

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

W.P. (Cril.) No. 35 of 2023

Lhunthanglen Touthang, aged about 40 years, S/o (L)
Thongpao Toathang of Chamol Village, Chapikarong,
Chandel-District, a/p Vajing Village, Churachandpur-District,
Manipur

..... Petitioner/s

- Versus -

1. The State of Manipur represented by the Chief Secretary,
Government of Manipur, Babupara, Old Secretariat Building,
P.O. & P.S. Imphal, District-Imphal West, Manipur-795001
2. Special Secretary (Home), Government of Manipur,
Babupara, Old Secretariat Building, P.O. & P.S. Imphal,
District-Imphal West, Manipur-795001.
3. The Superintendent of Manipur Central Jail, Sajiwa, at Sajiwa
near Khabeisoi, P.O. Porompat, P.S. Heingang, Imphal East
District, Manipur-795001.
4. 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.

.....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. L. Diko, Advocate junior to Mr. L. Seityandra, Advocate.
For the respondents	::	Mr. Th. Vashum, G.A. for the State and Mr. S. Vijayanand Sharma, Sr. PCCG for the Central Govt.
Date of Order	::	29.03.2023

ORDER (ORAL)

A. Guneshwar Sharma, (J)

[1] The detenu, namely Lhunthanglen Thouthang, was arrested on 29.06.2022 by a team of NAB-PS in connection with FIR No. 27(06)2022 NAB-PS u/s 21(c)/29/60(3) ND & PS Act read with 400 IPC at Kwakta Bazar, Bishnupur District. From his possession, one sack containing 110 numbers of soap caps each containing suspected Heroin Powder No. 4 weighing altogether 1.375 kgs and the detenu was remanded to judicial custody. While he was in custody, the Special Secretary (Home), Government issued the detention order dated 08.08.2022 under Section 3 (1) of the PIT-ND & PS Act to the detenu for effectively preventing him from involvement of illicit trafficking of drugs for a period of 3 months until further orders. It is stated that the detenu filed a bail application before the Special Court (ND & PS), Bishnupur and the detenu being a cadre of Kuki Liberation Army (KLA) under SoO and also being a habitual drug trafficker would continue his illegal activities even after his release.

[2] Vide letter dated 12.08.2022, the Special Secretary (Home), Government of Manipur furnished the grounds of detention to the detenu. The detenu submitted a common representation dated 12.09.2022 to the Deputy Secretary (PIT-ND & PS), Ministry of Finance, Department of Revenue, Government of India, New Delhi and to the Chief Secretary, Government of Manipur for revocation of the detention order stating that he is totally innocent and not related with the alleged seized contrabands. It is

stated that the bail application was rejected by the learned Special Judge (ND & PS), Bishnupur on 08.09.2022. Vide order dated 07.11.2022, the Special Secretary (Home), Government of Manipur confirmed the detention order dated 08.08.2022 and fixed the period of detention for 12 months from the date of detention.

[3] The detention order was challenged mainly amongst the following grounds that:

- (i) Non-application of mind while passing the detention order;
- (ii) Violation of mandatory provisions of the PIT-ND & PS Act, 1988; and
- (iii) The Central Government has not passed any order on the representation.

[4] The State Government filed counter affidavit to the petition wherein it is stated that the detenu was a hardened criminal involved in multiple cases of drug trafficking and from his possession 1.375 kgs of heroin No. 4 was recovered and he being a cadre of Kuki Militant under SoO, there is likely of him in threatening the witness and others. There is not much delay on the part of the State Government in dealing with the case. The Central Government did not file any reply but produced a copy of the e-mail dated 23.03.2023 at the time of hearing.

[5] Heard Mr. L. Diko, learned counsel junior to Mr. L. Seityandra, learned counsel for the petitioner, Mr. Th. Vashum, learned G.A. for the

state respondents and Mr. S. Vijayanand Sharma, learned Sr. PCCG for the Union of India.

[6] Mr. L. Diko, learned counsel for the petitioner, submits that there is delay of 56 days in disposal of the representation dated 12.09.2022 submitted by the detenu to the State Government. If the confirmation order dated 07.11.2022 is considered as deem rejection of the representation, there is no explanation for the long delay. Moreover, the Central Government is still sitting over the representation submitted by the detenu. He prays that the detention order be set aside.

[7] Mr. Th. Vashum, learned G.A. submits that there is no inordinate delay on the part of the State Government and the writ petition may be rejected.

[8] Mr. Shokpei Woleng, learned counsel junior to Mr. S. Vijayanand Sharma, learned Sr. PCCG for the Union of India, produced a copy of the e-mail dated 23.03.2023 sent by the Section Officer, PITNDPS Division, Ministry of Finance, Department of Revenue, Government of India to its counsel stating that the representation dated 12.09.2022 of the detenu was received on 19.09.2022. No para-wise comments have been received on the representation till date from the State Government and as such, no order can be passed by the Central Government.

[9] In the present case, the State Government has not passed any separate order in disposing of the representation submitted by the

detenu. However, if the confirmation order dated 07.11.2022 is considered as a deem rejection of the representation, there is an unexplained delay of 56 days. The Central Government has also not able to dispose of the representation as para-wise comments have not been received (vide e-mail dated 23.03.2023). Time and again, the Hon'ble Supreme Court has held that the delay in disposal and non-disposal of the representation without any explanation vitiates the detention order.

[10] Accordingly, the detention order dated 08.08.2022 and the confirmation order dated 07.11.2022 issued by the detaining authority are set aside and the detenu, namely Lhunthanglen Thouthang, be released from detention forthwith, if not required in any other case. Accordingly, writ petition is allowed. No cost.

JUDGE

ACTING CHIEF JUSTICE

FR/NFR

KH. JOSHUA
MARING

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