
(2018) 11 MAN CK 0002

In the Manipur High Court

Case No : Public Interest Litigation No. 62 Of 2018

H. Lenindro Singh And Others

APPELLANT

Vs

State Of Manipur And Others

RESPONDENT

Date of Decision : 28-11-2018

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2018) 11 MAN CK 0002

Hon'ble Judges : Ramalingam Sudhakar, CJ;Kh. Nobin Singh, J

Bench : Division Bench

Advocate : Kh. Tarunkumar, S. Rupachandra

Final Decision : Disposed Off

Judgement

R.S., CJ

[1] This PIL is filed as a sequel to order dated 28.11.2017 passed in PIL No. 4 of 2017 filed by the very same petitioner.

2] The brief of the earlier order of this Court for clarity is set out as under :-

"Heard Mr. Kh. Tarunkumar, learned counsel for the petitioner as well as Mr. R.S Reisang, learned senior GA for the State and Mr. Y. Nirmolchand, learned senior counsel assisted by Mr. L. Raju, learned counsel for the respondent No. 6. None appears for the remaining respondents.

In this PIL, allegations have been made by the petitioner contending that though certain funds have been released for construction of Pucca drain from Angom Mamang Leikai to Mayai Leikai with an estimated cost of Rs. 20,00,000/- vide sanction order dated 21-07-2012 and construction of Sanitary Public Toilet at Angom Leikai near Lai Lampak for which an estimated amount of 2,00,000/- had been sanctioned, and for construction of Market Shed at Angom Maning Leikai at an estimated cost of Rs. 2,59,302.00/- which were sanctioned and all these amounts have been claimed to have been utilised for construction of the

aforesaid works, as evident from the Utilisation Certificate issued by the Pradhan, Kangla Gram Panchayat. Though on papers, it has been shown that the constructions have been completed for which an amount of Rs. 5,18,302/- have been utilized, no such constructions have been made. Thus being aggrieved, the petitioner has filed this PIL.

In view of the aforesaid disputed facts as the respondents have denied any such wrong doing, a Commission was appointed by this Court on 12-06-2017 appointing Mr. S. Suresh and Mr. Kh. Samarjit as learned members of the Commission to visit the sites and submit a report as to whether the aforesaid works have been executed or not. Pursuant to which, the Commission submitted a report on 27-06-2017, which is reproduced herein below:

FINDINGS AND CONCLUSIONS :

"From the inspection and information there as stated above, the Commission has arrived at the following findings and conclusions.

(a) As regards the construction of Pucca drain from Angom Mamang to Mayai Leikai under the Mahatma Gandhi National rural Employment guarantee Act, the Commission found no such construction of Pucca drain from Angom Mamng to Mayai Leikai areas.

(b) As regards construction of Market Shed at Angom Maning Leikai, though the Commission found a shed as in Photographs enclosed hereto and Marked as Nos. 1 and 2, it is not in a position to confirm that the said Shed is actually the Market Shed constructed under the work programme which is subject matter in the case.

(c) As regards construction of Sanitary Public toilet at Angom Leikai near Lai Lampak, though the Commission found a Sanitary Public Toilet as in Photographs enclosed hereto and Marked as Nos. 3 and 4 respectively, it is also not in a position to confirm that the said Sanitary Public Toilet is actually the Sanitary Public Toilet constructed under the work programme which is also subject matter in the case."

As regards the aforesaid findings, Mr. Y. Nirmolchand, learned senior counsel submits that necessary clarifications have been made in his reply affidavit filed on 7th November, 2017 by the respondent No. 6 denying the allegations and also the findings and conclusions of the Court appointed Commission.

In view of the above, a situation has arisen which would require consideration of certain disputed facts which this Court in exercise of the power conferred under Article 226, under circumstances would hesitate to undertake the aforesaid exercise. However, since the Court appointed Commission' has given certain findings and conclusions which indicate prima facie irregularities though disputed by the respondents, this Court is of the view that it would be most appropriate that the matter be examined by the State Vigilance Commission as regards allegations of the petitioner in the light of the investigation report submitted by the Court appointed Commission on 27-06-2017 as mentioned above and

response by the respondent No. 6 as to whether there was any financial irregularities/ misappropriation of public funds as alleged and to conduct an investigation in the light of the above materials and if upon investigation, it is found that there has been misappropriation of funds, necessary criminal proceedings be initiated against those responsible for misusing the public funds in accordance with law.

The aforesaid exercise shall be undertaken by the State Vigilance Commission within a period of two months from today.

Copies of this order along with the copies of the pleadings as well as the report of the Commission appointed by the Court be furnished to the SP, Vigilance, Government of Manipur for doing the needful as directed above.

It goes without saying that if the petitioner is aggrieved by any subsequent action consequent upon the direction issued by the Court, he will be at liberty to approach this Court again.

Petition stands disposed of accordingly with the above observation and direction."

[3] It is now pleaded by Mr. Tarunkumar, learned counsel appearing for the petitioner that the State Vigilance Commission has prima facie found the allegations which is at Annexure A/14 to the petition to be true. On that basis it is pleaded that since no action has been taken, he has filed the PIL for the following relief. However, he was also at pains to point out that the earlier order has been disobeyed by the State Vigilance Commission despite the above findings referred to supra.

[4] In this view of the matter, we find no reason why another PIL should be filed except moving appropriate application against such respondents who have disobeyed the order dated 28.11.2017.

[5] PIL stands closed with liberty as above.