

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP(C) No.111 of 2023

1. Shri Thokchom Purnachandra Singh, aged about 71 years, S/o (L) Th. Kullabidhu Singh, resident of Thangmeiband Lourung Pural Leikai, PO & PS Imphal, District, Imphal West, Manipur.
2. Shri Laishram Arenkumar Singh, aged about 51 years, S/o L. Ibobi Singh, resident of Nagamapal Singjubung Leirak, PO & PS Imphal, Imphal West District, Manipur-795001.
3. Shri Hijam Nutanchandra Singh, aged about 55 years, S/o Hijam Gunachandra Singh, a resident of Thangmeiband Thingel Leikai, PO & PS Imphal, Imphal West District, Manipur- 795001.

...Petitioners

– Versus –

1. The State of Manipur through the Commissioner (MAHUD), Govt. of Manipur, Old Secretariat Block, PO & PS Imphal, Imphal West District, Manipur-795001.
2. The Director (MAHUD), PDA Complex, near 2nd M.R. Gate, PO & PS Imphal, Imphal West District, Manipur-795001.
3. The Imphal Municipal Corporation represented by its Municipal Commissioner, Imphal Municipal Corporation, Manipur having its office

at Imphal Municipal Corporation Complex, Kangla Park PO Imphal, P.S.
Imphal P.S. City Police Station, Imphal West District, Manipur-795001.

...Respondents

BEFORE

HON'BLE MR. JUSTICE M.V. MURALIDARAN

For the Petitioners	:	Mr Th. Khagemba, Advocate,
For the Respondents	:	Mr. M. Devananda, Addl.AG & Mr. L.Raju, Adv for private respondent.
Date of hearing	:	09.02.2023
Date of Judgment & Order	:	14.02.2023.

JUDGMENT & ORDER
(CAV)

1. This writ petition has been filed by the petitioners to quash the impugned order and notice dated 17.1.2023 and to direct the respondents to de-reserve Ward Nos.2, 3 and 4 by treating the said Wards as an unreserved/general seat enabling all candidates, including the petitioners to contest the Imphal Municipal Corporation, 2023.

2. Assailing the impugned notification and order dated 17.1.2023, Mr.KH. Khagemba, learned counsel for the petitioners submitted that this Court, in its

order dated 23.5.2022 in W.P.(C) No.396 of 2021 directed the respondents to give reasonable opportunities of being heard to the explanatory note placed before this Court and before finalization and publication of the reservation policy for Imphal Municipal Corporation. However, the same was not complied, rather violated the order of this Court and issued the notification dated 5.10.2022 for holding lottery on 7.10.2022 at 10 a.m. at GM Hall. The learned counsel would submit that the notification dated 5.10.2022 has not been given effect in view of the order dated 13.10.2022 and the explanatory note for reservation placed before this Court has not been furnished to all the interested parties.

3. The learned counsel further submitted that the erstwhile Imphal Municipal Council was upgraded to a separate and larger entity and status as Imphal Municipal Corporation from the year 2015 and after the existence of Imphal Municipal Corporation, no lottery was held for reservation for Women, General and ST. The earlier reservation from the beginning was full of irregularities. According to the learned counsel for the petitioners, there should be 33% reservation for Women and in a continuous 3 terms (cycle), there should be only one term reservation for Women for a Ward. As such, the reservation should be done afresh for Imphal Municipal Corporation after its existence as Corporation without any connection with the erstwhile Imphal Municipal Council.

4. The learned counsel for the petitioner then submitted that the representation of the petitioners was rejected without any cogent reasons and

on the same day, the Commissioner, MAHUD, Government of Manipur issued the impugned notification, thereby finalizing the reservation of seats in respect of Imphal Municipal Corporation without publishing the explanatory note nor finalization as directed by this Court in W.P.(C) No.396 of 2021.

