

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

WP(C) No. 462 of 2019

Shri Khundrakpam Sunilkeshor, aged about 36 years, S/o Shri Kh. Mohori Singh a resident of Khurai Sajor Leikai, B.P.O Lamlong & P.S Porompat, Imphal East District, Manipur, Pin-795010.

... Petitioner

-Versus-

1. Manipur University through its Registrar, Manipur University, Canchipur, P.O Manipur University & P.S Singjamei, Imphal West District, Manipur, Pin-795003.
2. The Administrator/ Vice-Chancellor, Manipur University, Canchipur, P.O Manipur University & P.S Singjamei, Imphal West District, Manipur, Pin-795003.

...Respondents

3. Soram Jibonkumar Singh, through the Vice-Chancellor, Manipur University, Canchipur, P.O Manipur University & P.S Singjamei, Imphal West District, Manipur, Pin-795003.
4. K. Nando Singh, through the Vice-Chancellor, Manipur University, Canchipur, P.O Manipur University & P.S Singjamei, Imphal West District, Manipur, Pin-795003.
5. T. Kamkhenthang, through the Vice-Chancellor, Manipur University, Canchipur, P.O Manipur University & P.S Singjamei, Imphal West District, Manipur, Pin-795003.

6. Nongmaithem Kerani Singh, through the Vice-Chancellor, Manipur University, Canchipur, P.O Manipur University & P.S. Singjamei, Imphal West District, Manipur, Pin-795003.
7. Ahanthem Manimohon Singh, through the Vice-Chancellor, Manipur University, Canchipur, P.O Manipur University & P.S Singjamei, Imphal West District, Manipur, Pin-795003.

...Private Respondents

WP(C) No. 683 of 2019

Shri T. Kamkhenthang, aged about 53 years, S/o (L) T. Pumphung, resident of Saikul Village, P.O., P.S. & District, Churachandpur, Manipur-795128 and at present Quarter No. Type-VI/1B, P.O. Manipur University, P.S. Singjamei, District, Imphal West, Manipur-795003.

.....Petitioner

-Versus-

1. The Manipur University through its Registrar, Manipur University, Canchipur, P.O. Manipur University, P.S. Singjamei, District, Imphal West, Manipur-795003.
2. The Administrator/Vice-Chancellor, Manipur University, _ Canchipur, P.O. Manipur University, P.S. Singjamei, District, Imphal West, Manipur-795003.

.... Respondents

WP(C) No. 759 of 2019

Shri Khurdrakpam Sunilkeshor, aged about 36 years, S/O Shri Kh. Mohori Singh a resident of Khurai Sajor Leikai,

B.P.O. Lamlong & P.S. Porompat, Imphal East District,
Manipur. Pin:795010.

...Petitioner

-Versus-

1. Manipur University through its Registrar, Manipur University, Canchipur, P.O. Manipur University & P.S. Singjamei, Imphal West District, Manipur. Pin: 795003.
2. The Administrator/Vice Chancellor, Manipur University, Canchipur, P.O. Manipur University & P.S. Singjamei, Imphal West District, Manipur. Pin:795003.

....Respondents

3. Soram Jibonkumar Singh, through the Vice Chancellor, Manipur University, Canchipur, P.O. Manipur University & P.S. Singjamei, Imphal West District, Manipur. Pin: 795003.
4. K. Nando Singh, through the Vice Chancellor, Manipur University, Canchipur, P.O. Manipur University & P.S. Singjamei, Imphal West District, Manipur. Pin:795003.

...Private Respondents

5. The Central Bureau of Investigation through Head of Branch (ACB) Imphal, Lamphelpat, Manipur P.O. & P.S. Lamphel, Imphal West District, Manipur. Pin:795114.

..Proforma Respondent

MC(WP(C)) No. 239 of 2019*Ref:- WP(C) No. 462 of 2019*

Shri T. Kamkhenthang, aged about 53 years, S/o (L) T. Pumphung, resident of Saikul Village, P.O., P.S. & District, Churachandpur, Manipur-795128 and at present Quarter No. Type-VI/1B, P.O. Manipur University, P.S. Singjamei, District, Imphal West, Manipur-795003.

.....Applicant.

-Versus-

1. Shri Khundrakpam Sunilkeshor, aged about 36 years, S/o Shri Kh. Mohori Singh, resident of Khurai Sajor Leikai, B.P.O. Lamlong & PS. Porompat, Imphal East District, Manipur, Pin-795010.

.....Principal Respondent

2. Manipur University through its Registrar, Manipur University, Canchipur, P.O. Manipur University & P.S. Singjamei, Imphal West District, Manipur, Pin-795003.
3. The Administrative/Vice Chancellor, Manipur University, Canchipur, P.O. Manipur University & P.S. Singjamei, Imphal West District, Manipur, Pin795003.

.....Respondent

4. Soram Jibonkumar Singh, through the Vice. Chancellor, Manipur University, Canchipur, P.O. Manipur University & P.S. Singjamei, Imphal West District, Manipur, Pin-795003.
5. K. Nando Singh, through the Vice Chancellor. Manipur University, Canchipur, P.O. Manipur University & P.S. Singjamei, Imphal West District, Manipur, Pin-795003.

