

**BEFORE
MANIPUR LOKAYUKTA**

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

COMPLAINT CASE NO. 1 OF 2023

In the matter between:

Shri L. Diamond, aged about 64 years, S/o Lungshi, a resident of Lumbui Village, Grihang, Ukhrul Litan, P.O. & P.S. Litan, Ukhrul District, Manipur – 795145.

... Complainant

1. Shri Hirom Brajendra Singh 59 yrs S/o Late H. Ahanjao Singh of Heingang Mayai Leikai, Imphal East, Chief Engineer.
2. Shri Dayananda Thounaojam 34 yrs S/o Th. Dhananchandra Singh of Sagolband Tera Bazar Maibi Leirak, Imphal West, EE, Div-I.
3. Shri Swami Kumar Yumnam 30 yrs S/o Y. Jadu Singh of Yumnam Huidrom, Imphal West, EE, Div-II.
4. Shri Betamax Shijagurumayum 31 yrs S/o S. Lalmani Sharma of Khurai Thangjam Leikai, Imphal East, EE, Div-III.
5. Shri Chetan Laishram 32 yrs S/o L. Manihar Singh of Kwakeithel Thounaojam Leikai, Imphal West, EE, Div-IV.

..... Respondents/Opposite Parties

BEFORE

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

For the Complainant : Shri N. Jotindro, learned Senior Advocate,
assisted by Ms. Ibemsana Yumlembam,
Advocate, Ms. Laishram Kunjarani,
Advocate and Ms. Kumukcham Jesmine,
Advocate.

For the Respondents: Shri P. Tamphamani Singh, Advocate.

DATE OF ORDER : 12.01.2024

JUDGMENT AND ORDER

[1] None appears for the complainant. Heard Shri P. Tamphamani Singh, learned counsel appearing for all the Respondents.

[2] In the nature of the present case and also on consideration of the Preliminary Inquiry Report dated 26.12.2023 submitted by the Inquiry Officer in the present case, it would be pertinent to consider the historical background of Lokayukta and also the aim and object for establishing the Lokayukta. The historical background of establishment of Lokayukta is more fully discussed by the Hon'ble Supreme Court in **Justice Chandrashekaraiyah vs. Janekere C. Krishna & Ors. (2013) 3 SCC 117**. Para Nos. 18, 19 and 20 of the SCC in Justice Chandrashekaraiyah's case (supra) is quoted hereunder :

"18. The President of India vide Notification No. 40/3/65-AR(P) dated 5-1-1966 appointed the Administrative reforms Commission for addressing "Problems of Redress of Citizens' Grievances" inter alia with the object for ensuring the highest standards of efficiency and integrity in the public services, for making public administration a fit instrument for carrying out the social and economic policies of the Government and achieving social and economic goals of development as also one responsive to people. The Commission was asked to examine the various issues including the problems of redress of citizens' grievances. One of the terms of reference specifically assigned to the Commission required it to deal with the problems of redress of citizens' grievances, namely:

- (1) the adequacy of existing arrangements for redress of grievances; and**
- (2) the need for introduction of any new machinery for special institution for redress of grievances."**

The Commission after elaborate discussion submitted its report on 14-10-1966 to the Prime Minister vide Letter dated 20-10-1966.

19. The Commission suggested that there should be one authority dealing with complaints against the administrative acts of Ministers or Secretaries to Government at the Centre and in the States and another authority in each State and at the Centre for dealing with complaint against administrative acts of other officials and all these authorities should be independent of the executive, the legislative and the judiciary.

20. The Commission, in its report, has stated as follows:

"21. We have carefully considered the political aspect mentioned above and while we recognise that there is some force in it, we feel that the Prime Minister's hands would be strengthened rather than weakened by the institution. In the first place, the recommendations of such an authority will save him from the unpleasant duty of investigation against his own colleagues. Secondly, it will be possible for him to deal with the matter without the glare of publicity which often vitiates the atmosphere and affects the judgment of the general public. Thirdly, it would enable him to avoid internal pressures which often help to shield the delinquent. What we have said about the Prime Minister applies mutatis mutandis to the Chief Minister.

Cases of corruption

23. Public opinion has been agitated for a long time over the prevalence of corruption in the administration and it is likely that cases coming up before the independent authorities mentioned above might involve allegations or actual evidence of corrupt motive and favoritism. We think that this institution should deal with such cases as well, but where the cases are such as might involve criminal charge or misconduct cognizable by a court, the case should be brought to the notice of the Prime Minister or the Chief Minister, as the case may be. The latter would then set the machinery of law in motion after following appropriate procedures and observing necessary formalities. The present system of Vigilance Commissions wherever operative will then become redundant and would have to be abolished on the setting up of the institution.

Designation of the authorities of the institution

24. We suggest that the authority dealing with complaints against Ministers and Secretaries to Government may be designated 'Lokpal' and the other authorities at the Centre and in the States empowered to deal with complaints against other officials may be designated 'Lokayukta'. A word may be said about our decision to include Secretaries' actions along with those of Ministers in the jurisdiction of the Lokpal. We have taken this decision because we feel that at the level at which Ministers and Secretaries function, it might often be difficult to decide where the role of one functionary ends and that of the other begins. The line of demarcation between the responsibilities and influence of the Minister and Secretary is thin; in any case much depends of their personal equation and personality and it is most likely that in many a case the determination of responsibilities of both of them would be involved."

[3] The main purpose for establishing Lokayukta is to deal with the matter of corruption in the administration and also whether the cases are such as might involve criminal charge or misconduct, cognizable by the Court. The Manipur Lokayukta Act, 2014 was enacted to provide for the establishment of a body of Lokayukta for the state of Manipur to inquire into the allegations of corruption against certain public functionaries and for matters connected therewith or incidental thereto.

[4] In the present case, the Preliminary Inquiry Report submitted by the Inquiry Officer does not mention that there is prima facie material for substantiating corruption and misappropriation of the fund relating to the implementation of the schemes under Accelerated Irrigation Benefit Programme (AIBP), 2013-14 now renamed as Pradhan Mantri Krishi Sinchayee Yojana – Har Khet Ko Pani (PMKSY-HKPP) by the Respondents, save and except that there is lack of supervision over their subordinate staffs who did not take timely action over the reported damaged portions of the works and as such have caused further major damage due to the natural calamities, which according to us are the materials required to be dealt with by the Administrative authority. However, we are considering the Preliminary Inquiry Report in the following paras as to whether there are materials for submitting the report that there is lack of supervision by the Respondents and they did not take timely action over the reported damage portion of the work.

