

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

W.P. (Crl.) No. 34 of 2023

Mr. Thanglenmang Haokip @ Mangboi, aged about 28 years, S/o Demkhothang Haokip, a resident of Tuinom Part-IV, Zion Veng, Moreh Ward No. 7, P.O. & P.S. Moreh, Tengnoupal District, Manipur-795131.

..... Petitioner/s

- Versus -

1. The State of Manipur represented by the Commissioner/Special Secretary (Home), Government of Manipur, Secretariat Building, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.
2. The Union of India, through the Deputy Secretary (PIT-ND & PS), Ministry of Finance, Department of Revenue, Near North Block, Room No. 26, Church Road, RFA-Barrack, New Delhi-110001.
3. The Superintendent, Manipur Central Jail, Sajiwa, Khabeisoi, Imphal East District, Manipur-795114.

.....Respondent/s

B E F O R E

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

For the petitioner	: Mr. Ph. Satyajit Singh, Advocate
For the respondents	: Mr. O. Ratankumar, Dy. G.A. for the State and Mr. S. Kaminikumar, CGC for the Union of India.
Date of Order	: 13.03.2023

O R D E R (Oral)

A. Guneshwar Sharma, J.

[1] The detainee, namely Mr. Thanglenmang Haokip @ Mangboi, aged about 28 years, S/o Demkhothang Haokip, a resident of Tuinom part-IV, Zion Veng, Moreh Ward No. 7, P.O. & P.S. Moreh, Tengnoupal District, Manipur was detained under Section 3 (1) of the PIT-NS & PS Act, 1988 and presently lodged in Manipur Central Jail, Sajiwa in pursuance to the impugned order dated 28.09.2022 passed by the Special Secretary (Home), Government of Manipur. It is stated that the detainee filed a bail application being Cril.Misc.(B) Case No. Nil of 2022 in the Court of Special Judge (ND & PS), Thoubal in connection with FIR No. 30(03)2022 KCG-PS u/s 21(c)22(c)/60(3) ND & PS Act and he would continue his illegal activities including illicit trafficking of drugs even after release on bail. The detainee was arrested on 17.03.2022 at about 2:45 pm by a team of Commando Unit, Kakching in connection with the present FIR and recovered 725 grams of suspected Heroin No. 4 and 19,500 (total) Nos. of WY tablets.

[2] Vide letter dated 29.09.2022, the Special Secretary (Home), Government of Manipur furnished the grounds of detention under Section 3(3) of the PIT-ND & PS Act, 1988 to the detenu wherein it is stated that the detenu was habitually dealing in transportation of contraband drugs as a major kingpin in supplying of contraband drugs in Manipur, coordinating with suppliers in Moreh, transporters and sellers in Imphal Valley. He was

likely to be released on bail and on release, he would continue to indulge in illegal activities of drug trafficking.

[3] The detenu make a representation dated 10.11.2022 to the Deputy Secretary (PIT-ND & PS), Ministry of Finance, Department of Revenue, Government of India, New Delhi through the superintendent, Manipur Central Jail, Sajiwa for revocation of the detention order dated 28.09.2022 and also stated that a copy of the representation may be given to the Advisory Board for consideration and personal hearing. It was stated that he was a mere passenger driver of the vehicle from which the drug was seized and the State Government has violated the mandatory statutory provisions.

[4] Vide order dated 23.12.2022, the Commissioner (Home), Government of Manipur confirmed the detention order dated 28.09.2022 and fixed the period of detention for 12 months as provided under Section 11 of the Act. It was stated that the representation dated 10.11.2022 of the detenu was rejected by the State Advisory Board on the grounds that there were sufficient causes for detention of the detenu under the provisions of the said Act.

[5] Neither the State nor the Central Government filed any reply to the writ petition filed by the detenu.

[6] The detention order is challenged mostly on the ground that:

- (a) The State Government failed to send the detention order along with the grounds of detention to the Central Government within the stipulated time;
- (b) There is no cogent material against the detenu;
- (c) The bail application was for default bail under 167(2) Cr.P.C. read with Section 36-A(4) of the ND & PS Act, 1985.

