

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

**WP(C) No. 2 of 2022**

Suresh Prasad

*... Petitioner*

Vs.

Directorate of Enforcement & ors.

*... Respondents*

**B E F O R E**

**HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH**

**08-02-2024**

Heard Mr. M. Gunedhor, learned counsel appearing for the petitioner; Mr. Kh. Samarjit, learned DSGI assisted by Mr. N. Nongdamba, learned counsel appearing for the respondent No. 1 and Mr. Ch. Engneisiak Aimol, learned counsel representing Mr. Leo Rommel, learned counsel appearing for the respondent No. 2.

It has been submitted by the learned counsel appearing for the petitioner that on the basis of a letter dated 25-11-2021 from the Assistant Director, Directorate of Enforcement addressed to the Branch Manager, Axis Bank, New Friends Colony Branch, New Delhi, ten accounts belonging to the present petitioner, which are mentioned in the said letter, have been freezed in terms of Section 17 (1-A) of the Prevention of Money Laundering Act, 2002 on the allegation that the said accounts are proceeds of crime. Having been aggrieved, the petitioner filed the present petition with the prayer for defreezing the said accounts.

During the course of hearing, it has been pointed out by the learned counsel appearing for the petitioner that under Section 8(3) of the Prevention of Money Laundering Act, 2002, it is provided, inter alia, that where the Adjudicating Authority decides under sub-section (2) of Section 8 of the said Act that any property is involved in money laundering, he shall, by an order in writing, confirm the attachment of the property made under sub-section (1) of Section 5 or retention of property or record seized or frozen under Section 17 or Section 18 of the said act. As per the aforesaid provision of the act, the Adjudicating Authority passed an order dated

18-08-2022 in OA No. 604 of 2021 confirming the freezing of the aforesaid accounts belonging to the petitioner.

Under Section 8(3)(a) of the said Money Laundering Act, 2002, it is provided that any attachment of property or freezing of account under Section 17 of the said Act shall continue for a period of only 365 (three hundred and sixty five) days during the period of investigation or for an indefinite period of time, if there is pendency of proceeding in connection with the case. The learned counsel submitted that in the present case, no such proceeding has been initiated or pending before the Adjudicating Authority till today and as such, the period of freezing of the said accounts cannot exceed the period of 365 days as provided under Section 8(3)(a) of the said Money Laundering Act.

It has been vehemently submitted by the learned counsel for the petitioner that since the period of freezing of the accounts of the petitioner have already exceeded 365 days, the authority has no power and jurisdiction to prolong the freezing of the said accounts and such action of the authorities is ultra vires the provisions of Section (3)(a) of the said Money Laundering Act. The learned counsel, accordingly, prays for passing an appropriate order for defreezing the aforesaid accounts of the petitioner.

Mr. Kh. Samarjit, learned DSGI appearing for the respondent No. 1 placed before this court a letter dated 07-02-2024 from the Assistant Director stating, inter alia, that Prosecution Compliant (PC) in the subject matter i.e., OA No. 604 of 2021 could not be filed on time owing to prevailing law and order situation in Manipur and total shutdown of internet connectivity. The learned DSGI fairly submitted that as of now, no proceeding relating to the said OA No. 604 of 2021 is pending, despite the draft Prosecution Complaint being forwarded to the competent authority for legal vetting and approval.

After considering the submission advanced by the learned counsel appearing for the parties and on careful examination of the materials available on record as well as the provisions of the aforesaid act, this court is of the considered view that since there is no proceeding pending before the competent authority in connection with OA No. 604 of 2021, the freezing of accounts of the petitioner as mentioned in the abovementioned letter dated 25-11-2021 is render illegal by operation of the provision of Section 8(3)(a) of the said Money Laundering Act.

Accordingly, the respondents are directed to defreeze the said accounts of the petitioner as early as possible, but not later than two months from today.

With the aforesaid direction, the present writ petition is disposed of.

**JUDGE**

*Devananda*