

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

W.P.(C) No. 424 of 2022

1. Nameirakpam Nodiachand Singh, aged about 85 years, son of late N. Thambaljao Singh, resident of Uripok Yambem Leikai, P.O. & P.S. Imphal, District – Imphal West, Manipur.
2. Sarangthem Kulla Singh, aged about 86 years, son late S. Jatra Singh, resident of Uripok Yambem Leikai, P.O. & P.S. Imphal, District Imphal West, Manipur.
3. Sairem Angou Singh, aged about 73 years, son of late S. Nilakomol Singh, resident of Uripok Khoisnam Leikai, P.O & P.S. Imphal, Manipur.

.... Petitioners

- Versus -

1. The State of Manipur represented by Secretary/Commissioner, Education (S), Government of Manipur, South Block, Babupara, P.O. & P.S. Imphal, District: Imphal West, Manipur.
2. The Director of Education (S), Government of Manipur, at Lamphelpat near DC Office Complex, PO & PS Lamphel, District: Imphal West, Manipur.
3. The Zonal Education Officer, Zone-I, Government of Manipur at Lamphelpat DC Office Complex, PO & PS Lamphel, District: Imphal West, Manipur.
4. The Head Master, Sakhi Devi Girls' High School, Uripok, PO & PS Imphal, District : Imphal West, Manipur.
5. L. Prameshwar Singh, Member of School managing Committee of Sakhi Devi Girls' High School, Uripok PO & PS Imphal, District: Imphal West, Manipur.

6. Dr. W. Chandrakanta Singh, Member of School Managing Committee of Sakhi Devi Girls' High School, Uripok PO & PS Imphal, District: Imphal West, Manipur.
7. M. Geeta Devi, Member of School Management Committee of Sakhi Devi Girls' High School.

.... Respondents

BEFORE
HON'BLE MRS. JUSTICE GOLMEI GAIPHULSHILLU

For the petitioner : Mr. Th. Henba, Advocate

For the respondents: Mr. S. Nepolean, Government Advocate
Mr. Kh. Tarunkumar, Sr. Advocate

Date of hearing : 16.02.2023

Date of Judgment & Order : **29.02.2024**

JUDGMENT&ORDER
(CAV)

[1] Heard Mr. Th. Henba, learned counsel appearing for the petitioners, Mr. S. Nepolean, learned GA appearing for the State and Mr. Kh. Tarunkumar, learned senior advocate assisted by Ms. Kh. Nirmala, Advocate appearing for the respondents No. 4 to 8.

[2] In the year 1972, the Sakhi Devi Girls' High School was established in the name of the mother of petitioner No. 1. Vide order dated 29.08.1974, the constitution of the said school was approved by the Government of Manipur and also directed to form regular committee based on the constitution. The petitioner No. 1 is the founder of the school, petitioner No. 2 is one of the donors and petitioner No. 3 is one of the subscribers of the school. On 01.10.1980, the Government of Manipur had

sanctioned Grant-in-aid to the school with 3(three) numbers of approved teaching staff and 1 number of approved non-teaching staff.

[3] As per the approved rule i.e. The Manipur Aided High and Higher Secondary School (Managing Committee) Rules, 1975 vide order dated 30.01.1975, every Government Aided High School shall be governed by a Managing Committee. Accordingly, first Managing Committee of the school, after having sanction of government Grant-in-Aid School vide order dated 01.10.1980, was formed and the same was sent for approval to the Inspector of Schools, the Managing Committee consisting of 9 (nine) members was approved vide order dated 22.12.1980 of the Inspector of Schools, Zone-I, Government of Manipur.

[4] As per the Rules, 1975, after election and nomination of the members are over, all the members of the managing committee shall elect the president and secretary simultaneously from amongst the members, but head master and teaching representatives shall not be eligible for the said election.

[5] Since the managing committee constituted vide order dated 23.09.2017 is going to expire, the respondent No. 3 i.e. ZEO (Z-I) informed the head master of the school (respondent No. 4) through official letter dated 20.07.2020 to submit the name of the members for constitution of new managing committee as per the Rule, 1975. Based on the meeting the school managing committee held on 08.08.2020, resolutions have made in connection with election of guardian representatives to be held on 14.10.2020, enlistment of other members for constitution of new SMC (school management committee) in time and publication in local daily for advertisement of necessary information for the election as per the resolutions No. 1, 2 and 5 respectively.

