

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

PIL No. 78 of 2021

1. Shri Ramthing Hungyo, aged about 67, S/o Late Jhako Hungyo of a permanent resident of Ngarumphung Village, Kangpokpi District, Manipur -795145.
2. Y. Viciy Shimray aged about 60 S/o Late Y.Y. Shimray, a resident of Dewlahland, Imphal East District, Manipur – 795010.

Petitioners

Vs.

1. The State of Manipur represented by Chief Electoral Officer (CEO), Manipur Secretariat (North Block) West Block, Room No. 220, Imphal 795001.
2. The Secretary (Home) Government of Manipur, Old Secretariat, Manipur, P.O. & P.S. – Imphal, Imphal – 795001.
3. The District Election Officer, Senapati HQ, Senapati District, Manipur-795106.
4. The District Election Officer, Kangpokpi HQ, Kangpokpi District, Manipur - 795129
5. The District Election Officer, Ukhrul Head Quarter, Ukhrul District-795142, Manipur.

Respondents

BEFORE

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

For the petitioners	:	Mr. S. Worthing, Advocate
For the Respondents	:	Mr. RK Umakanta, Govt. Advocate Mr. A. Jagjit, Advocate
Date of reserving judgment and order	:	13.09.2023
Date of Judgment and Order	:	27.09.2023.

JUDGMENT AND ORDER
(CAV)

(M.V. Muralidaran, ACJ)

[1] This public interest litigation has been filed by the petitioners for issuance of a writ of mandamus directing the respondents to rectify the voter lists that were shifted to another/different Constituency by renaming the village names, as per the Delimitation Act, 1972 and the report of the Delimitation Commission 1973.

[2] The case of the petitioners is that the voter lists of Horton, Soraland, Phynghon, Leihaopokpi, Risophung and Ngarumphung villages are either shifted/placed wholly or partly under different village by renaming the said villages and their voting rights were shifted to different Constituency which is in contradiction to the Delimitation Act, 1972 and the report of the Delimitation Commission, 1973. According to the petitioners, the authorities and some individuals, without following due process of law for their political gain, have intentionally misused the power of public office and have acted against the Delimitation Act, 1972 by shifting the voters of one village to another village by renaming the village and have transferred the voters under different Assembly Constituency which is not recommended by the Delimitation Commission. On 11.11.2021, the first petitioner has sent a legal notice, followed by a representation dated 20.11.2021 to the first respondent for rectification of the illegal transfer of voters from one Constituency to another Constituency by renaming the village name and by placing one village voters in two villages. Despite receipt of the representation and the legal notice, the

respondents have failed to take any steps till date. Hence, the petitioners have filed the present writ petition.

[3] The first respondent filed affidavit-in-opposition stating that the allegation of misusing the people's voting right by some interested person needs to be put to subjection of strict proof. The officials and other machineries working under the ECI have not indulged in any kind of such activities where the rights of voters are misused or deprived of. All the boundaries of Assembly as well as Parliamentary Constituencies in the State of Manipur are governed by the Delimitation Order, 1976 issued by the Delimitation Commission set up under Delimitation Act, 1972. These boundaries set up by the Commission of 1972 are still there, intact and unmodified. There has not been any deviation or alteration of boundaries as alleged by the petitioners.

[4] It is stated that the Horton village had been shifted to the present location of Nambashi Horton and had been in existence as a hill house tax paying village in Ukhrul District since 1991. Chakma village was recognized as a separate hill house tax paying village and there was no mention about the new nomenclature of the village from Phungton. Therefore, the allegations with regard to the renaming of Chakama village to Phungton is unfounded. The village K.Laihaoram was given recognition as hill house tax paying village by a Gazette notification dated 1.2.1993. In the said Gazette notification, there was no mention of renaming the village from its earlier name Laihowpokpi. The village Rhisophung still remain under 46-Saikul

(ST) Assembly Constituency under Kangpokpi District. When the electors change their ordinary place of residence, they are to be enrolled in the new place of residence as per the provision contained in the Representation of People Act and Registration of Elector Rules, 1960 as amended from time to time. Any aggrieved electors or voters may approach the concerned officials for ventilating their grievances before approaching the Court. There are a remedies available with the petitioners and without exhausting the same, the petitioners have resorted to the present public interest litigation, which is quite misleading. Therefore, the PIL deserves outright rejection.

