

**(2010) 03 GAU CK 0009**  
**In the Gauhati High Court**  
**Case No : Writ Petition (C) No. 1145 of 2006**

|                                |    |            |
|--------------------------------|----|------------|
| Md. Talat Muhammed and Another | Vs | APPELLANT  |
| State of Manipur and Others    |    | RESPONDENT |

**Date of Decision :** 19-03-2010

**Acts Referred:**

Constitution of India, 1950 — Article 226, 227

**Citation :** (2010) 2 GLD 462

**Hon'ble Judges :** T.NK. Singh, J

**Bench :** Single Bench

**Advocate :** B.R Sahu and Kh. Tarunkumar, for the Appellant; N. Kotishwar, AG, Rajkishwor and Jalal Uddin, for the Respondent

**Final Decision :** Allowed

## Judgement

T.NK. Singh, J.—By this writ petition, writ petitioners (two in numbers) are praying for quashing the orders of one Shri Y. Neta Singh, respondent No. 4, Director of Rural Development and Panchayati Raj, Manipur-cum-Joint Secretary (RD and PR), Manipur, viz., (1) order of Shri Y. Neta Singh, respondent No. 4, Director of Rural Development & Panchayati Raj, being No. 1/133/77-RD/XI (Pt) Porompat 2.11.2006 and (2) order of Shri Y. Neta Singh, respondent No. 4, Director of Rural Development & Panchayati Raj, being No. 1/48/77-RD/V Porompat 1.4.2006 for cancelling the appointment of writ petitioners as Road Mohorir because of repatriation of two Section Officers namely, (1) Shri Kh. Girani Singh and (2) Shri K. Poireicha Singh, against ? whose deputation vacancies petitioners were appointed as Road Mohorirs to their parent department and reversion to their substantive posts of Road Mohorir.

2. Heard Mr. Kh. Tarunkumar, learned Counsel for the petitioners, Mr. N. Kotishwar, learned Advocate General, Manipur, assisted Mr. Joykishor, learned Counsel appearing for respondent Nos. 1, 2 and 3 as well as Mr. Jalal Uddin, learned Counsel appearing for respondent No. 4, Shri Y. Neta Singh.

### 3. BACKGROUND FACT:

Petitioner No. 1, Md. Talat Muhammed was initially appointed to the post of Road Mohorrior on officiating basis against the vacancy due to officiating promotion of one Shri Kh. Girani Singh to Section Officer with immediate effect of joining duty till the officiating promotion of Shri Singh is regularized vide order of Shri Y. Neta Singh, respondent No. 4, Director, Rural Development & Panchayati Raj, Manipur being No. 1/61/77-RD/Imphal 27th July 1998 which reads as follows:

GOVERNMENT OF MANIPUR DIRECTORATE OF RURAL DEVELOPMENT AND PANCHAYATI RAJ : MANIPUR ORDERS Imphal, the 27th July, 1998

No. 1/61/77-RD/: Md. Talat Muhammed S/O Late Abdul Quadir of Khergao is hereby appointed as Road Mohorrior in the scale of pay of Rs. 950-20-1150-FB-1400/- p.m. with all other allowances as admissible under the Rules against the vacancy due to officiating promotion of Shri Girani Singh R.M. to S.O. with effect from the date of joining duty till the officiating promotion of Shri Singh is regularized.

On his appointment Md. Talat Muhammed is posted to Mao-Maram T.D. Block vice Surendro Sharma R.M. transferred.

Sd/- (Y. Neta Singh) Director, Rural Development & Panchayati Raj, Manipur.

4. Petitioner No. 2, Md. Qutabuddin was also initially appointed to the post of Road Mohorrior on officiating basis against the vacancy due to officiating promotion of Shri K. Poireicha Meitei, from Road Mohorrior to Section Officer Grade-II w.e.f. the date of joining duty till the officiating appointment of Shri Poireicha Meitei is regularized vide order of Shri Y. Neta Singh, respondent No. 4, Director, Rural Development & Panchayati Raj Manipur being No. 1/51/77-RD dated 5.9.1998, which reads as follows:

GOVERNMENT OF MANIPUR DIRECTORATE OF RURAL DEVELOPMENT AND PANCHAYATI RAJ : MANIPUR ORDERS Imphal, the 5th Sept., 1998

No. 1/51/77-RD/: Shri Md. Quatabuddin S/O Md. Ayajuddin of Kshetri Bengoon is appointed as Road Mohorrior in the scale of pay of Rs. 950-20-1150-FB-25-1400/- p.m. with all other allowances as admissible under Rules on officiating capacity against the vacancy due to the officiating promotion of Poireicha Meitei from Road Mohorrior to Section Officer Grade-II with effect from the date of joining duty till the officiating appointment of Shri Poireicha is regularized.

On his appointment Md. Qutabuddin is posted to Jiribam C.D. Block.

Sd/- (Y. Neta Singh) Director, Rural Development & Panchayati Raj, Manipur.

5. Pursuant to the said appointment orders, petitioners joined their service as Road Mohorriors and Shri Y. Neta Singh, respondent No. 4, Director, Rural Development & Panchayati Raj, vide his order being No. 1/67/77/RD Imphal 14.1.1999 transferred the petitioners from Jiribam CD Block to Mao-Maram TD

Block and Imphal East-I CD Block respectively and pursuant to that petitioners joined their respective place of postings.

