

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

WP(C) No. 565 of 2022

Dr. Jangala Suresh Babu, IAS and ex-Chief Secretary,
Government of Manipur, aged about 62 years, S/o (L)
Jangala Prasada Rao, permanent resident of Flat No.
601 , Zeenath Residency, Srinagar Colony Main Road,
Hyderabad-500073, Telangana State.

.... Petitioner

-Versus-

1. The Manipur Lokayukta through its Secretary, 3rd
Floor Directorate Complex, 2nd M.R. North AOC, P.O.
& P.S. Imphal, Imphal West District-795001.
2. The State of Manipur through the Commissioner
(Education/S), Government of Manipur, Manipur
Secretariat, South Block, P.O. & P.S. Imphal-7950011
3. The State Project Director, Samagra Shiksha,
Manipur.

...Respondents

BEFORE

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

For the Petitioners	::	Mr. HS Paonam, Sr. Adv. Mr. A. Arunkumar, Adv.
For the Respondents	::	Mr. M. Rarry, Adv. for R-1 Mr. H. Debendra, Dy. AG for R-2 & R-3
Date of Hearing and reserving Judgment & Order	::	29.08.2023
Date of Judgment & Order	::	11.10.2023

JUDGMENT AND ORDER
(CAV)

Heard Mr. HS Paonam, learned senior counsel for the petitioner; Mr. M. Rarry, the learned counsel for the first respondent Manipur Lokayukta and Mr. H. Debendra, the learned Deputy AG for the respondents No. 2 and 3.

2. This writ petition has been filed by the petitioner for issuance of a writ of mandamus to close the Complaint Case No.2 of 2022 pending on the file of the first respondent/Manipur Lokayukta registered against the petitioner as not maintainable, as it is barred by limitation.

3. Succinctly put, the facts in a nutshell are as follows:

The petitioner, who belongs to 1986 IAS batch of Manipur Cadre, before retirement on attaining the age of superannuation was serving as Chief Secretary to the Government of Manipur from 1.4.2018 to 31.7.2020. All throughout his career, there has not been any blemish against the petitioner and, in fact, he has taken innovative action in various sectors for bringing about the development in the State and with his contribution in the Education Sector, it has achieved high degree of development and the same was recognized at national level.

3.1. The petitioner came to know that Complaint Case No.2 of 2022 was filed by one O. Nabakishore Singh, who was functioning as Chief Secretary to the Government of Manipur and who was also retired from service on attaining the age of superannuation and joined politics even contesting Parliamentary election as well as Assembly election without any success, against the petitioner with an allegation of irregularity in the implementation of a project relating to Development of Advance School Management and Integration System, which was undertaken in 2013-2014.

3.2. When the petitioner was functioning as Principal Secretary (Education/S), Manipur in 2014, he has come across a serious issue pertaining to functioning of the primary schools, upper primary schools and high schools in interior areas in the State at desired level; even the mechanism to ascertain as to whether student enrolment was genuine or not, whether the teachers were attending the schools or not, whether the teaching learning process were going on as planned or not were lacking. Further, the information and monitoring about the proper utilization of funds released as well as construction of civil works were also an issue in the challenge faced by the Department. There was also no scientific way of monitoring the quantitative and qualitative performance of school.

3.3. Under Sara Shiksha Abhiyan, State Mission Authority, Manipur, had taken the task to district level collection of data and monitor the school management on real time basis and had taken up the project for Development of Advance School Management & Integration System (ASMIS) which is an advanced technology in data gathering from schools using mobile technology for progress monitoring of implementation of various interventions under Right to Education Act, etc. The Manual of Financial Management and Procurement of SSA has allowed limited tender for smooth and efficient functioning of the system and allows limited tender up to the equivalent cost of US \$ 50,000 or less per contract which would had been an amount of Rs.30 lakhs.

3.4. In view of the importance of the project, quotations from four firms, namely (1) High Value Infotech Global Pvt. Ltd., Bangalore; (2) Key-Bridge Mobile Technologies & Software Solutions Pvt. Ltd., Visakapattanam; (3) Pravasi Info Technologies Pvt. Ltd., Bangalore; and (4) Appoids Tech Solution Pvt. Ltd., Hyderabad were obtained after ascertaining their credentials in the field of education management. The Purchase Committee had examined the rates quoted by the aforesaid four firms and as per the recommendation made by the Purchase Committee, work order for implementation of the

project ASMIS was awarded to M/s.Pravasi Info Technologies Pvt. Ltd., Bangalore for districts Bishnupur, Churachandpur, Senapati and Tamenglong vide order dated 21.3.2013 and to M/s.Appoids Tech Solution Pvt. Ltd., Hyderabad for districts Chandel, Imphal East, Imphal West, Thoubal and Ukhrul vide order dated 21.12.2013.

3.5. The work order for supply of tablets for installation of ASMIS was awarded to M/s. Appoids Tech Solution Pvt. Ltd on 22.3.2014 and Finger Print Scanner on 10.7.2014 for the above five districts and to M/s.Pravasi Infor Technologies Pvt. Ltd. for the above four districts on the same dates. The work orders for supply of another 465 tablets and 465 Finger Print Scanner were awarded to both the firms on 27.8.2014.

3.6. According to the petitioner, the whole process of implementation of the project and the scheme was completed in 2014 and the implementation of the scheme was also carried out with the approval of the competent authority, including the Chairman, General Body of SSA, who is none other than the Hon'ble Chief Minister. After successful implementation, the utilization certificate pertaining to the period i.e. 2013-2014 and 2014-2015 issued by the auditor of SSA was submitted to the Ministry of Human Resource Development, Government of India,

wherefrom no adverse comment have ever received in this regard. The said project has been acknowledged by the general public.