[7] Heard Mr. Ph. Satyajit Singh, learned counsel for the petitioner, Mr. O. Ratankumar, learned Dy. G.A. for the State respondents and Mr. S. Kaminikumar, learned CGC for the Union of India.

[8] Mr. Ph. Satyajit Singh, learned counsel for the petitioner, submits that the State Government has not passed any separate order rejecting the representation of the detenu. However, if the date of order of confirmation, i.e., 23.12.2022 is to be considered as a date of rejection of the representation, the same has been passed more than 1 month of the receipt of the representation and is not properly explained. Moreover, the Union of India has yet to pass any order on the representation submitted by the detenu and the detention order be set aside for the delay in disposal of the representation by the State Government as well as non-consideration of the representation by the Central Government for more than 3 (three) months.

[9] Mr. O. Ratankumar, learned Dy. G.A. for the State respondents, submits that there was some delay in disposal of the deem representation by the confirmation order dated 23.12.2022. However, the same has been caused due to other impending work. It is submitted that the detenu was a habitual offender and was involved in multiple of cases under the ND & PS Act and as such, the detention order was issued as he could not be dealt with by the normal criminal procedure.

[10] Mr. S. Kaminikumar, learned CGC for the Union of India, submits that a copy of the e-mail dated 10.03.2023 sent by Section officer, PIT-ND & PS Division, Ministry of Finance, Department of Revenue to him and the representation is still under process. He prays that this Court may pass any appropriate order in considering the involvement of the detenu in the same FIR.

[11] Having considered the submissions of the learned counsel for the parties, and materials available on record, it is seen that the State Government has not passed any separate order rejecting the representation submitted by the detenu. It is stated that in the confirmation order dated 23.12.2022 that the State Government has deemed rejected the representation of the detenu. However, on perusal of the e-mail dated 10.03.2023 sent by the Central Government to its standing counsel, it is seen that the representation submitted by the detenu was received on 25.12.2022 along with the para-wise comments from the State Government

by e-mail and the same is under process. The e-mail dated 10.03.2023 reads as under:

“ Sir,

The Government of Manipur vide letter No. H.3301/80/2022-HD-HD dated 04.10.2022 has sent a report under Section 3(2) of PIT-ND & PS Act, 1988 in respect of detention order passed by Special Secretary (Home) Government of Manipur within the stipulated period of ten days and the same has been received in Ministry on 06.10.2022 and taken on record.

The representation dated 10.11.2022 of Thanglenmang Haokip @ mangboi was received in this Ministry vide e-mail dated 25.12.2022 from the State Government. Para-wise comments were received from Government of Manipur vide e-mail dated 25.12.2022. The representation is under process.

Therefore, the above facts may kindly be kept in view while defending the interests of Union of India.

Regards,

Section Officer,

PITNDPS Division,

Ministry of Finance, Department of Revenue.”

From the above quoted e-mail, it is seen that the representation dated 10.11.2022 was received on 25.12.2022 along with the para-wise comments from the State Government but as on 10.03.2023, there is no order on the representation submitted by the detenu. The

detention order is liable to be set aside for non-disposal of the representation for more than 88 days and there is no explanation from the Central Government.

[12] Reference may be made to the judgment passed by the Hon'ble Supreme Court in the case of **Rajammal v. State of T.N.** reported in **(1999) 1 SCC 417: 1999 SCC (Cri) 93**, at page 421 and **Sarabjeet Singh Mokha v. The District Magistrate, Jabalpur** reported as **MANU/SC/1011/2021** where it was held that unexplained and inordinate delay in disposing the representation vitiates the detention order.

[13] Accordingly, detention order dated 28.09.2022 and the confirmation order dated 23.12.2022 are set aside and the detenu namely Mr. Thanglenmang Haokip @ Mangboi, aged about 28 years, S/o Demkhothang Haokip, a resident of Tuinom Part-IV, Zion Veng, Moreh Ward No. 7, P.O. & P.S. Moreh, Tengnoupal District, Manipur be released from detention forthwith, if not required in any other case.

[14] Writ petition is allowed. No Cost.

JUDGE

ACTING CHIEF JUSTICE

FR/NFR

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