

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

WP(C) No. 2002 of 2001

Smt. R.K. Ibemhal Devi (alias R.K. Lembisana Devi)
aged about 71 years, wife of late Ngangom Tomba Singh
resident of Sagolband Moirangmayum Leirak, P.S. &
P.O. Imphal, District Imphal West, Manipur, expired on
22-4-2005,

Represented by:

1. Ngangom Ibochou Singh, aged about 58 years,
 2. Ngangom Ibomcha Singh, aged about 51 years,
- both sons of late R.K. Ibemhal Devi
(-impleaded as L.Rs of the Petitioner, vide order dt. 1-9-
2005 passed in CMA No. 283/05)

... .. PETITIONER.

-versus-

1. The Secretary (Revenue) to the Govt. of Manipur,
Secretariat, Imphal,
2. The Under Secretary (Revenue) to the Govt. of
Manipur, Secretariat, Imphal,
3. The State of Manipur, - through the Commissioner/
Secretary (Revenue), Govt. of Manipur, Imphal.
4. Smt. Naorem Ongbi Ibemhal alias Leimahal Devi,
aged about 55 years, daughter of late Ngangom
Tomba Singh and wife of late Naorem Bbubon
Singh, resident of Uripok Polem Leikai, P.S. & P.O.

Imphal, also sometimes residing at Phumlou Awang
Leiaki, P.O. & P.S. Lamshang, both in District
Imphal West, Manipur.

... .. **RESPONDENTS.**

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

For the Petitioners	::	Mr. A. Golly, Adv.
For the Respondents	::	Mr. HS Paonam, Sr. Adv. Mr. N. Bipin, Adv. Mr. Sh. Shyam Sharma, GA
Date of Hearing and reserving Judgment & Order	::	11.08.2023
Date of Judgment & Order	::	05.09.2023

JUDGMENT AND ORDER
(CAV)

This writ petition has been originally filed by one Ibemhal Devi alias Lembisana Devi before the Imphal Bench of Gauhati High Court to quash the impugned Corrigendum dated 12.6.2001 issued by the Under Secretary (Revenue), Government of Manipur, the second respondent herein.

2. Pending writ petition, Ibemhal Devi died and her legal heirs were substituted as petitioners 1 and 2. By the order dated 8.11.2007, on contest, the writ petition was dismissed by the learned Single Judge of Imphal Bench of Gauhati High Court. Aggrieved by the order dated 8.11.2007, a Writ Appeal in W.A.No.4 of 2008 was preferred by the petitioners/legal heirs of

the original writ petitioner. By the judgment dated 14.5.2013, a Division Bench of this Court allowed the writ appeal and set aside the order of the learned Single Judge dated 8.11.2007 and remanded the matter to the learned Single Judge to decide the writ petition in accordance with law. Pursuant to the judgment dated 14.5.2013, the writ petition is restored on file.

3. After restoration and pending writ petition, the second petitioner died and his legal heirs were sought to be impleaded as petitioners 2(a) to 2(f), for which, the legal heirs of the second petitioner have filed M.C.No.142 of 2021. After hearing the respective parties, this Court allowed M.C.No.142 of 2021.

4. Brief facts, which led to the filing of the writ petition, are as follows: In the year 1984, when some pieces of Government land in the area of Dry Fish Market within Kwairamband Bazar, Imphal were opened for settlement to persons doing small business, the deceased original petitioner applied to the Manipur Government for allotment of small plot of land for running her small business there. After considering her application and making necessary enquiry about her eligibility for allotment and her genuine need therefor, the Manipur Government allotted the Government land covered by C.S. Dag

No.2538(P) of Sheet No.16 admeasuring .01487 acre under order dated 22.12.1984. The deceased original writ petitioner without delay paid the premium of Rs.7,395.80p for the said allotment as required under the allotment order. Thereafter, a deed of allotment dated 8.1.1985 was executed between the deceased original writ petitioner and the State Government and the same was registered on 9.1.1985 and formal delivery of possession of the allotted land was made to the deceased original writ petitioner by the concerned Revenue Officer. The relevant record of rights was prepared in the name of the deceased original writ petitioner in the Jamabandi under Patta No.911 comprised C.S. Dag No.16/2538/3141 having an area of .01487 acre and a certified copy of the Jamabandi was furnished to the deceased original writ petitioner on 11.1.1985. The deceased original writ petitioner was paying the land revenues of the allotted land and she had constructed three storied pucca building with GCI roof and having one underground room soon after she had taken formal possession of the allotted land.

4.1. The fourth respondent is the eldest daughter of the deceased original writ petitioner and being the eldest daughter of a Rajkumari (as the petitioner is) the fourth respondent name is

popularly known as “Leimahal or Ibemhal” meaning the eldest daughter of a Rajkumari. She was married to Naorem Bhubon Singh of Awang Phymlou Village and they used to reside there for a number of years and occasionally staying at Uripok Polem Leikai, Imphal.

4.2. A small room with an area of 17 x 4 feet in the ground floor of the abovementioned building was set apart in 1994 for the fourth respondent and her children for vending dry fishes and other sundry goods to eke out her livelihood and the maintenance of her children. The rest of the building has been rented out by the deceased original writ petitioner to her tenant while she herself along with her sons has been carrying on the usual business in another shop of her late husband.

4.3. On 19.1.1998, the fourth respondent made an application to the first respondent praying for correction of her surname in the revenue records in respect of Plot No.6 on the eastern bank of Naga River. On the basis of the said application, the Under Secretary (Revenue), vide letter dated 19.5.1998, asked the Deputy Commissioner, Imphal West and the Director of Settlement and Land Records to make an enquiry into the matter and submit a report to the Government. On 23.11.1998, the Director of Settlement and Land Records submitted a report

to the second respondent stating that the applicant (fourth respondent) is not the pattadar/allottee and a decision may be taken by the Government as it deem fit. On receipt of the aforesaid report dated 23.11.1998, the second respondent informed the fourth respondent vide letter dated 8.6.1999 that her application dated 19.1.1998 for correction of name in the allotment order dated 22.12.1984 had been examined by the Government and she may approach the competent authority for change of title over the land as the land was allotted to R.K.Ibemhal Devi and not to Naorem Ongbi Ibemhal Devi.