[5] The Complainant did not file any comment to the finding of the Preliminary Inquiry Report submitted by the Inquiry Officer that there are no materials for misappropriation or corruption in the matters relating to the implementation of the said schemes. In the present case, while the Preliminary inquiry was in progress, the complainant filed an application dated 04.09.2023 to the Chairperson, Manipur Lokayukta requesting for withdrawal of the present complaint on the ground that on further collection of information for non-execution of the various works executed by the Minor irrigation Department, Manipur, he had come to know that most of the works were completed by the competent authority as per specifications and certain works which are damaged due to flash flood had been repaired by the department and as such he did not want to pursue the present case. On perusal of the withdrawal application dated 04.09.2023 of the Complainant,

we are of the considered view that even according to the Complainant who filed the present complaint for corruption and mismanagement in the matter of implementation of the schemes under Accelerated Irrigation Benefit Programme (AIBP), 2013-14 now renamed as Pradhan Mantri Krishi Sinchayee Yojana – Har Khet Ko Pani (PMKSY-HKKP) by the Respondents are not correct, preliminary inquiry which I at the advance stage should come to its natural end. For easy reference, the said letter/application dated 04.09.2023 filed by the Complainant is reproduced hereunder:

**“To,
The Chairperson,
Manipur Lokayukta,
Directorate Complex, 3rd Floor, North AOC,
2nd MR Gate, Imphal.**

Subject: Request for withdrawal of Complaint Case file by the undersigned applicant Shri. L. Diamond under Form- 1 Rule 15 (2) before the Lokayukta/Chairperson, Manipur Lokayukta.

Respected Sir,

With humble request, I would like to invite the kind attention of your good office in connection with the Complaint Case filed by the undersigned applicant before the Manipur Lokayukta on the following facts and circumstances.

That I made the aforesaid complaint before the Hon'ble Manipur Lokayukta on certain bonafide believe that the officials of the Minor Irrigation Department had misappropriated public money and while applying RTI application as RTI reply were not furnished in detail and as such it was presumed by me that the expenditure statement in respect of Ukhrul, Senapati and Churachandpur were wrongly made by the competent authority and also wrongly presumed that there were financial mismanagement by the competent authority while executing various schemes/projects at different districts such as Ukhrul, Tamenglong, Senapati and Churachandpur etc.

That the various projects were initiated during the period of M. Shyambabu Singh, Chief Engineer (Minor Irrigation), Manipur, however, when I enquired further, he retired on w.e.f. 31.08.2014 vide an order dated 15.9.2014 and the instant case cannot be taken up against him in view of the Section 53 of the Manipur Lokayukta Act, 2014. Moreover, the next Chief Engineer was Shri L. Gourakishore

Singh, Chief Engineer (Minor Irrigation), Manipur during his time maximum works were executed and he also retired on superannuation w.e.f. 30.06.2018 vide an order dated 29.06.2018. In the meanwhile, the said Shri L. Gourakishore Singh had already expired on 24.01.2021 due to certain ailments.

True copies of the retirement order of the said M. Shyambabu Singh, Chief Engineer (MI), Manipur dated 15.09.2014 along with retirement order of Shri L. Gourakishore Singh, Chief Engineer (MI). Manipur dated 29.06.2018 and dead certificate of the said L. Gourakishore Singh are also enclosed herewith and marked as Enclosure-I, II & III respectively.

That on my further enquiry to the places where I have collected information for non-execution of the various works executed by the Minor Irrigation Department, Manipur, I have come to know that most of the works were completed by the competent authority as per specifications. Certain works which was damage due to flash flood has been repaired by the Department.

In view of the above facts and circumstances, I would like to draw the kind attention of your good office to withdraw the said Complaint Case file by me before the Hon'ble Manipur Lokayukta, Manipur as I do not want to pursue the same to a person who has already retired on 31.08.2014 and also against another person who has expired on 24.01.2021 and if I have committed any bonafide mistake, while preferring the said complaint case, the same may kindly be treated as a bonafide mistake and I may be excused for filing such complaint and overburdening the Hon'ble Manipur Lokayukta, Manipur.

For this act of your kindness, I shall ever remain grateful.

Dated/Imphal
The 4th September, 2023

Yours faithfully,
Sd/-
(L. Diamond)
S/o Lungshi
R/o Lambui Village, Grihang,
Ukhrul, Litan, P.O. & P.S. Litan,
Ukhrul District, Manipur- 795145."

[6] Accordingly, the said application dated 04.09.2023 filed by the Complainant was not accepted by the Manipur Lokayukta only on the ground that the Preliminary Inquiry is already at the advance stage and to let the

preliminary inquiry come to its natural end without any interference by passing an order dated 11.09.2023 in the present complaint.

[7] The allegations of the Complainant in the present complaint is that the erection of Dam in respect of the Minor Irrigation Department, Manipur in the implementation of the schemes under Accelerated Irrigation Benefit Programme (AIBP), 2013-14 now renamed as Pradhan Mantri Krishi Sinchayee Yojana – Har Khet Ko Pani (PMKSY-HKPP) have not been done properly and the funds for the said works had been withdrawn by the department thereby resulting to committing of corruption and enjoying the fund for their personal benefits. Since the allegations in the complaint is not clear, the Manipur Lokayukta was of the considered view that before passing any sort of order against any individual, there must be prima facie case for preliminary inquiry or any other actions. Therefore, Manipur Lokayukta was of the considered view that the personal hearing of the complainant is required so as to understand clearly what are the specific allegation against the individuals concerned?, Whether the allegation is against construction of any particular dam under the Minor Irrigation of the Government of Manipur? And whether the allegation made is for possession of property disproportionate to the known sources of income under the law and against whom? Accordingly, the complainant was asked to appear in person for passing an order. The relevant portion of the order dated 12.05.2023 for personal hearing of the complainant is reproduced hereunder:

"3. The Manipur Lokayukta is of the considered view that before passing any sort of order against any individual, there must be prima facie case for preliminary inquiry or any other actions. Therefore, Manipur Lokayukta is of the considered view that the personal hearing of the complainant is required so as to understand clearly what are the specific allegation against the individual concerned?, Whether the allegation is against construction of which dam under the Minor Irrigation of the Government of Manipur? And whether the allegation

made is for possession of property disproportionate to the known sources of income under the law and against whom? In the above circumstances, we are of the considered view that the personal hearing of the complainant Shri L. Diamond, aged 64 years, S/o Lungshi is required. As stated above the Manipur Lokayukta need the personal hearing of the complainant for passing any order.

4. Deputy Registrar is directed to furnish a copy of this order through WhatsApp or by special messenger to the complainant."

[8] Accordingly, the complainant appeared before Manipur Lokayukta on 09.06.2023 and after hearing the complainant, Manipur Lokayukta passed an order dated 09.06.2023 that the allegations of the complainant is in regard to the misappropriation and embezzlement of fund in respect of the 102 ongoing Minor Irrigation Schemes under Accelerated Irrigation Benefit Programme (AIBP), 2013-14 now renamed as Pradhan Mantri Krishi Sinchayee Yojana – Har Khet Ko Pani (PMKSY-HKKP). In the said order dated 09.06.2023, we directed the Director (Inquiry), Manipur Lokayukta to conduct a Preliminary Inquiry in respect of the said 102 ongoing Minor Irrigation schemes under Accelerated Irrigation Benefit Programme (AIBP), 2013-14 now renamed as Pradhan Mantri Krishi Sinchayee Yojana – Har Khet Ko Pani (PMKSY-HKKP). For easy reference, our order dated 09.06.2023 is reproduced hereunder :

"Complaint Case No. 1 of 2023

09.06.2023

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

2. The complainant stated that the Government of India, Ministry of Jal Shakti, Department of Water Resources, Government of India introduced the Accelerated Irrigation Benefits Programme (AIBP) effective from October, 2013. The Complainant also has drawn our attention to the Form of Complaint more particularly para no. 1, wherein it is stated that Expenditure Statement of

the works implemented during the period from 2013 upto February, 2018 for the construction of M.I. Dams in respect of Minor Irrigation No. IV, M.I. Deptt., Manipur. He further stated that various photographs of the work sites of the Minor Irrigation Dams in respect of the Minor Irrigation Division No. IV has been annexed in the complaint.