[6] After holding election of guardian representatives on 14.10.2020 with 7 (seven) members whereby, M. Geeta Devi and H. Jina Sharma were elected uncontested as guardian representatives, a notification dated 18.12.2020 issued by the head master of the school for election of one donor and one subscriber representative for formation of the SMC to be held

on 13.01.2021 was published in local daily on 19.12.2020. However, the head master submitted a proposed list of SMC without representative of donor and subscriber on 16.02.2021 on the premises that the existing SMC expires on 16.03.2021 and the ZEO (Zone-I), Imphal West, Government of Manipur approved the SMC of the school constituted vide order dated 04.03.2021 of the ZEO (Zone-I), Imphal West, impugned herein, as per the resolution of the SMC meeting held on 14.10.2020. The order dated 04.03.2021 is reproduced herein below:

"Annexure – A/9

GOVERNMENT OF MANIPUR
OFFICE OF THE ZONAL EDUCATION OFFICER, ZONE-I
KHOYATHONG, IMPHAL – 795001

ORDERS
Imphal the 4th March, 2021

No. 6/6/2021-ED(Z-I)/Aided: The School Managing Committee of Shakhi Devi Girls' H/S, Imphal (Aided) newly constituted as per resolution no. 1 and 2 of the School Managing Committee held on 14.10.2020 consisting of the following members is hereby approved with immediate effect.

<i>Sl. No.</i>	<i>Name of member/office bearer</i>	<i>Designation</i>
<i>1.</i>	<i>N. Nodiachand Singh</i>	<i>Founder</i>
<i>2.</i>	<i>S. Tomba Singh (H/M, I/C)</i>	<i>Ex-Officio Member</i>
<i>3.</i>	<i>L. Prameshwar Singh</i>	<i>Local Educationalist</i>
<i>4.</i>	<i>Dr. W. Chandrakanta Singh</i>	<i>Medical Representative</i>
<i>5.</i>	<i>A. Bimola Devi</i>	<i>Local Educationalist</i>
<i>6.</i>	<i>M. Geeta Devi</i>	<i>Guardian Representative</i>
<i>7.</i>	<i>H. Jina Devi</i>	<i>Guardian Representative</i>
<i>8.</i>		<i>Teacher Representative</i>
<i>9.</i>		<i>Donor</i>
<i>10.</i>		<i>Subscriber</i>
<i>11.</i>	<i>A.I. Concerned</i>	<i>Govt. Nominee</i>

The order is issued in pursuance of the Provision contained Chapter – VI, Section-I, Rule-2 of the Manipur Education Code, 1982.

Sd/-
(SuchetaKhumukcham)
Zonal Education Officer, Zone-I
Government of Manipur"

[7] Despite objection made by the petitioner No. 1 that the SMC was illegally formed, as per the resolution of the SMC meeting held on

13.03.2021, A. Bimola Devi and L. Prameswar Singh were re-elected as president and secretary respectively of the committee vide order dated 20.03.2021, impugned herein, which reads as under:

"Annexure –A/12

GOVERNMENT OF MANIPUR
OFFICE OF THE ZONAL EDUCATION OFFICER, ZONE-I
KHUYATHONG, IMPHAL-795001

ORDERS
Imphal, 20th March, 2021

No.6/6/2021-ED(Z-I)/Aided : Election of the following members as Office bearers of the School Managing Committee of Shakhi Devi Girls' High School (Aided) vide resolution no. 1 and 2 of dated 13.03.2021 is hereby approved.

- | | | | |
|----|--------------------------------|---|------------------|
| 1. | <i>Smt. A. Bimola Devi</i> | - | <i>President</i> |
| 2. | <i>Shri L. Prameshor Singh</i> | - | <i>Secretary</i> |

Sd/-
(Sucheta Khumukcham)
Zonal Education Officer, Zone-I
Government of Manipur"

On the basis of the applications submitted by Shri S. Kulla Singh and Sairem Angouba Singh who had been elected as donor and subscriber representatives, even though the head master intimated to the ZEO (Zone-I) for inclusion of their names in the list of SMC, no action has been taken up by the ZEO (Zone-I).

