

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

PIL No. 5 of 2019 with **MC(PIL) No. 10 of 2022 with
MC(PIL) No. 11 of 2022 MC(PIL) No. 1 of 2021 with
MC(PIL) No. 13 of 2022 with MC(PIL) No. 14 of 2022 with
MC(PIL) No. 17 of 2022 with MC(PIL) No. 19 of 2022 with
MC(PIL) No. 20 OF 2022 with MC(PIL) NO. 21 OF 2022 with
MC(PIL) NO. 2 OF 2021 with MC(PIL) NO. 22 OF 2022 with
MC(PIL) NO. 23 OF 2022 with MC(PIL) NO. 3 OF 2021 with
MC(PIL) NO. 58 OF 2020 with MC(PIL) NO. 8 OF 2022 with
MC(PIL) NO. 9 OF 2019 with MC(PIL) NO. 9 OF 2022 with
MC(PIL) NO. 16 OF 2023 with MC(PIL) NO. 17 OF 2023**

In Re Preservation of Thoubal River

... Applicant/s

-Versus-

State of Manipur & 10 ors.

... Respondent/s

BEFORE

**HON'BLE MR. JUSTICE M.V. MURALIDARAN
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA**

For the Applicant : Mr. HS Paonam, Sr. Adv. assisted by Mr. S. Gunabanta, Mr. Karung H. Kom, Mr. M. Rakesh, Mr. CH. Momon, Mr. Serto T Kom, Mr. I Denning, Mr. Th. Babloo, Miss Geetarani Waikhom, Mr. Kh. Tomba, Mr. Changkhomba, Mr. U Augusta, Mr. M. Tijendra, Mr. K. Rabei, Mr. N. Premkumar Singh, Mr. LN. Ngamba, Adv.

For the respondents : Mr. Lenin Hijam, learned AG assisted by I. Imri, Adv.

Amicus Curiae : Shri A. Mohendro and Ms. Harichhaya, (AC)

Date of Hearing : **09-02-2023, 05-09-2023**

Date of Judgment &

Order :

20.10.2023

ORDER (CAV)

[1] This PIL was taken up by this court on the basis of a letter dated 24-01-2019 addressed to the Hon'ble the Chief Justice High Court of Manipur by the Thoubal River Conservation Committee, Thoubal.

[2] Their grievances are inter – alia that this Thoubal River has been feeding a large number of villages with water since the time immemorial but because of the sand mining, the river is running muddy and turbid rendering its water unconsumable for the people. Its turbid water obstructs sunlight from reaching the bottom of the river resulting in the death of plant and zooplankton and their decaying remains attract bacteria making the water rot and smelly. The biological, chemical and geographical structures of the river get severely damaged. The polluted water makes the people prone to water borne diseases. Despite their repeated requests being made to the concerned authorities, had fallen on their deaf ears. Accordingly, this court was approached with certain as detailed in the letter.

[3] On 2.07.2019, this court appointed Shri A. Mohendro, Advocate and Ms. Harichhaya, Advocate as amicus curiae to assist the court.

After having heard the learned counsel appearing for the parties and having considered the gravity of the problems being faced by the people of Thoubal and the people in general, this Court expanded the scope of this PIL to cover all the rivers in the State and this Court, by way of an interim measure, issued the following directions: (a) There shall be a total ban in respect of unauthorised stone quarry, sand mining, river pollution etc. in all the rivers in the State and no one shall carry out any such activities towards stone quarry, sand mining, river pollution etc., except in case where a licence or lease is granted in accordance with law;"

[4] On 20.11.2019 an application (MC PIL NO. 6/2019) has been filed by the applicants praying to issuing a direction to the authority concerned to release their seize vehicles.

One of the submissions made by the applicants is that they had been doing the business of selling sand and stone to the public after collecting the same from the homestead lands belonging to private individuals who reside at Yairipok, Manipur.

[5] The applicant have not produced materials to support their contention except copies of jamabandi.

This court allow the application with the direction that

1. the applicants shall not carry on the business of lifting sand and stone for selling until the permit is issued by the state government in accorded with law and
2. the applicants shall co-operate with the investigation.
3. the applicants shall deposit a sum of rs. 5000/- each
4. the direction above shall complied with within 2 weeks from the date of receipt of copy of this order.

[6] Various misc. cases were filed seeking for releasing the seized vehicles and the case of the petitioners/applicants are that the vehicles were seized by the respondents without registrating FIR against them under the Manipur Minerals (Prevention of Illegal Mining, Storage & Transportation) Rules, 2018.

Mr. Lenin Hijam, learned AG, Manipur, submitted that as per the Act, the relief sought for by the applicants ought to have been filed before the special Court.

Respondents are directed to file an affidavit whether any FIR was registered or initiate criminal proceedings against the applicants and the said affidavit is to be filed on or before 23.02.2023. In case the respondents have not registered any FIR or initiate criminal proceedings, as stated above, this court will consider the matter of releasing the vehicle on the next hearing.

Considered the submissions of the learned counsels for the parties and perused the documents on record including the original file submitted by the State Government.

[7] Vide order dated 02nd November 2022 the Governor of Manipur in exercising power conferred by sub-section (1) of section 30B of the Mines and Minerals (Development and Regulation) Act, 1957 has constituted a Special Court (MMDR) Manipur, for the purposes of providing speedy trial of offences.