3.7. Since the expenditure involved in the project has already been subjected to audit carried out by the Accountant General and the said authority has not given any adverse finding and there was also no irregularity in the financial discipline connected with the said project, the complainant has filed the complaint before the Manipur Lokayukta, which is time barred by limitation, inasmuch the positive endorsement made by the State Government to the successful implementation of the project would construed that any kind of irregularity including financial discipline which may entail adverse action was not existing and thus, except for satisfying and scoring personal vendetta, there cannot be any reason for filing the said complaint case before the first respondent.

3.8. On 24.6.2022, the Director (Inquiry), Manipur Lokayukta requested the State Project Director, SSA, Manipur for making available 20 files mentioned in the said letter for examination in connection with an enquiry arising from Complaint Case No.2 of 2022 filed by the complainant with an allegation of violation of the prescribed procedure of open tender pertaining to

the award of work for preparation of software for school management and monitoring of supply of tablets to Government school to M/s. Appods Tech. Solutions Pvt. Ltd.

3.9. The procedure of taking cognizance by the first respondent of a complaint filed by the complainant against the petitioner belatedly beyond the statutory period and non-consideration of the relevant provisions of the Manipur Lokayukta Act, 2014 infringed the fundamental rights of the petitioner as enjoined by Article 14 and 21 of the Constitution of India. Hence, the present writ petition.

4. The first respondent/Manipur Lokayukta filed affidavit-in-opposition stating that the Manipur Lokayukta under its order dated 16.6.2022, after careful consideration of the material available on record, at that stage, more particularly the complaint and supporting documents directed the Director (Inquiry), Manipur Lokayukta to conduct a preliminary inquiry so as to find out about the facts, allegations as mentioned in the complaint dated 14.6.2022 and to ascertain as to whether or not there exists a *prima facie* case for investigation. The Manipur Lokayukta has not passed any order for investigation in the present case. Therefore, there is no requirement of calling

explanation from the petitioner before passing the order dated 16.6.2022.

4.1. It is stated that the complaint contains two allegations of corruption done by the petitioner while he was functioning as Principal Secretary (Finance), Government of Manipur and the Principal Secretary (Education), Government of Manipur. The allegation no.1 in brief is that the petitioner, while working as Principal Secretary, Finance Department, Government of Manipur, had awarded the work of preparing the software namely Finance Budget and Expenditure Regulation Software to M/s.Appoids Tech Solutions Pvt. Ltd., Bangalore, which is promoted by his son Sandeep Jangala and installing the software to the offices of Manipur Government without following the prescribed procedure of open tender and by flouting all the financial norms. The act of the petitioner had caused financial loss to the State Government exchequer. The allegation no.1 is within the period of 7 years as provided under Section 53 of the Manipur Lokayukta Act, 2014. Hence, it is not time barred.

4.2. It is stated that allegation no.2, in brief, is that the petitioner while working as Principal Secretary (School), Education Department, Government of Manipur had awarded the work of preparation of software for school management and

monitoring and supply of tablets to Government Schools to the firm M/s.Appoids Tech Solutions Pvt. Ltd., Bangalore, which is owned by his son Sandeep Jangala without following the prescribed procedure of open tender. The act of the petitioner had caused wrongful financial gains to the firm owned by his son.

4.3. It is stated that regarding allegation no.2 since the matter is at the initial stage of inquiry, the date of committing alleged offence cannot be ascertained, but it is made clear that if the date of committing the alleged offence is 7 years before filing of the Complaint Case No.2 of 2022 dated 14.6.2022, the allegation no.2 will not be entertained as barred by Section 53 of the Manipur Lokayukta Act, 2014. The petitioner had not mentioned anything about the allegation no.1 in the writ petition or in other words, the petitioner had selectively mentioned only the fact which may be favourable to his case.

4.4. It is stated that as the inquiry of the Complaint Case No.2 of 2022 is at its initial stage, it will not be proper to conclude that no offence of corruption is done by the petitioner, inasmuch as the present writ petition has been filed prematurely. As the office of the SSA, Manipur State has not furnished the requisitioned files, the period of the alleged offence could not be established. As such, the attraction of Sections 50 and 53 of the

Manipur Lokayukta Act, 2014 in respect of the allegation no.2 against the petitioner could not be ascertained at this stage, as the inquiry of the present case is still going on. Hence, prayed for dismissal of the writ petition.

5. The respondents 2 and 3 filed affidavit-in-opposition stating that on receipt of the legal notice dated 18.7.2022 from the counsel for the petitioner and the letter dated 24.6.2022 from the Director (Inquiry), Manipur Lokayukta, the office of the State Project Director, vide letter dated 22.8.2022, had requested the Government to move the Law Department for advice. In this regard, the Government, vide letter dated 9.11.2022, had directed to formally intimate the Manipur Lokayukta in terms of Section 53 of the Act at the earliest. In consideration of the Government letter dated 9.11.2022, the office of the State Project Director, vide letter dated 17.11.2022, had intimated the Director (Inquiry), Manipur Lokayukta that in view of Section 53 of the Act, the State Project Director is not in a position to submit the files so requisitioned as the matter is more than 7 years old.

6. Mr. HS Paonam, the learned senior counsel for the petitioner submitted that the petitioner is a retired IAS officer and before his retirement on attaining the age of superannuation, the petitioner was serving as the Chief Secretary to the Government

of Manipur from 1.4.2018 to 31.7.2020. During his service career, the petitioner had shouldered important and sensitive task in connection with the administration and governance of State in various capacity looking after different departments of the Government of Manipur. Throughout his entire career, there was no blemish against the petitioner. While so, to his shock and dismay, he came to know that Complaint Case No.2 of 2022 has been filed by one O. Nabakishore Singh, who was functioning as Chief Secretary to the Government of Manipur and retired from service on attaining the age of superannuation and thereafter joined politics and contested the Parliamentary and Assembly elections without any success, against the petitioner with an allegation of irregularity in the implementation of the project namely Development of Advance School Management and Integration System, which was undertaken in 2013-2014.