6. Nongmaithem Kerani Singh, through the Vice Chancellor, Manipur University, Canchipur, P.O. Manipur University & P.S. Singjamei, Imphal West District, Manipur, Pin-795003.
7. Ahanthem Manimohon Singh, through the Vice Chancellor, Manipur University, Canchipur, P.O. Manipur University & P.S. Singjamei, Imphal West District, Manipur, Pin-795003.

... Proforma Respondents

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

For the Petitioners	::	Mr. Kh. Tarunkumar, Advocate in WP(C) No. 683 of 2019; Mr.M. Devananda, Addl. AG in WP(C) No. 759 of 2019 & WP(C) No. 462 of 2019; Mr. K. Roshan, Advocate
For the Respondents	::	Mr. BP Sahu, Sr. Advocate in WP(C) No. 683 of 2019 & WP(C) No. 462 of 2019; Mr. W. Darakishwor, Sr. PCCG in WP(C) No. 759 of 2019; Mr. M. Hemchandra, Sr. Advocate
Date of Hearing and reserving Judgment & Order	::	19.01.2023.
Date of Judgment & Order	::	21.02.2023

JUDGMENT AND ORDER

(CAV)

W.P.(C) No.462 of 2019 has been filed by the petitioner to quash the impugned order dated 24.5.2019 and the consequential orders and offer forms issued to the private respondents.

2. W.P.(C) No.683 of 2019 has been filed by the fifth respondent in W.P.(C) No.462 of 2019 as petitioner to set aside the order dated 8.8.2019 and to direct the respondents therein to allow him to serve/function as Section Officer of the Manipur University by maintaining his merit position secured by him in view of the recruitment process initiated by the official respondent in pursuance to the advertisement dated 22.10.2014.

3. W.P.(C) No.759 of 2023 has been filed by the petitioner in W.P.(C) No.462 of 2019 to quash the impugned order dated 8.8.2019 and the consequential orders and offer forms issued to the private respondent and to cause inquiry into the illegalities and irregularities committed by the Manipur University into the selection and appointment of Section Officer by entrusting to an independent body i.e. Central Bureau of Investigation in the facts and circumstances of the case.

4. Since the challenges made in these writ petitions are one and the same, all the writ petitions were heard together and disposed of by this common order.

5. Out of three writ petitions, two writ petitions, being W.P.(C) Nos.462 and 759 of 2019, have been filed by the petitioner Khundrakpam Sunilkeshor, while W.P.(C) No.683 of

2019 has been filed by Kamkhenthang who has been arrayed as respondent No.5 in W.P.(C) No.462 of 2019.

6. Brief facts are as follows:

[W.P.(C) Nos.462 and 759 of 2019]

The Registrar, Manipur University issued a notification dated 22.10.2014 calling applications from amongst the eligible candidates for appointment to various posts including the Section Officer and after the applications being received from amongst the candidate for the posts of Section Officer, displayed the names of 13 eligible candidates on its notice board. All eligible candidates are categorized under the unreserved category and there was no eligible Scheduled Caste candidates for the post of Section Officer and none of the candidates identified under the reserved category of Schedule Caste. On 26.8.2015, the Deputy Registrar issued a notification informing generally the eligible candidates to appear at the written test.

7. Being eligible candidate, the petitioner in W.P.(C) No.462 of 2019 applied for the post of Section Officer in the open category and after successful in the written test, he was called for interview on 5.12.2015 and the petitioner also appeared before the selection committee on the said date. Though the result of the examination was not declared and uploaded in the

University website, the Registrar issued offer forms to the private respondent vide its letter dated 16.12.2015.

8. Challenging the letter dated 16.12.2015 and its consequential appointment orders, the petitioner has filed W.P.(C) No.79 of 2017 before this Court on the ground that although Manipur University issued advertisement to fill up 3 posts of Section Officer – two for unreserved and one for SC, it proceeded for appointment of 4 private respondents and also on the ground that the selection process was not conducted in a transparent manner. By the order dated 12.3.2019, the said writ petition was allowed and the offer forms dated 16.1.22015 and the appointment orders dated 28.12.2015 were quashed with a direction that it is open to the Manipur University to take appropriate steps to ensure that the process of selection is either cancelled with a fresh notification being issued thereafter or completed by declaring the result thereof. The official respondents, by deliberately misinterpreting the order dated 12.3.2019, issued the impugned order dated 24.5.2019 declaring the result of the Selection Committee held on 5.12.2015 for the post of Section Officer in order of merit as (1) Soram Jibonkumar Singh; (2) K.Nando Singh; (3) T.Kamkhenthang; (4) Nongmaithem Kerani Singh. The Committee had also selected

one Ahanthem Manimohon Singh as wait listed candidate. Challenging the impugned office order dated 24.5.2019, the petitioner has filed W.P.(C) No.462 of 2019.

9. By the interim order dated 11.6.2019 passed in W.P.(C) No.462 of 2019, the order dated 24.5.2019 was suspended by this Court. During the pendency of W.P.(C) No.462 of 2019, the order dated 8.8.2019 came to be issued illegally by the Registrar, thereby declaring the result of the Selection Committee in respect of (1) Soram Jibankumar Singh and (2) K.Nando Singh for appointment and cancelled the result of the Selection Committee dated 5.12.2015 in respect of (1)T.Kamkhenthang and (2) Nongmaithem Kerani Singh as there had been irregularities in inclusion of their names in the list of selected candidates. Challenging the order dated 8.8.2019, W.P.(C) No.759 of 2019 has been filed.

