

(1991) 09 GAU CK 0009
In the Gauhati High Court
Case No : Civil Rule No. 44 of 1991

Social Reformation and Development Club By Its Secretary
Shri Leishangthem Kumar Meetai

APPELLANT

Vs

State of Manipur, Through The Secretary (Revenue) Govt of
Manipur, Imphal

RESPONDENT

Date of Decision : 19-09-1991

Acts Referred:

Constitution of India, 1950 — Article 226, 226

Manipur Land Revenue and Land Reforms Act, 1960 — Section 14(ii), 14(ii)

Citation : (1991) 2 GLJ 356 : (1992) 1 GLR 163

Hon'ble Judges : R.K.Manisana Singh, J and S.K.Homchaudhuri, J

Bench : Division Bench

Advocate : Shyamkishore Singh, Ch.Narendra Singh, Advocates appearing for Parties

Judgement

S. K. Homcbandhuri, J.

In this petition under Article 226 of the Constitution, the petitioner has impugned the order of the Govt, of Manipur, Revenue Department dated 10.1.91 purporting to allot an area of 43.40 acres of Govt khas land covered by C. S. Dag No. 1346 of Village No. 76 Langthabal Lep of Imphal West II to the SSB, a department under the Central Government, for establishment of a Group Centre.

Admittedly the land so allotted is Govt. khas land. The petitioner is a club under the name and style "The Social Reformation and Development Club" and according to the petitioner the aims and object of the club is to promote physical, mental, moral and cultural development of the community and to abolish all kinds of social vices and in appropriate cases to bring social grievances to the door of justice. The petition has been moved by way of public interest litigation to espouse the public cause and for ventilating the grievances of the public.

The petitioner's case is that the land so allotted by the impugned order is situated in a hillock, called "Heiripok" and out of the total area of 49.46 acres, an

area of 6 acres has been under occupation of the Water Supply Department of the Govt. of Manipur. Heiripok hill has been very important for the villagers in and around Langthabal Lep for cultural, religious, economic, environmental and commercial purposes. Every year the New Year Day is celebrated for Meeteis in the month of April, called "Cheiraoba" by climbing hillocks situated in the nearby places and since the time immemorial, this Heiripok hill has been used by the villagers of Langthabal Lep, Ningombam and Langthabal Phuramakhong for climbing thereof in celebrating "Cheiraoba". The other grounds on which the public interest is sought to be expounded are that rising population having caused extensive deforestation, the people conscious of environment, made plantations in the Heiripok Hill which is the only source of fresh air and the only way to prevent ecological imbalance in the locality. This hillock is also the source of livelihood to certain poverty stricken villagers who take seasonal fruits grown in the hill and utilize certain seasonal plants as firewood. Some part of the hillock is also being used as grazing grounds and also for refreshing purpose for certain labour class of people who earn their livelihood by working in brickfield, rice mills, saw mills etc. It has also been contended that there are 30 houses in and around the Heiripok Hill during the last 20 years. A rivulet runs by the western side of the Heiripok Hill and the villagers earn their livelihood by fishing therein.

The apprehension of the petitioner is that if the said SSB is allowed to occupy the Heiripok Hill and build Group Centre, all the above facilities and means of livelihood of the villagers would be jeopardised. Other ground on which the impugned order has been assailed is that the Government passed the impugned order in violation of the provisions of the Manipur Land Revenue and Land Reforms Act, inasmuch as under the provisions of the Act Govt can settle and/or allot Govt khas land for the purpose of public utility and not for public purpose.

