

MISC. CASE NO. 3 OF 2023
Ref.: Complaint Case No. 1 of 2023

24.11.2023

1. Perused the letter of the Joint Secretary (MI), Government of Manipur being No. CSS-304/1/2013-MI-MI dated 21.11.2023 to the Secretary, Manipur Lokayukta by which the Joint Secretary (MI), Govt. of Manipur has requested Manipur Lokayukta to release the original documents mentioned in Annexure-I, annexed with his letter dated 21.11.2023, for 102 SMI Schemes under PMKSY-HKKP.

2. Register this as separate Misc. Case.

3. The said documents mentioned in the Annexure – I of the letter dated 21.11.2023 of the Joint Secretary (MI), Govt. of Manipur are the documents collected by the Inquiry Officer of the present Preliminary Inquiry while conducting the Preliminary Inquiry. On receipt of the said letter of the Joint Secretary (MI), Govt. of Manipur dated 21.11.2023, report has been called from the Inquiry Officer of the present Preliminary Inquiry. The Inquiry Officer has submitted his comment vide letter dated 23.11.2023 through the Director (Inquiry), Manipur Lokayukta and at the same time Director (Inquiry) Manipur Lokayukta has also submitted his comment vide his letter dated 23.11.2023 addressed to the Chairperson, Manipur Lokayukta. For easy reference the said letter of the Director (Inquiry), Manipur Lokayukta dated 23.11.2023 is reproduced hereunder:

“No. 1/ML/DIR(INQ)/2023/137
Office of the Manipur Lokayukta
3rd Floor, Directorate Complex, North AOC, 2nd MR
Gate, Imphal, Manipur
Imphal, the 23rd November, 2023

To

The Hon'ble Chairperson,
Manipur Lokayukta.

Subject : Manipur Lokayukta Order
dated 11.10.2023 passed in Misc. Case No. 1
of 2023.

Ref.: Case 1/2023 of Manipur Lokayukta.

Sir,

Please find enclosed herewith the letter dated 23.11.2023 of Shri Kh. Duneshwor Singh, Dy. SP, Inquiry Officer of the above referred case regarding the above subject. The inquiry officer stated that

1) The Secretariat: Minor Irrigation Department requested for release of the original documents (Agreement books and the MBs) that have been collected/seized in connection with the above referred case.

2) The Inquiry Officer is of the opinion that returning the documents to its departments might not be a good step as new allegations from interested person(s) for possibility of tampering/modifying the documents may arise.

3) As such, the officials of the Minor Irrigation Department may be directed to obtain the Photostat copies/scan by using mobile phones of the required documents in presence of the official(s)/staff(s) from the office of Manipur Lokayukta.

4) Further, as the documents are voluminous they may also be directed to use their own papers and ink cartridges that may fit the Photostat machine of this office.

The matter is placed before the Hon'ble Lokayukta for kind consideration.

Enclosed :

1) Letter dated 23.11.2023 along with its enclosures.

Yours faithfully,

Sd/-
Director (Inquiry),
Manipur Lokayukta."

4. Section 20 (11) of the Manipur Lokayukta Act, 2014 clearly provides that the Manipur Lokayukta may retain the original records and evidences which are likely to be required in the process of preliminary inquiry or investigation or conduct of a case by it. For easy reference, Section 20 (11) of the Manipur Lokayukta Act, 2014 is reproduced hereunder:

“20 (11) The Lokayukta may retain the original records and evidences which are likely to be required in the process of preliminary inquiry or investigation or conduct of a case by it or by the Special Court.”

5. The Manipur Lokayukta has the powers of superintendence and direction, over the investigation agency in respect of the matters in so far as they relate to the investigation by such agency under the Manipur Lokayukta Act, 2014 but the Manipur Lokayukta while exercising its power cannot exercise its jurisdiction in such a manner to the agency or investigating officer to investigate and conduct the case in the manner desired by Manipur Lokayukta. For easy reference, Section 25 of the Manipur Lokayukta Act, 2014 is reproduced hereunder:

“25. The Lokayukta shall, notwithstanding anything contained in any other law for the time being in force, have the powers of superintendence and direction, over the investigation agency in respect of the matters in so far as they relate to the investigation by such agency under this Act:

Provided that while exercising powers of superintendence or giving direction under this subsection, the Lokayukta shall not exercise such powers in such a manner so as to require the agency to which the investigation has been given, to investigate and dispose of any case in a particular manner.”

6. It is no longer res integra that the investigation into a crime is the prerogative of the police and the judiciary should keep out all the areas of investigation. The investigation of the case is within the realm of the investigating officer, the Court or even the High Court has no interference with the investigation of the investigating officer while investigating the case in exercise of his prerogative power.

7. In the above factual backdrop, we have given our anxious consideration of the said letter of the Joint Secretary (MI), Government of Manipur dated 21.11.2023 and the said letter of the

Director (Inquiry), Manipur Lokayukta dated 23.11.2023 in juxtaposition and are of the considered view that the concerned officer of Minor Irrigation, Government of Manipur is allowed to take the Photo Copies of the original documents for 102 SMI Schemes under PMKSY – HKKP, mentioned in Annexure – I of his letter dated 21.11.2023 by using Mobile Phone or Photo Copier at their expense in presence of a responsible officer of Manipur Lokayukta.

8. Accordingly, Misc. Case is allowed to the extent indicated above.

9. Registry is directed to furnish a copy of this order to (i) Joint Secretary (MI), Government of Manipur, (ii) Director (Inquiry), Manipur Lokayukta and (iii) Inquiry Officer of the present case, fortnight.

Sd/-
MEMBER

Sd/-
CHAIRPERSON