10. Resisting W.P.(C) No.462 of 2019 and W.P.(C) No.759 of 2019, the respondents 3 and 4 filed affidavit-in-opposition stating that from the order dated 12.3.2019 passed in W.P.(C) No.79 of 2017, it is clear that this Court left it to the discretion of the Manipur University to ensure that the process of selection is either cancelled with a fresh notification being issued thereafter or completed by declaring the result thereof thereby

allowing the Manipur University to choose one or the other and must not be separated distinctively in a different sentence or connotations. It is stated that in order to avoid inconveniences to the duly selected candidates whose positions were already confirmed to their respective posts before filing the writ petition, took the second option and thus declared the result notifying the selection of four candidates vide order dated 24.5.2019.

11. It is stated that the petitioner has deliberately misinterpreted the order dated 12.3.2019 passed in W.P.(C) No.79 of 2017 in their own sense and is trying to mislead this Court. In fact, the petitioner preferred W.A.No.15 of 2019 as against the order dated 12.3.2019 praying for deleting the words “either” and “or” mentioned in the order and by the order dated 1.4.2019, the said appeal was disposed of with liberty to seek clarification or modification from the concerned learned Single Judge. However, the petitioner filed W.P.(C) No.462 of 2019 with an intention to confuse this Court and to get an order in its terms of interpretation of the order.

12. It is stated that the Manipur University had also issued an order dated 22.6.2019 thereby keeping in abeyance the order dated 24.5.2019 in compliance of the interim order dated 11.6.2019 passed by this Court in W.P.(C) No.462 of

2019. The University authority also issued an order dated 8.8.2019 thereby reviving the order dated 24.5.2019 after granting permission by this Court. Challenging the order dated 8.8.2019, the petitioner filed W.P.(C) No.759 of 2019 and by the interim order dated 17.9.2019, this Court granted status-quo, thereby allowing the respondents 3 and 4 to discharge their duties as Section Officer.

13. The respondents 1 and 2 in W.P.(C) No.759 of 2019 filed affidavit-in-opposition stating that the order dated 8.8.2019 has been reviewed by the authority with the permission of this Court vide order dated 31.7.2019 passed in W.P.(C) No.462 of 2019 and after careful consideration and in compliance of this Court's order dated 12.3.2019 in W.P.(C) No.79 of 2017 which directed to declare the result of the Selection Committee in the alternative. It is stated that the successful four candidates who were recommended and selected were given offer forms for appointment to the post of Section Officer. The terms and conditions of the advertisement states increase/decrease the number of vacancies on its own discretion and to frame a panel for filling up future vacancies arising during tenability of panel which shall be normally operative for one year and not to fill up any of the advertised positions. Therefore, the petitioner cannot

overreact and say that the appointment of Section Officer was not conducted in a transparent manner.

14. It is stated that having made clear by this Court in the order dated 12.3.2019 where the University was given an opportunity to choose either to cancel the selection process or to declare the undeclared result, the University to avoid inconveniences to the duly selected candidates whose positions were already confirmed to their respective posts before filing the said writ petition took the second option and declared the result notifying the selection of four candidates vide order dated 24.5.2019. It is the petitioner who is intentionally misinterpreting the order dated 12.3.2019 in his own sense and trying to mislead the Court.

15. It is stated that the writ appeal preferred by the petitioner against the order dated 12.3.2019 passed in W.P.(C) No.79 of 2017 was disposed of on 1.4.2019 with liberty to seek clarification before the learned Single Judge. Instead the petitioner filed different writ petitions to confuse this Court and to get an order. The directive portion of the order dated 12.3.2019 need to point out step by step, namely (1) It is open to Manipur University to take appropriate steps to ensure that ... (2) The process of selection is either cancelled with a fresh notification

being issued thereafter (3) or completed by declaring the result thereof, in accordance with law. The above quoted sentence shows that Manipur University has been given an option to choose and act. Therefore, when the University chose third option, there cannot be any fault on the part of the University.

16. The respondent CBI filed affidavit-in-opposition stating that the CBI is unable to conduct an enquiry into the matter for the reason that the averments relate mainly on the misinterpretation by the respondent Manipur University in the order dated 12.3.2019 and there are no specific instances regarding involvement of corruption and there is also no interstate ramification necessitating CBI enquiry.

W.P.(C) No.683 of 2019:

17. The case of the petitioner Kamkhenthangis that he appeared in the recruitment test for the post of Section Officer of the Manipur University in pursuance of an advertisement dated 22.10.2014. Basing on his performance and marks secured by him in the said recruitment, he was appointed to the said post of Section Officer on 28.12.2015. His service to the said post was also confirmed on 23.5.2017. In W.P.(C) No.79 of 2019, the

petitioner Kh. Sunilkeshore Singh challenged the offer form dated 16.12.2015 including the appointment order of Kamkhenthang and three others to the said post. The said writ petition was allowed whereby the offer form dated 16.12.2015 and the appointment order dated 28.12.2015 in respect of Kamkhenthang and three others were quashed with a direction to the Manipur University to take appropriate step to ensure that the process of selection is either cancelled with a fresh notification being issued thereafter or completed by declaring the result thereof in accordance with law within a month from the date of receipt of a copy of the said order. In compliance of the above said order, the result of the Selection Committee held on 5.12.2015 for appointment to the post of Section Officer was declared in order of merit and the name of Kamkhenthang appeared at Serial No.3. Thereafter, without giving any opportunity of being heard, his appointment was cancelled. Challenging the same, W.P.(C) No.683 of 2019 has been filed.