Both State of Manipur and the Commandant, SSB Group Centre, have filed affidavits in opposition denying and disputing the contentions made by the petitioner. It has been submitted by the respondents that petitioner has no locus standi to file the petition and that the writ petition by way of public interest litigation is misconceived since no public interest has been affected by the allotment of land to SSB for establishing SSB Group Centre rather the establishment of SSB Group Centre would go to serve people in various ways. Respondents in their affidavits in opposition, have stated that public in general and of the area in and around the Heiripok Hills in particular have welcomed the establishment of Group Centre by SSB and have annexed a number of documents to the affidavit to show that different organisations have supported and/or expressed that they have no objection to the establishment of a Group Centre by the SSB. In para 5 of the affidavit in opposition filed by the respondent No. 3, it has been stated on oath that SSB has been using the area of land so allotted, since 1975 for their firing range. The respondents have contended that establishment of Group Centre of the SSB on Heiripok Hill has been found necessary by the Govt. for protection of Tuliha Airport and that there is no other suitable place for the establishment of a Group Centre of the SSB except the

Heiripok Hill. It has also been stated that Langthabal Lep village has never been adversely affected by flood and that there is another nearby hill known as Heibokoching and that the villagers of Langthabal Lep can use the said nearby hill Heibokoching for taking shelter in case they are at all affected by flood. According to the respondent every year on the new years day the villagers of Langthabal Lep celebrate "Cheiraoba" by climbing nearby Heibokoching Hill. It has further been contended by the respondent that SSB is a National Integrated and an Welfare Oriented Organisation and its functions are not like those of the army or paramilitary forces and that SSB recruits youngmen from the villages and thereby help to improve the economic condition of the villagers. Further, SSB works in close cooperation with the general public, renders free medical care and distributes medicines free of costs to the villagers and also organises relief works in time of flood and other natural calamities and that allotment of the Heiripok Hill to the SSB for establishment of a Group Centre will also help to improve the natural environment, inasmuch as, the allotted land will be developed in a systematic and planned manner by the Govt. in order to make the hillock more attractive and to improve the environment by planting ornamental and fruit bearing trees. It has also been submitted that the land being a Government khas land, the Government is quite competent to allot the same for the public purpose.

We have heard Mr. Ch. Narendra Singh, learned counsel for the petitioner and Mr. Shyamki shore Singh, learned Govt. Advocate. The learned Govt. Advocate has also produced relevant records for our perusal.

On the preliminary question whether petitioner has locus standi to file the petition and/or whether the petition can be made by way of public interest litigation, the learned Govt Advocate has submitted that the petitioner club is in no way concerned with the grievance if any, of the villagers in and around Heiripok Hills, inasmuch as, aims and object of the petitioner club is quite different, and that by the impugned order Government has allotted the Govt khas to the SSB for public purpose, which in turn will serve public interest and public utility in general. It may be that interest of some individuals or group of individual has come in conflict the land to SSB but such grievance can not give rise to the public interest litigation. The averment after taking into consideration of objections and all relevant facts allotted the land to SSB for greater interest of the public which will not only develop the area, but will enlarge the scope of employment of the local unemployed young men of the area. Moreover, the most important purpose of protecting the Tuliha Airport will be served which is imperative in the interest of public at large. The learned Govt Advocate has submitted that the petition is wholly misconceived and is liable to be dismissed in limine. The learned counsel for the petitioner on the other hand has submitted that the fact that the impugned order of allotment has adversely affected public interest of the area is very much apparent. In support of petitioner, in the course of hearing an application has been filed on behalf of the Social Reformation and Development Club, Langthabal Lep Makha Leikhi Kupa Marups, Imphal, in which it is contended that if the land is utilised by the Government for other Govt Office,