[5] The second respondent filed affidavit-in-opposition stating that there is no illegality in the inclusion of Nambashi Horton in 43-Phungyar (ST) Assembly Constituency. As per the provision under Rule 30 Entry Nos.(viii) and (xiii) of the Business of the Government of Manipur (Allocation) Rules, 2009 framed under Article 166(3)(2) of the Constitution of India, no other department or authority has the power or jurisdiction to recognise any village except the Revenue Department of the Government of Manipur.

[6] The third respondent filed affidavit-in-opposition stating that as per the desire of the voters, the Deputy Commissioner, Senapti was requested to delete the respective name from electoral 46/36 of Somrei Polling Station so that they can cast their votes in the nearby Polling Station i.e. 43/26 Khoiripok Police Station in 43-Phungyar (ST) Assembly Constituency, Ukhrul District. Any ordinary residents of any village can apply for registration as elector of the said polling area within whose jurisdiction the residence of the said electors fall. When the electors change their ordinary place of residence, they are to

be enrolled in the new place of residence as per the provisions contained in the Representation of People Act and the Registration of Elector Rules, 1960. Any objection to the inclusion of name or deletion of name from the existing electoral roll may be made by filing an application to the concerned ERO of Assembly Constituency under Rule 13(2) of the Registration of Elector Rule, 1960 as amended from time to time. In case if any applicant is aggrieved by the decision of elector office, an application may be filed to the District Election Officer under Section 24 of the Representation of People Act.

[7] The fourth respondent filed affidavit-in-opposition stating that Kangpokpi District prior to its existence were under the jurisdiction of Senapati District. These two Districts were bifurcated recently and, as such, shifting of villages, enrolment of electors etc. were done under the erstwhile Senapati District. The allegation of misusing the people's voting right by some interested person needs to be put to subjection of strict proof. The officials and other machineries working under the ECI have not indulged in any kind of activities where the rights of voters are being misused or deprived of. The process of registration of electors are carried out after following due process of law and established rule contained in the related election law. If someone is aggrieved by inclusion or deletion of new elector in a particular village there are enough scope and provision to make objections.

[8] The learned counsel for the petitioners submitted that the voter list of villages namely Horton, Soraland, Phungton, Leihaopokpi, Risophung

and Ngarumphung are shifted under different villages by renaming the said villages and their voting rights were shifted to other Constituency which is in contravention to the Delimitation Act, 1972 and the report of the Delimitation Commission, 1973. Without following the due process of law and for political gain, the authorities by misusing the power of public office have acted against the Delimitation Act, 1972. In this regard, the first petitioner has sent a legal notice dated 11.1.2021 to the first respondent. He has also submitted a representation dated 20.11.2021 to the first respondent. Despite receipt of the legal notice and the representation, no action was taken yet by the respondent authorities. Thus, a prayer has been made to direct the respondents to rectify the voter lists that were shifted to different Constituency by renaming the village names as per the Delimitation Act, 1972 and the report of the Delimitation Commission, 1973.

[9] Per contra, the learned Government Advocate appearing for the respondents submitted that the respondent officials and other machineries working under the Election Commission of India have not indulged in any kind of activities where the rights of voters are misused or deprived of. All the boundaries of Assembly as well as the Parliamentary Constituencies in the State of Manipur are governed by the Delimitation Order, 1976 issued by the Delimitation Commission set up under Delimitation Act, 1972 and these boundaries are still intact and unmodified. There has not been any deviation or alteration of boundaries as alleged by the petitioners.