4.4. Having failed in her attempt to have her name substituted as allottee in the allotment order and the relevant records, the fourth respondent fraudulently managed to have her name mutated as pattadar of the allotted land under the order of the Revenue Officer behind the back and without any notice to the deceased original writ petitioner. The said mutation in favour of the fourth respondent was granted on 6.7.1999 by the Assistant Survey and Settlement Officer-V of Manipur on the basis of her application dated 5.7.1999. After obtaining the illegal mutation order dated 6.7.1999, the fourth respondent approached the first respondent with an application on 18.5.2001 for issuing Corrigendum for substituting her name as the allottee

in the place of the deceased original writ petitioner in the allotment order dated 22.12.1984. In the application, the fourth respondent alleged that the name of the allottee had been wrongly recorded as R.K.Ibemhal Devi wife of Tomba Singh in the place of the correct name as Naorem Ongbi Ibemhal Devi daughter of Tomba Singh. According to the petitioners, in the application dated 18.5.2001, the fourth respondent had concealed the factum of earlier application and its rejection. While so, without issuing any notice about the application of the fourth respondent to the deceased original writ petitioner, the second respondent straightaway issued the impugned Corrigendum dated 12.6.2001 for replacing the name of the fourth respondent as allottee in the place of the deceased original writ petitioner in the allotment order dated 22.12.1984. Challenging the same, the deceased original writ petitioner has filed the present writ petition. After the demise of the original writ petitioner, her sons were substituted as petitioners and the second petitioner died leaving behind the petitioners 2(a) to (f) and now the aforesaid petitioners are prosecuting the writ petition.

5. The respondents 1 to 3 have filed affidavit-in-opposition stating that the fourth respondent has filed a

representation dated 18.5.2001 to the Government for correction of the name of the allottee “R.K.Ibemhal Devi” appearing at Sl.No.1 of the allotment order dated 22.12.1984 by issuing corrigendum. The fourth respondent sought corrigendum on the ground that she is in possession of shop No.6 since 1969 and the Executive Officer of the Imphal Municipality has given a certificate dated 18.9.1998 certifying that she was one of the lessees of 25 shops up to the year 1982; while issuing allotment order dated 22.12.1984, the name of the allottee has been wrongly written as R.K.Ibemhal Devi.

5.1. It is stated that acting upon the said representation dated 18.5.2001, the Government issued the corrigendum dated 12.6.2001 thereby correcting the name of the allottee as Naorem Ongbi Ibemhal Devi. Being aggrieved by the said corrigendum, the deceased original writ petitioner filed an application dated 14.8.2001 to the State Government requesting for stay of the operation of the corrigendum. In the meantime, the fourth respondent had also filed representation dated 3.9.2001 to the Government in respect of her claim. Considering the nature of dispute between the mother and daughter, both were called for discussion and settlement with the Secretary (Revenue) on 18.9.2001. After hearing both the parties, on 18.9.2001, the

Secretary (Revenue) passed an order to the effect that the Secretary (Revenue) is not competent to decide the case and it should be taken to competent court by the parties concerned. Hence, prayed for dismissal of the writ petition.

6. The fourth respondent filed affidavit-in-opposition stating that firstly, the deceased original writ petitioner has made active concealment of material, vital and relevant fact in her writ petition. Secondly, the subject matter of the writ petition involves determination of complicated questions of facts and disputes which can appropriately be resolved on taking oral and documentary evidence by a competent civil court in a civil suit. Thirdly, the prayer made in the writ petition if allowed would lead to reversion to a name as allottee which does not ex facie pertain to the deceased original writ petitioner and, hence, she has no locus standi to file the writ petition.

6.1. It is stated that in the allotment order dated 22.12.1984, there are two allottees. The allottee at Sl. No.1 is the fourth respondent and the allottee at Sl. No.2 is the father of the fourth respondent. At the time when the allotment order was issued, the fourth respondent had become a member of her husband's family and the deceased original writ petitioner was member of the family of the allottee at Sl. No.2 being his wife.

The name appearing in the allotment order was mistaken description of the name of the real allottee, namely the fourth respondent.

6.2. It is stated that on 19.1.1998 the fourth respondent submitted an application for correction of description of her name to the Secretary (Revenue). But no result of the application was communicated to her. Therefore, the fourth respondent filed another application on 18.5.2021 to the Secretary (Revenue), Government of Manipur and by the impugned Corrigendum dated 12.6.2001, necessary corrections had been ordered. As per the corrigendum, the name and description of allottee was made as Naorem Ongbi Ibemhal Devi. While so, the deceased original writ petitioner, who is the mother of the fourth respondent, has falsely claimed that she is the allottee of the land possessed by the fourth respondent.

6.3. It is stated that the prayer made in the writ petition if allowed would lead to reversion to a name as allottee which does not ex facie pertain to the deceased original writ petitioner and, hence, the deceased writ petitioner has no locus standi to file the writ petition. Hence, prayed for dismissal of the writ petition.

7. Assailing the impugned corrigendum, Mr. A. Golly, the learned counsel for the petitioners submitted that the deceased original writ petitioner has been unheard by the second respondent or the other official respondents while issuing the impugned corrigendum dated 12.6.2001, which in violation of the principles of natural justice. The second respondent and its related officers acted arbitrarily and unfairly in issuing the impugned corrigendum without even ascertaining the truth or falsity of the frivolous claim made by the fourth respondent and without even hearing the deceased original writ petitioner.

8. The learned counsel for the petitioners further submitted that the official respondents were deliberately ignored the earlier decision of the Government conveyed in the letter dated 8.6.1999, which was communicated rightly based on the truthful report of the Director of Settlement and Land Records, dated 23.11.1998.

9. The learned counsel for the petitioners submitted that the second respondent acted collusively and fraudulently in issuing the impugned corrigendum by merely basing it on the unverified and unsustainable claim made by the fourth respondent that too in the secrecy of the official file and behind the back of the deceased original writ petitioner. The impugned

corrigendum purporting to an order of the State Government, contravenes the mandatory provision of Article 166 of the Constitution of India, inasmuch as the impugned corrigendum shown to be an executive action of the State Government is not expressed to be taken in the name of the Governor. Such being the case, the impugned corrigendum is not only bad in law, but is also ultra vires the Constitution of India.

