

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

MC(WP(C))No.88 of 2023
Ref:WP(C)No.94 of 2021

1. The State of Manipur, represented by the Chief Secretary,
Government of Manipur, Babupara.
2. The Commissioner(Revenue), Government of Manipur, at Manipur-
795001.
3. The Dy. Commissioner, Government of Manipur, at Imphal East-
795005.

...Applicants

– Versus –

The Evangelical Baptist Convention Church, Tribal Colony, New
Checkon, Imphal East, PO & PS, Porompat, Imphal East-
represented by its Chairman.

.... Respondent.

With

MC(WP(C))No.89 of 2023
Ref:WP(C)No.501 of 2022

1. The State of Manipur, represented by the Chief Secretary,
Government of Manipur, Babupara.
2. The Commissioner(Revenue), Government of Manipur, at
Manipur-795001.

3. The Dy. Commissioner, Government of Manipur, at Imphal East-795005.

...Applicants

– Versus –

The Peniel Church (MELC), Tribal Colony, New Checkon, Imphal East, PO & PS, Porompat, Imphal East- represented by its Chairman.

.... Respondent.

BEFORE

HON'BLE THE ACTING CHIEF JUSTICE MR. M.V. MURALIDARAN

For the Applicant : Mr. Lenin Hijam, learned AG.

For the Respondents : Mr. Th. Babloo, Adv.

Date of reserved. : 29.03.2023

Date of Judgment & Order : 04.04.2023.

JUDGMENT & ORDER
(CAV)

These two miscellaneous cases have been filed by the State to vacate the interim orders dated 5.2.2021 and 3.8.2022 and the subsequent extension for maintaining status quo passed in W.P.(C) Nos.94 of 2021 and 501 of 2022 respectively and allow the State authorities to remove the unauthorized religious structures on public street, public parks, public places etc. in

compliance with the order of the Hon'ble Supreme Court dated 29.9.2009 in SLP (C) No.8519 of 2006 (*Union of India v. State of Gujarat and others*).

2. Heard Mr. Lenin Hijam, learned AG for the State and Mr. Th. Babloo, the learned counsel for the respondent.

3. The learned Advocate counsel appearing for the applicant State submitted that pursuant to the direction of the Hon'ble Supreme Court in SLP (C) No.8519 of 2006 dated 7.12.2019, the Government of Manipur issued a notification dated 3.4.2010 to make the Manipur Policy for Review of Unauthorised Construction of Religious nature on Public Street, Public Parks, Public Places and a State Level Committee was constituted for reviewing of unauthorized construction of religious nature such as Temple, Church, Mosque or Gurudwara etc. on public street, public parks or other public places etc. The District Level Committee headed by the District Commissioner/Chairperson was constituted for the purpose of removal/relocation/regularization of the religious structure located in Village No.26-Wangkheirakpam Leikai and in the meeting held on 24.6.2022, it was discussed about the existence of religious structures erected on the Government lands of 26-Wangkheirakpam Leikai, namely 9 Churches – (i) Tangkhul Baptist Church; (ii) Pineal Church Manipur; (iii) Holy Spirit Church; (iv) Zou Christian Bible Church; (v) Meitei Baptist Church; (vi) Zou Presbyterian Church; (vii) Evangelical Organization Church; (viii) Kneseeya Beith Shalom Church and (ix) Evangelical Baptist Convention Church, which

stand on the land allotted to PWD Building Division and to make further recommendation on whether to remove, relocate or regularize the churches as per the Hon'ble Supreme Court direction.

4. The learned Government Advocate would submit that Evangelical Baptist Convention Church and Paniel Church buildings were constructed on the Government Khas land meant for Government quarters without any approval from the authority concerned and without any right or title over the land. The existence of the Church buildings which were reportedly constructed on the Government Khas land without any approval for prayers by the occupants of the Government quarters in the New Checkon now nullify as the allotment of quarters in the New Checkon had been cancelled by the Government Order dated 20.3.2021 and most of the occupants have been allotted new quarters.

5. The learned Government Advocate further submitted that on 12.1.2023 a meeting was held to review the unauthorized constructions of religious nature prior to 29.9.2009 on public street, public parks, public places located in Village No.26-Wangkheirakpam Leikai. Out of the 9 religious structures located at Government Quarters Complex, New Checkon, only 4 structures are still standing.

