

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

WA No. 78 of 2023

State of Manipur & ors.

... Appellants

Vs.

The Governing Body, Mayai

Lambi College & ors.

... Respondents

B E F O R E

HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

13-10-2023

A. Bimol Singh, J.

[1] Heard Mr. H. Debendra, learned Deputy AG assisted by Ms. Sharmila, learned counsel appearing for the appellants.

Appeal is admitted for hearing.

[2] The case of the appellants is that by an order dated 28-06-2018 issued by the State Government, six Private Colleges including Mayai Lambi Collge, Yumnam Huidrom and Thambal Marik College, Oinam were taken over and converted to Government Colleges under certain terms and conditions as mentioned in the said order. In para 4 of the said order, it is provided that the functioning of the Governing Bodies of all the six taken over colleges shall stand closed/ abolished henceforth.

[3] Having aggrieved, the present respondents No. 1 and 2 approached this court by filing a writ petition being WP(C) No. 608 of 2018 praying, inter alia, for issuing a direction to the authorities to allow them to continue as Members of the Governing Bodies of the aforesaid two Colleges till the completion of handing over and taking over of the said Colleges. The said writ petition was disposed of by an order dated 16-07-2018 by giving an opportunity to the petitioners to file appropriate representation to the State Government and by observing that it was within the wisdom of the State Government to pass appropriate order as it may consider appropriate. In terms of the said order passed by this court, the present respondents submitted a representation dated 25-07-2018 to the Commissioner (Higher & Tech. Education), Government of Manipur requesting to allow the functioning of the Governing Bodies of the said two

Colleges till the completion of all the formalities of handing over of College assets and properties, etc. and to act upon the verified list of Teaching and Non-Teaching staffs submitted by the said Governing Bodies.

[4] After considering the said representation, the Commissioner (Higher & Tech. Education), Government of Manipur issued an order dated 20-10-2018 thereby rejecting the said representation.

Having aggrieved, the present respondents approached this court again by filing WP(C) No. 1057 of 2018 by making the following prayers:-

“It is therefore most respectfully prayed that this Hon’ble Court may graciously pleased to:-

- (i) Pass an order or direction by issuing a writ of Certiorari or a writ in the nature of a writ of Certiorari or any other appropriate writ or order or direction as this Hon’ble Court may deemed fit and proper in the facts and circumstances of the case to quash the order dated 20.10.2018 passed by the Respondent No. 1;***
- (ii) Pass an order or direction by issuing a writ of Mandamus or a writ in the nature of a writ of Mandamus or any other appropriate writ or order or direction as this Hon’ble Court may deemed fit and proper in the facts and circumstances directing the Respondents to allow the petitioners functions until the handing over and taking over of the Mayai Lambi College, Yumnam Huidrom and Thambal Marik College, Oinam are complete;***
- (iii) Pass any other appropriate order/ orders that this Hon’ble Court deems fit and proper in the facts and circumstances of the case.”***

[5] It has been submitted by Mr. H. Debendra, learned Deputy AG that during the pendency of the said writ petition, the present respondents filed an additional affidavit dated 24-02-2022 by making the following statements and prayers:-

“3. That the Government had taken over the overall administration of the subject two Colleges and the only issue pending is absorption of 11 (eleven) employees (Teaching Staff-5 and Non-Teaching Staff-6) of the Thambal Marik College. It is submitted on this matter the communication/ letters dated

17.03.2019 and 24.12.2021 of the Respondent No. 3 herein addressed to the Respondent No. 1 herein speaks of the undergoing process for absorption.”

“4. Therefore in the view of the above this Hon’ble Court pass appropriate order or direction to the Respondents No. 1 to 3 for considering the said 11 (eleven) employees of Thambal Marik College for absorption in the interest of justice.”

It has further been submitted that on the next day i.e., on 25-02-2022, the said writ petition was taken up by the learned Single Judge and the same was disposed of by passing the judgment and order dated 25-02-2022. The operative portion of the judgment is as under:-

“27. In the above circumstances,

(a) The writ petition is disposed of.

(b) The respondent Nos. 1 to 3 are hereby directed to absorb the 11 (eleven) employees (Teaching Staff-5 and Non-Teaching-6) of the Thambal Marik College, Oinam.

(c) The said exercise shall be done within a period of 8 (eight) weeks from the date of receipt of a copy of this order.”

[6] The grievances raised by the appellants in the present appeal is that no opportunity was given to file a reply to the said additional affidavit and that the learned Single Judge has granted a relief directing the State Government to absorb the 11 (eleven) employees of the Thambal Marik College, which was not the original prayer made in the present writ petition. Another issue raised by the learned Deputy AG is that the present respondents have no locus for making a prayer for absorption of the Teaching and Non-Teaching staff of the said Colleges and without considering this aspect, the learned Single Judge has passed the impugned judgment. The learned Deputy AG, accordingly, prays for passing an interim order for suspending the operation of the impugned judgment during the pendency of the present writ appeal.

[7] Mr. D. Julius Riamei, learned counsel appearing for the respondents No. 1 and 2 submitted that there is no infirmity whatsoever in the judgment rendered by the learned Single Judge. It has been strenuously submitted by the learned counsel that after taking into

consideration the subsequent development disclosed by the respondents No. 1 and 2 in the said additional affidavit and after considering the materials available on record, the learned Single Judge passed the judgment impugned in the present appeal. The learned counsel, accordingly, submitted that no ground has been made out for passing any interim order at this stage.

[8] Mr. S. Samarjeet, learned counsel entered appearance and accepts notice on behalf of respondents No. 3 and 4 and Mr. P. Tamphamani, learned counsel entered appearance and accepts notice on behalf of respondent No. 8, hence no formal notice is called for in respect of the said respondents.

Issue notice to the respondents No. 5, 6, 7 and 9, returnable within four weeks.

The appellants are directed to take steps for service of notice upon the said respondents by speed post.

Steps should be taken within one week and the appellants are directed to file an affidavit showing proof of service of such notice.

[9] We have heard at length the rival submissions advanced by the learned counsel appearing for the parties with regard to the prayer for passing interim order and also carefully examined the materials available on record.

[10] After hearing the submission of the learned counsel appearing for the parties and on consideration of the materials available on record, we are of the considered view that the respondents No. 1 and 2 did not made any prayer in their writ petition for granting the relief, which has been granted by the learned Single Judge in the impugned judgment. We are also of the considered view that whether the relief sought for in the additional affidavit can be granted by the learned Single Judge, without giving any opportunity to the other side to rebut such claim, needs to be considered. Further, we are also of the considered view that the issue of whether the respondents No. 1 and 2 have the locus standi to made the claim or made a prayer for absorption of the 11 (eleven) Teaching and Non-Teaching staffs of the two Colleges needs to be examined.

Accordingly, it is hereby directed that pending disposal of the writ appeal, the operation of the impugned judgment and order dated 25-02-2022 passed by the learned Single Judge in WP(C) No. 1057 of 2018 shall remain suspended.

List this case again on 23-11-2023.

JUDGE

JUDGE

Devananda

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

MC(WA) No. 132 of 2023

(Ref:- WA No. 78 of 2023)

State of Manipur & ors.

... Applicants

Vs.

The Governing Body, Mayai

Lambi College & ors.

... Respondents

B E F O R E

HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

13-10-2023

A. Bimol Singh, J.

In view of the order passed today in the connected
WA No. 78 of 2023, the present application is hereby disposed of.

JUDGE

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