10. The learned counsel for the petitioner argued that there is no reason given for issuing the impugned corrigendum in a hap-hazard and highly objectionable manner, jeopardizing the right and property of the deceased original writ petitioner and injuriously causing prejudice to her. The fourth respondent has absolutely no right and no locus standi to approach the official respondents for substitution of her name in the allotment order as allottee after the lapse of 17 years to satisfy her greed for wealth at the cost of her own mother.

11. Adding further, the learned counsel for the petitioners submitted that the fourth respondent as well as the official respondents are utterly silent and mummed regarding the registered deed of allotment dated 8.1.1985 registered on 9.1.1985 executed by the State in favour of the deceased original writ petitioner or payment of premium of Rs.7,395.80p by the

deceased original writ petitioner. No challenge or request to change or amend thereof is made by neither of the respondents.

12. The learned counsel for the petitioners further submitted that the Government's decision had already been made and communicated to the fourth respondent under letter dated 8.6.1999 and, such a decision of the Government cannot be overruled by the impugned corrigendum dated 12.6.2001 which was issued without any authority or by the null and void order dated 18.9.2021 passed by the Revenue Secretary. The impugned corrigendum would no longer survive and, hence, the same is liable to be quashed. In support, the learned counsel for the petitioners placed reliance upon the following decisions:

- ***Carana Bank and others v. Debasis Das*, (2003) 4 SCC 557**
- ***Canara Bank v. V.K.Awasthy*, (2005) 6 SCC 321**
- ***Mangilal v. State of M.P.*, (2004) 2 SCC 447**
- ***Prakash Ratan Sinha v. State of Bihar and others*, (2009) 14 SCC 690**

13. Mr. Sh. Shyam Sharma, the learned Government Advocate appearing for the official respondents submitted that acting upon the representation of the fourth respondent dated

18.5.2001, the Government issued the impugned corrigendum dated 12.6.2001 thereby correcting the name of the allottee as Naorem Ongbi Ibemhal Devi. Aggrieved by the impugned corrigendum, both the deceased original petitioner and the fourth respondent filed representations before the Government. Since the dispute is between the mother and the daughter, both were called for discussion and settlement, however, the settlement failed. Therefore, on 18.9.2001, the Secretary (Revenue) passed an order holding that the dispute should be taken to competent court by the parties concerned. Arguing so, the learned Government Advocate submitted that the writ petition is not maintainable, as it involves disputed questions of facts which can only be decided by the competent civil court.

14. Mr. HS Paonam, the learned senior counsel for the fourth respondent, inter alia, submitted that the subject matter of the present writ petition involves determination of complicated question of fact which can appropriately be done by the competent civil court. It also involves determination of the true identify and the correct name of the real allottee and also the genuineness of certain documents not pertaining to Revenue Department.

15. The learned counsel further submitted that in the allotment order dated 22.12.1984 issued to the deceased original writ petitioner, there are two allottees. The allottee at Sl.No.1 is the fourth respondent and the allottee at Sl.No.2 is the father of the fourth respondent. The allottee at Sl.No.1 is the daughter of the allottee at Sl.No.2. The name appearing in the allotment order was mistaken description of the name of the real allottee and on 19.1.1998, the fourth respondent filed an application for correction of description of her name to the Secretary (Revenue). Since no order has been passed, the fourth respondent filed another representation on 18.5.2001 to the Secretary (Revenue) and upon perusing the relevant documents, the Secretary (Revenue) issued corrigendum dated 12.6.2001 ordering necessary corrections in the allotment order. Since the corrigendum dated 12.6.2001 has been issued after perusing the relevant documents, the same cannot be questioned by the writ petitioners. According to learned counsel since disputed question of fact involved, the writ petition is not maintainable. Thus, a prayer has been made to dismiss the writ petition.

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

17. The writ petition was originally filed by the deceased original writ petitioner before the Gauhati High Court, Imphal Bench to set aside the impugned corrigendum dated 12.6.2001 issued by the second respondent. Pending writ petition, the original writ petitioner died and her legal heirs, namely her sons, were substituted as petitioners. The learned Single Judge of the Imphal Bench of Gauhati High Court dismissed the writ petition vide order dated 8.11.2007. The operative portion of the order dated 8.11.2007 reads thus:

“11. Considering the above settled law and in view of the facts and nature of the case in the present writ petition, in my considered opinion the dispute involves disputed question of facts requiring elaborate enquiry and investigation and therefore, this court under Article 226 of the Constitution cannot go into the disputed question of facts and accordingly this writ petition is rejected.”

18. Aggrieved by the dismissal of the writ petition, the petitioners have filed W.A.No.4 of 2008 before this Court. A Division Bench of this Court, under judgment dated 14.5.2013, set aside the order of the learned Single Judge. In paragraphs 8 to 10, the Division Bench observed as under:

“8. In our view, therefore, we can not concur with the view taken by the writ court and hence allow the appeal on the reasons given above and set aside the impugned order. As a consequence, the writ petition is remanded to the writ court for deciding it on merits after affording an opportunity of being heard to the respondents by filing their return in answer to the writ petition.

9. For the foregoing reasons, the appeal thus, succeeds and is hereby allowed. Impugned judgment is set aside. The writ petition is now restored to its file. It is also, now, formally admitted for final hearing. It be now listed before the Writ Court (Single Judge) for its decision on merits in accordance with law.

10. We however, make it clear that we have purposefully made no observation on the merits and demerits involved in the writ petition. The Writ Court would, therefore, decide the writ petition strictly in accordance with law uninfluenced by any of our observation son merit.”

19. As against the judgment dated 14.5.2013 passed in the writ appeal, no further appeal has been preferred by the respondents. After restoration of the writ petition, the same was

listed from time to time. Pending writ petition, the second petitioner died, his legal heirs were brought on record as petitioners 2(a) to 2(f). This Court had given reasonable opportunity to the respective parties to argue the matter and the respective counsels have also placed their submissions.