6. The learned Government Advocate next submitted that the State Government has obtained loan from HUDCO for construction of Government

quarters and the project for construction of Government quarters, New Checkon was estimated at Rs.50 crore and the construction is going on in full swing and the new quarters will provide 392 new modern residential quarters for Government employees.

7. The learned Government Advocate urged that the Committee after going through the relevant reports, revenue documents and the order of the Hon'ble Supreme Court, unanimously recommended removal of the left over 4 religious structures after obtaining approval of the State Cabinet and orders from this Court. Since the State Cabinet in its decision dated 18.1.2023 granted approval for removal of four religious structures, the State has now filed these miscellaneous cases to vacate the status quo order that was granted by this Court in the writ petitions.

8. Refuting the submissions made by learned Government Advocate, the learned counsel for the respondents submitted that Evangelical Baptist Convention Church was constructed on a Government land in the year 1974 to cater social and spiritual needs of the Church members who are mostly Tribal Government employee residing in Imphal East. The members of the Church are enjoying social and religious services in the Church for more than 40 years without any objection and interruption from any quarter whatsoever, including the Government. He would submit that in compliance of the order of the Hon'ble Supreme Court, the State of Manipur has constituted State Level Committee and Committees for District Level for consideration of such

cases of unauthorized structures of religious nature. The State Level Committee had also recommended as many as 188 unauthorized structures of religious nature constructed on Government land and allotment orders have been issued in favour of those 188 individual cases vide allotment order dated 27.9.2011.

9. The learned Advocate counsel submitted that the Evangelical Baptist Convention Church has also submitted an application on 5.9.2011 for allotment of the land occupied by them to the concerned authorities for consideration under the instructions and protections given by the Hon'ble Supreme Court dated 29.9.2009. However, the District Level Committee has taken a decision to remove the Evangelical Baptist Convention Church in total defiance of the directions of the Hon'ble Supreme Court, which is quiet contemptuous of the Hon'ble Supreme Court. The Evangelical Baptist Convention Church has possessed the land measuring 0.044 acres under Dag No.265(p) located at Village No.26-Wangkheirakpam Leikai since the year 1974 against the whole world including the State Government without any objection and interruption till today and, as such the Evangelical Baptist Convention Church has got a prescriptive right of title over the disputed land. Only after considering the nature of the case, this Court, while issuing notice, vide order dated 5.2.2021, passed the interim order for maintaining status quo under the land under dispute.

10. As far as Peniel Church (MELC) is concerned, the learned counsel for the respondent submitted that the said Church was established in the year 1997 to cater social and spiritual needs of the Church members and the members of the Church are enjoying social and religious services in the Church for more than 25 years without any objection from any quarter. The location on which the Peniel Church is standing was by then a six feet deep ditch and the Church has been established by its members by reclaiming the land by investing huge amount of money collected from the members. The Peniel Church is located at Village No.26-Wangkheirakpam Leikai under Dag No.265(P) measuring an area of 86 ft. wide and 115 ft. long, Imphal East District and the same is recorded in the name of the State.

11. The learned counsel further submitted that Peniel Church was issued with an eviction notice dated 24.12.2020 by the SDO without any authority and without taking approval from the State Cabinet or permission from the Hon'ble Supreme Court. In a similar case, when eviction was initiated at the instance of the Director, RIMS, the SDO, Imphal West has passed an order on 5.10.2018 in Eviction Case No.18 of 2017 closing the eviction process in view of the direction of the Hon'ble Supreme Court. Since the direction dated 29.9.2009 of the Hon'ble Supreme Court is to the effect to remove/relocate/regularize the unauthorized construction of religious nature prior to 29.9.2009, the Peniel Church is entitled for allotment of land already occupied by it since 1997. Considering the nature of the case, vide order

dated 3.8.2022, this Court, passed the interim order for maintaining status quo in respect of the land of Peniel Church. Thus, a prayer has been made to dismiss the miscellaneous cases.