7. The learned senior counsel for the petitioner further submitted that when the petitioner was functioning as Principal Secretary (Education/S), Government of Manipur in 2014, he has come across serious issue pertaining to the functioning of the Government schools in interior areas in the State at desired level. The petitioner noticed lacking in the mechanism whether the student enrolment was genuine, whether the teachers were attending the schools, whether teaching learning process were

going on as planned. The Education Department had also faced challenge qua the information and monitoring about the proper utilization of fund released as well as construction of civil works were carried out as per the estimates and the amount sanctioned. There was also no scientific way of monitoring the quantitative and qualitative performance of the school.

8. The learned senior counsel for the petitioner further submitted that in the back drop above, the State Mission Authority, had taken the task to district level collection of data and monitor the school management on real time basis and had taken up the project for development of Advance School Management and Integration System, which is an advanced technology in data gathering from schools using mobile technology for progress monitoring of implementation of various interventions done under the Right to Education Act, monitor the attendance of the teachers of each school, monitor the attendance of the students of each school, monitor the progress of various civil works related to each school.

9. The learned senior counsel then submitted that in view of the importance and urgency of the project, quotations from four firms, namely (1) High Value Infotech Global Pvt. Ltd., Bangalore; (2) Key-Bridge Mobile Technologies & Software

Solutions Pvt. Ltd., Visakapattanam; (3) Pravasi Info Technologies Pvt. Ltd., Bangalore; and (4) Appoids Tech Solution Pvt. Ltd., Hyderabad were obtained and scrutinized the same. As per the decision and the recommendation of the Purchase Committee, work order for implementation of the e-content on mobile platform and development of ASMIS was awarded to M/s.Pravasi Info Technologies Pvt. Ltd., Bangalore for four districts, namely Bishnupur, Churachandpur, Senapati and Tamenglong and to M/s.Appoids Tech Solution Pvt. Ltd., Hyderabad for five districts, namely Chandel, Imphal East, Imphal West, Thoubal and Ukhrul vide orders dated 21.12.2013. Accordingly, work orders for supply of tablets for installation of ASMIS were awarded to the aforesaid two companies on 22.3.2014 and work orders for supply of Finger Print Scanner were awarded on 10.7.2014 respectively. The work orders for supply of another 465 tablets and 465 Finger Print Scanners were awarded to both firms on 27.8.2014.

10. The learned senior counsel for the petitioner submitted that the whole process of implementation of the project and the scheme was completed in the year 2014 with the approval of the Hon'ble Chief Minister, who is the Chairman of the General Body of SSA and that the statutory auditor of SSA had issued utilization certificate and the same was submitted to

the Ministry of Human Resource Development, Government of India and the Ministry of Human Resource Development has not passed any adverse remarks. In the audit conducted by the Comptroller and Auditor General pertaining to SSA for the year 2013-14 and 2014-15, there was no issue and no adverse comment was made regarding the implementation of the project. That apart, the expenditure incurred in the project has already been subjected to audit carried out by the Accountant General, which has also given any adverse remarks.

11. According to the learned senior counsel, as there was no irregularity in the financial discipline connected with the implementation of the project in question, the complainant has filed the Complaint Case No.2 of 2022 with an ill-motive and that the Manipur Lokayukta ought not to have taken cognizance of the said Complaint Case, as the commission of the allegation in the Complaint Case is more than 7 years and any complaint made after the expiry of the period of 7 years is barred by limitation under Section 53 of the Manipur Lokayukta Act, 2014. Further, the complaint of the complainant did not satisfy the conditions mentioned in Section 14 of the Act for taking cognizance by the Manipur Lokayukta. Thus, a prayer has been made to close the Complaint Case No.2 of 2022 filed against the petitioner pending on the file of the Manipur Lokayukta.

12. Per contra, Mr. M. Rarry, the learned counsel for the first respondent/Manipur Lokayukta submitted that the Complaint Case No.2 of 2022 contains two allegations of corruption done by the petitioner while he was functioning as Principal Secretary (Finance) and the Principal Secretary (Education), Government of Manipur respectively.

13. Drawing this Court's attention to the complaint, the learned counsel for the first respondent submitted that as far as the allegation no.1 is concerned, the same is within the period of 7 years as provided under Section 53 of the Act. Insofar as the allegation no.2 is concerned, since the matter is at the initial stage of inquiry and that the date of committing the alleged offence cannot be ascertained and if the date of committing the alleged offence is 7 years before filing of the Complaint Case No.2 of 2022 dated 14.6.2022, the said allegation no.2 will not be entertained as the same is barred by Section 53 of the Manipur Lokayukta Act, 2014.

14. The learned counsel for the first respondent urged that the petitioner has failed to mention anything about allegation no.1 in the writ petition and he has purposefully mentioned only the fact which may be favourable to his case. The petitioner also

failed to mention the important fact that M/s.Appoids Tech Solutions Pvt. Ltd. is promoted by the petitioner's son.

15. The learned counsel for the first respondent submitted that since the office of SSA, Manipur has not furnished details about the date/year of implementation of the project, the period of implementation of the said project could not be ascertained by the Inquiry Wing of the Manipur Lokayukta. As the inquiry of the present Complaint Case No.2 of 2022 is at initial stage, it will not be proper to conclude that no offence of corruption is done by the petitioner and that the writ petition is premature one. Thus, a prayer has been made to dismiss the writ petition.