20. The petitioners who are the legal heirs of the deceased original writ petitioner assailed the impugned corrigendum on the ground that without hearing the deceased original writ petitioner, the impugned corrigendum has been issued thereby violating the principles of natural justice. Without even ascertaining the truth or falsity of the frivolous claim of the fourth respondent, the impugned corrigendum was issued. While issuing the impugned corrigendum, the second respondent ignored the earlier decision of the Government dated 8.6.1999 which was issued based on the report of the Director of Settlement and Land Records dated 23.11.1998. The official respondents acted collusively and fraudulently in issuing the impugned corrigendum based on the unsustainable claim made by the fourth respondent. There is no reason whatsoever given for issuing the impugned corrigendum in a haphazard manner, thereby jeopardizing the right and property of the deceased original writ petitioner. The fourth respondent has no locus standi

to approach the official respondents for substitution of her name as the allottee after the lapse of more than 17 years to satisfy her greed for wealth at the cost of her own mother.

21. Mr. HS Paonam, the learned senior counsel for the fourth respondent contended that since there are disputed questions of fact involved in the present matter, the writ petition is not maintainable. Therefore, the petitioners cannot invoke the jurisdiction under Article 226 of the Constitution of India.

22. In reply, Mr. A. Golly, the learned counsel for the petitioners submitted that the writ petition is very well maintainable, as the petitioners are challenging the action of the second respondent in issuing the impugned corrigendum, that too, behind the back of the deceased original writ petitioner.

23. Circa 1984, some pieces of Government land in the area of Kwairamband Bazar, Imphal, where the deceased original writ petitioner was carrying on dry fish market, were opened for settlement. Accordingly, the deceased original writ petitioner applied for allotment of plot of land. After considering her application and upon enquiry about the eligibility for allotment and also her need, the State Government allotted the Government land covered by C.S. Dag No.2538(P) of Sheet

No.16 admeasuring an extent of .01487 acre under the order dated 22.11.1984 in the name of the deceased original writ petitioner.

24. On a perusal of the allotment order dated 22.11.1984, it is seen that the Secretary (Revenue), Government of Manipur, allotted 0.01487 acre of land in C.S. Dag No.2538(P) of Sheet No.16 in favour of R.R.Ibemhal Devi, wife of Tomba Singh. The said allotment order also reveals that an area of 0.01159 acre in C.S.Dag No.2578 of Sheet No.16 was allotted in favour of NgangomTomba Singh, son of Ibotom Singh. In respect of the allotment made in favour of R.R.Ibemhal Devi, she was required to pay the premium of Rs.7,395.80p. The deceased original writ petitioner has paid the premium of Rs.7,395.80p. A deed of allotment was executed by the Government in favour of R.K.Ibemhal Devi and the same was registered on 8.1.1985. Delivery of possession of the allotted land was made to the deceased original writ petitioner. After allotment, the relevant record of rights was also prepared in favour of the deceased original writ petitioner and, thereafter, the deceased original writ petitioner has been paying necessary taxes in respect of the allotted to the Government.

25. It is the case of the petitioners that the deceased original writ petitioner had constructed a three storied building with GCI roof in the allotted land and the fourth respondent who is her daughter was married to one Naorem Bhubonsingh of Awang Phumlou Village and she used to reside her matrimonial home for number of years. In the year 1994, a small room with an area of 17 x 4 feet in the ground floor of the abovementioned building was set apart for the fourth respondent for vending dry fishes and other sundry goods to eke out her livelihood and the rest of the building has been rented out by the deceased original writ petitioner to the tenant while she herself along with her sons has been carrying on her usual dry fish business in the another shop of her late husband.

26. It is the further case of the petitioners that on 19.1.1998 the fourth respondent made an application for correction of her name in the revenue records in respect of Plot No.6 on the eastern bank of Naga river. On the basis of the application, the Secretary (Revenue) directed the Deputy Commissioner of Imphal West and the Director of Settlement and Land Records to enquire into the matter and submit a report. Pursuant to the direction of the Secretary (Revenue), the Director of Settlement and Land Records conducted enquiry and

submitted a report dated 23.11.1998 stating that the applicant is not the pattadar/allottee of the land in question and the applicant is occupying small portion of the plot under C.S. Dag No.2538(P) of Sheet No.16 of Imphal Municipality according to their family arrangement/agreement. Based on the report dated 23.11.1998, the second respondent informed the fourth respondent vide letter dated 8.6.1999 that as the land was allotted to R.K.Ibemhal Devi, correction as requested by the fourth respondent cannot be made.

27. The further case of the petitioners is that having failed to have her name substituted in the allotment order and the relevant revenue records, the fourth respondent had managed to have her name mutated as pattadar of the allotted land under the order of Revenue Officer behind the back of the deceased original writ petitioner and without notice to her. Mutation in favour of the fourth respondent was done on 6.7.1999 by the Assistant Survey and Settlement Officer.

28. On the other hand, it is say of the fourth respondent that fourth respondent had submitted an application dated 19.1.1998 praying for correction of her name in the Revenue records in respect of Plot No.6, which was involved in the present writ petition. The report of Director of Settlement and Land

Records under dated 23.11.1998 is forged one. The further case of the fourth respondent is that under the letter dated 8.6.1999 the second respondent informed the fourth respondent to approach the competent authority for change of title over the land, as the land was allotted to R.K. Ibemhal Devi and not to Naorem Obgbi Ibemhal Devi. On 18.5.2001, the fourth respondent submitted an application for corrigendum. Accordingly, on 12.6.2001, the Under Secretary (Revenue), Government of Manipur, had issued corrigendum thereby substituting the name of Naorem Ongbi Ibemhal Devi in the place of R.K.Ibemhal Devi appearing at schedule of land at Sl. No.1 of the allotment order dated 22.12.1984.

29. This Court perused the impugned corrigendum dated 12.6.2001 and the same is quoted hereunder for ready reference:

“No.21/287/84-R : Please read as “Naorem Ongbi Ibemhal Devi, D/o. Tomba Singh, Sagolband Meirangmayua Leirak at present Uripok Polem Leikai, Imphal” in place of “Smt T.K. Ibemhal Devi, W/O Tomba Singh, Sagolband Meirangmayua Leirak” appearing at schedule of land of SL. No.1 of the orders issued vide this Government order of even number dated the 22nd December, 1984.”

