

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

WP(C)No.644 of 2023

1. Shri. Laishram Arenkumar Singh (Caretaker Councillor Ward No.4), aged about 51 years, S/o L. Ibobi Singh, resident of Nagamapal Singjubung Leirak, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.
2. Shri. Hijam Nutanchandra Singh (Caretaker Councillor Ward No.3), aged about 55 years, S/o Hijam Gunachandra Singh, a resident of Thangmeiband thingel Leikai, P.O. & P.S. Imphal, Imphal West District, Manipur 795001.
3. Shri. Thokchom Purnachandra Singh (Caretaker Councillor Ward No.2) aged about 71 years, S/o (L) Th. Kullabidhu Singh, resident of Thangmeiband Lourung Purel Leikai, P.O. & P.S. Imphal, District Imphal West, Manipur.

...Petitioners

– Versus –

1. The State of Manipur through the Commissioner(MAHUD), Govt. of Manipur, Old Secretariate Block, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.

2. The Director (MAHUD), PDA Complex, near 2nd M.R. Gate, P.O. & P.S. Imphal, Imphal West District, Manipur 795001.
3. The Imphal Municipal Corporation represented by its Municipal Commissioner, Imphal Municipal Corporation, Manipur Manipur having its office at Imphal Municipal Corporation Complex, Kangla Park, P.O. Imphal, P.S. Imphal P.S. City Police Station, Imphal West District, Manipur-795001.

.... Respondents.

**BEFORE
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA**

For the Petitioners	:	Mr. Th. Khagemba, Adv.
For the Respondents	:	Mr. Y. Ashang, GA for R1& 2, Mr. U. Augusta, Adv. for R3.
Date of Hearing	:	31.10.2023
Date of Judgment & Order :		29.11.2023.

**JUDGMENT & ORDER
(CAV)**

[1] Heard Mr. Th. Khagemba, learned counsel appearing for the petitioners, Mr. Y. Ashang, learned Government Advocate for the State respondents and Mr. U. Augusta, learned counsel for the respondent No.3.

[2] The petitioners are the Care Taker Councilors of the Ward No. 4, 3 & 2 of the Imphal Municipal Corporation (IMC), respectively.

[3] The petitioners were allowed to continue as Care Taker Councilors of the concerned Urban Local Bodies of the IMC vide order dated 06.03.2023 issued by the Under Secretary (MAHUD), Government of Manipur. Even after expiry of their 5(five) year tenure, the Imphal Municipal Corporation has been implementing various programs under the 15th Finance Commission award tied Grant and untied Grant installment 2020-21.

[4] On 29.08.2022 the Director (MAHUD) Government of Manipur wrote a letter to the Municipal for submission of work program to be implemented under 15th Finance commission – Basic Grant (tied) 2nd installment 2020-21. On 23.06.2023 the Director (MAHUD), Government of Manipur informed the Municipal Commissioner, IMC that the Government has conveyed approval for work programmes constituting 25% (Corporation Level) to be implemented under 15th Finance Commission – Basic Grant (Tied), 2nd Installment 2020-21. A sum of Rs. 2,00,87,817(Rupees two crore Eighty Seven Thousand Eight Hundred and Seventeen) only were released to the respective Municipal Corporation through Public Financial Management System (PFMS). The Municipal Commissioner, IMC submitted revised work programme to be implemented under the 15th Finance Commission, Basic Grant (tied), 2nd

Installment 2020-21 for an amount of Rs.6,02,63,450/-(Rupees Six Crore Two Lakh Sixty Three Thousand Four Hundred Fifty). Joint Secretary (MAHUD), Government of Manipur wrote a letter dated 16.08.2023 to the Director (MAHUD) Manipur by informing that State Government may execute the work of 75% under 15th Finance Commission – Basic Grant (Tied) 2nd Installment 2020-21 and 15th Finance Commission – Basic Grant (Untied) 2nd Installment 2020-21 in respect of Imphal Municipal Corporation since the term of 5(Five) years of Ward Development Committee of Imphal Municipal Corporation has expired. Since the above letter is discriminatory, the Ward Councilors/Corporators (Caretaker) of Imphal Corporation submitted a representation on 18.08.2023 to the Commissioner (MAHUD) Government of Manipur for withdrawal of the letter dated 16.08.2023.