5. The learned counsel next submitted that one of the Ex-Corporator of Ward No.19 has challenged the impugned order dated 17.1.2023 in W.P.(C) No.63 of 2023 on various grounds, including the post-decisional hearing of objection of Corporators and, this Court, by the order dated 24.1.2023, stayed the notification in regard to Ward No.19. In the same manner, one Hajarimayum Bobby Sharma of Ward No.5 has filed W.P.(C) No.71 of 2023 and, by the order dated 27.1.2023, this Court, stayed the notification dated 17.1.2023 in regard to Ward No.5.

6. The learned counsel for the petitioners submitted that the reservation of seats in different categories in Ward Nos.2, 3 and 4 of Imphal Municipal Corporation has to be done by strictly following Rule 109 of Manipur Municipalities (Election of Councillors) Rules, 1994. The learned counsel for the petitioners urged that as the reservation of seats in different categories has not been followed properly since 1995, all the earlier reservation of seats cannot be taken into account and a fresh reservation has to be done in order to streamline proper reservation policy in the Imphal Municipal Corporation. Thus, a prayer has been made to set aside the impugned notification and order

and to direct the respondents to de-reserve Ward Nos.2, 3 and 4 by treating the said Wards as unreserved.

7. Per contra, Mr. M. Devananda, learned Additional Advocate General appearing for the respondents, submitted that the reservation of seats for SC/ST, SC/ST (Women) and Women of all 27 ULBs of Manipur was done as provided under Section 17 of the Manipur Municipalities Act, 1994 read with Rule 107(1) of the Manipur Municipalities (Election of Councillors) Rules, 1994. The representation of the petitioners was duly considered by the respondent authorities and passed the impugned order and also issued the impugned notification.

8. The learned Additional Advocate General further submitted that since the impugned order and notification have been passed strictly in accordance with the applicable Rules, the same cannot be interfered with. Further, the petitioners cannot seek quashing of the impugned notice dated 17.1.2023 on the whole alleging that the same is in contradiction of the order passed in W.P.(C) No.396 of 2021. Thus, a prayer has been made to dismiss the writ petition.

9. This Court considered the submissions made by learned counsel appearing on either side and also perused the materials available on record.

10. The petitioners challenged the impugned order and notification firstly on the ground that the respondents have violated the direction of this Court passed in W.P.(C) No.396 of 2021. Secondly, the respondents issued notice dated 5.10.2022 which is also in violation of the order passed in W.P.(C) No.396 of 2021. Thirdly, draw of lot was done on 7.10.2022 in violation of the order of this Court. Fourthly, the respondents issued notice dated 13.10.2022 in violation of the interim order dated 13.10.2022 passed in W.P.(C) No.850 of 2022.

11. According to the petitioners, the conduct of the respondent authorities in issuing notices dated 5.10.2022 and 13.10.2022 amount to sitting over the Hon'ble Court's direction passed in W.P.(C) No.396 of 2021. In other words, the notification dated 17.1.2023 is even more serious, as the reservation policy cannot be finalized without finalizing and publishing the explanatory note. Likewise, the impugned notice dated 17.1.2023 is illegal and void *ab initio*, as it has no foundation.

12. On the other hand, it is the say of the respondent authorities that the impugned order and notification have been issued pursuant to the direction of this Court in W.P.(C) No.1121 of 2022 dated 29.12.2022 and, therefore, there is no infirmity in it. Moreover, the respondent authorities have not violated the orders of this Court made in W.P.(C) No.396 of 2021.

13. As could be seen from the records, by a notification dated 28.2.2014, the whole notified area in respect of the Imphal Municipal Council in Imphal West and Imphal East Districts have been declared as Municipal Corporation with effect from the said date. Pursuant to coming into force the Manipur Municipalities Act, 1994, the first reservation was made for the Imphal Municipal Corporation and other Municipal Councils for reservation of Women under Section 17(1)(ii) and (iii) of the Act and rotational reservations have been done at Ward Nos.2, 4, 7, 9, 11, 17, 18 and 20 respectively for total number of 26 Wards, including ST Women Ward Nos.5 and 25 respectively. Subsequently, the total Wards have been increased from 26 to 27 and, as per the notification dated 20.4.2021, for the 27 Wards, reservations have been done, which according to the petitioners is not in accordance with the provisions of the Imphal Municipalities Act, 1994.