30. It is pertinent note that before issuance of the impugned corrigendum dated 12.6.2001, on 19.1.1998, the fourth respondent, submitted an application for correction in the allotment order dated 22.12.1984 issued in favour of the deceased original writ petitioner. The said application was forwarded to the Director of Settlement and Land Records for enquiry and submit a report. After conducting enquiry, the Director of Settlement and Land Records submitted a report dated 23.11.1998 to the respondent authorities to the effect that the fourth respondent is not the pattadar/allottee of the disputed land. Based on the report dated 23.11.1998, the second respondent informed the fourth respondent that she may approach the competent authority for change of title over the land, as the land was allotted to the deceased original writ petitioner.

31. If really the fourth respondent is aggrieved by the allotment of the disputed land in favour of the deceased original writ petitioner or any grievance over the allotment order dated 22.12.1984, she ought to have challenge the allotment order in accordance with law within the period of limitation. However, the fourth respondent has failed to do so. On the other hand, having waited for 13 long years, all of a sudden, the fourth respondent,

in the year 1998 made application to the respondent authority stating that the allotment order dated 22.12.1984 needs correction by way of substituting her name in the place the deceased original writ petitioner. Upon examination, the respondent authority has rightly informed the fourth respondent to approach the competent authority for change of title over the land, if she is aggrieved by the allotment order.

32. When the first attempt of the fourth respondent to change the name and address of the allottee of allotment order dated 22.12.1984 failed, the fourth respondent second time applied to the Assistant Survey and Settlement Officer for mutation of her name as pattadar of the allotted land on 5.7.1999. Vide order dated 6.7.1999, mutation of the revenue records in the name of the fourth respondent in respect of the allotted land was effected. Admittedly, the mutation was effected behind the back of the deceased original writ petitioner and it appears that no notice was served on the deceased original writ petitioner before issuing the mutation order.

33. It appears that aggrieved by the order dated 6.7.1999 of the Assistant Survey and Settlement Officer, the deceased original writ petitioner has filed Revenue Revision Case No.49 of 1999 before the Revenue Tribunal and, by the

order dated 18.4.2006, the Revenue Tribunal set aside the mutation order dated 6.7.1999 of the Assistant Survey and Settlement Officer.

34. It also appears that during the pendency of the Revenue Revision Case, the fourth respondent has filed an application dated 18.5.2001 for issuing corrigendum for substituting her name as the allottee in the place of the deceased original writ petitioner's name in the allotment order dated 22.12.1984 alleging that the name of the allottee had been wrongly recorded as R.K. Ibemhal Devi in the place of the correct name as Naorem Ongbi Ibemhal Devi.

35. It is pertinent to note that while submitting the application dated 18.5.2001, the fourth respondent has concealed the factum of the earlier application dated 19.1.1998 and the report of the Director of Settlement and Land Records dated 23.11.1998 and also the decision dated 8.6.1999 rejecting the request of the fourth respondent.

36. On a perusal of the records, more particularly, the allotment order, it is clear that while executing the allotment order and its registration, the name of the allottee i.e. the deceased original writ petitioner, has been clearly mentioned by stating her

husband name with address. Pursuant to the allotment made, the deceased original writ petitioner has also paid the premium amount. Nothing has been produced by the fourth respondent to show that the allotment of the disputed land has to be made in her favour and she only paid the premium amount for the land. As stated supra, if really the fourth respondent is aggrieved by the allotment order, she ought to have taken steps to cancel the allotment order in accordance with law before the appropriate forum that too within the period of limitation. However, the fourth respondent has failed to do so. On the other hand, behind the back of the deceased original writ petitioner/allottee of the disputed land, the fourth respondent obtained mutation of revenue records colluding with the revenue officials. Having found that the mutation in favour of the fourth respondent is not legally sustainable, the Revenue Tribunal has rightly cancelled the mutation effected in favour of the fourth respondent.

37. As could be seen from the records, the second respondent, without giving any notice and/or heard the original allottee i.e. the deceased original writ petitioner in whose name the allotment was made way back in the year 1984, has issued the impugned corrigendum dated 12.6.2001 for replacing the name of the fourth respondent as the allottee in place of the

name of the original allottee. Such an action of the second respondent is admittedly in violation of the principles of natural justice.

38. In *Carana Bank and others v. Debasis Das*, (2003) 4 SCC 557, the Hon'ble Supreme Court held:

“13. Natural justice is another name for commonsense justice. Rules of natural justice are not codified canons. But they are principles ingrained into the conscience of man. Natural justice is the administration of justice in a commonsense liberal way. Justice is based substantially on natural ideals and human values. The administration of justice is to be freed from the narrow and restricted considerations which are usually associated with a formulated law involving linguistic technicalities and grammatical niceties. It is the substance of justice which has to determine its form.

14. The expressions “natural justice” and “legal justice” do not present watertight classification. It is the substance of justice which is to be secured by both, and whenever legal justice fails to achieve this solemn purpose, natural justice is called in aid of legal justice. Natural justice relieves legal justice from unnecessary

technicality, grammatical pedantry or logical prevarication. It supplies the omissions of a formulated law. As Lord Buckmaster said, no form or procedure should ever be permitted to exclude the presentation of a litigant's defence.

15. The adherence to principles of natural justice as recognized by all civilized States is of supreme importance when a quasi-judicial body embarks on determining disputes between the parties, or any administrative action involving civil consequences is in issue. These principles are well settled. The first and foremost principle is what is commonly known as audi alteram partem rule. It says that no one should be condemned unheard. Notice is the first limb of this principle. It must be precise and unambiguous. It should apprise the party determinatively of the case he has to meet. Time given for the purpose should be adequate so as to enable him to make his representation. In the absence of a notice of the kind and such reasonable opportunity, the order passed becomes wholly vitiated. Thus, it is but essential that a party should be put on notice of the case before any adverse order is passed against him. This is one of the most important principles of natural justice. It is after all an approved rule of fair play. The concept has gained significance and shades with time.