18. The first respondent filed affidavit-in-opposition stating that the Manipur University invited candidates vide advertisement dated 22.10.2014 for direct recruitment to various posts including the post of Section Officer (2UR & 1SC).

However, none applied in the SC category. 13 candidates were eligible for written test and all the eligible 13 were under the category of UR including the petitioner Kh. Sunilkeshor and petitioner T.Kamkhenthang and both applied in open category. The petitioner Sunilkeshsor appeared in the written test and interview for the said post, but he was not recommended/selected by the Selection Committee and the Committee recommended respondents 3, 4, 5 and 6 in W.P.(C) No.462 of 2019. The selection/appointment was increased from 2 UR to 4 UR out of the recommended 5 candidates for the said post in view of the terms and condition No.8 for appointment of Group B posts of the advertisement No.2/2014 dated 22.10.2014. Out of the five recommended candidates, 4 were selected i.e. the private respondents 3,4,5 and 6 in W.P.(C) No.462 of 2019 by applying the terms and condition No.8.

19. It is stated that the Manipur University had issued an order dated 24.5.2019 thereby declaring the result so that no inconvenience caused to the duly selected candidates. It is stated that this Court never quashed the selection process but quashed the offer forms and appointment orders only. That is why in the order in W.P.(C) No.79 of 2017 the University was given an option to either cancel the selection process with a fresh

notification or declare the result thereof. Thereafter, by the order of this Court dated 31.7.2019 in W.P.(C) No.462 of 2019, the impugned review order dated 8.8.2019 has been passed in partial modification of the earlier order dated 24.5.2019, thereby selecting only 2 candidates in the UR category and the rest were cancelled as there had been certain irregularities.

20. The third respondent filed affidavit-in-opposition stating that in view of the observations made in paragraphs 8,9 and 10 of the order dated 12.3.2019, the direction contained in paragraph 11 of the order is very clear that as the offer form dated 16.12.2015 and the appointment order dated 28.12.2015 were quashed, the University was at liberty to take appropriate steps to ensure that the process of selection is either cancelled with a fresh notification being issued thereafter or completed by declaring the result thereof, in accordance with law. This direction does not mean that the University should declare the results of the selection process for the four incumbents to be declared again. There is no question of declaring the result of the earlier selection process as the same had been quashed and set aside by this Court. The direction as contained in the order at paragraph 11 means that the process for selection should start afresh from the stage of the advertisement and continued

thereafter by declaring the results according to law, however, the respondents 1 and 2 had deliberately misinterpreted the order dated 12.3.2019 and had illegally and arbitrarily accommodated four incumbents including the petitioner by issuing the order dated 24.5.2019.

21. Assailing the orders impugned in W.P.(C) No.462 and 759 of 2019, the learned counsel for the petitioner submitted that this Court earlier had quashed the offer forms dated 16.12.2015 and the appointment orders dated 28.12.2015 of the private respondents, in view of the observations made in paragraphs 8, 9 and 10 of the order dated 12.3.2019 passed in W.P.(C) No.79 of 2017 and that the direction contained in paragraph 11 of the said order is very clear that as the offer forms and the appointment orders were quashed and set aside, the University is at liberty to take appropriate steps to ensure that the process of selection is either cancelled with a fresh notification being issued thereafter or completed by declaring the result thereof, in accordance with law. According to the learned counsel, the aforesaid direction does not mean that the Manipur University should declare the results of the selection process for the four incumbents to be declared again.

22. The learned counsel would submit that even then the order dated 24.5.2019 was issued illegally and arbitrarily. When the order dated 24.5.2019 was again challenged and this Court had suspended the same vide order dated 11.6.2019, the impugned order dated 8.8.2019 was again issued in partial modification of the earlier order dated 24.5.2019 illegally and arbitrarily. There is no question of declaring the result of the earlier selection process, as the same had been quashed and set aside by this Court. In fact, the direction as contained in paragraph 11 of the order dated 12.3.2019 is to the effect that the process for selection should start afresh from the stage of the advertisement and continued thereafter by declaring the results according to law. However, the official respondents had deliberately misinterpreted the order dated 12.3.2019 and had illegally and arbitrarily accommodated the private respondents. The issuance of the impugned orders itself is contempt of Court, as they had misinterpreted the judgment dated 12.3.2019.

23. The learned counsel for the petitioner urged that since the order dated 12.3.2019 quashed the forms dated 16.12.2015 and the appointment orders dated 28.12.2015 of the private respondents, they cannot continue as Section Officers in the Manipur University. However, the official respondents

allowed the private respondents to continue in service as Section Officers illegally, which can be ascertained from the pay slips of the private respondents.