14. According to the petitioners, by a notification dated 6.5.2016, the reservation for Women, including ST Women, have been reserved at Ward Nos.21 and 22 and Women ST Ward No.21 and reservation has been done at Ward Nos.1, 2, 6, 10, 12, 14, 15, 21, 23 and 24. Further, by a notification dated 24.4.2011, the reservation for Women has been given at Ward Nos.22, 25 and 26 and Ward No.26 is for Women. Altogether, reservation has been done at Ward Nos.1, 6, 7, 11, 14, 17, 20, 26 and 27 respectively without following the provisions of the Act. Further, by another notification dated 27.4.2016, reservation for ST Women has been done at Ward No.1, 21 and 24 and for

other Women reservation including ST Women at Ward Nos.8, 12, 16, 18, 19, 22, 23, 24 and 25 etc., which are incorrect.

15. The case of the petitioners is that reservations for the Women have to be allotted by rotation to different Ward in a Municipalities. However, the rotational reservations for Women have not been strictly followed and, therefore, a suitable direction needs to be issued by this Court for strict implementation of Section 17(1)(ii) and (iii) of the Act and also Rules 107, 108 and 109 of the Manipur Municipalities (Election of Councillors) Rules, 1994 while making reservations for Women and ST candidates under the Imphal Municipal Corporation.

16. Being unsatisfied with the alleged irregular reservation and praying for implement of Section 17(1)(ii) and (iii) of the Act, the petitioners and others have filed W.P.(C) No.396 of 2021, wherein the petitioners have also sought for reservation of seats for both Male and Female including the reservation of the office of the Chairperson/Major, Vice Chairperson/Deputy Mayor of the Imphal Municipal Corporation with effect from 28.2.2014 before holding the next election.

17. By the order dated 23.5.2022, this Court disposed of W.P.(C) No.396 of 2021. The operative portion of the order reads thus:

“In view of the submissions made above, the present writ petition is hereby disposed of by directing the respondents to give a

reasonable opportunity to all the present Caretaker Councillors to submit objections/suggestions and also a reasonable opportunity of being heard before finalization and publication of the said reservation policy contained in the said explanatory note.

With the aforesaid directions, the present writ petition is disposed of.”

18. The MAHUD has also prepared the explanatory note on seats to be reserved for the election of Corporators of Imphal Municipal Corporation for the year 2021 and also the explanatory note on reservation of seat for the office of the Mayor, Imphal Municipal Corporation for the year 2021. On 5.10.2022, the Deputy Secretary (MAHUD) issued a notification whereby informing to draw lots in connection with the reservation of seats for SC/ST, SC/ST Women and General (Women) for the ensuing General Election to 27 Urban Local Bodies, Manipur, including Imphal Municipal Corporation, 2022. In this connection, the said authority also requested all the MLAs, whose Assembly Constituencies are included in the Imphal Municipal Areas and 26 other ULBs, all leaders of various political parties, District Collectors concerned to participate during draw of lots.

19. Challenging and aggrieved by the notification dated 5.10.2022, two former Councillors/Corporators have filed W.P.(C) No.850 of 2022 before this Court. This Court, by the interim order dated 13.10.2022, directed the respondents not to take up any further action pursuant to the impugned notification dated 5.10.2022 without the leave of the Court. On the same day

i.e. on 13.10.2022, the Commissioner, MAHUD, issued a notification calling for objections/suggestions from the Ex-Corporators of Imphal Municipal Corporation in respect of the reservation policy for SC/ST, SC/ST (W) and Women within 15 days from the date of receipt of the notification, failing which, it will be presumed that there is nothing to say/submit to the reservation policy, and it will be finalized ex-parte. It is seen that draw of lots for reservation of SC/ST, SC/ST(W) and Women was conducted on 7.10.2022 and objections were also called for from the Ex-Corporators in respect of the reservation policy.