6. On the recommendation of Class II DPC in its meeting held on 30.10.1999 and in pursuance of the Government approval conveyed vide Secretariat Development Deptt's letter No. 1/11/99- Dev. dated 3.11.1999 the officiating appointment of S/Shri Kh. Girani Singh, officiating S.O. and S/Shri K. Poireicha Meitei, officiating S.O., against whose appointment on officiating Section Officers, petitioners were appointed as Road Mohorrris on officiating basis and another Shri K. Indramani Singh were regularized w.e.f. their joining duties vide order of Shri Y. Neta Singh, respondent No. 4, Director, Rural Development & Panchayati Raj, Manipur being No. 1/48/77-RD/V Imphal 4.11.1999 which reads as follows:

GOVERNMENT OF MANIPUR DIRECTORATE OF RURAL DEVELOPMENT AND PANCHAYATI RAJ : MANIPUR ORDERS Imphal, the 4th November, 1999

No. 1/48/77-RD/V: On the recommendation of the Class III DPC on its meeting held on 30.10.1999 and in pursuance of Government approval conveyed vide Secretariat Development Deptt's letter No. 1/11/99-Dev dated 3.11.1999 the officiating appointment on promotion of the following Road Mohor-rirs as Section Officers Grade-II (Civil) in the scale of pay of Rs. 4500-125-700/- pm with other allowances as admissible under Rules are regularized against the post held by them with effect from the date of their joining duties to their respective Blocks.

Sl. No. Name of incum- Place of posting bents

1. Shri Kh. Girani Singh, Imphal West-I SO (vide L. Lukumar CD. Singh Retd.)
2. Shri N. Indraj Singh, Imphal East-II SO (vice L. Kali Singh CD Retd.)
3. Shri K. Poireicha Meitei, Jiribam CD Block SO (vice Khomei Singh, Retd.)

Sd/- (Y. Neta Singh) Director, Rural Development & Panchayati Raj, Manipur.

Against the substantive vacancies in the post of Road Mohorrris due to regularization of the officiating appointment of S/Shri Kh. Girani Singh and S/Shri K. Poireicha Meitei as S.Os, officiating appointment of petitioners as Road Mohorrris had been regularized on the recommendation of the Class-III DPC on its meeting held

on 30.10.1999 and in pursuance of the Government approval conveyed vide Secretariat Development Department's letter No. 1/11/99 Dev dated 3.11.1999 vide order of Shri Y. Neta Singh, Director, Rural Development & Panchayati Raj, being No. 1/48/77-RD/V Imphal 4.11.1999 which reads as follows:

GOVERNMENT OF MANIPUR DIRECTORATE OF RURAL DEVELOPMENT AND PANCHAYATI RAJ : MANIPUR ORDERS Imphal, the 4th November, 1999

No. 1/48/77-RD/V: On the recommendation of the Class III DPC on its meeting held on 30.10.1999 and in pursuance of Government approval conveyed vide Secretariat Development Deptt's letter No. 1/11/99-Dev. dated 3.11.1999 the

officiating appointment of the following Road Mohorrihs in the scale of pay of Rs. 3050-80-4090/- with other allowances as admissible under Rules against the post held by them are hereby regularized with effect from date of their joining duties.

On their regularisation they are posted to the block office as shown against their names.

Sl. No. Name of incum- Place of posting bents

1. Md. Talat Muhammed Imphal East-I (vice Kh. Oirani C.D.B. Promoted)
2. Md. Qutabuddin (vide Mao-Maram K. Poireicha Meitei T.D. Block Proioted)

Sd/- (Y. Neta Singh) Director, Rural Dev. & Panchayati Raj, Manipur.

7. The Director, Rural Development & Panchayati Raj, Manipur circulated tentative seniority list of S.Os. and Road Mohorrihs of Rural Development & Panchayati Raj, Manipur inviting objections, if any from the persons concerned within one month from the date of receipt of the tentative seniority list positively vide letter of Shri Y. Neta Singh, respondent No. 4, Rural Development & Panchayati Raj, Manipur being No. 2/45/77-RD/VII Porompat, the 5.4.2004 to (1) All Deputy Commissioners, Manipur, (2) All CEOs Manipur and (3) All Block Dev. Officers, Manipur and in that tentative seniority list names of petitioners appears at Sl. Nos. 6 and 7 respectively of the Road Mohorrihs in the Directorate. The Under Secretary (RD & PR) Government of Manipur issued the order being No. 1/3/83-Dev. (Pt) Imphal the 4.4.2006 that the Governor of Manipur is pleased to accord sanction to the extension of 189 Class II, III and IV temporary posts of Directorate of Rural Development & Panchayati Raj Manipur (Rural Development Wing) for a period of one year w.e.f. 1.3.2006 to 28.2.2007; particulars of the posts and incumbents are mentioned in annexures; and in the list of the names of employees whose posts were extended for a period of one year w.e.f. 1.3.2006 to 28.2.2007, the names of the petitioners appear at Sl. Nos. 13 and 21 respectively.