16. Mr. H. Debendra, the learned Government Advocate appearing for the respondents 2 and 3 submitted that upon receipt of the letter dated 24.6.2022 from the Director (Inquiry), Manipur Lokayukta, the office of the State Project Director vide letter dated 17.11.2022, intimated the Director (Inquiry), Manipur Lokayukta that in view of Section 53 of the Act, the State Project Director is not in a position to submit the files as called for as the matter is more than 7 years old.

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

18. The grievance of the petitioner is that the complaint of O. Nabakishore Singh, who was one of the chief functionary of the State Government supervising the petitioner at the relevant point of time and had all opportunity to take adverse action against all concerned involved in the implementation of the project/scheme while he was functioning as Chief Secretary to the Government of Manipur, is barred by limitation under Section 53 of the Act and that the Complaint Case No.2 of 2022 is nothing but for scoring personal vendetta against the petitioner. For an issue which happened about 8 years ago, the complainant, who has a demeaning attitude, should not be allowed to use the esteemed forum of Manipur Lokayukta as an instrument and avenue for ventilating his personal agenda, inasmuch as taking cognizance of such nature ought to have been discouraged by the Manipur Lokayukta.

19. On the other hand, it is the plea of the Manipur Lokayukta that it had no knowledge of the period in which the alleged implementation of the project of preparation of software for school management and monitoring and supply of tablets to Government schools under SSA was taken place as the date/year of implementation of the project was not mentioned in the complaint.

20. The petitioner sought direction to close the Complaint Case No.2 of 2022 pending on the file of the first respondent registered against the petitioner by contending that since the commission of the allegation in the complaint case is more than 7 years and the role of the petitioner in the implementation of the project was for bringing about the development in the education sector connected with the monitoring of the performance of teacher in the schools amongst others, the petitioner will stand protected by the provision of Section 50 of the Act.

21. After the receipt of the complaint dated 14.6.2022 lodged by the complainant, the first respondent registered the case, being Complaint Case No.2 of 2022, against the petitioner and passed an order on 16.6.2022 directing the Director (Inquiry), Manipur Lokayukta to conduct a preliminary inquiry. Paragraph (5) of the order dated 16.6.2022 of the Manipur Lokayukta reads thus:

“5. Accordingly, Director (Inquiry), Manipur Lokayukta is directed to conduct a Preliminary Inquiry so as to find out the fact and allegations and assertion mentioned specially in the complaint and supporting documents filed by the complainant and submit a report within the period provided under

*Section 20(1) of the Manipur Lokayukta Act, 2014
and Manipur Lokayukta Rules, 2018.”*

22. At this juncture, Mr. HS Paonam, the learned senior counsel for the petitioner, drawing this Court's attention to Section 20 of the Manipur Lokayukta Act, 2014, submitted that any complaint received is registered as complaint number and the proceedings under Section 20(1)(a) for preliminary enquiry should be with reference to complaint number. The complaint number is converted into a case number upon finding *prima facie* evidence and proceeded under Section 20(1)(b). Unless and until, there is prima facie evidence and Lokayukta is convinced to proceed with investigation, there should not be a case registered. However, in the case on hand, by passing the procedure, the Manipur Lokayukta had registered the case and assigned the number as Complaint Case No.2 of 2022. According to the learned counsel, proceedings under Section 20(1)(a) shall be proceeded with reference to the complaint number only and that the first respondent has registered the case prematurely at the stage of preliminary enquiry under Section 20(1)(a) overstepping into Section 20(1)(b) by registering the case.

23. Chapter VII prescribes the procedure in respect of preliminary inquiry and investigation, the relevant part of which is reproduced as under:

“20. (1) The Lokayukta on receipt of a complaint if it decides to proceed further, may order

(a) preliminary inquiry against any public servant by its inquiry or any agency to ascertain whether there exists a prima facie case for proceeding in the matter, or

(b) investigation by any agency where there exists a prima facie case:

Provided that before ordering an investigation under clause (b), the Lokayukta shall call for an explanation of the public servant so as to determine whether there exists a prime facie case ‘ for investigation:

Provided further that the seeking of explanation from the public servant before an investigation Shall not interfere with the search and seizure, if any, required to be undertaken by any ‘ “agency under this Act.”

24. It is the plea of the first respondent that the petitioner has misread Section 20(1)(a) and misunderstood the difference between Section 20(1)(a) and Section 20(1)(b) of the Manipur Lokayukta Act. In the instant case, the first respondent under its order dated 16.6.2022, directed the Director (Inquiry) to

conduct a preliminary inquiry so as to find out the facts, allegations and assertions as mentioned in the complaint dated 14.6.2022 and also to ascertain as to whether or not, there exist a *prima facie* case for investigation. Accordingly, the Complaint Case No.2 of 2022 was registered on 16.6.2022 for inquiry on the complaint filed by O. Nabakishore Singh (IAS retired) against the petitioner.

25. On a perusal of the order dated 16.6.2022, it is seen that the Manipur Lokayukta has stated the concise statement of fact in paragraph 3 of the said order, which reads as under:

“3. The concise statement of fact on which the allegations is made is that while working as Principal Secretary, Finance Department, Government of Manipur, Shri Suresh Babu, IAS (retd.) awarded a work to a firm, M/s.Appoids Tech Solutions Pvt. Ltd. which is registered under the Companies Act, 1956 with its registered office at No.187, Pearlwood A Block, Ganesh Temple Road, AECS Layout, Kundanhalli, Bangalore-560 037, without following the prescribed procedure of open tender and thus caused huge financial loss to the State Exchequer. The said firm is promoted by his son, Shri Sandeep Jangala, who is Managing Director of the firm. A copy of the MOU signed between the State Government and the representative of the said firm for the work of preparing software under the title

