complaint case but to all other Complaint cases also before Manipur Lokayukta regarding the omissions and commissions, lapses and violations indicating ignorance, negligence, lack of updation and awareness of various Acts, Rules, Manuals, SOPs, instructions, FR/SR, Guidelines etc. and duties and functions, power, authority mainly of executives and functionaries including engineers and elected representatives of local bodies (Autonomous District Councils, Municipalities/Nagarपालikas) for the State Government to consider imparting refresher courses/workshop to such public servants for proper understanding of various Acts, Rules, Manuals, SOPs, instructions, FR/SR, Guidelines etc. relevant for them for implementation of various programmes, schemes, awards, etc. sanctioned by the Central and State Governments/Central authorities with a view to streamline implementation of various Government activities. The Chief Secretary, Government of Manipur may, in consultation with department concerned/training institutions work out a detailed training programme and implement the same. A copy of the training programme may be shared with the Manipur Lokayukta.

[28] Secretary/Deputy Registrar, Manipur Lokayukta is directed to act accordingly by informing the Chief Secretary, Government of Manipur, Director General of Police, Manipur, Superintendent of Police, Crime Branch and Shri Luthar Nangsha, JAG, i/c CO/11 IRB (Investigating Officer) for taking necessary action. He is further directed to furnish a copy of this order to the complainants as well as to the respondents.

[29] Await investigation report.

Sd/-
MEMBER

Sd/-
CHAIRPERSON