When the historic document was made at Runnymede in 1215, the first statutory recognition of this principle found its way in to the “Magna Carta”. The classic exposition of Sir Edward Coke of natural justice requires to “vocate, interrogate and adjudicate”. In the celebrated case of Cooper v. Wandsworth Board of Works² the principle was thus stated: (ER p.420)

“Even God himself did not pass sentence upon Adam before he was called upon to make his defence. ‘Adam’ (says God), ‘where art thou? Has thou not eaten of the tree whereof, I commanded thee that thou shouldest not eat?’”

16. Principles of natural justice are those rules which have been laid down by the Courts as being the minimum protection of the rights of the individual against the arbitrary procedure that may be adopted by a judicial, quasi-judicial and administrative authority while making an order affecting those rights. These rules are intended to prevent such authority from doing injustice.

17. What is meant by the term “principles of natural justice” is not easy to determine. Lord Sumner (then Hamilton, L.J.) in R.v. Local Govt. Board³ (KB at p. 199) described the phrase as sadly lacking in precision. In General Council of Medical Education & Registration of U.K. v. Spackman⁴ Lord Wright observed that it

was no desirable to attempt “to force it into any Procrustean bed” and mentioned that one essential requirement was that the Tribunal should be impartial and have no personal interest in the controversy, and further that it should give “a full and fair opportunity” to every party of being heard.

18. Lord Wright referred to the leading case on the subject. The most important of them is Board of Education v. Ricer where Lord Loreburn, L.C. observed as follows: (All ER p. 38 C-F)

“Comparatively recent statutes have extended, if they have not originated, the practice of imposing upon department or officers of State the duty of deciding or determining questions of various kinds. It will, I suppose, usually be of an administrative kind: but sometimes it will involve matter of law as well as matter of fact, or even depend upon matter of law alone. In such cases, the Board of Education will have to ascertain the law and also to ascertain the facts. I need not add that in doing either they must act in good faith and listen fairly to both sides, for that is a duty lying upon everyone who decides anything. But I do not think they are bound to treat such a question as though it were a trial. ... The Board is in the nature of the arbitral tribunal, and a court of law has no jurisdiction to hear appeals from their determination, either upon law or upon fact. But if the court is satisfied either that the Board have not acted judicially in the way which I have described, or have not determined the

question which they are required by the Act to determine, then there is a remedy by mandamus and certiorari:

*Lord Wright also emphasized from the same decision the observation of the Lord Chancellor that “the Board can obtain information in any way they think best, always giving a fair opportunity to those who are parties to the controversy for correcting or contradicting any relevant statement prejudicial to their view”. To the same effect are the observations of Earl of Selbourne, L.O. in *Spackman v. Plumstead District Board of Works* [(1885) 10 AC 229 : 54 LJMC 81 : 53 LT 151] where the learned and noble Lord Chancellor observed as follows:*

“No doubt, in the absence of special provisions as to how the person who is to decide is to proceed, law will imply no more than that the substantial requirements of justice shall not be violated. He is not a judge in the proper sense of the word; but he must give the parties an opportunity of being heard before him and stating their case and their view. He must give notice when he will proceed with the matter and he must act honestly and impartially and not under the dictation of some other person or persons to whom the authority is not given by law. There must be no malversation of any kind. There would be no decision within the meaning of the statute if there were anything of that sort done contrary to the essence of justice.”

Lord Selbourne also added that the essence of justice consisted in requiring that all parties should have an opportunity of submitting to the person by whose decision they are to be bound, such considerations as in their judgment ought

to be brought before him. All these cases lay down the very important rule of natural justice contained in the oftquoted phrase "justice should not only be done, but should be seen to be done".

19. Concept of natural justice has undergone a great deal of change in recent years. Rules of natural justice are not rules embodied always expressly in a statute or in rules framed thereunder. They may be implied from the nature of the duty to be performed under a statute. What particular rule of natural justice should be implied and what its context should be in a given case must depend to a great extent on the facts and circumstances of that case, the framework of the statute under which the enquiry is held. The old distinction between a judicial act and an administrative act has withered away. Even an administrative order which involves civil consequences must be consistent with the rules of natural justice. The expression "civil consequences" encompasses infraction of not merely property or personal rights but of civil liberties, material deprivations and non-pecuniary damages. In its wide umbrella comes everything that affects a citizen in his civil life.

20. Natural justice has been variously defined by different Judges. A few instances will suffice. In Drew v. Drew and Lebura [(1855) 2 Macq1 :

25 LTOS 282 (HL)] (Macq at p. 8), Lord Cranworth defined it as “universal justice”. In *James Dunbar Smith v. Her Majesty the Queen* [(1877-78) 3 AC 614 (PC)] (AC at p. 623) Sir Robert P. Collier, speaking for the Judicial Committee of the Privy Council, used the phrase “the requirements of substantial justice”, while in *Arthur John Spackman v. Plumstead District Board of Works* [(1885) 10 AC 229 : 54 LJMC 81 : 53 LT 151] (AC at p. 240), the Earl of Selbourne, S.C. preferred the phrase “the substantial requirement of justice”. In *Vionet v. Barrett* [(1885) 55 LJRD 39] (LJRD at p. 41), Lord Esher, M.R. defined natural justice as “the natural sense of what is right and wrong”. While, however, deciding *Hookings v. Smethwick Local Board of Health* [(1890) 24 QBD 712] Lord Esher, M.R. instead of using the definition given earlier by him in *Vionet* case [(1885) 55 LJRD 39] chose to define natural justice as “fundamental justice”. In *Ridge v. Baldwin* [(1963) 1 QB 539 : (1962) 1 All ER 834 : (1962) 2 WLR 716 (CA)] (QB at p. 578), Harman, L.J., in the Court of Appeal countered natural justice with “fair play in action”, a phrase favoured by Bhagwati, J. in *Maneka Gandhi v. Union of India* [(1978) 1 SCC 248 : (1978) 2 SCR 621] . In *H.K. (An Infant), Re* [(1967) 2 QB 617 : (1967) 1 All ER

226 : (1967) 2 WLR 962] (QB at p. 630), Lord Parker, C.J. preferred to describe natural justice as “a duty to act fairly”. In *Fairmount Investments Ltd. v. Secy. of State for Environment* [(1976) 1 WLR 1255 : (1976) 2 All ER 865 (HL)] Lord Russell of Killowen somewhat picturesquely described natural justice as “a fair crack of the whip” while Geoffrey Lane, L.J. in *R. v. Secy. of State for Home Affairs, ex p Hosenball* [(1977) 1 WLR 766 : (1977) 3 All ER 452 (CA)] preferred the homely phrase “common fairness”.