[8] The learned counsel appearing for the petitioners submitted that the constitution of the SMC of the school was illegal inasmuch as the same was not in conformity with the relevant provisions of the Rules, 1975. Therefore, the petitioner No. 1 submitted his representation dated 28.03.2022 to the ZEO (Zone-I), Imphal West with copy to the Director Education (S), Government of Manipur. However, no action has been taken up.

Accordingly, the present writ petition has been filed praying for issuance of a writ of certiorari for quashing the order No. 6/6/2021-ED(Z-I)/Aided dated 04.03.2021 of the ZEO (Zone-I) approving the constitution of

the school management committee and also the order of even number dated 20.03.2021 of ZEO(Zone-I) approving the election of the office bearer of the school management committee of the school aforementioned.

On perusal of the order dated 04.03.2021 of the ZEO, Zone-I as reproduced above and order dated 20.03.2021 of ZEO, Zone-I thereby approving the election of the office bearer of the school managing committee as reproduced above and on perusal of the steps taken by the headmaster of the school and further perusal of "The Manipur Aided High and Higher Secondary School (Managing Committee) Rules, 1975" and in the absence of specific instructions made in the said Rules in regard to the constitution of the school managing committee, I am of the view that the allegation made by the petitioner that the constitution of the school managing committee of the school was illegal cannot be sustained.

[9] The learned GA appearing the respondents has filed their objection stating that the petitioner No. 1, who is stated to be founder of the school, is not infirmity with the documents annexed in the instant writ petition and is not the founder of the school. Vide order dated 29.08.1974 issued by the Inspector of Schools, Central District, Z-I, the name of the petitioner No. 1 was reflected as former secretary of the school. Further, in the order dated 22.12.1980 issued by the Inspector of Schools, Zone -I, Government of Manipur, Th. Sakhi Devi has been recorded as founder of the school and the name of the petitioner was recorded as donor of the school and therefore, there cannot be two founders in the school. Moreover, there is also a girls' school namely, Ibotonsana Girls' Higher Secondary School within the radius of 500 metres from the said school. The petitioners No. 2 & 3, who have claimed as donor and subscriber of the school, have never applied to become a donor and subscriber of the school despite notice being published in the local daily. Moreover, their records are also not available in the school.

It is further submitted that no illegality was committed by the SMC that the writ appeal being W.A. No. 55 of 2022 was allowed by the Hon'ble Division Bench of this Court vide order dated 14.06.2022 wherein,

the judgment & order dated 08.02.2022 passed in W.P.(C) No. 822 of 2017 was quashed and set aside. The Hon'ble Court also held that all the consequential proceeding issued in pursuance of the judgment & order will stand nullified.

[10] The learned GA further submits that when the said newly constituted SMC was approved by the ZEO, Zone-I, Government of Manipur on 04.03.2021, impugned herein, the petitioner No. 1 did not raise any objection. Only when the notice was issued by the Headmaster (I/C) of the school for election of president and secretary of the SMC, the petitioner No. 1 made objection without raising any reason except mentioning that there is objection. The inclusion of donor and subscriber in the SMC of the said school was also done by following due process of law and provision of the Rules, 1975. There is no violation of the rules. In respect of election of the guardian representatives, M. Geeta Devi and H. Jina Sharma@Devi were elected as un-contest guardian representatives since they have submitted their applications to be nominated/elected/appointed as guardian representatives. No other applicants have submitted their applications before the election except the two elected applicants aforementioned.

It has also been submitted that at the relevant point of time, there was only one approved teacher in the school who is now holding the post of Headmaster on in-charge basis and as such, the approved teacher of the school was elected as teachers' representative. Accordingly, there is no any illegality in electing the only approved teacher of the school as teachers' representative of the SMC of the school.

[11] Further, it has been submitted by the learned GA that as proposed by the Headmaster (I/C) of the school, the ZEO, Zone-I has nominated the four persons namely, L. Prameshwor Singh (Local Educationalist), Dr. W. Chandrakanta Singh (Medical Representative/Local Educationalist), A. Bimola Devi (Local Educationalist) and the concerned Assistant Inspector of School as government nominee, as the same has already been approved.