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

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

4. We have also taken into consideration as to whether the present complaint is barred by limitation as provided under Section 53 of the Manipur Lokayukta Act, 2014. On conjoint reading of the brief report and the complaint it is

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

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

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

Therefore, the period of 7 (seven) years is to be counted from the date on which the offence, mentioned in the complaint, is alleged to have been committed. It is clear that as on 26.10.2022, 102 Minor Irrigation Schemes, for which the present complaint is filed, is not completed and is continuing. As per established procedure, schemes would be said to have been completed only on submission of all Utilization Certificates (UCs) along with a Completion Certificate (CC). Even if, 26.10.2022, on which the instalment amount of Rs. 20 crore had been sanctioned for the project, is taken as the date for completion of the project, the period of 7 (seven) years is not completed on the date of filing of the present complaint inasmuch as the present complaint was filed on 02.05.2023. However, we are not making any final decision as to whether the present complaint is barred by limitation as provided under Section 53 of the Manipur Lokayukta Act, 2014 at this stage. The final decision regarding the limitation of the present

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

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

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

8. It is also made clear that the Inquiry Officer while conducting the Preliminary Inquiry shall keep in view their powers and jurisdiction as provided under Sub-section (1), Sub-section (2), Sub-Section (4), Sub-section (5) and Sub-section (9) of Section 20; Section 21; Section 22; Section 26; Section 28 (2); Section 29; Section 32; Section 36 and other provisions of Manipur Lokayukta Act, 2014.

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

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

***Sd/-
MEMBER***

***Sd/-
CHAIRPERSON"***

[9] In the course of conducting preliminary inquiry, the Director (Inquiry), Manipur Lokayukta, vide his letter dated 03.11.2023, requested for constitution of a Technical Appraisal Team for assisting the Inquiry Officer of the present case in the course of conducting the preliminary inquiry in respect of the said 102 schemes. Taking into consideration of the number of

schemes, covering different districts of the state of Manipur, we were of the considered view that different Technical Appraisal Team was required to assist the Inquiry Officer in the course of conducting the preliminary inquiry in the different districts of Manipur. Accordingly, different Technical Appraisal Teams were constituted for different districts of the state of Manipur vide our order dated 21.11.2023 passed in Misc. Case No. 2 of 2023 (Ref.: Complaint Case No. 1 of 2023). Para Nos. 3, 4, 5, 6, 7, 8 and 9 of our order dated 21.11.2023 are reproduced hereunder:

"3. On the prayer of the Director (Inquiry), Manipur Lokayukta for constitution of a Technical Team for assisting the Inquiry Officer of the present Case in the course of conducting Preliminary Inquiry in respect of the said 102 Schemes, the present Misc. Case has been registered vide our order dated 08.11.2023 passed in the present Misc. Case. Vide our order dated 08.11.2023 passed in the present Misc. Case, we directed the departments of PWD, IFCD, PHED and CADA to provide list of Engineers (Civil) for the purpose of constituting the Technical Team. In pursuant of our order dated 08.11.2023, the Chief Engineer, PWD, Manipur under letter being No. CE/2564/Lokayukta/2023/890 dated 17th November, 2023, the Chief Engineer, Water Resources Department, Manipur under letter being No. CE/WR/6-15/2023-24 dated 14th November, 2023, the Chief Engineer, PHED, Govt. of Manipur under letter being No. CE/PHE/5-626/2022/2393 dated 14th November, 2023 and the Additional Chief Engineer, Command Area Development Department (CADA), Manipur have submitted list of Engineers for consideration in constituting the Technical Team.

4. We have considered the said lists of Engineers and after consideration of the said lists and also the law and order situation prevailing in the different districts of the State of Manipur, are of the considered view that separate Technical Team is required to be constituted for the said Schemes located in different District of the State of Manipur. The Team so constituted is to assist the Inquiry Officer of the present case in ascertaining as to whether the works has been properly executed or not. Accordingly, we constitute the following Technical Teams:

A. For the Valley Districts of Manipur i.e. Imphal East, Imphal West, Bishnupur, Thoubal and Kakching:

(i) Shri Y. Bijendro Singh, EE/TPD-IV, Water Resources Department, Manipur.

(ii) Shri M. Borchand Singh, EE/TPD-VI, Water Resources Department, Manipur.

B. For the Ukhrul District of Manipur :

(i) Mr. Garnish Kashung, Executive Engineer, Ukhrul, PWD, Manipur.

(ii) Mr. Wotrami Marchang, EE/IID, Water Resources Department, Manipur.

C. For the Churachandpur District of Manipur :

(i) Mr. John Thanglienmang, Executive Engineer, Churachandpur PHE Division, PHED, Manipur.

(ii) Mr. V. Jamkhamang, Executive Engineer, Churachandpur Division, PWD, Manipur.

D. For the Tamenglong District of Manipur :

(i) Mr. Jr. Durtoidam Chiru, Executive Engineer, Tamenglong PHE Division, PHED, Manipur.

(ii) Mrs. Tolarence Saka, EE/IMD-II, Water Resources Department, Manipur.

F. For the Senapati District of Manipur :

(i) Mr. Mathew Golmei, Executive Engineer, Senapati Division, PWD, Manipur.

(ii) Mr. S. Lohrii Mao, Executive Engineer, Senapati PHE Division, PHED, Manipur.

5. It is also made clear that the Technical Team will be provided with a checklist, which is indicative in nature and not exhaustive allowing liberty to the Technical Team to give their views/comment freely, for which spot inspection is to be carried out and also for providing their technical opinion. The checklist will be provided by the Inquiry Officer of the present case. Further, as required by the Inquiry Officer, the particular Technical team will be required to assist the Inquiry Officer in the course of conducting the spot inspection.

6. It is no longer res intergra that investigation into a crime is the prerogative of the police and the judiciary should keep out all the areas of investigation. The investigating officer is the arm of law and plays a pivotal role in dispensation of criminal justice and maintenance of law and order. Enough power is therefore given to the police officer in the area of investigating process and granting them the court latitude to exercise its discretionary power to make a successful investigation. It is left to the Inquiry Officer of the present Preliminary Inquiry to decide as to the type of assistance required from the Technical Team.

7. In the above factual matrix, we invoking our jurisdiction under Section 28 of the Manipur Lokayukta Act, 2014 utilise the service of the Technical Team in the Preliminary Inquiry of the present case. For easy reference Section 28 of the Manipur Lokayukta Act, 2014 is reproduced hereunder:

"28. (1) The Lokayukta may, for the purpose of conducting any preliminary inquiry or investigation, utilize the services of any officer or organization or investigation agency of the State Government.