21. How then have the principles of natural justice been interpreted in the courts and within what limits are they to be confined? Over the years by a process of judicial interpretation two rules have been evolved as representing the principles of natural justice in judicial process, including therein quasi-judicial and administrative process. They constitute the basic elements of a fair hearing, having their roots in the innate sense of man for fair play and justice which is not the preserve of any particular race or country but is shared in common by all men. The first rule is “*nemo iudex in causasua*” or “*nemo debet esse iudex in propria causasua*” as stated in *Earl of Derby's case* [(1605) 12 Co Rep 114 : 77 ER 1390] that is, “no man shall be a judge in his own cause”.

Coke used the form *“aliquis non debet esse iudex in propria causa, quia non potest esse iudex et pars”* (Co. Litt. 1418), that is, “no man ought to be a judge in his own case, because he cannot act as judge and at the same time be a party”. The form *“nemo potest esse simul actor et iudex”*, that is, “no one can be at once suitor and judge” is also at times used. The second rule is *“audi alteram partem”*, that is, “hear the other side”. At times and particularly in continental countries, the form *“audietur et altera pars”* is used, meaning very much the same thing. A corollary has been deduced from the above two rules and particularly the *audi alteram partem* rule, namely *“qui aliquid statuerit, parte in audita altera acquum licet dixerit, haud acquum fecerit”* that is, “he who shall decide anything without the other side having been heard, although he may have said what is right, will not have been what is right” [see *Boswell's case* [(1605) 6 Co Rep 48b : 77 ER 326] (Co Rep at p. 52-a)] or in other words, as it is now expressed, “justice should not only be done but should manifestly be seen to be done”. Whenever an order is struck down as invalid being in violation of principles of natural justice, there is no final decision of the case and fresh proceedings are left upon (sic open). All that is done is to vacate the order assailed by

virtue of its inherent defect, but the proceedings are not terminated.”

39. In *Canara Bank v. V.K.Awasthy*, (2005) 6 SCC 321, the Hon'ble Supreme Court held:

"8. Natural justice is another name for common-sense justice. Rules of natural justice are not codified canons. But they are principles ingrained into the conscience of man. Natural justice is the administration of justice in a common-sense liberal way. Justice is based substantially on natural ideals and human values. The administration of justice is to be freed from the narrow and restricted considerations which are usually associated with a formulated law involving linguistic technicalities and grammatical niceties. It is the substance of justice which has to determine its form.

9. The expressions “natural justice” and “legal justice” do not present a watertight classification. It is the substance of justice which is to be secured by both, and whenever legal justice fails to achieve this solemn purpose, natural justice is called in aid of legal justice. Natural justice relieves legal justice from unnecessary technicality, grammatical pedantry or logical prevarication. It supplies the omissions of a formulated law. As Lord

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40. In *Mangilal v. State of M.P.*, (2004) 2 SCC 447, the Hon'ble Supreme Court held:

"10. Even if a statute is silent and there are no positive words in the Act or the Rules made thereunder, there could be nothing wrong in spelling out the need to hear the parties whose rights and interest are likely to be affected by the orders that may be passed, and making it a requirement to follow a fair procedure before taking a decision, unless the statute provides otherwise. The principles of natural justice must be read into unoccupied interstices of the statute, unless there is a clear mandate to the contrary. No form or procedure should ever be permitted to exclude the presentation of a litigant's defence or stand. Even in the absence of a provision in procedural laws, power inheres in every tribunal/court of a judicial or quasi-judicial character, to adopt modalities necessary to achieve requirements of natural justice and fair play to ensure better and proper discharge of their duties. Procedure is mainly grounded on the principles of natural justice irrespective of the extent of its application by express provision in that regard in a given situation. It has always been a cherished principle. Where the statute is silent about the observance of the principles of natural justice, such statutory silence is taken to imply compliance with the principles of natural justice where substantial rights of parties are considerably affected. The application of

natural justice becomes presumptive, unless found excluded by express words of statute or necessary intendment. (See Swadeshi Cotton Mills v. Union of India [(1981) 1 SCC 664 : AIR 1981 SC 818] .) Its aim is to secure justice or to prevent miscarriage of justice. Principles of natural justice do not supplant the law, but supplement it. These rules operate only in areas not covered by any law validly made. They are a means to an end and not an end in themselves. The principles of natural justice have many facets. Two of them are : notice of the case to be met, and opportunity to explain."

41. In *Prakash Ratan Sinha v. State of Bihar and others*, (2009) 14 SCC 690, the Hon'ble Supreme Court observed as under:

"13. The law in this regard has been settled by several decisions of this Court. The principle that emerge from the decisions of this Court is that, if there is a power to decide and decide detrimentally to the prejudice of a person, duty to act judicially is implicit in exercise of such a power and that the rule of natural justice operates in areas not covered by any law validly made.

14. Corollary principles emanating from these cases are as to what particular rule of natural

justice should apply to a given case must depend to an extent on the facts and circumstances of that case and that it is only where there is nothing in the statute to actually prohibit the giving of an opportunity of being heard and on the other hand, the nature of the statutory duty imposed on the decision maker itself implies an obligation to hear before deciding. These cases have also observed, whenever an action of public body results in civil consequences for the person against whom the action is directed, the duty to act fairly can be presumed and in such a case, the administrative authority must give a proper opportunity of hearing to the affected person.

.....

19. The Division Bench of the Court does not dispute the fact of passing of the impugned order without hearing the appellant, but condones the procedural irregularity by bringing it under the “doctrine of futile exercise”. According to the Court, even if an opportunity of showing cause was afforded to the appellant, it would not have made any difference.