8. The Director, Rural Development & Panchayati Raj, Manipur, Shri Y. Neta Singh, respondent No. 4, issued order being No. 1/69/77-RD Porompat, the 17th May 2006 for transfer and posting of S.O. and R.M. of the Directorate, Head Office and Block Development Office, and, under that transfer and posting order dated 17.5.2006 the petitioners had been transferred and posted at Bishnupur CD Block and Imphal West II CD Block respectively and Shri Kh. Girani Singh, S.O., was also transferred and posted at Tamenglong TD Block. The said order of the Director, Shri Y. Neta Singh, respondent No. 4, Rural Development & Panchayati Raj, Manipur, dated 17.5.2006 reads as follows:

GOVERNMENT OF MANIPUR DIRECTORATE OF RURAL DEVELOPMENT AND PANCHAYATI RAJ ORDERS Porompat, the 17th May, 2006

No. 1/69/77-RD : In pursuance of the instructions of the Chief Secretary,

Government of Manipur under his U.O. letter No. 1/CS-2006/Misc. dated 7.4.2006 the transfer and posting of the following S.O/R.M. of the Directorate, Head Office and Block Development office are hereby made as shown against each of their names in public interest with immediate effect until further orders.

| Name                                        | &     | Designation                       | From  | To    | SI. No.   |
|---------------------------------------------|-------|-----------------------------------|-------|-------|-----------|
|                                             |       |                                   |       |       | 1. .. ..  |
|                                             |       |                                   |       |       | 2. .. ..  |
|                                             |       |                                   |       |       | 3. Kh.    |
| Girani Singh,                               | SO    | Imphal West- Tamenglong TD I C.D. | Block | Block | 4. .. ..  |
|                                             |       |                                   |       |       | 5. .. ..  |
|                                             |       |                                   |       |       | 6. .. ..  |
|                                             |       |                                   |       |       | 7. .. ..  |
|                                             |       |                                   |       |       | 8. .. ..  |
|                                             |       |                                   |       |       | 9. .. ..  |
|                                             |       |                                   |       |       | 10. .. .. |
|                                             |       |                                   |       |       | 11. .. .. |
|                                             |       |                                   |       |       | 12. .. .. |
|                                             |       |                                   |       |       | 13. .. .. |
|                                             |       |                                   |       |       | 14. .. .. |
|                                             |       |                                   |       |       | 15. .. .. |
|                                             |       |                                   |       |       | 16. Md.   |
| Talad Imphal Bishnupur Muhammed,            | RM    | East-I CD CD                      | Block | Block | 17. .. .. |
|                                             |       |                                   |       |       | 18. Md.   |
| Qutubuddin, Mao Imphal West- RM Maram II CD | Block | TD                                | Block |       | 19. .. .. |

9. Subsequently, by another order of the Director, Shri Y. Neta Singh, respondent No. 4, dated 17.5.2006, Shri Kh. Girani Singh, SO, was transferred and posted at Tamenglong TD Block. Again, Shri Y. Neta Singh, respondent No. 4, Director, Rural Development & Panchayati Raj, Manipur issued another order being No. 1/13/77- RD/XIV (Pt) Porompat the 30th October, 2006 for transfer and posting the petitioners to Imphal West-II CD Block and Jiribam CD Block respectively and the said order dated 30.10.2006 reads as follows:

GOVERNMENT OF MANIPUR DIRECTORATE OF RURAL DEVELOPMENT AND PANCHAYATI RAJ ORDERS Porompat, the 30th October, 2006

| &            | Designation   | From           | To         | SI. Name |
|--------------|---------------|----------------|------------|----------|
|              |               |                |            | No.      |
|              |               |                |            | 1. Md.   |
| Talat Muham- | Imphal East-I | Imphal West-II | CD med, RM | Block    |
|              |               |                |            | 2. Md.   |

|             |       |    |           |         |          |        |       |        |
|-------------|-------|----|-----------|---------|----------|--------|-------|--------|
| Abdul       | Bari, | RM | Lamka     | TD      | Kakching | CD     | Block | Block  |
| -----       |       |    |           |         |          |        |       | 3. Md. |
| Qutubuddin, |       | RM | Mao-Maram | Jiribam | CD       | Block. | TD    | Block  |
| -----       |       |    |           |         |          |        |       |        |

10. Pursuant to the said transfer and posting order dated 30.10.2006 petitioners joined their respective place of postings. The concerned Block Development Officers of the petitioners, pursuant to the said transfer and posting order dated 30.10.2006 issued orders viz., (1) BDO/TBI/3/2-TP/2006 Tadubi 14.11.2006 and (2) No. 1/2/Trans-Post-IE-1/96 dated 16.11.2006 for releasing the petitioners to enable them to report to their new place of posting pursuant to the said transfer and posting order dated 30.10.2006. The said order dated 14.11.2006 and 16.11.2006 reads as follows:

GOVERNMENT OF MANIPUR OFFICE OF THE BLOCK DEVELOPMENT OFFICER  
MAO MARAM : TADUBI ORDERS Tadubi, the 14th November, 2006

No. BDO/TBI/3/2-TP/2006 : In pursuance of the Director, Rural Development and Panchayati Raj, Manipur vide order No. 1/113/77-RD/XIV (Pt) dated the 30th October, 2006, Md. Qutabuddin, Road Mohorri of this office is hereby released from this office w.e.f. the 14th November, 2006 (A/N) so as to enable to join his new place of posting BDO, CD Block, Jiribam in time.