(2) For the purpose of preliminary inquiry or investigating into any matter pertaining to such inquiry or investigation, any officer or organization or agency whose services are utilized under sub-section (1) may, subject to the direction and control of the Lokayukta,--

(a) summon and enforce the attendance of any person and examine him;

(b) require the discovery and production of any document; and

(c) requisition any public record or copy thereof from any office.

(3) The officer or organization or agency whose services are utilized under sub-section (2) shall inquire or, as the case may be, investigation into any matter pertaining to the preliminary inquiry or investigation and submit a report thereon to the Lokayukta within such period as may be specified by it in this behalf."

8. It may be pertinent to make an observation here that the work of the Engineers for assisting the Inquiry Officer in the technical matter mentioned above will not be heavy and also will not be a long engagement. The date(s) of meeting with the Inquiry Officer will be intimated later on by the Director (Inquiry), Manipur Lokayukta.

9. Deputy Registrar, Manipur Lokayukta is directed to furnish a copy of this order for necessary compliance to:

- (i) Chief Engineer, PWD, Manipur;**
- (ii) Chief Engineer, Water Resources Department, Manipur;**
- (iii) Chief Engineer, PHED, Govt. of Manipur;**
- (iv) Addl. Chief Engineer, Command Area Development Department, Manipur;**
- (v) Shri Y. Bijendro Singh, EE/TPD-IV, Water Resources Department, Manipur;**
- (vi) Shri M. Borchand Singh, EE/TPD-VI, Water Resources Department, Manipur;**
- (vii) Mr. Wotrami Marchang, EE/IID, Water Resources Department, Manipur;**
- (viii) Mrs. Tolerance Saka, EE/IMD-II, Water Resources Department, Manipur;**
- (ix) Mr. Garnish Kashung, Executive Engineer, Ukhrul, PWD, Manipur;**
- (x) Mr. V. Jamkhamang, Executive Engineer, Churachandpur Division, PWD, Manipur;**
- (xi) Mr. John Thanglienmang, Executive Engineer, Churachandpur PHE Division, PHED, Manipur;**

(xii) **Mr. Jr. Durtoidam Chiru, Executive Engineer, Tamenglong PHE Division, PHED, Manipur.**

And also to :

(i) **Director (Inquiry), Manipur Lokayukta; and**
(ii) **Shri Kh. Duneshwor Singh, MPS, Inquiry Officer."**

[10] In the course of conducting preliminary inquiry, the Technical Appraisal Team/inquiry team visited the different schemes located at different districts of the state of Manipur and submitted the Inspection Report as such :

"INSPECTION REPORT

IMPHAL WEST

(i) **Name of Work: Construction of Pacca Canal from Sekmai Bridge Foot hill to potsangbam.**

Report: For this work the canal are worn out, some minor repairing is required. Further, slab culvert and staircase were found constructed on the canal which was not in the estimate, when enquired to the concerned Executive-Engineer, he replied that the slab culvert and staircase was constructed by the locality as per their requirement.

Serviceability: Serviceable.

(ii) **Name of Work: Construction of Pick-up weir &P/Canal a/c Khangjingpat river at Sekmai Nongthombam**

Report: At the upstream of the pick-up weir sedimentation was observed also mosses were observed in some parts of the pick-up weir and canal, which shows lack of maintenance. The lack of maintenance may reduce the lifespan of the structure.

Serviceability: Serviceable

(iii) **Name of Work: Constn.of P/W at Mayang Langjing Tamang Khoirompat**

Report: The structure is in serviceable condition. Unwanted vegetation was observed along the canal. There is sedimentation on the upstream portion of the weir which needs to be removed from time to time. The work is done as per record.

Serviceability: Serviceable.

(iv) **Name of Work: C/O. of P/W Kamong river at Kamong**

Report: The erosion of the banks was observed at the downstream of the weir, due to which cracks has developed at the side wall of the downstream portion. The weir is in serviceable condition and the work was carried out as per record.

Serviceability: Serviceable

- (v) Name of Work: C/O.of Mini Barrage a/c Merakhong river in between Patsoi and Sagoltongba**

Report: The structure is found to be sound and in good overall condition. Mosses and weeds cover some parts of the canal. The shutter for the canal is corroded and needs replacement.

Serviceability: Serviceable

- (vi) Name of Work: Constn. of P/W a/c Irengbam Thingel Heibirok stream at Khumbong Awang Maning.**

Report: The weir is covered somewhat with mosses and the plaster are broken at places. There is sedimentation at both the upstream and downstream portion of the weir which needs to be clear. The work is done as per record.

Serviceability: Serviceable

- (vii) Name of Work: Constn. of RLI &P/C a/c Imphal river at Chirai Bazar.**

Report: The RLI Scheme is functioning properly as intended. The canal is blocked near the pump house due the recent construction of nearby bridge. Other than that, there is no need for repair. The work is done as per record.

Serviceability: Serviceable.

- (viii) Name of Work: C/O.of RLI a/c Imphal river at Thambalnu Heibong Makhong**

Report The RLI Scheme is functioning properly but the area around the pump house is overgrown with weeds. Clearing the said weeds and maintenance may be required. The work is done as per record.

Serviceability: Serviceable

- (ix) Name of Work: C/O. of Sluice Reg. & I/C Pening Loukol.**

Report: The structure is found serving its function. It is a little worn out due to years of service. There is vegetation overgrown around the canal. No need for repair but maintenance is required. The work is done as per record.

Serviceability: Serviceable.

IMPHAL EAST

- (i) Name of Work: Constn.of Main canal of Lamboikhul RLI Scheme & Shutter Dam at Lamboikhul.**

Report: The main canals of the RLI are still in overall good condition whereas overgrown of vegetation is seen around the Shutter Dam which is still in good condition and functioning properly. Corrosion of the regulator shutters is seen which needs to be coated with emulsions & paints from time to time to maintain its longevity. The work is done as per record.

Serviceability: Serviceable.

- (ii) Name of Work: Constn.of Culvert with Regulator Laingamkhong at Kongpal Iranpham.**

Report: The regulator is functioning properly and the culvert is also in good condition. Corrosion of the regulator shutters is seen which needs to be coated with emulsions & paints from time to time to maintain its longevity. The work is done as per record.

Serviceability: Serviceable.

- (iii) Name of Work: RLI a/c Thoubal River at Bedamani Mapa.**

Report: The RLI scheme is found functioning properly. The pump house is a little worn out due to years of functioning and hence may require whitewashing and plastering. Overgrown of vegetation is found surrounding the entrance of the pump house. The work is done as per record.

Serviceability: Serviceable.

- (iv) Name of Work: Constn.of RLI at Tulihal.**

Report: The RLI scheme is found in overall good condition. But the pump house require proper accessibility option which is not included in the estimate of the project. The work is done as per record.

Serviceability: Serviceable.