“Finance Budget and Expenditure Regulation Software” is also annexed in the complaint. Further, it is also alleged that the State Government of Manipur without any price discovery and rate negotiation agreed to pay a sum of Rs.2,96,41,710/- (Rupees two crore ninety-six lakhs forty one thousand seven hundred and ten) only to the firm i.e.M/s.Appoids Tech Solutions Pvt. Ltd. Further, the State Government paid 10% of this amount for three years to the firm under annual Maintenance contract without doing any work. Total loss to State Exchequer was Rs.2,96,41,710/- + Rs.75,00,000/- (maintenance cost). It is categorically alleged that the said software i.e. “Finance Budget and Expenditure Regulation Software”, as of now, is not used by the Finance Department, Government of Manipur and it is useless. Further, Shri Suresh Babu, IAS (Retd.) went out of the way to favour his son’s firm by flouting all financial norms and prudent expenditure, and he is accountable for the loss caused. It is also alleged in the complaint that while working as Principal Secretary, School Education Department, Government of Manipur, Shri Suresh Babu, IAS (Retd.) awarded a work/contract to a firm, M/s.Appoids Tech Solutions Pvt. Ltd. which is registered under the Companies Act, 1956 with its registered office at No.187, Pearlwood A Block, Ganesh Temple Road, AECS, Layout, Kundanhallii, Bangalore-560 037, without following the prescribed procedure of open tender to arrive at the lowest rate, and other firms from outside Manipur with an

intention to cause financial gains to the firm owned by his son, Shri Sandeep Jangalia. The works mentioned here concerns preparation of software for school management and monitoring.”

26. From the above concise statement of fact recorded by the first respondent in its order, it is clear that there are two allegations made against the petitioner in the complaint. However, the period of offence/allegation levelled against the petitioner has not been specifically stated in the complaint. In this regard, the first respondent has stated in the affidavit-in-opposition filed by him as under:

“During the inquiry of allegation No.1, it is learnt that on 01.10.2015 the Finance Department, Government of Manipur has issued the Letter of Award (LOA) to Appoids Tech Solutions Pvt. Ltd. having its registered office at Kundanhalli, Bangalore for development of Finance Management software as per the terms and conditions laid down in the recommendation of the Higher Tender committee. Thereafter, the Memorandum of Understanding was signed on 3.10.2015 between Appoids Tech solutions Pvt. Ltd. and the State Government of Manipur acting through the Department of Finance for installation of “Finance Budget and Expenditure Regulation Software” (FIBERS) to the offices of the State Government, its annual maintenance

for a period of 3 (three) years and training of Finance Department personnel. The said firm submitted the completion report of installation of the FIBERS project on 02.12.2015 with a request to release the payment dues. The State Government has made the due payments to the firm.”

27. Regarding allegation no.1, Mr. HS Paonam, the learned senior counsel for the petitioner submitted that before implementation of FIBERS, the Finance Department was not having any latest technology software and the Department was in need of an integrated software for all the financial operations. Therefore, it was decided to float open tender and with the approval of the Hon'ble Chief Minister, the tender was floated on 25.7.2015. The tender was initially designed for internal operations of the Finance Department and accordingly notified in the newspapers on 30.7.2015. Pursuant to the tender, M/s.Nhance Consulting Engineers Pvt. Ltd. and M/s.Appoids Tech Solutions Pvt. Ltd. have participated in the open tender and bids were opened on 20.8.2015 by the tender opening-cum-evaluation committee. The price quoted by M/s.Appoids Tech Solutions Pvt. Ltd is lesser than the price quoted by M/s.Nhance Consulting Engineers Pvt. Ltd. The petitioner being the Principal Secretary (Finance) was the Chairman of the High Tender

Committee, recused himself to chair the Committee as one of the firms participated belonged to his relative. Hence, the Higher Tender Committee was chaired by the then Chief Secretary Shri P.C.Lawmkhunga and in its meeting held on 21.8.2015 under the Chairmanship of the then Chief Secretary and the said Committee has approved the engagement of M/s.Appoids Tech Solutions Pvt. Ltd at a price of Rs.2,27,88,000/- excluding taxes being L1.

28. The learned senior counsel for the petitioner submitted that thereafter a decision was taken at higher level to enhance the scope of the software to integrate all the finance modules with all 50 Departments of the State Government. Since the scope of work has increased with integration of all departments, the tender was cancelled and M/s.Appoids Tech Solutions Pvt. Ltd was asked to submit a revised price quotation. The said proposal was placed before the State Cabinet on 5.9.2015 and after a detailed discussion, the State Cabinet awarded the work of FIBERS to M/s.Appoids Tech Solutions Pvt. Ltd. The proposal was thereafter placed before the High Tender Committee on 15.9.2015 headed by the then Chief Secretary Shri P.C. Lawmkhunga, IAS (Retd.). The said Committee after due consideration of the price quoted in the open tender and the subsequent enhanced scope of the task has approved the price

quoted by M/s.Appoids Tech Solutions Pvt. Ltd which is Rs.2,49,09,000/- and that the proceedings of the High Tender Committee dated 15.9.2015 were also approved by the Hon'ble Chief Minister on 29.9.2015. The work order was issued by the Finance Department on 1.10.2015 after the High Tender Committee headed by the then Chief Secretary finalized the terms and conditions.

29. The learned senior counsel for the petitioner admitted that the said allegation is within 7 years period and is not barred by limitation. However, the learned senior counsel for the petitioner argued that the complainant and the first respondent are aware that the relative price was derived in open tender and it is the State Cabinet which approved the software and the firm, but the said parties are unnecessarily and intentionally trying to mislead this Court by not bringing the real facts to the notice of this Court.

