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

W.P. (Crl.) No. 63 of 2023

Shri Thanreigam Awungshi, aged about 45 years S/o Late Ramyo Awungshi, a permanent resident of New Canaan village, P.O. Litan, P.S. Yangangpokpi, Ukhrul District, Manipur.

... *Petitioner*

- Versus -

1. The State of Manipur represented by Chief Secretary, Government of Manipur, Old Secretariat Building, Babupara ,P.O. & P.S. – Imphal, Imphal West District, Manipur- 795001.
2. The Commissioner/Special Secretary (Home), Government of Manipur, Old Secretariat Building, Babupara, P.O. & P.S. – Imphal, Imphal West District, Manipur- 795001.
3. The Superintendent of Police, Manipur Central Jail, Sajiwa, Imphal East District, Manipur- 795010.
4. The Union of India through the Deputy Secretary (PIT-ND &PS), Ministry of Finance, Department of Revenue, Near North Block, Room No- 26, Church Road, RFA-Barrack, New Delhi – 110001.

... *Respondents*

B E F O R E

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

For the petitioner	:	Mr. S. Worthing, Advocate.
For the respondents	:	Mr. Phungyo Zingkhei, Dy. G.A. for respondent Nos. 1, 2 & 3 Mr. W. Darakeshwar, Sr.PCCG for respondent No. 4.
Date of Order	:	11.09.2023

ORDER

A. Guneshwar Sharma, J.

[1] Heard Mr. S. Worthing, learned counsel for the petitioner; Mr. Phungyo, learned Dy. Government Advocate, appearing for respondent Nos. 1, 2 & 3; and Mr. W. Darakeshwar, learned Sr. PCCG, appearing for respondent No. 4.

[2] Mr. S. Worthing, learned counsel for the detenu, submits that the detenu was arrested along with another on 29.07.2022 by a team of Imphal East Police Station in connection with FIR No. 06(07)2022 YPI-PS under Section 18(c)/29/60(3) read with 8(b) of ND&PS Act for possession of 2 packet of opium weighing 2(two) kgs. Special Secretary (Home), Government of Manipur, issued detention order dated 13.09.2022 under Section 3(1) of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act (PIT-ND&PS Act), 1988 for preventing him from involvement in illicit trafficking of narcotic drugs and psychotropic substances on the ground that the petitioner was released on bail and he would likely continue to his illegal activities. Grounds of detention was furnished vide letter dated 16.09.2022 by the Special Secretary (Home), Government of Manipur, and the same was received by the detenu on 17.09.2022. Vide order dated 07.12.2022, Special Secretary (Home), Government of Manipur, issued confirmation order confirming the detention order dated 13.09.2023 and fixed the period of detention for a period of 12(twelve) months from the date of detention. Thereafter, the detenu submitted common representation dated 12.04.2023 through the Superintendent of Police, Manipur Central Jail, Sajiwa to (i) the Chief Secretary, Government of Manipur and (ii) the Deputy Secretary (PIT-ND&PS), Ministry of Finance, Department of Revenue, New Delhi, for revoking his detention order. Vide order dated 19.04.2023, the Commissioner(Home), Government

of Manipur, rejected the representation submitted by the detenu being devoid of merit. Vide memorandum dated 16.05.2023, the Central Government rejected the representation submitted by the detenu.

[3] Mr. S. Worthing, learned counsel for the petitioner, challenged the detention order amongst on the ground that representation dated 12.04.2023 submitted by the detenu was disposed of only on 16.05.2023 by the Central Government after a lapse of more than 1(one) months and prayed that detention order be set-aside on the ground of delay in disposal.

[4] Mr. Phungyo Zingkhei, learned Dy. G.A. for the State respondents, submitted that there is no violation of mandatory statutory provisions by the State Government while dealing with the detention and disposal of the representation of the detenu. It is submitted that representation was submitted much after confirmation order and representation dated 12.04.2023 was received on 13.04.2023 and para wise comment was received on 18.04.2023 from the Superintendent of Police, Imphal East and representation was disposed of on 19.04.2023. Learned Dy. G.A. submits that there is no delay on the part of the State Government and prays that the writ petition be rejected.

[5] During the course of hearing, Mr. W. Darakeshwar, learned Sr. PCCG, appearing for the Central Government, submitted counter affidavit on behalf of the respondent No. 4. It is stated that representation dated 12.04.2023 submitted by the detenu was received by the Ministry from the State Government vide e-mail on 17.04.2023 and para wise comment was received by e-mail dated 21.04.2023. Matter was put up to the Competent Authority i.e., Secretary (Revenue), Government of India who rejected the representation submitted by the detenu vide memorandum dated

16.05.2023. It is submitted that there is no delay on the part of the Central Government and the time taken in dealing with the representation is done as per normal official procedure.

[6] We have heard the learned counsel appearing for the parties, perused the materials on record and the submissions made by the parties at bar. On perusal of the record, it is seen that the representation dated 12.04.2023 was submitted much after the confirmation order and para-wise comment was received from SP, Imphal East on 18.04.2023 and vide order dated 19.04.2023, the State Government rejected the representation submitted by the detenu. This Court is of the view that there is no lapse on the part of the State Government in connection with the present case. However, after the received of the para-wise comment from the State Government vide e-mail dated 21.04.2023, the Secretary (Revenue), Government of India, rejected the representation submitted by the detenu vide memorandum dated 16.05.2023. However, Central Government could not explain the effective time of 25(twenty five) days taken after receipt of the para-wise comment from the State Government in disposing the representation submitted by the detenu. It is settled proposition of law as per **Rajammal vs. State of Tamil Nadu** reported as **1999 (1) SCC 417** and **Sarabjeet Singh Mokha Vs. the District Magistrate, Jabalpur** reported as **MANU/SC/1011/2021**, that unexplained delay in disposal of the representation vitiates the detention order. If the authority concerned is not able to explain the time taken in disposal of the representation, the same will render detention order void. In the case in hand, the Central Government has not given any explanation for the 25 days taking in disposal of the representation submitted by the detenu even after receipt of the para-wise comment. Accordingly, we are of the view that detention

order is vitiated and accordingly detention order dated 13.09.2022 and confirmation order dated 07.12.2022 issued by the Special Secretary(Home), Government of Manipur are set-aside and detenu Shri Thanreigam Awungshi be released from detention forthwith, if not required in any other case.

[7] Send a copy of this order to the Commissioner (Home), Government of Manipur; and Superintendent, Manipur Central Jail Sajiwa for information and doing needful.

[8] With these observations, the writ petition is allowed.

[9] No costs.

JUDGE

ACTING CHIEF JUSTICE

Indrajeet