[8] Vide order dated 18th November, 2022 the Governor of Manipur in exercising power conferred by sub-section (2) of section 30B of the Mines and Minerals (Development and Regulation) Act, 1957 and after consultation with the Hon'ble High Court of Manipur, designate the District and Session Judge, Thoubal as Judge of the Special Court (MMDR), Manipur.

[9] List of Misc. application which has seized vehicles with FIR are :

Table – A

Sl.No.	Misc. Application No.	Name of the vehicle owner	FIR No.	Types of vehicles and registration No.
1.	MC (PIL) No. 8 of 2022	Salgunlen Kipgen	FIR No. 4 (1) 2023 SEK-PS	TataTruck – MN04A 8467
2.	MC (PIL) No. 11 of 2022	Lentinlan Hmar	FIR No. 4 (1) 2023 SEK-PS	Tata Truck – MN05 3642
3.	MC (PIL) No. 9 of 2022	Leishangthem Gunajit Meitei	FIR No. 4 (1) 2023 SEK-PS	Tata Truck – MN01 1013
4.	MC (PIL) No. 10 of 2022	Paominlen Kilong	FIR No. 4 (1) 2023 SEK-PS	Tata Truck– MN02G 2887
5.	MC (PIL) No. 14 of 2022	Arambam Manojit Singh	FIR No. 01 (01) 2023 APS	TataTruck – MN03 0884
6.	MC (PIL) No. 13 of 2022	Thokchom Shyamo Singh	FIR No. 01 (01) 2023 APS	Tata Truck – MN04A 7495
7.	MC (PIL) No. 19 of 2022	Aribam Ajit Sharma	FIR No. 01 (01) 2023	Tata Tipper Truck – MN01

			APS	9884
8.	MC (PIL) No. 20 of 2022	Keisham Dhiren Singh	FIR No. 45 (10) 2022 YPK-PS	Tractor – MN04A 5406
9.	MC (PIL) No. 17 of 2023	Shri Sunil Kumar Nawk	FIR No. 45 (10) 2022	Tata Tripper (HYVA) Registration no. Nil, Engine No. 81F84489976

[10] List of Misc. application which has seized vehicles without FIR are :

Table - B

Sl.No.	Misc. Application No.	Name Vehicle Owner	Types of vehicles and registration No.
1.	MC (PIL) No. 23 of 2022	Mrs. Songngaihvang	i) JCB 3DX SUPER 4WD Chassis no. HARCDXSUJO2855922 Engine no. H00240687 ii) Massey Ferguson Tractor Chassis no. MEA908A5FJ1193570 Engine No. S325.1J8206
2.	MC (PIL) No. 21 of 2022	Laimayum Dhana Singh	JCB 3DX SUPER registration no. MN06T2154
3.	MC (PIL) No.22 of 2022	Mrs. Ngainunhoih	Sonalika Tractor Cassis no. BZVSH899242S3 Engine no. 3105ELU93K890830F20
4.	MC (PIL) No. 17 OF 2022	Shri Lamminthang Misao	JCB Excavator Registration No. MN030964
5.	MC (PIL) No. 3 of 2021	Shri Laishram Rajen Singh	Tata Truck Registration No. MN-03/0484
6.	MC (PIL) No. 2 Of 2021	Shri Thangjam Ragu Singh	JCB 3DX Registration No. A/F, Engine serial No. 4H-

			2152/0702309 Chassis No. 1256464 C 2227
7.	MC (PIL) No. 1 of 2021	Shri Leitanthem Dolendro Singh	Tata Truck Registration No. MN05-3775
8.	MC (PIL) No. 16 OF 2023	Laimayum Dhana Singh	JCB 3DX SUPER registration No. MN06T2154

[11] In the circumstances, it is directed that those cases mentioned in Table – A in which FIRs are lodged, the special court {Special Court (MMDR), Manipur} which has been constituted for the purposes of providing speedy trial of offences for contravention of the provisions of sub-section (1A) of section 4, shall heard such matter and disposed of accordingly. Applicants are directed to approach the Special Court for their relief.

[12] Regarding those cases mentioned in Table – B when FIRs have not been registered, this court is of the view that these applications can be considered in term of the undertaking given by them in the form of affidavit. Accordingly, the applications stand disposed of with the following directions:

1. the applicants shall not carry on the business of lifting sand and stone for selling until the permit is issued by the state government in accorded with law and
2. the applicants shall co-operate with the investigation.
3. the applicants shall deposit a sum of Rs. 10,000/- (Ten Thousand only) for Truck and Tractor and Rs. 20,000/- (Twenty Thousand only) for Excavator and earth mover vehicles such as JCB, Poclain, etc to the Manipur High Court Legal Services Committee.
4. the direction above shall complied with within 2 weeks from the date of receipt of copy of this order.
5. On submission of the requisite undertaking and proof of deposit of amount as indicated above, the vehicles shall be released to the owners/applicants

[13] List the PIL along with the pending application, if any, on 30.11.2023.

JUDGE

JUDGE

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**KH. JOSHUA
MARING**

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KH. JOSHUA MARING
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