30. In the rejoinder to the affidavit-in-opposition filed by the first respondent, the petitioner has stated as under:

“s) The answering deponent agrees that it is within 7 years period and is not barred by limitation.”

31. Since the petitioner himself fairly admitted that the allegation no.1 is within the period of 7 years and is not barred by limitation, this Court is not inclined to deal with the said aspect any further. That apart, the allegation no.1 is not the subject matter in the present writ petition.

32. The present writ petition has been filed by the petitioner to close the complaint Case No.2 of 2022 pending on the file of the first respondent as the same is barred by limitation.

33. The allegation against the petitioner is while he was working as Principal Secretary (School), Education Department, Government of Manipur, had awarded the work of preparation of software for school management and monitoring and supply of tablets to Government schools to M/s.Appoids Tech Solutions Pvt. Ltd., which is owned by the petitioner's son and the act of the petitioner had caused wrongful financial gains to the firm owned by his son.

34. According to the petitioner, for the project for development ASMIS, the Purchase Committee of the SSA, Manipur, had examined the rate quoted by M/s.Appoids Tech Solutions Pvt. Ltd. and as per the recommendation of the Purchase Committee, the work order for implementation of the ASMIS was awarded to M/s.Pravasi Info Technologies Pvt. Ltd.,

Bangalore for Bishnupur, Churachandpur, Senapati and Tamenglong district and to M/s.Appoids Tech Solutions Pvt. Ltd., Hyderabad for Chandel, Imphal East, Imphal West, Thoubal and Ukhrul districts on 21.12.2013. Further, the work order for supply of tablets for installation of ASMIS was awarded to M/s.Appoids Tech Solutions Pvt. Ltd. on 22.3.2014 and the Finger Print Scanner on 10.4.2014. According to the learned counsel for the petitioner, the whole process of implementation of the project was completed in 2014. It would be sufficient enough to state that the first respondent ought not to have taken cognizance of the Complaint Case since the commission of the alleged offence stated in the Complaint Case is more than 7 years and under Section 53 of the Manipur Lokayukta Act, 2014, limitation provided is 7 years.

35. Mr. M. Rarry, the learned counsel for the first respondent submitted that during the course of inquiry, a letter dated 24.6.2022 was addressed to the State Project Director SSA requesting 20 files related to the implementation of the project of preparation of software for school management and monitoring and supply of tablets to Government schools under SSA from the office of the SSA, Manipur. However, the office of the SSA, Manipur has not furnished the details till date.

Therefore, the period of implementation of the said project could not be ascertained by the Inquiry Wing of the Manipur Lokayukta.

36. Admittedly, in the complaint dated 14.6.2022 and the order dated 16.6.2022 passed by the Manipur Lokayukta, the period of commission of the allegation/offence has not been specifically indicated. On the other hand, by producing the utilization certificate issued by the auditor of SSA for the period 2013-2014 and 2014-2015, the learned counsel submitted that there has not been any issue of infraction of rules, regulation and financial discipline in the implementation of the project. According to the learned counsel, in the audit conducted by the Comptroller and Auditor General pertaining to SSA for the year 2013-2014 and 2014-2015, there was no adverse comment regarding the implementation of the project/scheme. The petitioner contended that the expenditure involved in the project has already been subjected to audit carried out by the Accountant General.

37. It is pertinent to note that the first respondent in its affidavit-in-opposition stated as under:

“9. In reply to the contents of Para No.18 of the Writ Petition, it is submitted that the answering Respondent has no knowledge of the period in which the alleged offence of the projects of preparation of

software for school management and monitoring and supply of tablets to Government schools under SSA was taken place in respect of the Allegation no.2 as the date/year of implementation of the projects was not mentioned in the complaint.”

38. From the above averments of the first respondent, it is clear that in his complaint, the complainant has not mentioned the date/year of the implementation of the project and in the absence of specific details of the work order in the complaint, the Manipur Lokayukta could not have entertained the allegation.

39. As per Rule 15(3) of the Manipur Lokayukta Rules, 2018, every complaint made under sub-rule (1) shall contain a statement in a concise form of the facts on which that allegation is based. It shall also indicate as far as possible, the evidence by which the complainant proposes to prove each allegation.

40. While narrating the concise statement in the order dated 16.6.2022, the Manipur Lokayukta stated that *“it is also alleged in the complaint that while working as Principal Secretary, School Education Department, Government of Manipur, Shri Suresh Babu, IAS (Retd.) awarded a work/contract to a firm, M/s.Appoids Tech Solutions Pvt. Ltd. Without following the prescribed procedure of open tender to arrive at the*

lowest rate, and other firms from outside Manipur with an intention to cause financial gains to the firm owned by his son, Shri Sandeep Jangalia". In paragraph 4 of the order dated 16.6.2022, the Manipur Lokayukta stated as under:

"4. On careful consideration of the material available on record, at this stage, more particularly the complainant and supporting documents, we are of the considered view that a prima facie case for directing the Director (Inquiry), Manipur Lokayukta, to conduct a preliminary inquiry so as to find out as to whether a prima facie has been make out for inquiry and/or further proceeding, is made out."

41. Admittedly, such a finding arrived at by the Manipur Lokayukta is not legally sustainable for the reason that the complaint does not contain the date/year of the implementation of project. That apart, the Manipur Lokayukta could not initiate a roving inquiry based on vague allegations without any material support. It is the duty of the complainant to provide correct details and the same cannot be left to the Lokayukta to gather from the Department concerned.

42. When the Manipur Lokayukta admitted that it is not aware of the period of the alleged implementation of the project, it would be appropriate to call for information relating to the date

of work order and date of completion of the project instead of calling for 20 files and doing preliminary inquiry. The reasonable way of ascertaining the time schedule is getting a copy of the completion report on the timeline from SSA instead of calling so many files to proceed on preliminary inquiry. Admittedly, the preliminary inquiry is required to ascertain whether any *prima facie* evidence is there, in the event the Manipur Lokayukta having jurisdiction. More importantly, the aforesaid is applicable in case the complaint is not barred by limitation.