20. On 19.10.2022, the petitioners and other Ex-Councillors/Corporators have jointly submitted a representation to the Commissioner, MAHUD, stating that they are not furnishing any suggestions or objections to the notification dated 13.10.2022 at that stage. However, in the said representation, they have given their suggestions and objections after the disposal of the pending writ petition. On a perusal of the said representation, it is seen that the Ex-Councillors/Corporators have given solutions for the issue and finally prayed to restore Caretaker Mayor along with Standing Committees/Councillors immediately to avoid further commission of irregularities.

21. On a perusal of the records, two of the petitioners herein have challenged the notification dated 13.10.2022 by filing W.P.(C) No.1121 of 2022 with a prayer to finalize the reservation policy of Imphal Municipal Corporation,

2022. By the order dated 29.12.2022, this Court disposed of the said writ petition. The order reads thus:

“Heard Mr. Kh. Tarunkumar, learned counsel appearing for the petitioners, Mr. Th. Sukumar, learned Government Advocate appearing for the respondents No.1 and 2 and Mr. U.Augusta, learned counsel appearing for the respondent No.3.

The grievances raised by the petitioners in the present writ petition is that pursuant to the direction given by this court in its order dated 13.10.2022 passed in WP(C) No.850 of 2022, the Commissioner (MAHUD), Government of Manipur issued a Notification dated 13.10.2022 thereby inviting suggestions/objections from the Ex-Corporators of Imphal Municipal Corporation in respect of the Reservation Policy for SC/ST, SC/ST (Women) and Women within 15 days from the date of receipt of the said notification.

The case of the petitioners is that the action of the authorities in calling the objections under the said notification has been done by way of post decision inasmuch as the authorities have already taken decision with regard to the Reservation Policy.

Mr. Th. Sukumar, learned Government Advocate as well as Mr. U.Augusta, learned counsel appearing for the respondents vehemently submitted that the authorities have not taken any final decision with regard to the Reservation Policy for SC/ST, SC/ST (Women) and Women and that the said notification has been issued in compliance with the order passed by this court.

As the election of the People’s Representatives in the local bodies cannot be postponed indefinitely, this court is of the considered view

that the present writ petition can be disposed of with the following directions:-

- (i) *The petitioners or any Ex-Corporators of the Imphal Municipal Corporation, who are willing and interested in submitting objection pursuant to the notification dated 13.10.2022 are given liberty to submit their suggestions/objections with regard to the Reservation Policy for SC/ST, SC/ST (Women) and Women to the concerned authorities. Such suggestions/objections should be submitted within a period of 10 (ten) days from today.*
- (ii) *In the event of submitting such suggestions/objections within the stipulated period, the concerned authorities of the State Government are directed to consider and taken a final decision with regard to the Reservation Policy for SC/ST, SC/ST (Women) and Women within a period of 15 days from the last date of receipt of the suggestions/objections by interest parties.”*

With the aforesaid directions, the present writ petition is disposed of.”

22. On 6.1.2023, the petitioners 1 and 2 have jointly preferred their objection/suggestion to the Commissioner, MAHUD, wherein they have stated that the draw of lot conducted on 7.10.2022 is in violation of the order of this Court passed in W.P.(C) No.396 of 2021 and that the explanatory note has not been furnished to the interested parties till date.