it would be appreciated, but the land ought not have been allotted to Armed Forces, which would impair interest of all the local population. The real grievance of this Women Club against allotment of the land for building Group Centre of SSB which according to them is a part and parcel of the Armed Forces. It has been specifically stated by the respondents that SSB has nothing to do with Armed Forces or paramilitary force. In support of the contention of the petitioner, the learned counsel for the petitioner has placed reliance on the decision of the Apex Court in the case of *Shri Sachidanand Pandey vs. State of West Bengal*, (AIR 1987 SC 1109). We have considered the submissions made on behalf of the respondents as well as on behalf of the petitioner on the preliminary question of maintainability of the petition by way of public interest litigation. Ours is a democratic welfare State. Ordinarily, Government is the appropriate authority to decide whether allotment of part of land will serve public purpose and utility or not and not the Court. Jurisdiction of Court under public interest litigation is to be exercised sparingly with caution and circumspection. The Court under the guise of public grievance may not encroach upon the sphere reserved for the executive and the Legislature. In the case of *Sachidanand Pandey, supra*, the appellant challenged the allotment of a plot of land measuring about 4 acres out of the land of the Zoological Garden, Calcutta, by the Government to the Taj Group of Hotels on lease for construction of a Five Star Hotel on the ground that the construction of the hotel would adversely affect the Alipore Zoo as well as environment. Originally the appellant approached the Calcutta High Court in a petition under Article 226 of the Constitution by way of Public Interest Litigation. The Calcutta High Court dismissed the petition. Against the decision of the Calcutta High Court the appellant preferred the appeal in the Hon'ble Supreme Court. The Hon'ble Supreme Court dismissed the appeal. In para 4 of the decision in the case of *Sachidanand Pandey, supra*, the Hon'ble Supreme Court held :

"4.....The question raised in the present case is whether the Government of West Bengal has shown such lack of awareness of the problem of environment in making an allotment of land for the construction of a Five Star Hotel at the expense of the zoological garden that it warrants interference by this Court. Obviously, if the Government is alive to the various considerations requiring thought and deliberation and has arrived at a conscious decision after taking them into account, it may not be for this Court to interfere in the absence of malafides. On the other hand if relevant considerations are not borne in mind and irrelevant considerations influence the decision, the Court may interfere in order to prevent a likelihood of prejudice to the public....."

In para 58, the Hon'ble Supreme Court held

"58.....Public interest litigation has now come to stay. But one is led to think that it poses a threat to Courts and public alike. Such cases are now filed without any rhyme or reason. It is, therefore, necessary to lay down clear guidelines and to outline the correct parameters for entertainment of such

petitions. If Courts do not restrict the free flow of such cases in the name of Public Interest Litigation, the traditional litigation will suffer and the Courts of law, instead of dispensing justice, will have to take upon themselves administrative and executive functions."

In para 60 the Hon"ble Supreme Court held :

""60. It is only when Courts are apprised of gross violation of fundamental rights by a group or a class action or when basic human rights are invaded or when there are complaints of such acts as shock the judicial conscience that the Courts, especially this Court, should leave aside procedural shackles and hear such petitions and extend its jurisdiction under all available provisions for remedying the hardships and miseries of the needy, the underdog and the neglected. I will be second to none in extending help when such help is required. But this does not mean that the doors of this Court are always open for anyone to walk in. it is necessary to have so self imposed restraint on public interest litigants."

In the case of State of Himachal Pradesh vs. A parent of Student of Medical College, Shimla, reported in AIR 1985 SC 910, the Hon"ble Supreme Court held "Public interest litigation is a weapon, which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that under the guise of redressing a public grievance it does not encroach upon the sphere reserved by the Constitution to the executive and the legislature".

On going through relevant records pertaining to the allotment of the land to the SSB by the impugned order, we are satisfied that after taking into consideration all relevant facts as well as the objections made by a group of persons, the Govt have arrived at the decision to allot the Govt khas land measuring 43.40 Acres, to SSB bonafide for the public purpose. Taking into consideration the respective contentions of the parties and the materials placed before us, we have no hesitation to hold that the instant petition by way of public interest litigation is wholly misconceived and is liable to be dismissed on the ground that same is not maintainable.

Having held that the petition is not maintainable, to go into the question as to whether the impugned order has been passed in contravention to the provisions of section 14 (ii) of the Manipur Land Revenue & Land Reform Act, is rather academic. However, suffice to hold that the term "public purpose" should be given a broader meaning so as to take in its sweep the term public utility and that the allotment of land to SSB for establishment of SSB Group Centre for the security of public in general and Tuliha Airport in particular, can be taken as for public utility.

For the foregoing reasons, the petition is without merit and is, therefore, dismissed. We make no order to costs. Interim order passed on 7.3.91 stands vacated.