43. In the case on hand, the petitioner has established *prima facie* that the work order for implementation of the e-content on mobile platform and development of ASMIS was awarded to the firm on 21.12.2013 and work order for supply of tablets for installation of ASMIS was awarded on 22.3.2014, coupled with the fact that the work order for supply of Finger Print Scanner was awarded on 10.7.2014. Thus, it is clear that the whole process for implementation of the project was completed in the year 2014, that too with the approval of the Chairman of the General Body of SSA.

44. Since the project in question was completed in the year 2014, filing a complaint, that too without mentioning the date/year of the implementation of the project levelling allegation

that the petitioner with an intention to cause financial gains to the firm owned by his son and without following the prescribed procedure of open tender had awarded contract to M/s.Appoids Tech Solutions Pvt. Ltd. is not sustainable and the same is barred by limitation under Section 53 of the Manipur Lokayukta Act, 2014.

45. Section 53 of the Manipur Lokayukta Act, 2014 provides:

“53. The Lokayukta shall not inquire or investigate into any complaint, if the complaint is made after the expiry of a period of seven years from the date on which the offence mentioned in such complaint is alleged to have been committed.”

46. The following averments contained in the affidavit-in-opposition filed by the first respondent to the writ petition strengthen that without knowing/mentioning the date of commission of the alleged offence, the Manipur Lokayukta ordered preliminary inquiry:

“Regarding Allegation No.2, since the matter is at the initial stage of inquiry, the date of committing alleged offence cannot be ascertained but it is made clear that if the date of committing the alleged offence is seven years before filing of the Complaint Case No.2 of 2022

dated 14.6.2022, the said Allegation No.2 will not be entertained as barred by Section 53 of the Manipur Lokayukta Act, 2014. ...”

47. At this juncture, Mr. M. Rarry, the learned counsel for the first respondent, by placing on record the decision of the Hon’ble Apex court in the case of *D.L.F. Housing Construction (P) Ltd. v. Delhi Municipal Corpn. and others*, (1976) 3 SCC 160, submitted that highly disputed question of fact cannot be decided in a writ petition.

48. As stated supra, first of all, the complaint does not contain the date of the alleged offence. Based on such complaint, the Manipur Lokayukta issued a direction to the Director (Inquiry) to conduct a preliminary inquiry. Admittedly, the Manipur Lokayukta ought not to have ordered inquiry, as the period of implementation of the project was completed in 2014 itself. Since the basic factum of date of alleged offence has not been specifically stated in the complaint and *prima facie* it proves that the project in question was completed in the year 2014 itself, the petitioner has every right to maintain the present writ petition.

49. Section 14 of the Manipur Lokayukta Act, 2014 deals with the inquiry to be conducted into any matter involved in or arising from or connected with any allegation of corruption

made in the complaint by the Lokayukta. Section 14(1) of the Act provides:

“14. (1) Subject to the other provisions of this Act, the Lokayukta shall inquire or cause an inquiry to be conducted into any matter involved in, or arising from, or connected with, any allegation of corruption made in a complaint in respect of the following namely:-

- (a) ...*
- (b) ...*
- (c) ...*
- (d) all officers and employees of the State, from amongst the public servants defined in sub-clause (i) and (ii) of clause (c) of section 2 of the Prevention of Corruption Act, 1988 when serving or who has served, in connection with the affairs of the State;*
- (e) all officers and employees referred to in clause (d) or equivalent in any body or Board or corporation or authority or company or society or trust or autonomous body (by whatever name called) established by an Act of the State Legislature or wholly or partly financed by the State Government or controlled by it;*
- (f) ...*
- (g) ...*

- (h) ...”50. Thus, from the above, it is clear that a complaint before the Manipur Lokayukta by the complainant against any authority, including the public office needs to satisfy the condition mentioned in Section 14(1) of the Manipur Lokayukta Act, 2014. In the case on hand, as stated supra, the condition stipulated in Section 14(1) of the Act has not been fulfilled by the complainant and the said fact was not properly analysed by the Manipur Lokayukta while ordering preliminary inquiry.

51. The argument of the learned senior counsel for the petitioner is that when the petitioner was functioning as Principal Secretary (Education), Government of Manipur in the year 2014, he has come across serious issue qua functioning of the primary schools, upper primary schools and high schools in the interior areas in the State. That apart, even the mechanism to ascertain as to whether student enrolment was genuine or not; whether the teachers were attending the schools or not; whether the teaching learning process were going on as planned or not are lacking. In order to develop proper monitoring system of all the Government schools, the Sara Shiksha Abhiyan, State Mission Authority, Manipur, had taken the task to district level collection of the data

and monitor the school management on real time basis and had taken up the project for development of ASMIS which is an advanced technology in data gathering from schools using mobile technology. Thus, with a good intention, the petitioner, being the Principal Secretary of the Education Department at the relevant point of time, discharged his official function and, therefore, the petitioner has to be protected by the provision of Section 50 of the Act.

52. Section 50 of the Manipur Lokayukta Act, 2014 provides:

“50. No suit, prosecution or other legal proceedings under this Act shall lie against any public servant, in respect of anything which is done in good faith or intended to be done in the discharge of his official functions or in exercise of his powers.”