[12] The petitioners have filed their affidavit-in-rejoinder to the affidavit-in-opposition filed by the respondents stating that relevant documents of becoming founder of the school are in the custody of SMC. When enquiry through RTI, vide letter dated 14.02.2023 of the SPIO/ZEO-Zone-I, only 6 (six) documents have been furnished to the petitioners relating to approval of SMC stating that most of the documents relating to approval of constitution of SMC are misplaced due to frequent shifting of this zonal office from one place to another. The writ appeal being W.A. No. 55 of 2022 was allowed on technical ground such as non-impleadment of necessary party.

[13] The main contention raised by the respondents herein are -

The petitioners have no locus standi to file the present petition as the petitioner No. 1 himself is included in the list of committee members constituted vide 04.03.2021 issued by Zonal Education Officer, Zone – I. In the said order the name of the petitioner No. 1 appears at Sl. No. 1 as founder. However, the learned GA submits that in the order dated 29.09.2014 issued by the Inspector of School, Central District, Zone-I, the name of the petitioner No. 1 was recorded as donor of the school. It is further submitted that the petitioner No. 2 & 3 who claim themselves as donor and subscriber of the school, have never applied to become a donor and subscriber despite notice being published in the local daily. In support of their case, the learned counsel for the respondents relied upon "**Commissioner of Income Tax, Calcutta V. M/s Braithwaite & Co. Ltd. [(1993) 2 SCC 262]**" and the Hon'ble Supreme Court in Para No. 8 observed that -

"8. We find support in view taken by us in the following cases. In **Ramanasari V. MuthusamiNaik** Section 18 of the Madras Rent Recovery Act VIII of 1865 required that, in fixing the day of sale, not less than seven days must be allowed from the time of the public notice and not less than 30 days from the date of distraint. The sale was held on February 13, but the notice was published on February 6. It was held that 'not less than' means the same as "clear" and seven whole days must elapse between the day of the notice and the day fixed for sale. In **Railway Sleepers Supply Company**, Re² the expression "not less than" given number of days means "clear days". It was held that the expression "not less" indicates "a minimum"."

The learned GA submits that 2 (two) guardian representatives namely, M. Geeta Devi and H. JinaSharma@Devi were elected as guardian representatives as they were the only guardians who submitted the applications to be nominated/appointed/elected as guardian representatives of the school managing committee and they were appointed after duly notified in one of the local daily newspapers.

The learned GA further submits that there is a gap of one month between the period of the constitution of school managing committee and its approval. In spite of this gap, the petitioners were silent without raising any objection, as such the constitution of the school managing committee and its election of Smt. A. Bimola Devi and L. Prameshwor Singh as president and secretary, becomes legal. Further, it is submitted that the inclusion of donor and subscriber in the school managing committee of the aforesaid school was done by due process of law and provision of the High and Higher Secondary School (Managing Committee) Rules, 1975.

Further, it is submitted by the learned GA that at the relevant time of the formation of the committee, there was only one approved in the above said school, as such, the said approved teacher was appointed/elected as teachers' representative. All these processes were done in the presence and knowledge of the petitioner No. 1.

Further, the learned GA referred to **Annexure – A/7** wherein, a notice was issued by the Headmaster (I/C) of the school dated 18.12.2020 for election of the donor and subscriber for the formation of school managing committee slated to be held on 13.01.2021.

For reference the Annexure-A/7 is extracted hereunder:

*"OFFICE OF THE
SHAKHI DEVI GIRLS' HIGH SCHOOL
GOVT. AIDED
URIPOK, IMPHAL*

*NOTICE
Imphal the 18th Dec. 2020*

SH/D/G/H/S/2020. It is hereby informed that the election of one Donor and one Subscriber representative for the formation of the SMC dated 13.01.2021 at 11 am. Any interested individuals must apply for subscriber and donor on or before 11.01.2021. For details contact H/M in-charge during office hour.

Sd/
S. Tomba Singh
i/c High Master
Shakhi Devi Girls' School
Imphal"

Perused the **Annexure – A/7** and the same is corroborated with the submission made above by the learned GA.

[14] Further, it is submitted the learned GA that the nomination of the said 4 (four) persons namely, L. Prameshwor Singh (Local Educationalist), Dr. W. Chandrakanta Singh (Medical Representative/Local Educationalist), A. Bimola Devi (Local Educationalist) and concerned Assistant Inspector of School as government nominee, was approved by the concerned authority already.

It is further submitted that the notice for the meeting for the constitution of the committee was properly served to the petitioner No. 1 on 06.03.2021 and meeting for the nomination of the committee was fixed on 13.03.2021 as such, there is no ground to raise the allegation that the petitioner No. 1 was not properly informed.