23. All along when the petitioners challenging the notifications of the respondent authorities by filing various writ petitions, they have not raised a plea that they have not been served with the explanatory note and for the first

time in the representation dated 6.1.2023 the petitioners have stated that the explanatory note has not been furnished to them. If really, they were not served with the explanatory note, the petitioners would have brought to the notice of this Court when W.P.(C) No.1121 of 2022 was taken up for hearing. Further, in their representation dated 19.10.2022 also, the petitioners have not stated anything about the non-supply of the explanatory note. Only after knowing the contents of the explanatory note, the petitioners have submitted their representations and agitating the issue before this Court. Therefore, the non-furnishing of the explanatory note to them pleaded and canvassed by the petitioners cannot be countenanced.

24. On a perusal of the representation dated 6.1.2023, the petitioners prayed to settle the issue amicably by conducting a fresh reservation lottery from the date of existence of Imphal Municipal Corporation i.e. 2015 without any connection or reference with the erstwhile Imphal Municipal Council. The said prayer of the petitioners is also beyond what was prayed in W.P.(C) No.1121 of 2022 and the directions issued by this Court therein and also the earlier directions of this Court in W.P.(C) No.396 of 2021.

25. After considering the representation of the petitioners, the Commissioner, MAHUD, Government of Manipur, has passed the impugned order dated 17.1.2023, which reads thus:

“No.CCe-301/2/2023-MAHUD-MAHUD: Whereas, Shri L.Arenkumar singh, Ward No.4 and Shri Th. Purnachandra Singh,

Ward No.2, Ex-Councillors, IMC have filed a representation submitting their objections/suggestions to MAHUD Department in pursuance of Hon'ble High Court of Manipur's order dated 29.12.2022 passed in connection with W.P.(C) No.1121 of 2022;

2. Whereas, the Hon'ble High Court of Manipur vide order dated 29.12.2022 passed in connection with W.P.(C) No.1121 of 2022 has given liberty to the petitioners or any ex-Corporators of the Imphal Municipal Corporation who are willing and interested in submitting objection pursuant to the notification dated 13.10.2022 to submit their suggestion/objections with regard to the reservation policy for SC/ST, SC/ST (Women) and Women to the concerned authorities within a period of 10 (ten) days from the date of order;

3. Whereas, draw of lots for reservation of SC/ST, SC/ST (Women) and Women for conducting election to the 27 (twenty-seven) ULBs was conducted on 7.10.2022 and no further action has been taken up in compliance of Hon'ble High Court of Manipur's order dated 13.10.2022 passed in connection with W.P.(C) No.850 of 2022;

4. Whereas, the reservation of seats for SC/ST, SC/ST (Women) and Women of all the 27 (twenty-seven) ULBs of Manipur is done as provided under Section 17 of the Manipur Municipalities Act, 1994 read with Rule 107(1) of the Manipur Municipalities (Election of Councillors) Rules, 1994. Further, the population date is based on Census, 2011;

5. Whereas, as per section 2(34) of the Manipur Municipalities Act, 1994, "Municipality" means the Nagar Panchayat or the Municipal

Council or the Municipal Corporation, as the case may be, constituted under the provision of this Act;

6. Now, thereof the request made for conducting fresh reservation lottery after coming into existence of the Imphal Municipal Corporation in 2015 is untenable, unjustified and without any valid reasons.

4. The representation filed by Shri L.Arenkumar Singh, Ward No.4 and Shri Th. Purhachandra Singh, Ward No.2, Ex-Councilors, IMC submitting their objections/suggestions in pursuance of Hon'ble High Court of Manipur's order dated 29.12.2022 poassed in connection with W.P.(C) No.1121 of 2022 stands disposed of accordingly."

26. On 17.1.2023, the Commissioner, MAHUD, also issued a notification to finalize and to notify the reservation of seats for SC/ST, SC/ST (Women) and Women in respect of Imphal Municipal Corporation as per the result of the lottery held on 7.10.2022, as it was done as per rules without any defect. The publication of the reservation policy contained in the explanatory note has been consulted with the all concerned during the meeting held on 7.10.2022, which would be evident from the notification dated 13.10.2022, wherein it has been stated as under:

"F.No.ELECT-201/1/2020-MAHUD-MAHUD-Part(3): Whereas, the State Government took a decision to hold the general elections to Imphal Municipal Corporation and the 26 Urban Local Bodies in the month of November 2022.