- (v) Name of Work: Constn.of RLI at Kangla Siphai Awang Leikai**

Report: The RLI scheme is found functioning properly. The pump house is a little worn out due to years of functioning and hence may require whitewashing and plastering. The work is done as per record.

Serviceability: Serviceable.

- (vi) Name of Work: Constn.of RLI & P/Canal a/c Kongba River at Puyam Bira Mapa.**

Report: The RLI scheme is found functioning properly. Overgrown of vegetation is seen around the pump house. No need for repair but minor maintenance may be required. The work is done as per record.

Serviceability: Serviceable.

- (vii) Name of Work: Constn.of RLI at Yubraj Palli.**

Report: The RLI scheme is found in overall good condition. The canals are a little worn out. There are patches of mosses here and there. The canal may require maintenance. The work is done as per record.

Serviceability: Serviceable.

- (viii) Name of Work: C/O.of RLI S. at Kongba river at Kongba Kshetri Leikai.**

Report: The RLI scheme is found functioning properly. Overgrown of vegetation is seen around the pump house. No need for repair but minor maintenance may be required. The work is done as per record. Solar panel is installed on the roof the pump house which is used by the local club for power generation.

Serviceability: Serviceable.

- (ix) Name of Work: Constn.of Main canal of Keibi Awang & Makha Leikai RLI Scheme at Keibi.**

Report: The main canal at Keibi Makha Leikai is in good condition whereas the main canal at Keibi Awang Leikai is seen worn out and overgrown with moss/vegitations and needs minor repairs. The work is done as per record.

Serviceability: Serviceable.

- (x) Name of Work: Constn.of RLI Scheme at Koirou Loukol.**

Report: The RLI scheme is found functioning properly. Overgrown of vegetation is seen around the pump house. No need for repair but minor maintenance may be required. The work is done as per record.

Serviceability: Serviceable.

BISHNUPUR

- (i) Name of Work: Construction of Mini Barrage a/c Khuga river, Sluice regulator and pucca canal at Uyunghoubi**

Report: During our joint visit, we saw a vast Mini Barrage a/c Khuga river which is located at Kumbi Uyunghoubi. Concerned EE pointed out that cost of the whole Barrage is high, So there are 6 numbers of works under different Sub Heads and they are divided for smooth and easy execution of the works. Diversion Canal can be seen on left side of the Mini Barrage and it is currently providing water to the paddy field. Seven numbers of steel shutter can be seen and all of them are rusted. Two shutters are partially damaged due to weathering and rise of high flood level. Side Wall in both sides are good in condition but some unwanted vegetation was observed.

Serviceability: Serviceable.

- (ii) Name of Work: Construction of Pick-up Weir and I.C. across Thongjaorok river at Kwasiphai**

Report: During our joint visit, we saw a Pick-Up Weir a/c Thongjaorok river which is located at Kwasiphai. Side Wall in both sides are good in condition but it is covered by Mosses, weeds and grasses. Diversion Canal can be seen at the right side of the Pick-Up Weir and it is currently damaged due to the construction of a bridge above the structure in the upstream portion of the pick-Up weir.

Serviceability: Serviceable.

- (iii) Name of Work: Constn of P/Weir & I.C. Bhubon Singh Loupa at Nachou Awang**

Report: During our joint visit, we saw a Pick Up Weir a/c Nachou stream which is located at Bhubon Singh Loupa . Diversion Canal can be seen on both sides of the Pick-Up Weir and it is currently providing water to the paddy field. Unwanted vegetation was observed along the canal. Cracks were developed at the upstream of the side wall

Serviceability: Serviceable.

- (iv) Name of Work: Constn of P/W & IC a/c Thabakhong stream Laipham Khunou**

Report: During our joint visit, we saw a Pick-Up Weir a/c Thabakhong stream which is located at Laipham khunou. Diversion Canal can be seen on left side of the Pick-Up Weir and it is currently providing water to the paddy field. Mosses, grasses etc covered all the floor surface of the weir.

Serviceability: Serviceable.

- (v) Name of Work: Construction of Pick-up Weir at Khoijuman Mamang**

Report: Overall Structure are good in condition. Siltation at the upstream portion of the weir can be seen underneath the water. Mosses and weeds cover some parts of the weir.

Serviceability: Serviceable.

- (vi) Name of Work: Construction of Pick-up Weir with pucca canal at Thabakhong stream south of Ngakchoupokpi along IVR to Ngaikhong**

Report: Diversion Canal can be seen on left side of the Pick-Up Weir and it is currently providing water to the paddy field. Overall Structure are good in condition. High Siltation at the upstream portion of the weir can be seen underneath the water. Removal of the excess earthwork or banking is required at the upstream portion.

Serviceability: Serviceable.

- (vii) Name of Work: Constn of Pick-up Weir a/c Moirang Turel Maril at Achouba Thingel**

Report: At the upstream of the pick-up weir sedimentation was observed also mosses, grasses, bushes were observed in

some parts of the pick-up weir and canal, which shows lack of maintenance. The erosion of the banks was observed at the downstream of the weir

Serviceability: Serviceable.

THOUBAL & KAKCHING

- (i) Name of Work: RLI Scheme at Laishram Leirak, Thoudam Lai Mapa.**

Report: The execution of this work has been done more than 10(ten) years back. Due to this long passage of time, the structure has been subjected to wear and tear. The scheme however is intact and functioning properly. Deep vegetation has grown along the concrete stairs which houses the RLI pump. The pump has been shifted from inside the RLI station and positioned lower on the stairs due to the water levels being low on the Thoubal River from which the water is being supplied to the paddy fields covering an area of nearly 15 Ha. Some minor repairing is required. The pump is functional

Serviceability: Serviceable.

- (ii) Name of Work: RLI Scheme at Wabagai Mairnbam**

Report: The scheme also is an RLI station and was constructed 10 years back and the pump station has been worn down, but properly housing the pump, which operates on diesel fuel. The delivery canal requires some minor repairing and cleaning of sedimentation on the canal bed

Serviceability: Serviceable.

- (iii) Name of Work: RLI scheme at Wabagai Katajit Mayai Salam Loukon**

Report: The RLI station showed wear and tear on its walls and peeling of paint. The Delivery chamber had some leaks on its side walls. The pump is functional and is diesel operated. The canal also needs some minor repairing and cleaning of the vegetation along its walls

- (iv) Name of Work: RLI Scheme at Heibong Makhong Thoibikhong.**

Report: The structure is in serviceable condition. However, the canal lining has developed some cracks along its surface due to long periods of repairing not been done. Unwanted vegetation was observed along the canal.

- (v) Name of Work: P/W across Naodam Turel (stream) at kakching Makha Leikai, Naodam Bazar**

Report: The structure is found to be sound and in good overall condition. Sedimentation at the upstream of the weir requires cleaning. The gates of the structure require periodic maintenance. The canal is in good condition.

Serviceability: Serviceable.

- (vi) Name of Work: Half Dam across Wangjing River near Puleipokpi**

Report: The Structure is functioning properly and the weir is fully operational. The canal requires de-siltation and also removal of vegetation at the canal's intake.