[10] The learned Government Advocate further submitted that in the year 1991, the then Deputy Commissioner of Ukhru wrote a letter to the Secretary, Government of Manipur for according recognition of Nambashi Horton as a separate hill house tax paying village. Further, in the year 2009, the Sub-Divisional Officer of KasomKhullen wrote a letter to the Under Secretary (Hill), Government of Manipur for recognition and publication of Nambashi Horton in official Gazette. The inclusion of Nambashi Horton in 43-Phungyar (ST) Assembly Constituency was recommended by the Deputy Commissioner, Ukhru under letter dated 24.11.2005 addressed to the Deputy Commissioner, Senapati. In the said letter, it was stated that the Horton village under Senapati District at 46/37 Somrai Polling Station of 46-Saikul (ST) Assembly Constituency was shifted at Nambashi Horton village in KasomKhullen Sub Division in the year 1991 and since then the village has been paying hill house tax in Ukhru District.

[11] Referring to Section 19 of the Representation of People Act, the learned Government Advocate submitted that any ordinary residents of any village can apply for registration as elector of the said polling area within whose jurisdiction the residence of the said electors fall.

[12] The learned Government Advocate further submitted that as per Manipur Government Gazette notification dated 31.8.1992, Shungriphai Village was given recognition as a separate hill house tax paying village. However, the said Gazette notification did not mention anything about the renaming of

the village from any earlier name Soraland. Thus, the allegation of the petitioners that a new name from Soraland to Shungriphai village is baseless. Similarly, under the said Government Gazette notification dated 31.8.1992, Chakma village was recognized as a separate hill house tax paying village and there was no mention about the new nomenclature of the village from Phungton.

[13] The learned Government Advocate further submitted that by a Gazette notification dated 1.2.1993, the village K.Laihaoram was given recognition as hill house tax paying village. However, there was no mention of renaming the village from its earlier name Laihowpokpi. He would submit that the village Rhisophung still remain under 46-Saikul (ST) Assembly Constituency under Kangpokpi District.

[14] According to the learned Government Advocate, RamreiKhullen village under Part No.14 of 43-Phungyar Assembly Constituency and Ngarunphung village under 46-Saikul Assembly Constituency are different villages. The electors who were shifted to RamreiKhullen were enrolled based on the applications and after exercising due verification by the concerned officials. These voters who have been shifted to RamreiKhullen are also enlisted in the hill house tax record of RamreiKhullen. The learned Government Advocate submits that the representation of the petitioners has been considered and decision thereon has been communicated to them on

12.8.2022. Thus, a prayer has been made to dismiss the public interest litigation.

[15] We have considered the rival submissions and also perused the materials available on record.

[16] The grievance of the petitioners is that Horton, Soraland, Phungton, Leihaopokpi, Risophung and Ngarumphung villages voters lists are placed wholly or partly under different villages by renaming the said villages and the voting rights were shifted to other Constituency which is in contradiction to the Delimitation Act, 1972 and the report of the Delimitation Commission, 1973.

[17] According to the petitioners, Horton village, which is under 46-Saikul (ST) Constituency Part No.51 in respect of Legislative Assembly election was renamed as Nambashi Horton and Horton Vaiphei and voters are shifted to 43-Phungyar Constituency Part No.42; Soraland, which is under 46-Saikul (ST) Constituency Part No.52 after renaming as Shungriphai, all the voters are shifted to 43-Phungyar Constituency Part No.42; Phungton village, which is also under the Saikul (ST) Constituency was renamed as Chakama and shifted the voters to 43-Phungyar (ST) Constituency Part No.42; Leihaopokpi village was renamed as K.Leihaoram and shifted the voters to 43-Phungyar (ST) Constituency Part No.42. Thus, according to the petitioners, the respondents have illegally renamed the above mentioned villagers and shifted the voters of

the said villages to the new villages without notifying or without consent of the voters and against the intention and spirit of the Delimitation Act, 1972.

[18] It is also the say of the petitioners that on 20.11.2021 they have submitted a representation for rectification of the transfer of voters from one Constituency to another Constituency and the said representation has not been considered till date.

[19] On the other hand, the respondents contend that the representation of the petitioners dated 20.11.2021 was considered and a decision thereon was communicated to the petitioners on 12.8.2022 and the same has been referred to by the respondents.