12. This Court considered the rival submissions and also perused the materials available on record.

13. The Evangelical Baptist Convention Church has filed W.P.(C) No.94 of 2021 with the following reliefs:

“(a) To admit this petition for hearing;

(b) After hearing the parties to issue a writ in the nature of mandamus for directing the Respondents authorities to expedite the case of the Petitioner for allotment in term of the allotment application dated 05.09.2011 (Annex-A/7) and the direction of the Hon’ble Supreme Court contained in the order dated 31.01.2018 passed in SLP (C) No.8519/2016 and in terms of the Government policy called the Manipur Policy for Review of Unauthorized Construct of Religious Nature on public streets, public parks, public place etc., 2010 vide notification dated 03.04.2010 and its amendment dated 05.03.2011 (Annex-A/4) within a specific period of time as done in other cases.

(c) To quash and set aside the eviction notice dated 24.12.2020 (Annex-A/11) as the same is passed without jurisdiction, contemptuous and illegal;

(d) To quash and set aside the whole proceedings of the Eviction Case No.17 of 2020/SDO/I/IE of the court of the SDO, Imphal East."

14. On 5.2.2021, when W.P.(C) No.94 of 2021 was taken up for admission, this Court passed the following interim order:

"Heard Mr. Th.Babloo, learned counsel appearing for the petitioner.

Issue notice, returnable within 4 (four) weeks.

Mr. Shyam Sharma, learned GA accepts notice on behalf of all the respondents. Hence, no formal notice is called for.

As an interim measure, it is directed that status-quo as on today with regard to the writ petitioner shall be maintained till the next date.

List this case again on 05.03.2021."

15. The Peniel Church (MELC) has filed W.P.(C) No.501 of 2022 with the following reliefs:

"(a) to admit this petition for hearing;

(b) after hearing the parties to issue a writ in the nature of mandamus for directing the Respondents authorities to regularize the occupation of the Govt. land by the petitioner covered by Dag No.265 (Part) measuring 86 ft. wide and 115 ft. long in Village No.26-Wangkheirakpam, Imphal East District by way of granting allotment in terms of the direction of the Hon'ble Supreme Court contained in the order dated 31.01.2018 passed in SLP (C) No.8519/2016 and in terms of the Government policy called the Manipur Policy for Review of Unauthorized Construct of Religious Nature on public streets,

public parks, public place etc., 2010 vide notification dated 03.04.2010 and its amendment dated 05.03.2011 (Annex-A/4) within a specific period of time as done in other cases.

(c) to quash and set aside the eviction notice dated 24.12.2020 (Annex-A/6) as the same is passed without jurisdiction, contemptuous and illegal;

(d) to quash and set aside the whole proceedings of the Eviction Case No.17 of 2020/SDO/I/IE of the Court of the SDO, Imphal East.”

16. On 3.8.2022, when the writ petition was taken up for admission, this Court passed the following interim order:

“Heard Mr. Th. Babloo, learned counsel appearing for the petitioner and Mr. H.Debendra, learned GA appearing for the respondents.

Learned GA seeks three weeks’ time for filing counter affidavit. Prayer is allowed.

List this case again on 7th September, 2022.

In the meantime, status quo in respect of the land of the petitioner shall be maintained till the next date.”

17. The respondents Evangelical Baptist Convention Church and Peniel Church (MELC) admitted that the two Churches have been constructed on Government land. There is no whisper in the writ petition that Churches have been constructed with the approval of the State authorities.

18. With regard to the removal of unauthorized religious structures in public streets, public parks, public places etc., the Hon'ble Supreme Court in the case of *Union of India v. State of Gujarat and others* (arising out of the order dated 2.5.2006 passed by the Gujarat High Court in SCA No.9686 of 2006) in Special Leave to Appeal (Civil) No.8519 of 2006 dated 29.9.2009 passed the following orders:

"..... As an interim measure, we direct henceforth no unauthorized construction shall be carried out or permitted in the name of Temple, Church, Mosque or Gurudwara etc. on public streets, public parks or other public places etc.

In respect of the unauthorized construction of religious nature which has already taken place, the State Governments and the Union Territories shall review the same on case to case basis and take appropriate steps as expeditiously as possible."