24. Since there are irregularities in accommodating the private respondents, the matter is required to be enquired by CBI. In fact, in the order dated 8.8.2019 itself it was clearly mentioned that there has been gross irregularities in the order dated 24.5.2019, but the same illegality was repeated by issuing the impugned order dated 8.8.2019, which cannot stand in the eye of law.

25. The appointment of four Section Officers including that of the private respondents 3 and 4 are quashed by this Court vide order dated 12.3.2019 in W.P.(C) No.79 of 2017. However, the respondents 3 and 4 in violation of the said order were allowed to continue in service and paid salary and allowances. The subsequent orders dated 24.5.2019 and 8.8.2019 cannot justify the illegal and arbitrary actions of the respondents 1 and 2 in accommodating the private respondents in violation of the order dated 12.3.2019. Thus, a prayer has been made to set aside the impugned orders dated 24.5.2019 and 8.8.2019.

26. The learned counsel for the petitioner in W.P.(C) No.683 of 2019, inter alia, submitted that though the petitioner

Kamkhenthang belongs to ST category, he applied for the post in question under the unreserved category as unreserved category vacancies can be applied by a reserved category candidate. He passed the written test and appeared for the interview. Based on his merit position, he was selected for the post of Section Officer and offer form was issued to him on 16.12.2015 which he accepted for appointment. Accordingly, on 28.12.2015, he was appointed as Section Officer with effect from 17.12.2015 and he was confirmed to the said post with effect from 17.12.2016.

27. The learned counsel further submitted that the petitioner in W.P.(C) Nos.462 and 759 of 2019 who appeared in the above said recruitment but could not pass the said selection test because of his poor performance filed a writ petition being W.P.(C) No.79 of 2017 by challenging the legality of the offer forms and appointment orders issued in favour of respondents 3, 4, 5 and 6 in W.P.(C) No.462 of 2019 who were appointed to the said post of Section Officers. The said writ petition was heard and allowed by this Court vide order dated 12.3.2019 whereby the offer forms dated 16.12.2015 and the appointment orders dated 28.12.2015 were quashed with a direction to the University to take appropriate steps to ensure that the process of selection

is either cancelled with a fresh notification being issued thereafter or to declare the result thereof in accordance with law within a month.

28. The learned counsel then submitted that the University had opted the second option given in the order dated 12.3.2019 and declared the result on 24.5.2019 in compliance to the aforesaid directive of this Court and, accordingly, the Selection Committee found the petitioner in W.P.(C) No.683 of 2019 selected among the other selected candidates. However, by the impugned order dated 8.8.2019, the declaration of result of the above said selection which was issued in compliance to the afore said order was cancelled in respect of the petitioner in W.P.(C) No.683 of 2019 and another person namely Kerani Singh without giving any show cause notice nor any reason.

29. According to the learned counsel for the petitioner in W.P.(C) No.683 of 2019, the order dated 8.8.2019 is not sustainable in the eyes of law. There is no illegality in the order dated 24.5.2019 issued by the Registrar of Manipur University for declaring the result of the said recruitment. Hence, without challenging the legality of the order dated 12.3.2019 passed in W.P.(C) No.79 of 2017, the petitioner in W.P.(C) Nos.462 and 759 of 2019 cannot indirectly challenge the order dated 24.5.2019

which was issued in compliance to the direction of this Court dated 12.3.2019 passed in W.P.(C) No.79 of 2017.

30. Per contra, the learned Government Advocate appearing for the respondent State contended that the University as practiced earlier issued offer forms only to the selected candidates as recommended by the Selection Committee. In other words, the successful four candidates who were recommended and selected were given offer forms for appointment to the post of Section Officer of the University. Since the petitioner was not selected, he was not selected and was not given the offer form.

31. The learned Government Advocate further submitted that the para 11 of the order dated 12.3.2019 clearly directed the University that “it is open to the Manipur University to take appropriate steps to ensure that the process of selection is either cancelled with a fresh notification being issued thereafter or completed by declaring the result thereof, in accordance with law”. According to the learned Government Advocate, it may be seen that the words used in the directive portion of the order dated 12.3.2019 i.e. “it is open” “either cancelled” “or completed by declaring the result thereof. ...” are to be read as collectively by allowing to choose one or the other and must not be separated

distinctively in a different sentence or connotations. Having made very clear by this Court in the said order dated 12.3.2019 where the University was given an opportunity to choose either to cancel the selection process or to declare the undeclared result, the University in order to avoid inconveniences to the duly selected candidates whose positions were already confirmed to their respective posts before filing the writ petition took the second option and declared the result notifying the selection of four candidates vide order dated 24.5.2019.

32. The learned Government Advocate then submitted that the petitioner had clear knowledge of the option chosen by the University, but he persistently filed writ petitions to confuse this Court. The petitioner has no cause of action in filing the writ petitions as the order dated 12.3.2019 is very clear for issuance of orders by the University authorities. Thus, a prayer has been made to dismiss the writ petitions.

