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TELEN KOM

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

MC(WP(C)) No. 321 OF 2022
Ref: WP(C)No.977 of 2018

The State of Manipur, represented by Commissioner/Secretary(Veterinary & Animal Husbandry) Government of Manipur, PO & PS Imphal, District, Imphal West, Manipur-795001.

...Petitioner

– Versus –

1. Shri Athokpam Lokhendro Singh, aged about 56 years, S/o Late A. Koireng Singh, resident FCI Makha, Sangaiprou Maning Leikai, PS Lamphel, PO & District Imphal West, Manipur-795001.

.... Respondents.

2. The Commissioner/Secretary(Finance), Government of Manipur, Secretariat, Babupara, Imphal, PO & PS Imphal, District Imphal West, Manipur-795001.
3. The Director (Veterinary & Animal Husbandry Services), Government of Manipur, Sanjenthong, Imphal East District, Manipur-795001.

...Proforma respondents.

BEFORE

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

For the Petitioner : Mr. Y. Ashang, GA

For the Respondents : Mr. I. Denning, Adv.

Date of reserved. : 24.02.2023

Date of Judgment & Order : 14.03.2023.

JUDGMENT & ORDER
(CAV)

This miscellaneous case has been filed by the petitioner to vacate the interim order dated 19.11.2018 passed in W.P.(C) No.977 of 2018.

2. The petitioner is the first respondent and the respondent herein is the writ petitioner. For the sake of convenience, the parties are referred to as per their array in the writ petition.

3. Heard Mr. Y.Ashang, learned GA for the applicant and Mr. I. Denning, learned counsel for the first respondent.

4. The learned counsel for the first respondent submitted that on 19.11.2018, this Court passed an interim order directing the respondents to pay the salary of the petitioner from the month of November, 2018 regularly till the

disposal of the writ petition. The petitioner has also filed Contempt Case (C) No.88 of 2022 against the respondents for non-compliance of the said interim order. He would submit that the petitioner was serving as Steno Grade-I in the State Veterinary Council, which is an autonomous body under the grant-in-aid of Centre and the State in the share of 50:50 and after the fund is released by the Centre, the State's share is to be processed corresponding to the Centre's share and after the fund is allocated by the Government, the Council has to pay the pay and allowances to the employees of the State Veterinary Council.

5. The learned Government Advocate further submitted that knowing fully well about the position, the respondent/writ petitioner obtained the interim order by suppressing the material facts and the State Government has been processing for releasing its 50% share. The salary of the writ petitioner for the period from April, 2017 to September, 2018 amounting to Rs.9,12,920/- was released to the petitioner and the remaining Rs.3,20,178/- was expended for payment of leave salary and pension contribution of Dr. L.Arunkumar Singh, former Registrar of the Manipur State Veterinary Council, as well as expenditure incurred on World Veterinary Day Celebration, 2019. Arguing so, the learned Government Advocate argued that by suppressing material facts, the writ petitioner has obtained the interim order dated 19.11.2018 and, therefore, the same is liable to be vacated. In support, the learned Government Advocate has relied upon the decision of the Hon'ble Supreme Court in the case of ***Prestige Lights Ltd. V. State of Bank of India, (2007) 8 SCC 449.***

6. On the other hand, the learned counsel for the writ petitioner submitted that he has not obtained the interim order dated 19.11.2018 by suppressing the material facts. In fact, this Court, after hearing both sides, passed the interim order dated 19.11.2018. The writ petitioner has not suppressed any material facts. Therefore, the miscellaneous case is liable to be dismissed.

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

8. The writ petitioner has filed the writ petition for issuance of a writ of mandamus directing the respondents to provide the petitioner's Employees Identification Number (EIN) and to include his name in the Manipur Government Employees List (MGEL) within a reasonable period or in the alternative to repatriate him to his parent department of Veterinary and Animal Husbandry, Manipur. For interim relief, the writ petitioner prayed for an order directing the respondents to release the petitioner's monthly pay and allowances from the month of April, 2017 till date as early as possible.

9. On 19.11.2018, when the writ petition was taken up for hearing, this Court passed the following interim order:

“Heard Mr.A.Bimol learned senior counsel appearing for the petitioner as well as Mr.Sukumar, learned GA appearing for the State respondents.

After hearing learned counsel for the parties, this Court is of the considered opinion that an interim order is called for at this stage.

Accordingly, respondents are directed to pay the salary of the petitioner from the month of November, 2018 regularly, till disposal of this writ petition.

Prayer for arrear salary shall be considered at the time of disposal of the writ petition.

Respondents are allowed another three weeks’ time to file counter affidavit. List again on 20.12.2018.”

10. The interim order dated 19.11.2018 clearly speaks that only after hearing the learned counsel for the parties, the Court has passed the interim order directing the respondents to pay the salary of the petitioner from the month of November, 2018 regularly till the disposal of the writ petition. Therefore, it cannot be contended by the first respondent that by suppressing the material facts, the petitioner had obtained the interim order dated 19.11.2018.

11. It is admitted by the first respondent that the salary of the petitioner for the period from April, 2017 to September, 2018 was already released to him. The sharing of the amount at the rate of 50:50 by the Central and State

Government pleaded by the first respondent cannot be gone into in this miscellaneous case and the same has to be dealt with in the main writ petition.

12. It appears that faced with the Contempt Case (C) No.88 of 2022 against the respondents in the writ petition for non-compliance of the interim order dated 19.11.2018, the first respondent has filed the present miscellaneous case to vacate the interim order dated 19.11.2018. The circumstances under which, the interim order dated 19.11.2018 was passed by this Court in the writ petition cannot be faulted now by the first respondent, as the same has been passed after hearing the learned Government Advocate appearing for the State respondents. Therefore, the question of suppressing the material facts pleaded by the first respondent does not arise.

13. It is true that when a party approaches a High Court under Article 226 of the Constitution of India, he must place all the facts before the Court without any reservation. If there is suppression of material facts on the part of the writ petitioner or twisted facts have been placed before the Court, the Writ Court may refuse to entertain the writ petition and dismiss it without entering into the merits of the matter.

14. The first respondent has not highlighted the suppression of the specific material facts by the writ petitioner while obtaining the interim order dated 19.11.2018. On the face of record, this Court is of the view that the interim order

dated 19.11.2018 has been passed only after hearing the parties. If really, the first respondent is aggrieved by the interim order dated 19.11.2018, the first respondent ought to have preferred an appeal and the course adopted by the first respondent to vacate the interim order is absolutely not permissible. That apart, the merits of the matter canvassed by the first respondent cannot be gone into in this miscellaneous case. Therefore, in the facts and given circumstances of the case, the decision relied upon by the first respondent in the case of ***Prestige Lights Limited***, supra, is not applicable to the case on hand.

15. In the result, MC (WP) No.321 of 2022 is dismissed.

ACTING CHIEF JUSTICE

FR/NFR

John Kom