

Manipur High Court

Miss Ningshimyao A Shimray Aged ... vs The State Of Manipur Represented ... on 11 September, 2020

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

PIL No. 2 of 2019

Miss Ningshimyao A Shimray aged about 47 years D/o Late  
Somi A Shimray a permanent resident of Chingjaroi village  
Ukhrul District and presently residing at Wino Bazar East  
(Old UBI Building) Ukhrul, P.O. & P.S. Ukhrul, Manipur -  
795142.

... Petitioner

-Versus-

1. The State of Manipur represented by Secretary  
(Home) Government of Manipur, Old Secretariat,  
Manipur, P.O. & P.S. - Imphal, Imphal - 795001.
2. The Secretary (Revenue), Government of Manipur,  
Secretariat - Old building, Babupara, P.O. & P.S. Imphal,  
Manipur - 795001.
3. The Director General of Police, Manipur, Babupara, P.O.  
& P.S. -Imphal, Manipur - 795001.
4. GOC, HQ 57 Mtn. Division, C/o 99 AP0.
5. The Deputy Commissioner, Ukhrul, HQ, P.O. & P.S. -  
Ukhrul, Ukhrul District, 795142, Manipur.
6. The Deputy Commissioner, Chandel District HQ, Chandel,  
Manipur - 795127.
7. The Deputy Commissioner, Churachandpur District HQ,  
Churachandpur, Manipur - 795128.
8. The Deputy Commissioner, Tamenglong District HQ,  
Tamenglong, Manipur - 795141.
9. The Deputy Commissioner, Kamjong HQ, Kamjong  
District, Manipur - 795145.
10. The Deputy Commissioner, Senapati HQ, Senapati  
District, Manipur - 795106.
11. The Deputy Commissioner, Kangpokpi HQ, Kangpokpi  
District, Manipur - 795129.
12. The Deputy Commissioner, Tengnoupal HQ, Tengnoupal  
District, Manipur - 795143.
13. The Deputy Commissioner, Noney District HQ, Noney,  
Manipur - 795159.

... Respondents

B E F O R E HON'BLE THE CHIEF JUSTICE MR. RAMALINGAM SUDHAKAR HON'BLE MR.  
JUSTICE AHANTHEM BIMOL SINGH For the petitioner : Mr. Khaltar Khampa, Advocate For the  
respondent : Mr. S. Suresh, ASG Date of hearing : 11.09.2020 Date of order : 15.09.2020  
JUDGMENT & ORDER (CAV) [A.B., J.] [1] Heard Mr. Khaltar Khampa, learned counsel appearing  
for the petitioner and Mr. S. Suresh, learned ASG appearing for the respondent No.

4. None appears for the respondents No. 1, 2, 3 & 5 to 14. [2] This PIL had been filed praying for  
quashing the impugned Office Memorandum dated 12.03.2018, which reads as under :

GOVERNMENT OF MANIPUR SECRETARIAT : HOME DEPARTMENT OFFICE  
MEMORANDUM th Imphal, the 12 March, 2018 Subject : Direct purchase of Land by  
Central Security agencies, viz Assam Rifle/CISF, CRPF through Deputy  
Commissioner.

No. 27/1(3)/2018-H : The undersigned is directed to say that State Government felt the need for streamlining the existing procedure for direct purchase of Land for security Agencies deployed in Manipur through village Headman/Chiefs for establishment of Battalions/CoBs inviting problems at later stage for settlement and payment of Compensation.

Considering the importance of the role of Central Security Forces, the State cabinet took a decision on 24/01/2018 making it mandatory on the part of Central Security Forces/Army/Assam Rifles etc. to consult the State Government and follow the procedure for purchase or acquisition of land from the land owners through concerned Deputy Commissioners within their jurisdiction.

Henceforth, all Deputy Commissioners shall follow the mandatory Procedure strictly whenever an organization of the Central Security Forces approach the State Government for allotment of land for use by the Organisation.

Sd/-

(M. Yaiskul Meitei) Secretary (Home) Government of Manipur"

[3] The grounds raised by the petitioner in challenging the above impugned Office Memorandum dated 12.03.2018 are as under :

(a) The Manipur Land Revenue and Land Reforms Act (MLR & LR) Act, 1960 is not extended in the hill areas of Manipur as provided under sub-Section (2) of Section 1 of the said Act. Hence, the State Government has no authority over the land and forest belonging to tribals of hill areas of Manipur;

(b) Under the Second Schedule of the Manipur Legislative Assembly (Hills Areas Committee) Order, 1972, allotment of land, occupation or use by setting apart of land is within the purview of the Hill Area Committee. As such, the State Government has no authority over the land and forest hill areas of Manipur without approval of the Hill Area Committee;

(c) Likewise, under Section 29(XIII) of the Manipur (Hill Areas) District Council (Third Amendment), Act 2008, it is provided that allotment of land, occupation of land and setting apart other than land for any purpose of a land which is the reserved forest are subject matters which are within the purview of the Autonomous District Council;

(d) The State Government with its Cabinet decision cannot supersede the aforesaid provisions of law and has no competency to issue the impugned Office Memorandum by trespassing into the area falling within the jurisdiction of the Hill Area Committee as well as the Autonomous District Council, thereby, rendering the impugned Office Memorandum illegal and void ab initio.

