

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

WA No. 78 of 2023

Ref:- WP(C) No. 1057 of 2018

The State of Manipur and 2 Others

.... Appellants

-Versus-

1. The Governing Body, Mayai Lambi College and 18 Others

.. Respondents

**BEFORE
HON'BLE THE CHIEF JUSTICE MR. D. KRISHNAKUMAR
HON'BLE MRS. JUSTICE GOLMEI GAIPHULSHILLU KABUI**

For the appellants	::	Mr. H. Devendra, Dy. AG Mr. O. Ratan Kumar, Dy. GA
For the Respondents	::	Mr. P. Tamphamani, Adv. for R8 Mr. D. Julius Riamei, Adv.
Date of Hearing and Judgment & Order	::	02.12.2024

JUDGMENT AND ORDER
(ORAL)

(D. Krishnakumar, C.J.)

The instant writ appeal has been filed by the appellant herein, the State of Manipur represented by the Commissioner (University & Higher Education), Government of Manipur challenging the impugned judgment and order dated 25.02.2022 passed by this Court in WP(C) No. 1057 of 2018 wherein the Hon'ble Court allowed the writ petition by directing the

appellant department to absorb 11 (eleven) employees (Teaching Staff- 5 and Non-Teaching-6) of the Thambal Marik College, Oinam, Bishenpur District within the stipulated period granted by this Court.

2. Mr. H. Devendra, learned Deputy Advocate General assisted by Mr. O. Ratan Kumar, learned Deputy Government Advocate appearing on behalf of the appellant strongly raised the grounds in the appeal that the order passed by the writ court is beyond the scope of the prayer made in the writ petition. The prayer in the writ petition is only for challenging the impugned order dated 20.10.2018 passed by the appellant by rejecting the claims of the respondents/writ petitioners. He further submitted that the learned Single Judge has discussed elaborately in the writ petition by holding that the said impugned order passed by the appellant is unsustainable and the appellants were directed to absorb the 11 (eleven) employees (Teaching Staff- 5 and Non-Teaching-6) of the Thambal Marik College, which is taken over by the State Government. within the stipulated period of time granted by this Court.

3. The learned Deputy Advocate General also emphasized before this Court by stating that the said rejection order passed by the first appellant under the challenge before the writ court. Subsequently, the additional affidavit filed by the respondents/writ petitioners for seeking for the absorption of the 11 (eleven) employees in the aforesaid colleges. That was the issue before the learned Single Judge.

4. Therefore, the said order, according to the learned Deputy Advocate General, the writ court has traversed beyond the statement made by the respondents herein and setting aside the rejection order passed by the appellant department is liable to be set aside.

5. Mr. D. Julius Riamei, the learned counsel appearing for the respondents/petitioners also fairly states before this Court that subsequent the writ petition is pending before the writ court an affidavit on behalf of the respondents/petitioners dated 24.02.2022 was filed which reads as follows :-

“3. That the Government had taken over the overall administration of the subject two Colleges and the only issue pending is absorption of 11 (eleven) employees (Teaching Staff -5 and Non Teaching Staff -6) of the Thambal Marik College. It is submitted on this matter the communications/letters dated 17.03.2019 and 24.12.2021 of the Respondent No. 3 herein addressed to the Respondent No. 1 herein speaks of the undergoing process for absorption.

*Copies of the letters dated 17.03.2019 and 24.12.2021 are filed herewith and marked as **Annexures-P9 (Colly).***

4. Therefore in the view of the above this Hon’ble Court pass appropriate order or direction to the Respondents No. 1 to 3 for considering the said 11 (eleven) employees of Thambal Marik College for absorption in the interest of justice.”

6. Learned counsel appearing for the respondents also fairly states before this Court that they have not pressed for the prayer sought in the original writ petition. Learned counsel for the respondents further submitted that it would suffice to issue directions to the appellants to consider the claim of the these 11 (eleven) employees of Thambal Marik College for their absorption and pass appropriate orders.

7. The counsel appearing for the appellant department has stated that the writ court has passed positive directions as against the appellant department. Therefore, they also seek for clarification of the aforesaid order passed by the writ court.

8. We have gone through the Notification issued by the respondents herein dated 28.06.2018 which also states clearly in para 5 that all appointments of approved and un-approved posts of teaching including Principals and also of approved and un-approved posts of non-teaching staff indicated in para 1 (one) above, shall be done against the sanctioned appropriate posts to be created with the formal concurrence of F.D. (PIC) and also under Manipur Civil Service (Appointment and other service conditions of employees of Government Aided/Private Institutions taken over by the Government) Rules, 1981.

9. Therefore, considering the submissions made by the learned counsel appearing for the parties and having perused the materials on the record, we are inclined to pass the following orders :

- i) the impugned order dated 25.02.2022 passed by the learned Single Judge in WP(C) No. 1057 of 2018 is set aside.
- ii) writ petitioners/the employees shall make request to the appellant department to consider their grievances within a period of 4 (four) weeks from the date of receipt of copy of this order. On receipt of the representation, the appellant department is directed to consider their claim for absorption in the aforesaid colleges in accordance with law and to take appropriate decision within a period of 12 (twelve) weeks from the date of receipt of copy of the order.

10. The writ appeal is accordingly disposed of.

JUDGE

CHIEF JUSTICE

FR/NFR

Sushil