

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

W.P. (Crl.) No. 46 of 2022

Shri Nongthombam Premjit Singh, aged about 45 years,
S/o (L) N. Biren Singh of Terakhongsangbi Wahengbam Leikai,
at present lodged in Manipur Central Jail, Sajiwa.

...Petitioner

- Versus -

1. The Special Secretary (Home), Government of Manipur,
Secretariat, Imphal West, Imphal – 795001.
2. The State of Manipur, represented by the Chief Secretary,
Govt. of Manipur, Secretariat, Imphal West, Imphal – 795001.
3. The Superintendent of Jail, Manipur Central Jail, Sajiwa,
Government of Manipur.

...Respondents

B E F O R E

**HON'BLE THE CHIEF JUSTICE MR. SANJAY KUMAR
HON'BLE MR. JUSTICE M.V. MURALIDARAN**

For the petitioner : Mr. S. Rajeetchandra, Advocate
For the respondents : Mr. S. Nepolean, GA
Date of order : 25-01-2023

ORDER

Sanjay Kumar (C.J.),

[1] Challenge in this writ petition is to the order dated 02-09-2022 of the Special Secretary (Home), Government of Manipur, whereby the petitioner was subjected to preventive detention in exercise of power under Section 3(1) of the Prevention of Illicit Traffic in Narcotic Drugs and

Psychotropic Substances Act, 1988. He seeks a consequential writ of *habeas corpus* to set him at liberty forthwith.

[2] Heard Mr. S. Rajeetchandra, learned counsel for the petitioner; and Mr. S. Nepolean, learned Government Advocate, appearing for the respondents.

[3] The primary ground of attack urged by Mr. S. Rajeetchandra, learned counsel, is that the authorities failed to comply with the procedural requirement of informing the petitioner of the grounds of his detention despite being aware that he was completely illiterate. He would further state that one of the documents relied upon by the authorities was not even furnished to the petitioner.

[4] Perusal of the documents furnished to the petitioner along with the Grounds of Detention dated 06-09-2022 reflects that the 'History Sheet' was one of those documents. Para 12 of the said History Sheet clearly recorded that the petitioner was completely illiterate and could not read or write. The Deputy Secretary (Home), Government of Manipur, stated in his affidavit-in-opposition that the jail authority had submitted parawise comments, vide letter dated 21-12-2022, to the effect that the Office of the Superintendent, Manipur Central Jail, Sajiwa, had translated the contents of the Grounds of Detention into Manipuri for the benefit of the petitioner.

He further stated that apart from the statement of the petitioner recorded under Section 161 Cr.P.C., the statement of the co-accused, namely, Satminlen Kipgen, clearly revealed the petitioner's involvement in the case. As rightly pointed out by Mr. S. Rajeetchandra, learned counsel, a

copy of the said statement of the co-accused was not even furnished to the petitioner.

[5] The file of the detaining authority produced by Mr. S. Nepolean, learned Government Advocate, reflects that the left thumb impression of the petitioner was obtained on 06-09-2022 at 9.30 p.m. on the Grounds of Detention dated 06-09-2022, in proof of his receiving the same. However, no endorsement was made thereon to the effect that the contents of the said Grounds of Detention were translated into Manipuri and explained to him. Further, the letter dated 20-12-2022 of the Superintendent of Police, Bishnupur, furnishing the parawise comments does not contain a statement to the effect that the Grounds of Detention were translated and explained to the petitioner. However, the parawise comments furnished to the learned Government Advocate by Dr. Mayengbam Veto Singh, Deputy Secretary (Home), Government of Manipur, stated so and recorded that the Grounds of Detention had been served through the Superintendent, Manipur Central Jail, Sajiwa, on the same day after translating the contents of the Grounds of Detention in the language known to him – Manipuri (as given in the parawise comments submitted by the jail authority). However, no separate parawise comments furnished by the jail authority are available in the file. It is not known as to how Dr. Mayengbam Veto Singh included this statement in his parawise comments given to the learned Government Advocate.

[6] Reference may now be made to the Constitution Bench judgment in **Harikisan vs. State of Maharashtra and others [AIR 1962 SC 911]**, wherein it was observed that mere communication of the grounds of

detention in English would not necessarily be sufficient compliance with the requirement of Article 22(5) of the Constitution. This observation was made in the context of a detenu who is not conversant with English language and the Supreme Court held that in order to satisfy the Constitutional requirement in his case, the detenu must be given the grounds in a language in which he could understand them, if he could read. The Supreme Court further observed that, where the grounds are several, an oral translation or explanation given by the police officer to the detenu would not amount to communicating the grounds. Communication, *per* the Bench, would mean bringing home to the detenu effective knowledge of the facts and circumstances on which the order of detention was based.

[7] In the case on hand, it is an admitted fact that the petitioner did not even make a representation against his detention. Mr. S. Rajeetchandra, learned counsel, would state that he was not aware of the Constitutional right afforded to him to do so, as he was not allowed to meet anyone until confirmation of his detention order. In effect, the petitioner was never apprised of either his right to make a representation or the contents of the grounds of detention so as to satisfy the legal requirement. In such circumstances, the order of detention cannot be sustained.

[8] The order of detention dated 02.09.2022 issued by the Special Secretary (Home), Government of Manipur, is accordingly set aside. All consequential proceedings based thereon shall also stand set aside. The petitioner, Nongthombam Premjit Singh, presently incarcerated in Manipur Central Jail, Sajiwa, shall be set at liberty forthwith unless his continued

incarceration is validly required in connection with any other case.

WP (Crl.) No. 46 of 2022 is accordingly allowed.

In the circumstances, there shall be no order as to costs.

JUDGE

CHIEF JUSTICE

Victoria

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