2. AND, WHEREAS, a draw of lots for reservation of SC/ST, SC/ST (W) and Women was conducted on 07.10.2022 at G.M. Hall for the 27 ULBs including Imphal Municipal Corporation.

3. AND, WHEREAS, the Hon'ble High Court's in its Orders and Judgement dated 23.05.2021 passed in W.P.(C) No.396 of 2021 directed the Respondents to give a reasonable opportunity of all the present Caretaker Councillors to submit objections/suggestions and also a reasonable opportunity of being heard being finalization and publication of the said reservation policy contained in the said explanatory note;

4. NOW, THEREFORE, the Governor of Manipur is pleased to invite objections/suggestions from the Ex-Corporators of Imphal Municipal Corporation in respect of the reservation policy for SC/ST, SC/ST (W) and Women as annexed at Annexure "A" and "B" to the Government within 15 (fifteen) days from the date of receipt of this notification, failing which, it will be presumed that there is nothing to say/submit to the reservation policy, and it will be finalized ex-parte."

27. Challenging the notification dated 17.1.2023, two writ petitions, namely, W.P.(C) Nos.63 and 71 of 2023 have been filed in respect of Ward Nos.19 and 5 respectively and, this Court, by separate orders dated 24.1.2023 and 27.1.2023, granted interim stay of operation of the impugned notification dated 17.1.2023 in respect of Ward Nos.19 and 5 of the Imphal Municipal Corporation till the next date. The said writ petitions are directed to be listed on 16.2.2023.

28. In the instant case, the petitioners have challenged both the order dated 17.1.2023 and the notification dated 17.1.2023. As far as the order dated 17.1.2023 impugned herein is concerned, this Court is of the view that the same has been passed pursuant to the direction of this Court in W.P.(C) No.1121 of 2023 and taking note of all the relevant facts and circumstances of the case put forth by the petitioners as well as the other Ex-Councillors. Therefore, this Court is not inclined to interfere with the same.

29. Coming to the impugned notification dated 17.1.2023 is concerned, the respondent authorities have conducted lots in respect of Ward Nos.2, 3 and 4 taking note of the factual scenario and also as per the provisions of the Act and Rules. Therefore, there is no question of de-reserve of Ward Nos.2, 3 and 4 would arise as pleaded by the petitioners. That apart, the grievance of the petitioners is that the reservation is in contradiction of the order passed in W.P.(C) No.396 of 2021 and the explanatory note has not been published till date.

30. On a perusal of the explanatory note, the details of seat reservation of the SC/ST and Women in the 1st and 2nd duration and to be reserved in the 3rd duration have been tabulated, where from, this Court is able to see that Ward Nos.2, 3 and 4 have been reserved for General (W) taking note of the population and also in compliance of the provisions of the Act and Rules. Therefore, this Court finds no infirmity in the reservation done in respect of Ward Nos.2, 3 and 4. Further, the records produced by the petitioners show

that they have participated in the lots for reservation conducted on 7.10.2022. Having participated in the lots, the petitioners cannot now challenge the reservation in respect of Ward Nos.2, 3 and 4 made by the respondent authorities. Only considering the ground situation and applying the applicable laws, the respondent authorities have reserved Ward Nos.2, 3 and 4 as General (W). When the respondent State has taken a policy decision, exercising jurisdiction under Article 226 of the Constitution of India, the High Court cannot interfere with the same. Since the interim orders passed in W.P.(C) No.63 and 71 of 2023 pertains to Ward Nos.5 and 19, the said interim orders are not applicable to the facts of this case.

31. For all the reasons stated above, this Court is of the view that there is no merit in the writ petition. Accordingly, the writ petition is dismissed. There will be no order as to costs.

ACTING CHIEF JUSTICE

FR/NFR

John Kom