19. Again on 7.12.2009, when the Special Leave to Appeal (Civil) No.8519 of 2006 came up for hearing, the Hon'ble Supreme passed the following order:

"All the Chief Secretaries, in consultation with the respective Governments are directed to frame the policy in respect of existing unauthorized construction of religious nature, which had already taken place. This Court directed the respondents to review the same on case to case base. Let the policies be formulated by all the States and Union Territories within four weeks from today.

We are reiterating that the Chief Secretaries, the concerned District Magistrates and the Collectors/Deputy Commissioners in-charge of

the Districts must ensure total compliance of our order. Any breach in this respect shall be viewed seriously by this Court.”

20. It appears that in compliance of the order of the Hon’ble Supreme Court, the Government of Manipur framed a policy and published vide notification dated 3.4.2010 and had also constituted State Level Committee for reviewing the unauthorized construction of religious nature and the District Committees headed by District Commissioner/Chairperson were constituted for the purpose of removal/relocation/regularization of the religious structure. Accordingly, the District Level Committee where the religious structures located in Village No.26-Wangkheirakpam Leikai discussed the existence of nine religious structures on the land allotted to the PWD Building Division, Government of Manipur. Out of nine religious structures located at Government Quarters Complex in New Checkon, five were removed and four are still standing on Dag Nos.410, 411, 412(P), 265, 267(P) and 265(P). Out of the four, two Churches, namely, Evangelical Baptist Convention Church and Peniel Church have come to this Court challenging the eviction notices issued against them.

21. The respondents contended that in compliance of the direction of the Hon’ble Supreme Court, the State Level Committee already recommended as many as 188 unauthorized structures of religious nature constructed on Government land and allotment orders have been issued in favour of those 188 individual cases. When the respondent Churches

submitted applications before the State authorities for allotment of the land occupied by them, the same have not been considered, instead the District Committee is taking action for removal of the Church structures, which is total defiance of the directions of the Hon'ble Supreme Court of India.

22. The consideration for allotment of the land occupied by the respondent Churches are within the domain of the State authorities and the Court exercising jurisdiction under Article 226 of the Constitution cannot interfere with it or direct the State to positively consider the claim of the respondents, as the respondent Churches are standing on the Government land. That apart, when the Hon'ble Supreme Court issued direction to remove the unauthorized structures of religious nature standing on the Government land, whether it is 40 years old or 25 years old, it is the bounden duty of the State authorities to obey the direction of the Hon'ble Supreme Court in removing the unauthorized religious structures.

23. The specific direction of the Hon'ble Supreme Court is that in respect of unauthorized construction of religious nature which has already taken place on public streets, public parks or other public places, the State Government and the Union Territories were directed to review the same on case to case basis and take appropriate steps as expeditiously as possible. Since the Hon'ble Supreme Court's direction is to review the existence of the religious structure on the Government land on case to case basis, the

respondent Churches as a matter of right cannot claim to stand on the Government land in question without being any right or title over the same.

24. Admittedly, the religious structures which were built on the Government land in question was meant for construction of quarters solely and there was no record shown by the respondents qua sanction accorded or permission for construction of religious structures in the land earmarked for the quarters.

25. As could be seen from the records, particularly the Memorandum for Cabinet, annexed with the present miscellaneous cases, it is clear that the subject-matter i.e. removal of unauthorized four religious structures which have already constructed prior to 29.9.2009 within the PWD Government Quarters at 26-Wangkheriakpam Leikai Revenue Village was discussed and a decision was arrived at for removal of the said four religious structures built on the Government land. For ready reference, the Memorandum for Cabinet in File No.40/100/2022-R(Pt) and the decision thereon is quoted hereunder:

“File No.40/100/2022-R(Pt)
GOVERNMENT OF MANIPUR
SECRETARIAT : REVENUE DEPARTMENT

MEMORANDUM FOR CABINET

Subject : Consideration of the recommendation dated 12-01/2022 of the Committee constituted vide Notification No.20/4/(76)/2009-H(Pt.1) dated 05-03-2011 in compliance of the various directions of the Hon'ble Supreme Court in SLP (C) No.8519 of 2006 (Union of India –vs- State of Gujarat & Ors.) for removal of the unauthorized 4 (four) religious structures which has already taken place prior to September 29, 2009 within PWD government quarters at 26-Wangkheirakpam Leikai Revenue village.