33. The learned counsel for the private respondents, namely, the respondents 3 and 4 in W.P.(C) No.759 of 2019, inter alia, contended that the impugned review order dated 8.8.2019 in partial modification of the earlier order dated 24.5.2019 was issued with the permission of this Court in its order dated 31.7.2019 passed in W.P.(C) No.462 of 2019. It has not been

issued at the whims of the authorities, but has been issued with the prior permission of this Court. In fact, this Court vide order dated 12.3.2019 passed in W.P.(C) No.79 of 2017 quashed the offer forms dated 16.12.2015 and the appointment orders dated 28.12.2015 of the respondents 3 and 4. However, the directive portion of the order gave an option to the University to choose and act and thus, the University choose to act by declaring the result for which the University cannot be put on fault.

34. The learned counsel further submitted that this Court never quashed the selection process, but has quashed the offer forms and appointment orders only. The statement made by the petitioner in W.P.(C) Nos.462 and 759 of 2019 is his own interpretation and the same is not proportionate with the observations and directions made by this Court. As such, the same cannot be acted upon under any circumstances.

35. The learned counsel then submitted that the respondents 3 and 4 have not been allowed to discharge their duties as Section Officers, but they have been paid for the post of Section Officer as they have enjoyed its scale of pay before they were appointed to the post of Section Officer and that they have been serving as Senior Assistant for the interim arrangement till further orders.

36. Adding further, the learned counsel submitted that the University has also issued an order dated 22.6.2019 thereby keeping in abeyance the order dated 24.5.2019 in compliance of the order dated 11.6.2019 and that the University authority has issued the impugned order dated 8.8.2019 thereby reviving the order dated 24.5.2019 as this Court had granted permission for reviewing the said order. However, in view of the status quo order dated 17.09.2019 passed in W.P.(C) No.759 of 2019, the respondents 3 and 4 have been allowed to discharge their duties as Section Officer by the University authorities. Thus, a prayer has been made to dismiss all the writ petitions.

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

38. The instant writ petitions have been filed challenging the order dated 24.5.2019 and 8.8.2019 respectively. W.P.(C) Nos.462 and 759 of 2019 have been filed by the petitioner Kh. Sunilkeshor challenging the order dated 24.5.2019 and 8.8.2019. W.P.(C) No.683 of 2019 has been filed by the petitioner Kamkhenthang, who was not considered for selection at later point of time vide order dated 8.8.2019.

39. The respondent Manipur University issued a notification dated 22.10.2014 inviting applications from amongst the eligible candidates for appointment to various posts, including Section Officer and after the applications being received from amongst the candidates for the post of Section Officer, the University displayed the names of 13 eligible candidates on its notice board. On 26.8.2015, the University issued a notification informing the eligible candidates to appear at the written test and that they should submit their recent passport size photographs on or before 4.9.2015. The written test was held on 12.9.2015 and the Deputy Registrar of the University, vide its letter dated 1.12.2015, informed the petitioner Kh. Sunilkishore to appear for the interview to be held on 5.12.2015 and, accordingly, he appeared in the interview.

40. As could be seen from the records, subsequent to the issuance of the advertisement dated 22.10.2014, two posts of Sections Officers became vacant due to the promotion of Subhash Singh and Budhapati Devi to the post of Assistant Registrars and in view of the reservation policy as well as the reservation provided in the recruitment rules, the University proceeded for appointment as many as four post of Section Officers. The Selection Committee was constituted for

appointment to the said post of Section Officer, which recommended five persons namely (1) Soram Jibonkumar Singh; (2) K.Nando Singh; (3) T.Kamkhenthang; (4) Nongmaithem Kerani Singh and (5) Ahanthem Manimohon Singh.

41. On 16.12.2015, the Registrar of the University issued offer forms to the private respondents in W.P.(C) No.462 of 2019 containing the terms and conditions. The said offer forms and the subsequent appointment orders came to be challenged by the said petitioner in W.P.(C) No.79 of 2015 on the grounds that the said offer forms and subsequent letters were issued without publication of the result of the Selection Committee etc. After contest, by the order dated 12.3.2019, this Court allowed the writ petition. The operative portion of the order reads thus:

“[11] In view of the above and for the reasons stated hereinabove, the instant writ petition is allowed and consequently, the offer forms dated 16.12.2015 and the appointment orders dated 28.12.2015 issued by the Registrar, Manipur University, are quashed and set aside with the direction that it is open to the Manipur University to take appropriate steps to ensure that the process of selection is either cancelled with a fresh notification

being issued thereafter or completed by declaring the result thereof, in accordance with law, within a month from the date of receipt of a copy of this judgment and order. There shall be no order as to costs.”

42. Assailing the order dated 12.3.2019 passed in W.P.(C) No.79 of 2017, the petitioner Kh. Sunilkeshor filed W.A.No.15 of 2017 to set aside the direction contained in paragraph 11 of the order dated 12.3.2019. When the writ appeal came up for admission on 1.4.2019, the learned counsel for the appellant sought liberty to seek clarification from the learned Single Judge and thereafter pursue the appeal remedy, if cause survives. Accordingly, the appeal was disposed of. However, the petitioner Kh. Sunilkeshor has not filed any clarification petition before the learned Single Judge.

43. At this juncture, the learned counsel appearing for the University pointed out that the direction portion of the order dated 12.3.2019 passed in W.P.(C) No.79 of 2017 need to point out the following step by step:

“(1) It is open to the Manipur University to take appropriate steps to ensure that ...

(2) The process of selection is either cancelled with a fresh notification being issued thereafter ...