[20] On a perusal of the communication dated 12.8.2022, it is clear that pending writ petition only the representation has been considered and disposed of. Though the representation of the petitioners is dated 20.11.2021, the respondent authorities have taken almost 9 months to take decision on the representation. Since the representation of the petitioners has been considered by the respondents, the plea of the petitioners that the representation of the petitioners has not been considered has no legs to stand.

[21] In the affidavit-in-opposition filed by the first respondent, it has been stated as under:

"12. That with regards to the averment made in the para no. 11 it is humbly to submit that the answering Respondent have not indulged in any kind of illegal or

inappropriate renaming of any of the villages. It may be pertinent to place before the Hon'ble High Court that there were ethnic Clashes in earlier part of 1990's and as a result of the said clashes many villagers had to be shifted and relocated for security reason to difference places. Perhaps this may be some good reason how this new location might have come under Ukhrul District (prior to bifurcation) and subsequently those displaced newly migrated voters might have applied for inclusion in new Assembly Constituency."

[22] The learned counsel for the petitioners submitted that the so-called ethnic clashes erupted during 1990's between certain communities in Manipur has nothing to do and no connection with the issues raised in the present public interest litigation. Therefore, the same requires no discussion. For security reason, the villagers in the earlier part of 1990 might have shifted and relocated to different places. However, the same is not a matter to be considered in the present litigation.

[23] There is always a room for objection to the inclusion and deletion of the name from existing electoral list under the Electors Registration Rules, 1960 and also the Representation of People Act. Any aggrieved electors or voters may approach the concerned officials for ventilating their grievances before approaching the Court, as there are remedies available with the voters. Admittedly, the affected voters are not before us. The petitioners are stated to be the social activists who are working for the welfare of the general public. For the reason that the petitioners have taken the cause in public interest, particularly for the people whose voting rights are alleged to have been

misused, they have not exhausted the remedy available and filed the present public interest litigation. Nothing has been produced by the petitioners to show that the present public interest litigation has been instituted after exhausting the remedies available under the relevant law.

[24] As rightly argued by the learned Government Advocate, any voter, as and when shifted to a new place of residence, has to get himself registered in his new place of residence as per the provisions of the Representation of People Act and the Electors Registration Rules, 1960. The process of registration of electors is carried out after following due process of law and the rule contained in the related election law.

[25] In view of the above, we are of the considered view that if someone is aggrieved by inclusion or deletion of new elector in a particular village, there is enough scope and provision to make objections. In the absence of any materials, it cannot be said that the respondent authorities and the officials of the Election Commission of India have acted contrary to the provisions of law, as alleged by the petitioners.

[26] According to the petitioners, the delimitation is the act of redrawing boundaries of Lok Sabha and State Assembly seats to represent changes in population. In this process, the number of seats allocated to different States in Lok Sabha and the total number of seats in a Legislative Assembly may also change. The main objective of delimitation is to provide equal representation to equal segments of a population and it also aims at a

fair division of geographical areas so that one political party does not have an advantage over others in an election.

[27] The respondents contends that all the boundaries of State Assembly as well as the Parliamentary Constituencies in the State of Manipur set up are still intact and unmodified and there has not been any deviation or alteration of boundaries. Nothing has been produced by the petitioners to show that the boundaries have been altered and/or changed.

[28] Since the aggrieved person in regard to the inclusion or deletion of new elector in a particular village has scope and provision to make objection and the fact remains that without approaching the concerned authorities ventilating their grievances the petitioners have approached this Court, it would be appropriate to direct the petitioners or the affected voters to approach the concerned authorities as may be permissible under law to redress their grievances. Exercising jurisdiction under Article 226 of the Constitution of India, the High Court cannot issue any direction to the respondent authorities to include and/or to delete the voters from the particular village as prayed for by the petitioners.

[29] The present public interest litigation, accordingly, stands disposed of. There will be no order as to costs.

JUDGE

ACTING CHIEF JUSTICE

FR/NFR

Sushil