[4] Mr. S. Suresh, learned ASG appearing for the respondent No. 4 placed before us a letter dated 06.09.2020 from the Headquarter 57 Mountain Division, Leimakhong and submitted that as per instructions contained in the letter, the acquisition of land by Indian Army is always made through the competent authority in the State Government of Manipur.

The learned counsel, further submitted that security agencies deployed in Manipur never resort to direct purchase of land through Village Headmen/Chiefs for establishment of battalion/CoBs. [5] At the first glance, the argument advanced on behalf of the petitioner appears to be appealing, however, when we examine the provisions of Section 158 under Chapter - XIII of the MLR & LR Act, 1960, we find that the power of the State Government to issue the impugned Office Memorandum is traceable under the provisions of Section 158 of the MLR & LR Act, 1960 which reads as under :

"158. Special provision regarding Schedule Tribes - No transfer of land by a person who is a member of the Scheduled Tribes shall be valid unless -

(a) the transfer is to another member of the Scheduled Tribes; or

(b) where the transfer is to a person who is not a member of any such tribe, it is made with the previous permission in writing of the Deputy Commissioner, provided that the Deputy Commissioner shall not give such permission unless he has first secured the consent thereto of the District Council within whose jurisdiction the land lies ; or

(c) the transfer is by way of mortgage to a co-operative society."

[5] Section 158 of the MLR & LR Act, 1960 clearly provides that in order to have a valid transfer of land belonging to Scheduled Tribe to any person who is not a member of Scheduled Tribe, the previous permission in writing of the concerned Deputy Commissioner is mandatorily required and that, the Deputy Commissioner cannot give such permission before he secured the consent thereto from the District Council within whose jurisdiction, the land lies.

[6] On careful perusal of the provision under Section 158 of the MLR & LR Act, 1960, we are of the considered opinion that the specific provision under Section 158 had been enacted to protect and safeguard the rights and interest of the Schedule Tribes and the Government have not acted illegally or beyond its competency in issuing the impugned Office Memorandum.

Moreover, it cannot be said that the impugned Office Memorandum has infringed or violated any rights and interests of the members of Scheduled Tribes.

[7] The learned counsel appearing for the petitioner vehemently submitted that the provisions of MLR & LR Act, 1960 are not extended to the hill areas of Manipur as clearly provided under sub-Section (2) of Section 1 of the said Act.

The learned counsel, further, submitted that since the provisions of MLR & LR Act, 1960 are not extended to the hills areas of Manipur, it will be erroneous to hold that the power of the Government to issue the impugned Office Memorandum is traceable under the provisions of Section 158 of the MLR & LR Act, 1960.

[8] Considering the submissions advanced by the learned counsel appearing for the petitioner, we gave our anxious consideration to the provisions of Section 1 of the MLR & LR Act, 1960, which are as under :

1. Short title, extent and commencement -

(1) This Act may be called the Manipur Land Revenue and Land Reforms Act, 1960.

(2) It extends to the whole of the State of Manipur except the hill areas thereof :

Provided that the State Government may, by notification in the official Gazette, extend the whole or any part of any section of this Act to any of the hill areas of Manipur also as may be specified in such notification.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette appoint; and different dates may be appointed for different areas and for different provisions of the Act."

[9] On careful perusal of the provisions of Section 1 of the MLR & LR Act, 1960 specially sub-Section 2 and proviso thereto, we are of the considered view that proviso to sub-Section (2) of Section 1 of the MLR & LR Act, 1960 clearly provides that the State Government may, by notification in the Official Gazette, extend the whole or any part of any Section of the MLR & LR Act, 1960 to any of hill areas of Manipur as may be specified in such notification.

[10] We have also been informed on behalf of the State Government that the State Government had issued various notifications including the notifications dated 22.02.1962, 22.02.1962, 26.02.1965, 26.11.1965, etc. extending various provisions / sections including Chapter - XIII of the MLR & LR Act, 1960 to the hill areas of Manipur and the said notifications have been published in the Manipur Gazette.

Therefore, we have no hesitation to hold that provisions of Section 158, which is under Chapter - XIII of the MLR & LR Act, 1960, have been extended to the hill areas of Manipur and accordingly, the power of the State Government to issue the impugned Office Memorandum is traceable under Section 158 of the said Act.

[11] In view of the above, we find no merit in the present PIL and accordingly, the same is dismissed. However, without costs.

JUDGE

CHIEF JUSTICE

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