- (vii) Name of Work: I/Canal, slab culvert from Sangaiyumpham to Khangabok for Thambal Ahangbi Mini Barrage at Sangaiyumpham.**

Report: The components were all present and completely functional. The canal showed sedimentation and requires cleaning. The gate at the canal's intake needs minor repairing. The culvert was found to be in good condition.

- (viii) Name of Work: Mini Barrage across Arong River for Nehru Dam at Athokpam**

Report: The scheme was functional and canal system had been properly implemented. The walls faced minor wear and tear. Overall the structure is found intact

- (ix) Name of Work: Laying of GI Ductile Pipe & procurement of pump for RLI scheme at Nepra Company**

Report: At the site, GI pipe were properly laid from the RLI station till the delivery canal. The pipes were laid across the road at proper depth and embedded till the open channel. Overall, the scheme has been found to be operating smoothly

- (x) Name of Work: Pucca Irrigation Canal and Slab Culvert at Siphai Loukol**

Report: The scheme at the site consisted of a slab culvert with diversions provided for canal. No major issues were found and the scheme was overall intact with minor wear and tear found along the side walls.

[1] The report of the Technical Appraisal Team can be summarised as follows:-

- (i) Out of the 102 nos. of cluster works, a total of 36 (Thirty six) nos. of works viz. 9 (nine) nos. for Imphal West, 10 (ten) nos. of Imphal East, 7 (seven) nos. for Bishnupur, 10 (ten) nos. of Thoubal and Kakching Districts were selected randomly and inspected along with the concerned engineers of the Minor Irrigation Department.**
- (ii) During the inspection it was found that slab culverts and staircases were found constructed over the irrigation canals by the local people which was not the part of the work.**

- (iii) Due to other developmental projects/works of other departments, there is damage on the structures of the works.*
- (iv) Due to the natural calamities like flood, there is erosion of the banks of the canals and filling up with sedimentation.*
- (v) There is wear and tear of the structures like shutters/regulators and the walls of the dams & canals with the lapse of time and needs repairing.*
- (vi) Most of the irrigation canals were filled with sediments and mosses and needs maintenance.*
- (vii) Although, the structures are found in serviceable condition, they all need repairing and maintenance.*

[2] *Written comments were called from the competent authority as well as the respondents as provided under section 20(2) of Manipur Lokayukta Act, 2014. The respondents except the competent authority submitted their written comments. [Page no. 90-116] The comments of the respondents can be summarised as follows:-*

- i) The 102-AIBP Scheme 2013-14 (now renamed as PMKSY) were executed under close monitoring and quality evaluation by an independent agency ie. Manipur Institute of Technology.*
- ii) The worksites which were alleged to have not been constructed were visited without the concerned engineers who can point out the exact worksites.*
- iii) Some of the structures of the works which were executed at the hilly terrains were damaged due to the natural calamities like landslides, flash floods etc.*
- iv) As there is no maintenance fund, the repairing works were not done.*
- v) As the final payment has not been made, the contractors had been advised to repair the damaged structure.*
- vi) The worksites which were alleged to have been damaged will be inspected and repaired if any as and when the present law and order situation improves.*
- vii) The responsibility of the cleaning of the siltation, grasses/mosses in the irrigation canals are responsibility of the farmers ie. Water Users Association once it has been handed over to them."*

[11] On bare perusal of the Preliminary Inquiry Report, it is clear that there is no report for misappropriation or corruption in the implementation of the schemes by the respondents and officials of Minor irrigation Department, Manipur, the only finding is that there was lack of supervision over their staffs. We have given our anxious consideration to the materials available on record as well as to the Preliminary Inquiry Report, if anything is available for coming to such observation by the Inquiry Officer, and on such perusal, it appears that the observation made by the Inquiry Officer that there is lack of supervision by the Respondents over their staffs is absurd and in absence of any material, it is not known why the Inquiry Officer made such finding. It is also the accepted case of the Inquiry Officer and also the Respondents that the project in this case is an ongoing project. The Respondents had filed their comment to the Preliminary Inquiry Report. Para nos. 3.1, 3.2, 3.3, 3.4, 3.5, 11 and 13 of their comment are reproduced hereunder :

"3.1 That the present case arises in pursuance of the complaint case filed by the complainant making allegations against the officials of the Minor Irrigation Department, Government of Manipur while discharging their official duties in connection with the implementation of the 102 AIBP Scheme (now renamed as PMKSY) 2013-2014 by the Minor Irrigation Department, Manipur.

3.2 That all works of 102- Surface Minor Irrigation Schemes under the Accelerated Irrigation Benefits Scheme Programme which has been later on renamed as Pradhan Mantri Krishi Sinchayee Yojana (PMKSY for short) for all districts of Manipur has been executed for the welfare and benefits of the public particularly the farmers/cultivators. Subsequently, the Manipur Institution of Technology, Takyelpat, Imphal, Manipur has done the Concurrent Evaluation inclusive of Quality Control Monitoring for all the said 102-Minor Irrigation Schemes whereby certified that the performance of the same has been found to be satisfactory.

3.3. That the allegations made by the Complainant regarding his field visits of some worksites were done without concerned authorities of the Minor Irrigation Department who has known the worksite. The complainant did not visit the actual locations where the Minor Irrigation Schemes are constructed/executed, instead visited in the

different locations. In fact, the said works/schemes were executed properly.

3.4. That all the funds released by the Department of Water Resources, River Development & Ganga Rejuvenation, Ministry of Jal Shakti, Government of India after submitting the Utilisation Certificate by the State Government. It is also beg to submit that the official of Department of Water Resources, RD & GR, Ministry of Jal Shakti, government of India have also visited the work sites. While submitting the Utilisation Certificate, the documents like Audited Certificate issued by the Accountant General Manipur, Concurrent Evaluation including Quality Control Monitoring Certificate issued by the recognised Institution, etc. has to be submitted. Hence, there is no misappropriation of funds.

3.5. That it is also humbly submitted that most of the Surface Minor Irrigation Schemes were/are constructed in the rivers/streams. The said structure need to be repaired annually or periodically which are damaged by natural disasters like floods, landslide, etc. as well as mining of sand/stones, etc. But, due to shortage of maintenance fund, the Department cannot take up repairing of damage structures. Apart from it, due to the shortage of technical staffs/engineers and official vehicle in the Department, the concerned SO/AE couldn't visit the worksites frequently. However, the Minor Irrigation Department shall take up the necessary steps in the matter after getting the proper requirements from the concerned authorities. It is also the position that the final payment for the aforesaid 102 MI Schemes under AIBP (now renamed as PMKSY) is yet to be released by the Department of Water Resources, RD & GR, Ministry of Jal Shakti, Government of India. It is also humbly submitted that in view of the present law and order situation of the State of Manipur, the Department officials could not inspect some worksites for verifying the situations. Once, the law and order situation is improved, the Department officials along with concerned contractors will visit the said sites for the aforesaid 102- AIBP Schemes which could not be inspected at present and shall strictly instruct the concerned contractors for repairing any defects/damages in the structures if occurred/found before the final payment is made. However, in respect of some areas/worksites, the Department has instructed the concerned contractors for repairing if any damages/defects are found, which are not at all affected by the present law and order situation of the State.

