

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

W.P.(Crl.) No. 1 of 2024

Ngangom Chandrajit Luwang @ Pamheiba @
Kaki @ Mying Taik @ Van Lyan Thaung

... Petitioner

- Versus -

District Magistrate, Imphal East and 2 Ors.

... Respondents

B E F O R E

**HON'BLE THE CHIEF JUSTICE MR. SIDDHARTH MRIDUL
HON'BLE MRS. JUSTICE GOLMEI GAIPHULSHILLU**

15.05.2024

(CJ)

Mr. Rajiv Thokchom, learned counsel appears on behalf of the petitioner, Mr. Athouba Khaidem, learned PP appears on behalf of the State and Mr. Kh. Samarjit, learned DSGI appears on behalf of the Union of India.

The present writ of habeas corpus assails the order of detention dated 23.08.2023 whereby, the District & Sessions Judge, Imphal East, Manipur in exercise of power conferred by sub-Section (3) of the National Security Act, 1980 (said Act) read with Home Department Order No. H-1701/86/2020-HD-HD directed the petitioner, who was then in judicial custody, to be detained under Section 3(2) of the said Act until further order.

The petitioner, further, seeks quashing of the consequential order dated 28.08.2023 rendered by the Governor of Manipur under Section 34 of the said Act whereby, the said order of detention dated 23.08.2023 passed by the District Court was approved as well as the confirmation order dated 14.09.2023 issued by the Joint Secretary (Home) Government of Manipur.

The learned counsel appearing on behalf of the petitioner vehemently urges that he was prevented from making an effective representation to the advisory board, the Government of Manipur as well as

the Central Government against the said order of detention, inasmuch as, the advisory board gave its imprimatur vide order dated 11.09.2023 to the detention order, evidently without considering his representation dated 12.09.2023.

We have the benefit of having perused the relevant original files relating to the proceedings of the advisory board in relation to the petitioner's said representation dated 12.09.2023.

At the outset, it would be relevant to observe that a detainee in accordance with law has the constitutional right to be afforded a reasonable opportunity of making a representation there against the order of detention, within a period of 3 (three) weeks from the date of execution of the detention order in terms of Section 10 of the said Act before the advisory board.

It is observed that the petitioner made the representation to the advisory board admittedly on 12.09.2023 i.e. within the stipulated period of 3 (three) weeks from the date the said detention order was executed upon him i.e. 23.08.2023.

However, as is amply clear from the proceedings before the advisory board; the said representation dated 12.09.2023 was placed before the advisory board only on 13.09.2023 i.e. admittedly only after the advisory board gave its imprimatur to the said detention order on 11.09.2023.

In terms of the mandate enshrined in Article 22(5) of the Constitution of India, the right of a person detained in pursuance to an order made under any law providing for preventive detention is his constitutional entitlement to be afforded an opportunity of making a representation against such order. The said right is sacrosanct and absolute and does not permit of any deviation.

The action of the authorities in failing to provide the petitioner with an effective opportunity of representing against his preventive detention under the said Act leads to one inevitable and in-escapable result; the vitiation of the detainee's constitutional right.

On this ground alone, the impugned detention order dated 23.08.2023 (***Annexure – A/1***), the consequential order rendered by the Governor of Manipur dated 28.08.2023 (***Annexure-A/3***) and the confirmation order dated 14.09.2023 of the Joint Secretary (Home), Government of Manipur (***Annexure-A/6***); stand vitiated and are hereby set aside.

The writ of habeas corpus is allowed directing the Central Jail, Sajiwa, Imphal, to release the petitioner forthwith, if not in custody or wanted; in any other case.

JUDGE

CHIEF JUSTICE

Bipin