

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

22.06.2023

1. We have perused the letter of the Deputy Secretary (Tribal Affairs and Hills) Government of Manipur being No. TA/41/2023-e-TA & H dated 16.06.2023 to the Deputy Registrar, Manipur Lokayukta wherein it is stated that Shri. P. Shankar Addl. Superintendent of Police Inquiry Wing, Manipur Lokayukta on 12.06.2023 had seized the Government file, being No. 22/202/2018- (HILLS) relating with the office memorandum dated 09.11.2018 issued by Mr. Letkhogin Haokip, (IAS now retired) Addl. Chief Secretary, (Tribal Affairs and Hills) Government of Manipur. The said file was seized by Addl. S.P. of Police, Inquiry Wing Manipur Lokayukta vide the order of the Manipur Lokayukta dated 07.06.2023 passed in Complaint Case No. 6 of 2021 in the matter relating with the same subject for embezzlement and misappropriation of funds released under 13th Finance Commission 2014-2015, 14th Finance Commission 2015-16, State finance commission 2017-18, 3rd State Finance Commission and 15th Finance Commission (2018-19) and 3rd State Finance and 15th Finance Commission (2019-2020) for the District Councils in the state of Manipur. The said Government file relating with the issue of office memorandum dated 09.11.2018 was placed before Manipur Lokayukta by the Addl. S.P. Inquiry Wing, Manipur Lokayukta under a Seizure Memo dated 12.06.2023.

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.

For convenience Rule Nos. 90, 91, 93, 95, 96 and 97 of the Manipur (Hill Areas) District Councils Rules, 1972; Rule Nos. 13 and 15 of Rules governing Grant-in-Aid to Autonomous District Councils of Manipur State, 1981; relevant portion of the Guidelines for release of grants to 'Excluded Areas' i.e. areas not covered under part IX and IXA of the Constitution and Rule Nos. 34A (c), 55 (xxii) (d) and Schedule Nos. 11 and 18 of the Rules of Business of the Government of Manipur are reproduced hereunder:

The Manipur (Hill Areas) Districts Councils Rules 1972

“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.”

Rules Governing Grant-in-Aid to Autonomous District Councils of Manipur State

“13. The grants-in-aid shall be governed by the provisions of rules 148 to 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.

15. The grants-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.”

Guidelines for release of Grants to ‘Excluded Areas’ i.e. areas not covered under Part IX & IXA of the Constitution

“Objective of Grant-in-aid/special finance 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.

Fund flow mechanism and release of Grants:

..... 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.”

Rules of Business of the Government of Manipur:

“B – Finance Department

34A (c) Proposal involving abandonment of revenue or involving an expenditure for which no provision has been made in the Appropriation Act.

D – Submission of Cases to the Governor and the Chief Minister

55 (xxii) (d) Proposals for the framing of rules to govern the conduct of business in these bodies.

Schedule (Rules 14, 15 and 16) of the Rules of Business of the Government of Manipur:

11. Any proposals which affects the finances of the State which has not the consent of the Finance Department.

18. Cases required by the Governor or the Chief Minister to be brought before the Council.”

The present complaint is for mis-appropriation and mis-use of funds released under:

- (a) Under the 13th Finance Commission (2014-2015) final bills released amount is Approx. R. 1,00,00,000/- (One Crore) only (the amount may be more or less) works name like IVR and Drainage.
- (b) Under the 14 Finance Commission (2015-2016) released amount is Approx. Rs. 1,00,00,000/- (One Crore) only (the amount may be more or less) works name like IVR and additional classroom.
- (c) Under the 3rd State Finance Commission (2017-2018) released amount is Approx. Rs. 1,00,00,000/- (One Crore) only (the amount may be more or less). Works name like Community Toilet, IVR and Public Waiting Shed.
- (d) Under the 3rd State Finance & 15th Finance Commission (2018-2019) the Approx. amount released is around Rs. 50,00,000/- (Fifty lakhs) only (the amount may be more or less). Works name like Community Hall, Community Toilet and Ground levelling.
- (e) Under the 3rd State Finance & 15th Finance Commission (2019-2020) the Approx. amount released is around Rs. 50,00,000/- (Fifty lakhs) only (the amount may be more or less). Works name like Community Toilet and IVR.

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.

5. Section 21 of the Manipur Lokayukta Act, 2014 provides that if at any stage of the proceeding, the Lokayukta is of the opinion that the reputation of any person other than the 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 principle of natural justice. The present case has not reached the stage of investigation, in other words, the present stage is at the stage of Preliminary Inquiry inasmuch as the Manipur Lokayukta has not yet taken any decision basing on the finding of the Preliminary Inquiry and over and above according to the principle of natural justice an opportunity should be given 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)) to submit their explanation as to how and why they issued the said Office Memorandum dated 09.11.2018 sowing seed for mis-appropriation of the fund awarded by the State Finance Commissions for the Autonomous District Councils of Manipur and, alleged action taken by the authorities of the Autonomous District Councils for alleged mis-appropriation and dis-appropriation of fund for the Autonomous District Councils under the different Finance Commissions is still continuing.

5.1. Section 53 of the Manipur Lokayukta Act, 2014 provides that Manipur Lokayukta shall not inquire or investigation into any complaint, if the complaint is made after the expiry of a period of 7 (seven) years from the date on which offence mentioned in such complaint is alleged to have been committed. The office memorandum dated 9.11.2018 is very much within the period of 7 (Seven) years prescribed under Section 53 of the Manipur Lokayukta Act, 2014.

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.

8. Registry is directed to issue notice along with a copy of this order 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 necessary compliance.

9. Fix this Case on 14.07.2023.

Sd/-
MEMBER

Sd/-
CHAIRPERSON