(3) Or completed by declaring the result thereof, in accordance with law. ...”

44. The respondent University decided to comply with the second option of the direction contained in the order dated 12.3.2019 i.e. it has decided to choose option “3” referred above. Accordingly, it has declared the result of the Selection Committee held on 5.12.2015 vide impugned order dated 24.5.2019 for the post of Section Officer in the following order of merit:

(1) *Soram Jibonkumar Singh*

(2) *K.Nando Singh*

(3) *T.Kamkhenthang*

(4) *Nongmaithem Kerani Sigh*

45. It is also seen from the order dated 24.5.2019, the Committee recommended on Ahanthem Manimohon Singh as wait listed candidate. According to the respondent University, the order dated 24.5.2019 is in compliance with the direction of this Court dated 12.3.2019 passed in W.P.(C) No.79 of 2017.

That apart, W.A.No.15 of 2019 has been filed assailing the order dated 12.3.2019.

46. The order dated 24.5.2019 has been assailed by the petitioner Kh. Sunilkeshor contending that it has been issued contrary to the direction dated 12.3.2019. According to the learned counsel for the petitioner Kh. Sunilkeshor, the direction contained in para 11 means that the process for selection should start afresh from the stage of the advertisement and continued thereafter by declaring the results in accordance with law. However, the respondent University had deliberately misinterpreted the order dated 12.3.2019 and had illegally accommodated the private respondents.

47. The argument of the learned counsel for the petitioner Kh. Sunilkeshor cannot be countenanced for the reason that the direction contained in paragraph 11 of the order dated 12.3.2019 in W.P.(C) No.79 of 2017 clearly left it to the discretion of the respondent University to take appropriate steps to ensure that the process of selection is either cancelled with a fresh notification being issued thereafter or completed by declaring the result thereof in accordance with law. In order to avoid inconveniences to the duly selected candidates whose positions were already confirmed to their respective posts before

filing W.P.(C) No.462 of 2019, took the second option and thus, declared the result notifying the selection of four candidates vide the order dated 24.5.2019. This Court finds no fault in it and it is the petitioner Kh. Sunilkeshor misinterpreting the order dated 12.3.2019 passed by this Court in his own sense and is trying to mislead the Court.

48. As stated supra, the petitioner Kh. Sunilkeshor had also filed W.A.No.15 of 2019 challenging the order dated 12.3.2019 passed in W.P.(C) No.79 of 2017 and later on allowed the said writ appeal to be disposed of with liberty to seek clarification from the learned Single Judge. However, contrary to the liberty sought in the writ appeal and without filing any clarification petition before the learned Single, the petitioner Kh. Sunilkeshor has filed W.P.(C) No.462 of 2019 challenging the order dated 24.5.2019 with an intention to confuse this Court. The approach adopted by the petitioner Kh. Sunilkeshor is legally not sustainable in law and, therefore, this Court is of the view that the writ petition, being W.P.(C) No.462 of 2019 filed by the petitioner Kh. Sunilkeshor fails.

49. Coming to the challenge made to the order dated 8.8.2019, the said order has been challenged by the Kh. Sunilkeshor and Kamkhenthang on different grounds. As stated

supra, challenging the order dated 8.8.2019, Kamkhenthang filed W.P.(C) No.683 of 2019 and Kh. Sunilkeshor filed W.P.(C) No.759 of 2019.

50. The petitioner Kamkhenthang challenged the impugned order dated 8.8.2019 on the following grounds:

- (i) *Though he belongs to SC category, he applied for the said post of Section Officer in the unreserved category as the unreserved post can be applied by the reserved category candidates.*
- (ii) *He was recommended by the Selection Committee in view of the merit position as he secured 93 marks in total, whereas the petitioner Kh. Sunilkeshor secured only 72 marks.*
- (iii) *He was appointed against the vacancy which arose during the recruitment process due to promotion of two persons. Hence, there is no illegality in his appointment to the post of Section Officer in view of his merit position.*

(iv) *The cancellation order dated 8.8.2019 was issued without giving him any opportunity of being heard as his service was already confirmed to the post of Section Officer after successful completion of the probation period.*

51. The petitioner Kh. Sunilkeshor challenged the impugned order dated 8.8.2019 on the ground that during pendency of W.P.(C) No.462 of 2019 and the subsistence of the interim order dated 11.6.2019, the said order came to be passed stating that in partial modification of the order dated 24.5.2019 the result of the Selection Committee meeting held on 5.12.2015 for appointment to the post of Section Officer in order of merit was declared as under:

- (1) SoramJibankumar Singh
- (2) K.Nando Singh

52. According to the petitioner Kh. Sunilkeshor, when the order dated 24.5.2019 was challenged and this Court suspended the same, the impugned order dated 8.8.2019 was again illegally and arbitrarily issued and there is no question of declaring the result of the earlier selection process as the same

had been quashed by this Court vide order dated 12.3.2019 in W.P.(C) No.79 of 2017.

53. On a thorough reading of the order dated 12.3.2019 in W.P.(C) No.79 of 2017, more particularly, paragraph 11, it is clear that while passing the order, the learned Single Judge of this Court has not quashed the selection process. But only quashed the offer forms and appointment orders. That is why in the said order, the authorities of the Manipur University was given an option to either cancel the selection process with a fresh notification or declare the result thereof.