11. That with reference to para No. 16, 17, 18, and 19 of the Inquiry report, the answering respondents humbly submitted that all works under 102 Minor Irrigation Schemes under the Accelerated Irrigation Benefits

Programme (now renamed as PMKSY) for all districts of Manipur has been executed/implemented for the welfare and benefits of the public particularly the farmers/cultivators. Subsequently, the Manipur Institution of Technology, Takyelpat, Imphal, Manipur has done the Concurrent Evaluation inclusive of Quality Control Monitoring for all the said 102-Minor Irrigation Schemes are certified that the performance of the same has been found to be satisfactory.

It is reiterated that most of the Surface Minor Irrigation Schemes were/are constructed in the rivers/streams and the same are needs to be repaired annually or periodically which are damaged by natural disasters like floods, landslides, etc. as well as mining of sand/stones, etc. But, due to shortage of maintenance fund, the Department cannot take up repairing of damage structure in time. Apart from it, due to the shortage of technical staffs/engineers and official vehicle in the Department, the concerned SO/AE couldn't visit the worksites frequently for checking the status of the structures so that necessary measures could be taken up at an early point of time in order to have a long lifespan of structures. There is no negligence from the side of the Minor Irrigation Department in the implementation of the aforesaid 102- AIBP (now renamed as PMKSY).

13. That with reference to para No. 21 and 22 of the Inquiry report, the answering Respondents for the reasons stated in para No. 3.1 to 3.6 and 11 of this written statement of defense, vehemently and categorically denied the findings and conclusions of the inquiry. The answering respondents further humbly submitted as under:

(i) Due to the shortage of technical staffs/engineers and official vehicle in the Department, the concerned Section Officer/Assistant Engineer couldn't visit the worksites frequently.

(ii) The Department needs additional Fund for repairing/constructing the structures which were damage due to natural calamities as the Department has fund constraint to take up maintenance work. Accordingly, the Joint Secretary (Minor Irrigation), Government of Manipur vide Letter No. 3/11/2018-MID dated 25-08-2018 had requested the Director (Planning), Manipur for allocation of additional fund of Rs. 20.00 Crore under the State Plan Fund in respect of Minor Irrigation Department, Manipur for proper functioning of the Department."

[12] In the written comment of the Respondents, it is clearly mentioned that the additional funds for repairing/constructing the structures which are damaged due to natural calamity is pending as the department has fund constraint to take up the matter. Accordingly, Joint Secretary, Minor Irrigation Department, Government of Manipur, had requested the Director, Planning, Government of Manipur for allocation of additional fund of Rs. 20 crores under State Plan Fund in respect of the Minor Irrigation Department, Manipur for proper functioning of the Department. The letter dated 25.08.2018 read as follows :

**"No. 3/11/2018-MID
GOVERNMENT OF MANIPUR
SECRETARIAT: MINOR IRRIGATION DEPARTMENT**

Imphal, the 25th August, 2018

To,

***The Director (Planning)
Manipur.***

Subject: Request for additional allocation of Rs. 20.00 Crore under the State Plan Fund in respect of Minor Irrigation Department, Manipur.

Sir,

In inviting a reference to the above subject, I am directed to state that the Department of Minor Irrigation plays a crucial role in providing irrigation water for cultivation of both Rabi and Kharif crops in the State and is also instrumental in bringing more area of land under cultivation in different land terrains through various Department activities as shown below:

i) Construction of Pick Up Weir/ Dam for construction permanent structures across flowing waters of streams/rivers/rivulets with the aim of providing irrigation by storing, impounding and by diverting the impounded water to the paddy fields through the canal system.

ii) Irrigation Tanks for conservation of rain water or water from hill streams in higher altitude for irrigation of those areas for Kharif and Rabi cultivation crops.

iii) River Lift Irrigation (RLI) Schemes are taken up in the regions where topography does not permit for construction of diversion structure. In these schemes, pump houses are constructed on the bank of the rivers and water pumping sets are installed at the pump houses and water lifted up

from the river are supplied to the paddy fields through the field channels.

iv) Energization of RLI schemes are taken up for installing electric pumps at such RLI schemes where adequate power is available from the source of solar energy/ hydro-electric. This scheme is more economical as the maintenance and operation costs are low.

2. Under the State plan, however, a sum of Rs. 3.00 Crore only is earmarked for the year 2018-19 for MI department which is too meagre for the Department to take up the various developmental schemes/projects. Besides, the Department in trying to achieve the objective of reaching the benefits of various flagship missions like to Go to Village, Meeyamgi Numit etc., also is in urgent need of additional fund.

3. Accordingly, it is proposed that, Planning Department may kindly consider additional allocation of Rs. 20.00 Crore under the State Plan Fund in respect of Minor Irrigation Department, Manipur for the proper functioning of the Department.

***Yours faithfully,
Sd/-
(Kimjalhai Kipgen)
Joint Secretary (Minor
Irrigation)
Government of Manipur.***

Copy to:

- 1. Secretary to Hon'ble Chief Minister (Minor Irrigation I/C), Manipur.***
- 2. PS to Commissioner (MI), Government of Manipur.***
- 3. Guard file."***

[13] As provided under Section 20 (3) of the Manipur Lokayukta Act, 2014, we have to proceed with any one of the following actions i.e.

- (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.

For easy reference, Section 20 (3) of the Manipur Lokayukta Act, 2014 is reproduced hereunder:

"20 (3) The Lokayukta shall consider every report received under sub-section (2) from the inquiry Wing or any agency and after giving an opportunity of being heard to the public servant, decide 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."**

[14] Keeping in view of our power and jurisdiction under Section 20 (3) of the Manipur Lokayukta Act, 2014, it would be proper to direct the Respondents, Minor Irrigation Department, Manipur to repair the damaged structures covered by the said 102 schemes under the Accelerated Irrigation Benefit Programme (AIBP), 2013-14 now renamed as Pradhan Mantri Krishi Sinchayee Yojana – Har Khet Ko Pani (PMKSY-HKKP), which is an ongoing project as and when the additional fund is available. As there is no finding or material for corruption or misappropriation of fund by the Respondents in the implementation of the said schemes, there is no *prima facie* case for investigation of the present case by any investigating agency. Over and above, the complainant himself had already filed the application dated 04.09.2023 for withdrawal of the complaint on the ground that on further collection of information for non-execution of the various works executed by the Minor irrigation Department, Manipur, he had come to know that most of the works were completed by the competent authority as per specifications and certain works which are damaged due to flash flood has been repaired by the department and as such he did not want to pursue the present case.