20. We fail to understand the logic adopted by the Division Bench. The reason being that it is the case of the appellant that on a recommendation made by the Circle Promotion Committee, he was regularly promoted to the

post of accounts clerk, since he had the necessary qualification and experience and it is his further case that though he was appointed as a daily wager, right from his induction, he was directed to discharge the work of accounts clerk. It is also his case that on the recommendation made by Circle Promotion Committee, the incharge Chief Electrical Engineer had passed an order approving the recommendation and granting promotion to the appellant to the post of accounts clerk.

21. However, it is the case of the respondents that the Circle Promotion Committee had only recommended the change of nomenclature from that of daily wager to that of accounts clerk and that it is not a case of regular promotion. It is their further case, even assuming it is a case of promotion, the same has been done without following the prescribed procedure and also by ignoring the claim of several other employees and therefore, the respondents were justified in cancelling the order passed by the incharge Chief Electrical Engineer.

22 [Ed.: Para 22 corrected vide Official Corrigendum No. F.3/Ed.B.J./21/2010 dated 27-1-2010.] . In our view, these are all disputed facts and the respondents without affording an opportunity of hearing, could not have taken any administrative decision unilaterally.

Therefore, the Division Bench of the High Court is not justified in concluding that under the "useless formality theory" the rules of natural justice need not have been followed by the respondents."

42. From the decisions supra, it is clear that the principles of natural justice is one of the foremost product of civilized jurisprudence that no action should be taken against a person to affect his/her right or interest without giving reasonable opportunity to him/her. A man cannot be deprived of his liberty or property for any wrong, until he has had a fair opportunity of answering the allegations against him. Therefore, the role of natural justice casts a duty on all public authorities to decide dispute in the exercise of legal power to follow the rule diligently. The rule which is respected the world over cannot be immolated or sacrificed at the altar of administrative celerity.

43. When we consider the case of the petitioners in the light of the decisions of the Hon'ble Supreme Court, supra, this Court is of the considered view that the impugned corrigendum has been issued by the second respondent not only in violation of the principles of natural justice, but also pending Revenue Revision Case before the Revenue Tribunal. When the Revenue Revision Case against the mutation order is pending before the

Revenue Tribunal, it is unfair on the part of the second respondent in issuing the impugned corrigendum, that too, after a gross delay of about 17 years.

44. As rightly argued by the learned counsel for the petitioners, the Secretary (Revenue) has no authority to usurp the functions of the competent Revenue Court or Tribunal for hearing the parties. Such being the position, any hearing made and decision reached by the Secretary (Revenue) is null and void. As such, the decision of the Government cannot be overruled by the impugned corrigendum dated 12.6.2001.

45. As the present writ petition involves the legality and correctness of the impugned corrigendum dated 12.6.2001, the same could be decided under Article 226 of the Constitution of India. Therefore, the present writ petition is very well maintainable. That apart, when the challenge to the impugned corrigendum dated 12.6.2001 was on the ground of non-compliance of the principles of natural justice, as per the dictum laid by the Hon'ble Supreme Court, in a catena of decisions, such a challenge can always be examined by the High Court exercising jurisdiction under Article 226 of the Constitution of India in a writ petition. It is well settled law that no one should be condemned unheard.

46. The fourth respondent sought correction in the allotment order mainly on the ground that the mutation in respect of the disputed land has been made in her favour and on the strength of the mutation, she sought corrigendum for replacing her name in the place of the deceased original writ petitioner in the allotment order. As could be seen, the Revenue Tribunal has set aside the mutation order dated 6.7.1999 issued in favour of the fourth respondent under its order dated 18.4.2006.

47. It is apposite to mention that the official respondents are utterly silent and mummed qua the registered deed of allotment dated 8.1.1985 executed in favour of the deceased original writ petitioner and the payment of premium of Rs.7,395.80p made by the deceased original writ petitioner on 7.1.1985, which was also counter-signed by the official concerned on 11.1.1985. When allotment in favour of the deceased original writ petitioner, followed by the execution of deed of allotment were done by the respondent authorities, the second respondent cannot issue the impugned corrigendum.

48. When the very mutation order dated 6.7.1999 itself goes, automatically the impugned corrigendum also goes. Since the impugned corrigendum dated 12.6.2001 has been issued behind the back of the deceased original writ petitioner thereby

violating the principles of natural justice and without looking into the rejection of the earlier request dated 19.1.1998 made by the fourth respondent, this Court is of the view that the impugned corrigendum dated 12.6.2001 is legally not sustainable in the eye of law.

49. At this juncture, the learned counsel for the fourth respondent submitted that the fourth respondent is paying tax to the Imphal Municipality in respect of the disputed land and she is in continuous possession and enjoyment of the disputed land on the strength as owner of the property. Merely because the fourth respondent is paying tax to the Imphal Municipality, it does not mean that the fourth respondent is the owner of the disputed property. The receipts produced by the fourth respondents would show that payment has been received from the fourth respondent and no particulars have been mentioned in the said receipts qua under what capacity she has paid the amounts. That apart, no correlation record has been produced by the fourth respondent to show that the said receipts are in connection with the disputed property.

50. It is reiterated that the documents produced by the petitioners clearly prove that the allotment in question was made in favour of the deceased original writ petitioner and not in favour

of the fourth respondent; the premium for allotment was paid by the deceased original writ petitioner and not by the fourth respondent; the allotment deed was executed and presented for registration by the deceased original writ petitioner and not by the fourth respondent; delivery of possession of the allotted land was made and taken over by the deceased original writ petitioner and not by the fourth respondent; the relevant patta and jamabandi of the allotted land was prepared and recorded in the name of the deceased original writ petitioner and not in the name of the fourth respondent. While so, with the influence of the respondent authorities, the fourth respondent managed to obtain the impugned corrigendum behind the back of the deceased original writ petitioner. As stated supra, such corrigendum issued by the second respondent is not legally sustainable and that too without hearing the original allottee of the land in question. For all the reasons stated above, this Court is of the view that the impugned corrigendum dated 12.6.2001 is not sustainable in the eye of law and, accordingly, the same is liable to be quashed.

51. In the result,

- (i) The writ petition is allowed.

- (ii) The impugned corrigendum dated 12.6.2001 issued by the second respondent is set aside.
- (iii) There will be no order as to costs.

ACTING CHIEF JUSTICE

FR/NFR

Sushil