This is to consider the recommendation dated 12-01-2022 of the Committee constituted vide Notification No.20/4/(76)/2009-H(Pt.1) dated 05-03-2011 for removal of the unauthorized constructions of religious nature i.e. the following 4 (four) Churches which had already taken place prior to September 29, 2009 inside the government quarters built during the years 1953-1955 at 26-Wangkheirakpam Leikai Revenue Village, Imphal East District in compliance of the various directions of the Hon'ble Supreme Court in SLP (C) No.8519 of 2006 (Union of India –vs- State of Gujarat & Ors.)

<i>Sl. No.</i>	<i>Name of the Church</i>	<i>Village & Dag Number 26-Wangkheirakpam Leikai</i>	<i>Status of land</i>	<i>Remark</i>
<i>1</i>	<i>Tangkhu Baptist Church</i>	<i>410, 411 & 412(P)</i>	<i>Patta land land recorded in the name of Chief Engineer (Building), PWD, Manipur</i>	<i>Peding in the court</i>
<i>2</i>	<i>Peniel Church</i>	<i>265 & 267(P)</i>	<i>do</i>	<i>do</i>
<i>3</i>	<i>Holy Spirit Church (Catholic Church)</i>	<i>265(P)</i>	<i>do</i>	<i>do</i>
<i>4</i>	<i>Evangelical Baptist Convention Church</i>	<i>265(P)</i>	<i>do</i>	<i>do</i>

2. As per record of Building Division-1 and Building Division-II, PWD, Manipur submitted vide letter No.EE/BD-II/Misc/2022-23 dated 23-06-2022, the government quarters at Tribal Colony, New Checkon were built during the year 1953-1955. The official number of quarters recorded was 140 in total viz. Type-1-100 (one hundred) numbers, Type-20 (Twenty) numbers and Type-III-20 (Twenty) numbers. At that time there was no official/registered religious structure at Tribal Colony. With the passage of time, religious structures were constructed by the occupants without giving any prior knowledge to the government. The religious structures were built on the land lying vacant which was meant solely for constructions of Government Quarters. There was no record of according permission for construction of religious structures in the land earmarked for the quarters.

The land has been recorded now as patta land of Chief Engineer (Buildings) PWD, Manipour for construction of Government Residential Quarters.

The earlier allotment of government quarters at the site have been cancelled and given re-allotment at other PWD government quarters.

3. Commissioner, MAHUD further placed before the Committee that construction of the project 'Construction of Government Residential quarters, Checkon' with an allocated fund of Rs.50 crores obtained as loan by Planning and Development Authority (PDA) from HUDCO for the purpose is under full swing at the same location. The new constructions will provide altogether 392 new modern residential quarters for the Government employees.

4. The significance of the existence of the church which was reportedly constructed for payer by the allottees/occupants of the Government quarters in New Checkon is now nullified as the allotment of quarters in the New Checkon had been cancelled by Govt. vide Order No.26/19/2020-W dated 20-03-2021 and re-allocated at other PWD government quarters.

5. The Committee has recommended for the removal of the 4 (four) religious structures mentioned in Para No.1 after obtaining the approval of the State Cabinet and thereafter seeking leave of the Hon'ble High Court in the pending case (s).

6. The recommendation of the Committee viz for the removal of the 4 (four) religious structures mentioned in Para No.1 after obtaining the approval of the State Cabinet and thereafter seeking leave of the Hon'ble High Court in the pending cases is placed before the State Cabinet for consideration and decision.

7. Hon'ble Chief Minister (i/c Revenue) has seen this memorandum and agreed to place the matter before the Cabinet.

8. Hon'ble Chief Minister has also consented to place the matter before the Cabinet for its consideration & approval.

9. The proposal at para 6 above is placed before the State Cabinet for its kind consideration and approval.

(Namoijam Kheda Varta Singh)
Secretary (Revenue)
Government of Manipur

Cabinet Decision taken on 18.01.2023

AGENDA No.1	:	Consideration of the recommendation dated 12-01-2022 of the committee constituted vide Notification No.20/4/(76)/2009-H(Pt.1) dated 05-03-2011 in compliance of the various directions of Hon'ble Supreme Court in SLP(C) No.8519 of 2006 (Union of India –vs- State of Gujarat & Ors.) for removal of the unauthorized 4 (four) religious structures which has already taken prior to September 29, 2009 within PWD government quarters at 26 – Wangkheirakpam Leikai Revenue Village
DECISION	:	Approved as proposed in para 6 of the Cabinet Memorandum.