Sd/- (S. Ashok Kumar, IAS) Block Development Officer, Mao-Maram: Tadubi

GOVERNMENT OF MANIPUR OFFICE OF THE BLOCK DEVELOPMENT OFFICER  
IMPHAL EAST I CD BLOCK SAW OMBUNG ORDERS Dated the 16th November, 2006

No. 1/2/Trans-Post/IE-I/96 : In pursuance of Director Rural Development & Panchayati Raj order No. 1/113/77-RD/XIV (Pt) dated 30.10.2006 Md. Talat Muhammed R.M. of this office is hereby released from this office w.e.f. 16.10.2006 (A.N.) so as to enable him to report to his new place of posting Imphal West-II CD Block Wangoi.

Sd/- (Ch. Ranjit Singh) Block Development Officer, Imphal East-I, CD Block: Sawombung.

In compliance with the said transfer and posting order dated 30.10.2006 (quoted above) and also the said release orders dated 14.11.2006 and 16.11.2006, petitioners joined their new place of postings.

11. While the petitioners were serving at their new place of postings, Shri Y. Neta Singh, respondent No. 4, issued the impugned order being No. 1/113/77-RD/XI (Pt) Porompat 2.11.2006 for cancelling the said transfer and posting order dated 30.10.2006, which had already been complied with by the petitioners by joining their new place of posting, as their service had already been terminated as per the record available with the Directorate and the said order dated 2.11.2006 reads as follows:

GOVERNMENT OF MANIPUR DIRECTORATE OF RURAL DEVELOPMENT AND PANCHAYATI RAJ : MANIPUR ORDERS Porompat, the 2nd November, 2006

No. 1/113/77-RD/XI (Pt) : The transfer and posting of the following Road Mohorrirs issued vide this Department's order of even No. dated 30th October, 2006 stand cancelled with immediate effect. Their services had already been terminated as per records available with the Directorate.

| -----       |             |           |         |        |          |    |       | Sl.   | Name |
|-------------|-------------|-----------|---------|--------|----------|----|-------|-------|------|
| &           | Designation |           |         | From   |          | To |       |       | No.  |
| -----       |             |           |         |        |          |    |       | 1.    | Md.  |
| Talat       | Muhammed,   | Imphal    | East-I  | Imphal | West-II  | CD | RM    | Block |      |
| -----       |             |           |         |        |          |    |       | 2.    | Md.  |
| Abdul       | Bari,       | RM        | Lamka   | TD     | Kakching | CD | Block | Block |      |
| -----       |             |           |         |        |          |    |       | 3.    | Md.  |
| Qutubuddin, | RM          | Mao-Maram | Jiribam | CD     | Block.   | TD | Block | Block |      |
| -----       |             |           |         |        |          |    |       |       |      |

(Y. Neta Singh) Director, Rural Development & Panchayati Raj, Manipur.

Being aggrieved by the said order dated 2.11.2006 petitioners filed the present writ petition. The State respondents filed joint affidavit in opposition sworn by Shri Y. Neta Singh, respondent No. 4, Director, RD & PR, Government of Manipur. The Director, Rural Development & Panchayati Raj, Manipur, in that joint affidavit in opposition, stated that the petitioners were appointed as Road Mohorrirs on officiating basis against deputation vacancies of (1) S/Shri Kh. Girani Singh, Road Mohorrir and (2) K. Poireicha Meitei, Road Mohorrir who were sent on deputation w.e.f. the date of their joining duties vide order of Shri Y. Neta Singh, respondent No. 4, Director, Rural Development & Panchayati Raj, Manipur-cum-Joint Secretary, DRDA being No. 1/48/77-RD/V Imphal the 4th November, 1999, and that Shri Kh. Girani Singh, SO-Grade-II and Shri Kh. Poireicha Meitei, SO Grade-II against whose deputation vacancies, petitioners were appointed as Road Mohorrir on officiating basis were repatriated from DRDA to the Directorate of Rural Development & Panchayati Raj, Manipur and consequent upon their repatriation, Shri Kh. Girani Singh, Shri K. Poireicha Meitei and others were reverted to their respective substantive posts of Road Mohorrir with immediate effect vide order of Shri Y. Neta Singh, respondent No. 4, Rural Development & Panchayati Raj, Manipur, being No. 1/48/77-RD/V Porompat 1.4.2006. Consequent to repatriation of S/Shri Kh. Girani Singh SO Grade-II and Shri K. Poireicha Meitei, SO Grade-II, the appointment of the petitioners as Road Mohorrirs stand cancelled w.e.f. 1.4.2006 vide order of Shri Y. Neta Singh, respondent No. 4, Rural Development & Panchayati Raj being No. 1/48/77-RD/V Porompat 1.4.2006.