54. When the petitioner Kh. Sunilkeshor challenged the impugned order dated 24.5.2019 in W.P.(C) No.462 of 2019, this Court, by the order dated 11.6.2019, granted interim order suspending the order dated 24.5.2019 till further orders. The said interim order still continued and the petitioner in W.P.(C) No.683 of 2019 (Kamkhenthang) had also filed MC (WP) No.239 of 2019 to vacate the interim order dated 11.6.2019. The said Miscellaneous Case was also heard along with these writ petitions.

55. It appears that on 22.6.2019, the Registrar of the University has passed an order stating that the order dated

24.5.2019 has been suspended till further order vide interim order dated 11.6.2019 passed in W.P.(C) No.462 of 2019 and as one candidate has retired on superannuation, the services of the other three Section Officers are kept in abeyance until further orders.

56. It is the case of the respondent University that upon the permission granted by this Court dated 31.7.2019 in W.P.(C) No.462 of 2019, the order dated 24.5.2019 has been reviewed and the impugned order dated 8.8.2019 came to be passed selecting 2 candidates in the unreserved category and the rest were cancelled as there had been certain irregularities.

57. The order dated 31.7.2019 passed in W.P.(C) No.462 of 2019 reads thus:

“Heard Ms. N. Jyotsana Devi, learned counsel appearing for the petitioner.

Mr. Juno Rehman, learned counsel enters appearance on behalf of private respondent Nos.3 to 7 and prays for 3 (three) weeks’ time to file counter affidavit.

Prayer is allowed.

Mr.B.P. Sahu, learned senior counsel appearing on behalf of the Manipur

University/respondent No.1 & 2, prays for liberty to review the impugned order dated 24.5.2019.

Prayer is allowed.

List the matter on 05.09.2019.

Furnish a copy of this order to the learned counsel for both the parties.”

58. When the review of the order dated 24.5.2019 is pursuant to the order of this Court dated 31.7.2019, it cannot be contended that the respondent University has arbitrarily issued the impugned order dated 8.8.2019. Since the terms and conditions appended to the advertisement dated 22.10.2014 stipulate *(a) to increase/decrease the number of vacancies on its own discretion; (b) to frame a panel for filling up future vacancies arising during tenability of panel which shall be normally operative for one year; and (c) not to fill up any of the advertised positions*, it cannot be contended that there is legality in issuing the impugned order dated 8.8.2019. It is to be noted that Ordinance 4.1 under Statute 25(1) and (2) of the Manipur University Act, 2005 also gives power to the University to increase/decrease the number of posts at the time of selection and make appointments accordingly.

59. The impugned order dated 8.8.2019 reads thus:

“No.MU/6/14/2012/Admn.I: In continuation of the Office Order No.531 dated 8.08.2019, the services in respect of (1) Soram Jibonkumar Singh and 92) K. Nando Singh as Section Officer of the University appointed vide the order dated 3.06.2019 issued by the Registrar, Manipur University subsequent to the result declaration order dated 24.05.2019 is hereby revived.

Further, the order dated 22-06-2019 by which the order dated 24-05-2019 was kept in abeyance is hereby revoked and the above two incumbents are to resume their duties in their respective posts, subject to the final outcome of the pending writ petitions.

This is issued with the approval of the authority.”

60. Since the order dated 8.8.2019 has been passed based on the liberty granted by this Court vide order dated 31.7.2019 and the said order dated 31.7.2019 has not challenged by the affected parties allowing to attain finality, it cannot be said that the order dated 8.8.2019 has been passed without authority. In fact, the filing of W.A.No.15 of 2019 has been purposefully

omitting to be stated in his writ petitions by the petitioner Kh. Sunilkeshor. Moreover, he has not filed any clarification petition before the learned Single Judge as prayed for by him. On the other hand, pursuant to the liberty granted by this Court dated 31.7.2019, the respondent University passed the order dated 8.8.2019.

61. The petitioners, namely Kh. Sunilkeshor and Kamkhenthang having participated in the interview and after realizing that they were not succeed in the interview, they cannot turn around and contend that the process of interview was unfair.

62. It is settled law that if a candidate takes a chance and appears in the interview, then only because the result of the interview is not palatable to him, he cannot turn around and subsequently contend that the process of interview was unfair or the Selection Committee was not properly constituted.

63. As stated supra, since the University authority had issued the order dated 8.8.2019 thereby reviving the order dated 24.5.2019 as this Court granted permission for reviewing the said order, this Court cannot find fault in issuing the order dated 8.8.2019. The way in which and the circumstances, the order dated 8.8.2019 came to be issued is not arbitrary and only after

taking in to account all relatable facts, the order dated 8.8.2019 was passed. There is no valid ground to interfere with the said order. There is also no specific instances regarding involvement of corruption in this case. While that being the finding of this Court, the order dated 8.8.2019 is sustained.

64. For all the reasons stated above, the writ petitions being W.P.(C) Nos.462, 683 and 759 of 2019 fail and the same are dismissed. The interim orders granted in the writ petitions stands vacated. The respondent University is directed to proceed further in accordance with law. Consequently, MC (WP) No.239 of 2019 is closed.

ACTING CHIEF JUSTICE

FR/NFR

Sushil