[5] It is stated that no step has been taken to the representation submitted by the petitioners and other elected members. It is further stated that for other Municipal Councils and Nagar Palikas, the works are being executed by the Ward Development Committee even after the expired of the 5(five) years tenure. In Para 7, the petitioners have cited the case of the Nambol Municipal Corporation where the Ex-Care Taker/ Councilors were permitted to execute the work under 15th Finance Commission.

[6] Vide order dated 15.09.2023, this Court issued notice. However, counter affidavit has not been filed by the respondents. On 18.10.2023 this

Court took on record an additional affidavit dated 16.10.2023 filed by the petitioners indicating that the elected members of the other Municipal Councils such as Nambol Municipal Council, Kakching Municipal Council and Thoubal Municipal Council are permitted to undertake the work allocated under 15th Finance Commission by the Care taker Councilors/members/ even after the expiry of 5(Five) years' time.

[7] Mr. Th. Khagemba learned counsel for the petitioners submits that singling out of the Imphal Municipal Corporation by the impugned order dated 16.08.2023 issued by the Joint Secretary (MAHUD) Government of Manipur for taking up the work under 15th Finance Commission allocated to the Imphal Municipal Corporation to be executed by the State Government is highly arbitrary, illegal and discriminatory. The learned counsel for the petitioners further submits that the impugned order dated 16.08.2023 may be set aside and the petitioners and others similarly situated persons of Imphal Municipal Council may be permitted to execute the work earmarked under 15th Finance Commission award.

[8] This Court has considered the submission made at the Bar and the materials on record. The State respondents have not filed any counter affidavit. From the materials record, it is seen that for other Municipal Councils such as the Nambol Municipal Council, Thoubal Municipal Council etc., the

Care Taker Councilors/members are permitted to execute the work under 15th Finance Commission award even after the expiry of their 5(five) years tenure. However, in the case of the Imphal Municipal Corporation, the State respondents had issued a letter dated 16.08.2023 for taking up the work by the State Government as the 5(five) years terms of the Ward Development Committee of the Imphal Corporation has expired and no reason is provided for singling out of Imphal Municipal Corporation for denying the work to be executed by the Care Taker/ members of the Ward Committee. In the case of other Municipal Corporations, the same work is allowed to be executed by the similarly situated persons as the Petitioners herein. Reference may be made to the decision of the Hon'ble Supreme Court in **Re. Special Courts Bill MANU/SC/0039/1978: [1979] 2SCR476** which held as under:

“4. The principle underlying the guarantee of Article 14 is not that the same rules of law should be applicable to all persons within the Indian territory or that the same remedies should be made available to them irrespective of differences of circumstances. It only means that all persons similarly circumstanced shall be treated alike both in privileges conferred and liabilities imposed. Equal laws would have to be applied to all in the same situation, and there should be no discrimination between one person and another if as regards the subject matter of the legislation their position is substantially the same.”

[9] This Court is of the view that the content of the letter dated 16.08.2023 issued by the Joint Secretary (MAHUD) Government of Manipur to the Director (MAHUD) Manipur for undertaking the work under 15th Finance Commission entrusted to the Imphal Municipal Corporation on expiry of the terms of the various Committee is discriminatory and violates the principle of equality as enshrined in the article 14 of the Constitution. In the present case without assigning any reason equals have been treated unequally.

[10] Accordingly the impugned order dated 16.08.2023 issued by the Joint Secretary (MAHUD) is set aside and petitioners are allowed to execute the work under the 15th Finance Commission-Basic Grant (Tied) and (Untied) 2nd instalment 2020-21.

[11] There will be no order as to costs.

JUDGE

FR/NFR
John Kom

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