12. Respondent No. 4, who have stated categorically in the affidavit in opposition that S/Shri Kh. Girani Singh, S.O., Grade-II and Shri K. Poireicha Meitei had been reverted to their respective posts of Road Mohorrirs vide his order dated

1.4.2006, had issued order being No. 1/69/77-RD/III (Pt) Porompat 29.10.2007 for attachment of Shri Kh. Girani Singh, S.O., Grade-II in Imphal West CD Block and also issued order dated 21.8.2009 for transferring Shri K. Poireicha Meitei, as S.O. to Jiribam CD Block. As late as August, 2009, Shri Y. Neta Singh, respondent No. 4, issued order being No. 1/56/77-RD/VIII Porompat 21.8.2009 for transfer and posting Shri Kh. Girani Singh as Section Officer from Tamenglong TD Block to Imphal West-I CD Block. Shri Y. Neta Singh, respondent No. 4, filed affidavit in opposition stating that S/Shri Kh. Girani Singh and K. Poireicha Meitei, against whose officiating appointment by promotion to S.O., Grade-II, petitioners were appointed as Road Mohorriir, had already been reverted to their substantive posts vide order dated 1.4.2006; and Shri Y. Neta Singh, respondent No. 4, in order to justify his stand that S/Shri Kh. Girani Singh and K. Poireicha Meitei had already been reverted to their substantive posts of Road Mohorriir had filed a copy of the Manipur Government Employees List (MGEL) and the statement of employees in the Directorate of RD & PR, having no number, date and signature of the authority concerned issuing the MGEL, in which, names of Shri Kh. Girani Singh and K. Poireicha Meitei appear as Road Mohorriirs.

13. Petitioners also filed reply affidavit in opposition enclosing a copy of the certificate issued by the Government of Manipur, Secretariat, Finance Department (Budget Section) dated 27.7.2007 that the Director, RD & PR, (Head Office) had submitted the updation data of the sanctioned posts in respect of the Tamenglong TD Block in CD as well as in Hard Copy; and also that the names and pay scale of employees furnished by the Director, RD & PR, against the Head Office in the MGEL match with the sanctioned posts. In the certificate issued by the Government of Manipur, Secretariat, Finance Department, in respect of MGEL for the Directorate of RD & PR, Government of Manipur, names of S/Shri Kh. Girani Singh and K. Poireicha Meitei are shown as S.Os. in the Directorate of RD & PR. For easy reference, relevant portion of the said certificate dated 27.7.2007 reads as follows:

**GOVERNMENT OF MANIPUR SECRETARIAT : FINANCE DEPARTMENT (BUDGET SECTION) CERTIFICATE FOR**

**Updation of Manipur Government Employees list (MGEL) & Statement of Employees in Govt./PSUs/Aided Institutions.**

This is to certify that Directorate (RD & PR) (Head Office) has submitted the updation data of the sanctioned posts and employees in respect of the office of the Tamenglong TD Block in CD as well as in Hard Copy. The CD has been tested and the details furnished in the CD are found to have tallied with the Hard Copy as per report furnished by the NIC, Manipur State Unit.

This is also to certify that the names and pay scales of employees furnished by the Director (RD & PR) (Head Office) in the MGEL match with the sanctioned posts and pay scales for the Office of Tamenglong TD Block (Head of Office) as per information provided by the Department. The list of such employees who are



borne against the sanctioned post and whose pay scale be drawn by Director (RD & PR) (Head of Office) is enclosed.

Sd/- (K. Radhakumar Singh) Joint Secretary (Finance) Government of Manipur.

Ministry : Community Department: ...T.D. Block

& RD & PR Rural

Development

Total No. of employees : (sic)

-----  
----- S1. Name of Designat Office Code Basic pay Date of Date of Pay  
scale Head of No. Employee ion name birth joining to account service -----  
-----  
-----

17 DDO Code 0805001/Jiribam Treasury -----  
----- 1. Shri K. S.O. Jiribam  
C 4590 01/07/19 24.3.1988 3050-75-3 20251610 Poireicha CD Block 66  
950-80-45 2020001 Meitei 90 -----  
----- 2. ... ..  
-----  
----- 3. ... ..  
----- 4. ... ..  
-----  
----- 5. ... ..  
----- 6. ... ..  
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18 DDO Code 0905001/Taenglong Treasury -----  
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1. ... ..  
----- 2. ... ..  
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-- 3. Shri Kh. S.O. Tamengl C 5125 01.03.1962 10.04.1981 4500-125-  
20251510 Girani ong TD 700 2020001 Singh -----  
-----  
4. ... ..  
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14. This Court after hearing at length, passed order dated 27.9.2007 in the writ petition for impleading Shri Y. Neta Singh, Director, Rural Development & Panchayati Raj, as respondent, No. 4 in the present writ petition. The order of this Court dated 27.9.2007 reads as follows:

27.9.2007. After hearing at length, this Court is of the considered view that Shri

Y. Neta Singh, Director, Rural Development and Panchayati Raj, Manipur is required to be impleaded as respondent No. 4 in the present writ petition and also he has to file comprehensive affidavit stating the circumstances as to why he issued the different orders which are contradictory to one another for the reasons mentioned hereunder.

The petitioner Nos. 1 and 2 were appointed as Road Mohorir in the Directorate of Rural Development & Panchayati Raj, Manipur under two different orders dated 27.7.1998 and 5.9.1998 which were issued by Shri Y. Neta Singh, Director, Rural Development and Panchayati Raj, Manipur.