(Sd)/- xxx
Chief Secy. & Secy.
(Cabinet)
Government of Manipur.”

26. Since the action for removal of the Churches in question is based on the decision taken by the State Cabinet pursuant to the direction of the Hon'ble Supreme Court dated 29.9.2009, this Court exercising writ jurisdiction under Article 226 of the Constitution of India cannot interfere in the action for removal initiated by the State authorities. The respondent Churches were built unauthorisedly on the Government land, which was meant for construction Government quarters.

27. Though the respondent Churches admitted that the Churches have been built on the Government land, they still claim that the Churches are in existence since 1974 and 1997 against the whole world including the State Government without any objection and interruption till today and therefore they got prescriptive right of title over the disputed land. Such a right claimed by the respondent Churches cannot be appreciated, as no record to show that Churches were built in the Government land after getting approval from the State authorities. Therefore, there is no option but to record that the respondents are rank encroachers of the Government land.

28. Since the State has framed a policy called “The Manipur Policy for review of unauthorized construction of Religious Nature on public parks, public places etc. 2010” and under the said policy, the State has regularized some of unauthorized constructions on the Government land by giving allotment as they have established right for regularization/relocation, as the case may be and in some cases, the authorities have taken a decision not to regularize the same, as they have no right to stand on the Government land.

29. It is apposite to mention that the District Level Committee meeting in regard to removal/relocation/regularization of Wangkheirakpam Leikai was held on 24.6.2022 and in the said meeting the Committee unanimously decided to recommend 9 Churches, including the respondent Churches for removal, as the said religious structures were built on the land lying vacant, which was meant for construction of Government quarters. In the said

meeting, it was further highlighted that there are multiple Churches in the vicinity within one kilometer radius from the location of 9 Churches, where the occupants of the quarters can go for worship and prayers. As such, religious right shall not be compromised without the existence of 9 Churches. The existence of the Churches which were reportedly constructed for prayer by the occupants in the Government quarters at New Checkon had been cancelled and occupants have been instructed for vacating the Government quarters for construction of new quarters. After considering all the aspects, the Committee concluded that 9 Churches, including the respondent Churches are existing without any kind of authorization. In view of the aforesaid concrete decision taken by the Committee, respondent Churches cannot contend that their claim has not been considered and left out by the Committee.

30. What the Hon'ble Supreme Court directed is to remove those unauthorized construction of religious structures at public places and wherever the Government so decides to regularize such construction, it is left to the wisdom of the Government to do so. If there is no process for regularization and the Government is not inclined to regularize the unauthorized structures in the public places, these are liable to be removed, irrespective of whether there is complaint from any quarter or not.

31. It is reiterated that since the decision of the State Cabinet to remove the respondent Churches built on the land of the Government is pursuant to the direction of the Hon'ble Supreme Court, the operation of the status quo

order dated 5.2.2021 and 3.8.2022 passed in W.P.(C) Nos.94 of 2021 and 501 of 2022 in respect of the land, where the Churches stand, granted by this Court is liable to be vacated, as prima facie, the respondent Churches have failed to prove that the Churches were constructed with the approval of the State authorities. When this Court also examined the structures of the Churches in question on case to case basis as per the direction of the Hon'ble Supreme Court, the decision of the State authorities in evicting the respondent Churches are based on the documents, policy decision and pursuant to the direction of the Hon'ble Supreme Court. Thus, the State has made out a case to vacate of the interim orders granted by this Court in the writ petitions and, accordingly, the miscellaneous cases filed by the State are liable to be allowed.

32. In the result, MC (WP) No.88 of 2023 in W.P.(C) No.94 of 2021 and MC (WP) No.89 of 2023 in W.P.(C) No.501 of 2022 are allowed. The interim orders dated 5.2.2021 and 3.8.2022 granted in W.P.(C) Nos.94 of 2021 and WP(C) No.501 of 2022 are vacated.

ACTING CHIEF JUSTICE

FR/NFR

John Kom