[15] It is settled law that complaint cannot be filed for roving and fishing inquiry and also in the light of inadequate information there cannot be roving inquiry. In the present case, in the light of inadequate information and also the absence of material for substantiating the allegations and misappropriation of fund and corruption against the Respondents, there cannot be further roving inquiry and fishing inquiry. The Apex Court in **Ashok Kumar Pandey vs. State of WB (2004) 3 SCC 349** held that there cannot be roving and fishing inquiry and in the absence of necessary disclosure and source of information an imposition of exemplary costs on failure to meet the requisite criteria for proper information may be issued. Para 17 of the SCC in Ashok Kumar Pandey's case (supra) read as follows:

"17. Coming to the facts of the case, it has not been shown as to how and in what manner the accused condemned prisoner is handicapped in not seeking relief, if any, as available in law. The matter pertains to something which happened or not at Kolkata and what the truth about the news was or cause for the delay, even if it be, is not known or ascertained or even attempted to be ascertained by the petitioner before approaching this Court. To a pointed query, the petitioner submitted that the petitioner "may not be aware" of his rights, that except the news he heard he could not say any further and "the respondent State may come and clarify the position". This petition cannot be entertained on such speculative foundations and premises and to make a roving enquiry. Maybe, at times even on certain unconfirmed news but depending upon the gravity or heinous nature of the crime alleged to be perpetrated which would prove to be obnoxious to the avowed public policy, morals and greater societal interest involved, courts have ventured to intervene but we are not satisfied that this could be one such case, on the facts disclosed. It is reliably learnt that a petition with almost identical prayers was filed before the Calcutta High Court by relatives of the accused and the same has recently been dismissed by the High Court."

Para 6 of the SCC in **Commissioner, Bangalore Development Authority vs. S. Vasudeva and Ors. (2000) 2 SCC 439** held that

"6. The High Court, on the other hand, not only came to the conclusion that bulk allotment of land was not permissible but also directed the constitution of a committee to go into all allotments made by the BDA. The effect of this would be that the Committee which was sought to be constituted was empowered to carry out a roving and fishing inquiry with regard to allotments of land made by BDA since the time it was constituted in the year 1976. There was neither any prayer in the writ petition to this effect nor do we find any affidavit having been filed by the respondents before the High Court in relation to such allotments of land to the Society and others. The writ petitioner had not chosen to enlarge the scope of the writ petition by amending his petition and, therefore, the High Court, in our opinion, was not justified in issuing the type of directions which it did."

[16] It is the prerogative of the Investigating Officer to file his report. Either section 169 and 170 Cr.P.C. and Magistrate has no authority. The Apex Court in **Union of India vs. Prakash P. Hinduja & Ors. (2003) 6 SCC 195** (para nos. 16 and 17) held that

"16. In H.N. Rishbud v. State of Delhi (7 AIR 1964 SC 221) the Court was called upon to consider the effect of investigation having been done by a police officer below the rank of a Deputy Superintendent of Police contrary to the mandate of Section 5(4) of the Prevention of Corruption Act, 1947. While examining the scheme of Chapter XIV of the Code of Criminal Procedure, 1908 (same as Chapter XII of the 1973 Code), it was held that the investigation primarily consists of the ascertainment of the facts and circumstances of the case and by definition it includes "all the proceedings under the Code for the collection of evidence conducted by a police officer". It was further observed that the final step in the investigation viz. the formation of the opinion as to whether or not there is a case to place the accused on trial is to be that of the officer in charge of the police station. In State of W.B. v. S.N. Basak (AIR 1963 SC 447) this Court approved the view taken by the Privy Council in Nazir Ahmad (9 AIR 1945 PC 18) and held as under in para 3 of the report: (AIR p. 448)

"The powers of investigation into cognizable offences are contained in Chapter XIV of the Code of Criminal Procedure. Section 154 which is in that Chapter deals with information in cognizable offences and Section 156 with investigation into such offences and under these sections the police has the statutory right to investigate into the circumstances of any alleged cognizable offence without authority from a Magistrate and this

statutory power of police to investigate cannot be interfered with by the exercise of power under Section 439 or under the inherent power of the court under Section 561-A of the Criminal Procedure Code.

17. This question was again considered in *Abhinandan Jha v. Dinesh Mishra* (AIR 1968 SC 117) and after examining the scheme of the Act and the decision of the Privy Council in *Nazir Ahmad* (9 AIR 1945 PC 18) and the earlier decision of this Court in *H.N. Rishbud* (7 AIR 1964 SC 221) and *S.N. Basak* (AIR 1963 SC 447) it was held as under : (AIR p. 123, para 18)

"[T]he investigation, under the Code, takes in several aspects, and stages, ending ultimately with the formation of an opinion by the police as to whether, on the material covered and collected a case is made out to place the accused before the Magistrate for trial, and the submission of either a charge-sheet, or a final report is dependent on the nature of the opinion, so formed. The formation of the said opinion, by the police, ... is the final step in the investigation, and the final step is to be taken only by the police and by no other authority."

[17] The Apex Court in **Anirudhsinhji Karansinhji Jadeja & Anr. Vs. State of Gujarat (1995) 5 SCC 302** held that in case of power conferred upon one authority being decided by another, it amounts to failure to exercise the power by the authority to whom the power is conferred. Para 11 of the SCC in *Anirudhsinhji Karansinhji Jadeja's* case (supra) reads as follow:

"11. The case against the appellants originally was registered on 19-3-1995 under the Arms Act. The DSP did not give any prior approval on his own to record any information about the commission of an offence under TADA. On the contrary, he made a report to the Additional Chief Secretary and asked for permission to proceed under TADA. Why? Was it because he was reluctant to exercise jurisdiction vested in him by the provision of Section 20-A(1)? This is a case of power conferred upon one authority being really exercised by another. If a statutory authority has been vested with jurisdiction, he has to exercise it according to its own discretion. If the discretion is exercised under the directed or in compliance with some higher authority's instruction, then it will be a case of failure to exercise discretion altogether. In other words, the discretion vested in the DSP in this case by Section 20-A(1) was not exercised by the DSP at all."

[18] The Apex Court in **Centre for Public Interest Litigation vs. Union of India and Ors. (2016) 6 SCC 408** (para 21) held that there has to be a boundary line or the proverbial "Laxman rekha" while examining the correctness of an administrative decision taken by the State or Central authority after due deliberation and diligence which do not reflect arbitrariness or illegality in its decision and execution. If such equilibrium in the matter of governance gets disturbed, development is bound to be slowed down and disturbed specially in an age of economic liberalization wherein global players are also involved as per policy decision.

[20] For the foregoing reasons, this Complaint case is closed with the direction to the Respondents/Minor Irrigation Department, Government of Manipur to repair the damaged structures of the said ongoing 102 schemes under Accelerated Irrigation Benefit Programme (AIBP), 2013-14 now renamed as Pradhan Mantri Krishi Sinchayee Yojana – Har Khet Ko Pani (PMKSY-HKKP) as soon as the additional fund is available. It is further directed that the Administrative Department, Minor Irrigation Department, Government of Manipur is to see if there is any lack of supervision from the side of the Respondents over their subordinate staffs in the implementation of the said schemes.

[21] Registry is directed to furnish a copy of this order to :

- (i) the Administrative Secretary, Minor Irrigation Department, Government of Manipur;
- (ii) the Director (Inquiry), Manipur Lokayukta;
- (iii) the Inquiry Officer of the present case; and
- (iv) all the parties.

Sd/-
MEMBER

Sd/-
CHAIRPERSON