On perusal of the order dated 27.7.1998 and 5.9.1998 it is crystal clear that the two petitioners were appointed as Road Mohorir against the vacancies due to officiating promotion of Shri Kh. Girani Singh R.M. to S.O. and Shri Poireicha Meitei R.M. to S.O. Later on, on the recommendation of the Class-III DPC/ Screening Committee in its meeting held on 30.10.1999, the said Shri Kh. Girani Singh and Shri Poireicha Meitei were appointed on promotion on regular basis to the post of Section Officer GradeII, vide order dated 4.11.1999 issued by Shri Y. Neta Singh, Director, Rural Development and Panchayati Raj, Manipur.

The officiating appointments of the petitioners as, Road Mohorir were also regularized on the recommendation of the Class II DPC in its meeting held on 30.10.1999 vide order of the Director, Rural Development and Panchayati Raj, dated 4.11.1999 issued by Shri Y. Neta Singh.

The officiating appointment of the petitioners as Road Mohorir were already regularized against the substantive vacancies due to regular promotion of Shri Kh. Girani Singh and Shri Poireicha Meitei to the post of Section Officer Grade-II under the said order of the Director dated 4.11.1999 issued by Shri Y. Neta Singh. By an order issued by Shri Y. Neta Singh, dated 17.5.2006 the said Shri Kh. Girani Singh was transferred and posted as S.O. in the Tamenglong TD Block. As such from the order dated 17.5.2006, it is clear that the said Shri Kh. Girani Singh was working as Section Officer.

By an order dated issued by Shri Y. Neta Singh, Director, Rural Development and Panchayati Raj, the petitioners were transferred and posted as Road Mohorirs in the Imphal West-II CD Block and Jiribam CD Block respectively. It is appeared from the records that all those orders mentioned above were issued by Shri Y. Neta Singh, Director, Rural Development and Panchayati Raj. But surprisingly, on the other hand the very person Shri Y. Neta Singh, Director also stated in the affidavit in opposition filed by him in the present writ petition that the petitioners had already been terminated vide his order dated 1.4.2006 inasmuch as the petitioners were appointed as Road Mohorir against the deputation vacancies. As staled above, Shri Y. Neta Singh, Director, Rural Development and Panchayati Raj had himself issued the above initial appointment order for appointing the petitioners as Road Mohorir against the vacancies due to officiating appointment of S/Shri Kh. Girani Singh and Poireicha Meitei to SOs and also the regularisation

order dated 4.11.1999 for regularizing the officiating appointment of the petitioners as Road Mohorir against the substantive vacancies due to the promotion of the said two persons. It is also clear from the above fact that even after issuing the termination order dated 1.4.2006 for terminating the services of the petitioners as Road Mohorir, Shri Y. Neta Singh again issued another order dated 30.10.2006 for transfer and posting of the petitioners as Mohorir. The petitioners also filed their reply affidavit stating that the order dated 1.4.2006 issued by Shri Y Neta Singh, Director, Rural Development and Panchayati Raj and also the order dated 5.11.1999 were manufactured by Shri Y. Neta Singh and those documents were not furnished to the petitioners. Even after receiving the copies of the said reply affidavit Shri Y. Neta Singh, Director, Rural Development and Panchayati Raj has not yet filed the re-joinder to the reply affidavit.

On perusal of the records of the present writ petition and also the submissions of the learned Counsel appearing for the petitioners, it appears that Mr. Y. Neta Singh, Director, Rural Development and Panchayati Raj again took the plea that he did not know the order dated 4.11.1999 and 5.11.1999 while issuing transfer and posting order dated 30.10.2006. The stand taken by Shri Y. Neta Singh in the affidavit is also belied by the certificate for up gradation of Manipur Government Employees list (MGEL) and Statement of Employees in Govt./PSUs/ Aided Institutions issued by the Joint Secretary, Finance Department, Government of Manipur on 27.7.1998. A copy of the said certificate is available at Annexure-B/1 to the reply affidavit filed by the petitioners. In the said certificate dated 27.7.1998 issued by the Government of Manipur, Finance Department, the names of said Shri Kh. Girani Singh and Shri Poireicha Meitei were shown as Section Officer but according to the statement of Shri Y. Neta in his affidavit in opposition in the present writ petition, the said Shri Kh. Girani Singh and Shri Poireicha Meitei had already been reverted to Road Mohorir.

For the reasons discussed above, this Court has taken a serious view against Shri Y. Neta Singh, Director, Rural Development and Panchayati Raj and he is directed to file the comprehensive affidavit so as to decide the steps to be taken by this Court against him.

Registry is directed to furnish a copy of this order by sending a special messenger to Shri Y. Neta Singh in person. Registry is to incorporate Shri Y. Neta Singh, Director, Rural Development and Panchayati Raj as respondent No. 4 in the present writ petition.

List this case after vacation.