53. Admittedly, the role of the petitioner in the implementation of the project, as stated supra, is for bringing about development in the education sector connected with monitoring the performance of teacher in the school amongst others. As rightly argued by the learned senior counsel for the petitioner, such a bona fide action in discharge of duty in public interest undertaken by the petitioner cannot be faulted and, in fact, the petitioner has done such development work in good faith

in the discharge of his official function. Merely because M/s.Appoids Tech Solutions Pvt. Ltd. is promoted by the petitioner's son, it cannot be contended that without following the prescribed procedure, the petitioner has awarded the work contract to M/s.Appoids Tech Solutions Pvt. Ltd. More so, as stated supra, the alleged offence qua the implementation of e-content on mobile platform and development of ASMIS was more than seven years prior to the complaint dated 14.6.2022. Therefore, the complainant has no legal right to question the project which was completed in the year 2014.

54. At this juncture, by placing on record the decision of a Division Bench of the Delhi High Court in the case of *Office of Lokayukta v. Govt. of NCT of Delhi and another*, ILR (2009) VI Delhi 83, the learned counsel for the first respondent submitted that the Lokayukta is empowered under the Act to conduct preliminary inquiry to *prima facie* find whether the allegation in complaint justified for conducting regular investigation. For conducting preliminary inquiry, notice is not necessary to be issued to public servant but to be issued on conducting a regular investigation into complaint. For conducting preliminary inquiry, the Lokayukta has power to call for records from anybody.

55. The object of conducting the preliminary inquiry or investigation is to get *prima facie* evidence so that the needed evidence or material may not be suppressed or destroyed. However, in the instant case, when it is apparent that the complaint itself is time barred, any preliminary inquiry or investigation through the Director (Inquiry) is a futile exercise and the same is not permitted under law.

56. It is apposite to mention that the complainant who worked as Chief Secretary of Manipur State from 1.10.2015 to 5.7.2017 had plenty of time at his disposal to initiate departmental proceedings, if any against the petitioner, if really the petitioner has committed the alleged offence - implementation of project relating to development of ASMIS, as the complainant was having access to all files and has full powers to proceed against the petitioner. However, the complainant has failed to do so. The complainant having fully known that his complaint itself is time barred by limitation, inasmuch as positive endorsement has been made by the State Government to the successful implementation of the project, knocked the doors of the Manipur Lokayukta and the said authority without even noticing that the complainant has failed to disclose the date of commission of the offence has entertained the complaint and ordered preliminary inquiry. Such an approach adopted by the

Manipur Lokayukta in respect of the project relating to development of ASMIS is not appreciable. Any such preliminary inquiry by the Director (Inquiry), Manipur Lokayukta qua the project in question need not be done as the complaint in respect of the project is time barred. That apart, there was no adverse comment regarding the implementation of the project by the Comptroller and Audit General during audit pertaining to the SSA for the period 2013-2014 and 2014-15.

57. As the complaint in question in respect of awarding of work of preparation of software for school management and monitoring and supply of tablets to Government schools to M/s.Appoids Tech Solutions Pvt. Ltd. is time barred under Section 53 of the Manipur Lokayukta Act, 2014, the Director (Inquiry) ought not to have requested the State Project Director, SSA, Manipur to make available 20 files mentioned in the letter dated 24.6.2022 for examination in connection with the inquiry arising from the Complaint Case No.2 of 2022. In this regard, the affidavit of the respondents 2 and 3 is to the effect that the office of the State Project Director, vide letter dated 17.11.2022, intimated the Director (Inquiry), Manipur Lokayukta that in view of Section 53 of the Manipur Lokayukta Act, 2014, the State Project Director is not in a position to submit the files so requisitioned as the matter is more than 7 years old. Thus, the

State Government is of the firm view that the complaint of the complainant in respect of the work of preparation of software for school management and monitoring and supply of tablets is time barred.

58. As rightly argued by the learned senior counsel for the petitioner, taking cognizance by the Manipur Lokayukta of a complaint filed by the complainant, who was a retired Chief Secretary to the Government of Manipur against the petitioner beyond the statutory period as provided under Section 53 of the Manipur Lokayukta Act, 2014 and the non-consideration of the aspect of Section 50 of the Manipur Lokayukta Act, 2014 has infringed upon the fundamental rights of the petitioner by Article 14 and 21 of the Constitution of India.

59. A retired high functionary of the State Government cannot be accused by another retired high functionary to meet personal agenda after a long time before the Lokayukta, that too, when the complainant was the superior authority i.e. the Chief Secretary of the State of Manipur during the relevant period.

60. For all the reasons stated above, this Court is of the considered view that complaint dated 14.6.2022 lodged by the complainant before the Manipur Lokayukta qua the allegation of awarding the work of preparation of software for school

management and monitoring and supply of tablets to Government schools to M/s.Appoids Tech Solutions Pvt. Ltd., Bangalore is barred by limitation and, without even considering the said aspect, the Manipur Lokayukta had issued direction to the Director (Inquiry) to conduct a preliminary inquiry. Since the complaint qua the project in question is barred by limitation under Section 53 of the Manipur Lokayukta Act, 2014, consequently the Complaint Case No.2 of 2022 registered against the petitioner pending on the file of the Manipur Lokayukta in respect of awarding the work of preparation of software for school management and monitoring and supply of tablets to Government schools to the firm M/s.Appoids Tech Solutions Pvt. Ltd., Bangalore is to be closed.

61. In the result,

- (i) The writ petition is allowed.
- (ii) The Complaint Case No.2 of 2022 pending on the file of the Manipur Lokayukta against the petitioner in respect of awarding the work of preparation of software for school management and monitoring and supply of tablets to Government schools

to M/s.Appoids Tech Solutions Pvt. Ltd.,
Bangalore is ordered to be closed, as
the same is barred by limitation under
Section 53 of the Manipur Lokayukta
Act, 2014.

(iii) There will be no order as to costs.

ACTING CHIEF JUSTICE

FR/NFR

Sushil