15. Subsequently, this Court also passed order dated 27.10.2009 in the present writ petition, directing Shri Y. Neta Singh, Director, Rural Development and Panchayati Raj to appear in person on 16.11.2009 at 10.30 am along with Service Books of Shri Kh. Girani Singh and Shri K. Poireicha Meitei. And pursuant to the said order of this Court dated 16.11.2009 Service Books of S/Shri K. Poireicha Meitei and S/Shri Kh. Girani Singh, are placed before this Court. And on

perusal of the service record, it is crystal clear that S/Shri Kh. Girani Singh and K. Poireicha Meitei are still working as Section Officer Grade-I and also that Shri Shri Y. Neta Singh, respondent No. 4, Director, Rural Development & Panchayati Raj, filed false affidavit that K. Poireicha Meitei and Girani Singh had been reverted to the post of Road Mohorir as early as 1.4.2006 and since then they have been serving/working as Road Mohorirs.

16. The Constitutional Courts exercise their power of judicial review with constraint to ensure that the authorities on whom the power is entrusted under the rule of law or codified, is discharged truly, objectively, expeditiously for the purpose for which substantive acts/results are intended in transaction of the Government business and no decisions are leisurely taken at various levels.

The Doctrine of fairness and duty to act fairly is a doctrine developed in the administrative law to ensure the rule of law and to prevent failure of justice.

It is the principles of good conscience and equity, since the Courts of law are to act fairly and reasonably in accordance with law, the doctrine of unreasonableness is opposed to doctrine of fairness and reasonableness will have its play.

The very purpose of constitutional powers under Article 226 being conferred on the High Courts is that no one should be subjected to injustice by violation of law. The Constitution of India is the supreme law of the land under which the sovereign power is distributed amongst Legislature, executive and judiciary with checks and balances but not in water tight rigid mode.

The Apex Court (Constitution Bench) in S. Pratap Singh Vs. The State of Punjab, held that "The Constitution enshrines and guarantees the rule of law and Article 226 is designed to ensure that each and every authority in the State, including the Government acts bona fide and within the limits of its power and we consider that when a Court is satisfied that there is an abuse or misuse of power and its jurisdiction is invoked, it is incumbent on the Court to afford justice to the individual. It is with these considerations in mind that we approach the facts of this case."

The Apex Court in Roshan Deen Vs. Preeti Lal, held that "...Time and again this Court has reminded that the power conferred on the High Court under Articles 226 and 227 of the Constitution is to advance justice and not to thwart it (vide State of U.P. Vs. District Judge, Unnao and Others, The very purpose of such constitutional powers being conferred on the High Courts is that no man should be subjected to injustice by violating the law. The lookout of the High Court, is therefore, not merely to pick out any error of law through an academic angle but to see whether injustice has resulted on account of any erroneous interpretation of law. If justice became the byproduct of an erroneous view of law the High Court is not expected to erase such justice in the name of correcting the error of law.

(emphasis supplied)

The Apex Court in *Air India Statutory Corporation, etc. Vs. United Labour Union and others* [overruled], , held that "The Founding Fathers placed no limitation or fetters on the power of the High Court under Article 226 of the Constitution except self-imposed limitations. The arm of the Court is long enough to reach injustice wherever it is found. The Court as sentinel on the qui vive is to mete out justice in given facts. On finding that either the workmen were engaged in violation of the provisions of the Act or were continued as contract labour, despite prohibition of the contract labour u/s 10(1), the High Court has, by judicial review as the basic structure, a constitutional duty to enforce the law by appropriate directions. The right to judicial review is now a basic structure of the Constitution by a catena of decisions of this Court starting from *Smt. Indira Nehru Gandhi Vs. Shri Raj Narain and Another*, to *S.R. Bommai and others Vs. Union of India and others etc. etc.*, It would, therefore, be necessary that instead of leaving the workmen in the lurch, the Court properly moulds the relief and grants the same in accordance with law.

(emphasis supplied)

17. Keeping in view of the decisions of the Apex Court discussed above, this Court has given anxious considerations of mind in the given case of the present writ petition and is of the view that there is complete violation of the doctrine of fairness and duty to act fairly in the doctrine developed in the administration of law fields and also there is injustice to the present writ petitioners because of arbitrary actions on the part of the Shri Y. Neta Singh, respondent No. 4, on the basis of the fact which are absolutely false and manufactured one. The action of Shri Y. Neta Singh, respondent No. 4, is not the one what is expected to be done by a senior officer of the State Government.

Therefore, the impugned orders are vitiated by perversity.

18. The Apex Court in *Tarlochan Dev Sharma Vs. State of Punjab and Others*, held that no Government servant shall in performance of his official duties, or in exercise of the power conferred on him, act otherwise than his best judgment, except when he is acting under the direction of official superiors. And in that given case what has been done is not what is expected to be done by a senior officer like the Principal Secretary of a wing of the State Government. Para 16 of the SCC in *Tarlochan Dev Sharma's* case (*supra*) reads as follows:

16. In the system of India democratic governance as contemplated by the Constitution, senior officers occupying key positions such as Secretaries are not supposed to mortgage their own discretion, volition and decision-making authority and be prepared to give way or being pushed back or pressed ahead at the behest of politicians for carrying out commands having no sanctity in law. The Conduct Rules of Central Government Services command the civil servants to maintain at all times absolute integrity and devotion to duty and do nothing which is unbecoming of a Government servant. No Government servant shall in

the performance of his official duties, or in the exercise of power conferred on him, act otherwise than in his best judgment except when he is acting under the direction of his official superior. In *Anirudhsinhji Jadeja and another Vs. State of Gujarat*, this Court has held that a statutory authority vested in jurisdiction must exercise it according to its own discretion; discretion exercised under the direction or instruction of some higher authority is failure to exercise discretion altogether. Observations of this Court in *The Purtabpore Co., Ltd. Vs. Cane Commissioner of Bihar and Others*, are instructive and apposite. Executive Officers may in exercise of their statutory discretions take into account considerations of public policy and in some context, policy of a Ministry or the Government as a whole it is a relevant factor in weighing the policy but they are not absolved from their duty to exercise their personal judgment in individual cases unless explicit statutory provision has been made for instructions by a superior to bind them. As already stated, we are not recording, for want of adequate material, any positive finding that the impugned order was passed at the behest of or dictated by someone else than its author. Yet we have no hesitation in holding that the impugned order betrays utter non- application of mind to the facts of the case and the relevant law. The manner in which the power u/s 22 has been exercised by the competent authority is suggestive of betrayal of the confidence which the State Government reposed in the Principal Secretary in conferring upon him the exercise of drastic power like removal of president of a Municipality u/s 22 of the Act. To say the least, what has been done is not what is expected to be done by a senior official like the Principal Secretary of a wing of the State Government. We leave it that and say no more on this issue.

(emphasis supplied)

19. It goes without saying that mistakes are mistakes and can always be corrected by following due process of law. The Apex Court in *Union of India (UOI) and Another Vs. Narendra Singh*, held that "it is true that the mistake was of the Department and the respondent was promoted though he was not eligible and qualified. But, we cannot countenance the submission of the respondent that the mistake cannot be corrected. Mistakes are mistakes and they can always be corrected by following due process of law. In *Indian Council of Agricultural Research and Another v. T.K. Suryanarayan and Others*, 1997(6) SCC 766. It is the duty of the State to place proper affidavit by placing true and relevant fact

20. The Apex Court in *City and Industrial Development Corporation Vs. Dosu Aardeshir Bhiwandiwalla and Others*, held that "The manner in which the State has conducted itself in this case was unwarranted. It is the constitutional obligation and duty of the State to place true and relevant facts by filing proper affidavits enabling the Court to discharge its constitutional ditties. The State and other authorities are bound to produce the complete records relating to the case once Rule is issued by the Court. It is needless to remind the Governments that they do not enjoy the same amount of discretion as that of a private party even

in the matter of conduct of litigation. The Governments do not enjoy any unlimited discretion in this regard. No one needs to remind the State that they represent the collective will of the society. The State in the present case instead of filing its affidavit through higher officers of the Government utilised the lower ones to make oral statements and that too through its AGP in the High Court. This malady requires immediate remedy. The Government should conduct itself in a responsible manner and assist the High Court by placing the true and relevant facts by filing a proper affidavit and documents that may be available with it. The legal advisor of Government should display greater trust, competence and attention in drafting affidavits."

21. The Apex Court in catena of cases held that the Constitution has devised permanent bureaucracy as part of the political executive. The bureaucracy is also accountable for the act done in accordance with the rules when the judicial review is called to be exercised by the Court. The hierarchical responsibility for the decisions is their in built discipline. The bureaucrats/officers, whose decisions is subject to judicial review in a judicial proceedings under Article 226 of the Constitution of India, had submitted false affidavit in order to misguide the Courts is subject to imposition of cost personally for submitting false affidavit. The Apex Court in State of Bihar and others Vs. Subhash Singh, held that "The Constitution of India is the supreme law of the land, having flown from "We, the people of India" i.e., Bharat, having solemnly resolved to constitute India into a sovereign, socialist, secular democratic Republic. The sovereign power is distributed among the Legislature, the Executive and the Judiciary with checks and balances but not in watertight rigid mould. In our democracy governed by the rule of law, the Judiciary has expressly been entrusted with the power of judicial review as sentinel on the qui vive. Basically judicial review of administrative actions as also of legislation is exercised against the action of the State. Since the State or public authorities act in exercise of their executive or legislative power, they are amenable to the judicial review."

22. For the foregoing discussions, the impugned orders dated 2.11.2006 and 1.4.2006 are hereby set aside. This Court would be failing to dispense justice in the given case in case, exemplary cost is not imposed to Shri. Y. Neta Singh, respondent No. 4, for misguiding this Court by filing false affidavit and also for manufacturing the facts for issuing impugned orders dated 2.11.2006 and 1.4.2006.

23. This being the situation, the Court is constrained to impose an exemplary cost of Rs. 25,000/- to Shri. Y. Neta Singh respondent No. 4, which should be recovered from his retirement benefit by the State Government and shall deposit the same in the fund of the Gauhati High Court Bar Association, Imphal Bench for utilizing it for the purpose of providing legal aid to the poor residents of Manipur.

24. It is made clear that the State respondents shall issue necessary orders for reinstating the writ petitioners to their service in consequence of this order within

one month from the date of receipt of this judgment and order. However, it is left to the wisdom of the State respondents regarding arrear pay and allowances of the writ petitioners.

Writ petition is disposed of.

The Registry of this Bench shall send a copy of this judgment and order to the Chief Secretary, Manipur for information and necessary action.