[15] As per Rule 2 of the Manipur Aided High and Higher Secondary School (Managing Committee) Rules, 1975 (hereinafter referred as the said Rules, 1975), there should be a school managing committee which is to be approved by the Inspector of Schools and Managing Committee shall consist of -

- (i) Head Master (Ex-Officio member)
- (ii) 2 Teachers representatives to be elected by the approved teaching staff excluding head master
- (iii) 2 Guardian Representatives to be elected by guardians from among them whose names are entered in the **school Admission register**.
- (iv) 1 member to be elected by donors (of not less than Rs. 500/-) from amongst themselves **in the list**.
- (v) Founder if any or a person nominated by him – founder nominate his / her successor and shall furnish copies of

this nomination to the head master and Director of Education.

- (vi) 1 member to be elected by Subscribers of Rs. 25/- and above annually from among themselves in the list.
- (vii) 4 members of which 1 is representative of Edn. Dept. and 3 local persons interested in Education all nominated by Inspector of School and out of said 3 one will be a medical practitioner if any and one will be a female member.

[16] The main issues put up by the petitioner are –

- (i) Whether there was election of Guardian Representatives amongst them?
- (ii) Whether there was election of Donors representative amongst them?
- (iii) Whether 4 local member nominees from Education Department shown in the SMC are really nominated:
- (iv) Whether first meeting of newly constituted SMC held on 13.03.2020 by issuing notice dated 06.03.2020 was a meeting after issuing notice of clear 7 days as per Rule 3 of the said Rules, 1975?

[17] From perusal of the application of the petitioners as well as the counter affidavit filed on behalf of the respondents of which are discussed above and after hearing the learned counsels for the parties, I am of the view that the election of the members of the school managing committee of Sakhi Devi Girls' High School which is impugned herein as Annexure – A/9 were done properly by taking proper steps by publication in the local daily newspaper. The above issues put up by the learned counsel for the petitioners are well answered and elaborately explained to the fact that the constitution of the school managing committee was done properly as per available Rules, 1975. The submissions made above by the learned counsel for the respondents are sufficient to answer the above mentioned issues.

Mention is made herein that on perusal of the said Rules, there is no specific guidelines for the election of the School Managing Committee members, and in this situation, it is difficult to say that steps taken by the authority are enough or not.

[18] The learned counsel for the petitioners submits that after the first meeting of the newly formed SMC was held on 13.03.2020, notice was

issued on 06.03.2020 thereby not complying with the provision of the said Rules as the said Rules says 7 (seven) days' notice is to be given. In this regard, the learned counsel for the petitioners relied on "**Pioneer Motors (P) Ltd. V. Municipal Council [AIR 1967 SC 684]**". In Para No. 8, the Hon'ble Supreme Court held that

"8. The words "not being less than one month" do imply that clear one month's notice was necessary to be given, that is, both the first day and the last day of the month had to be excluded. To put it in the language used by Maxwell on Interpretation of Statutes, 10th Edn., P. 351:

"When 'not less than' so many days are to intervene, both the terminal days are excluded from the computation."

That does not seem to have been in the present case. But in order to decide whether this portion of the proviso is a mandatory provision, it is convenient to see the object for which it has been enacted. Under Section 78, the procedure is laid down for the levying of a new tax, which has to be done by a resolution. But in the proviso, it is stated that before such a resolution can be passed, a notice to that effect has to be published in the Official Gazette and also in one Malayalam or Tamil newspaper having circulation within the municipality. Then comes the period for inviting objections. The object of notifying in the Gazette and Local Newspaper is both to give notice to the public and particularly to the persons who are likely to be taxed and to invite their objections. For this purpose, the proviso required a reasonable period of not less than one month to be given. The object of the provision is to give reasonable time and opportunity and it is given as a guidance that reasonable time would be a month. The use of the words "reasonable period" before the words "not being less than one month" is significant. If sufficient time has been given for the invitation of the objections which only just falls short of the period mentioned in the proviso, then it would serve the object of the legislature. The provision in regard to time in the context must be held to be directory and not mandatory."

[19] But, in the present case, the school managing committee has given sufficient time i.e. there is a gap of 1 (one) month between the constitution of school managing committee and its approval. As such, the above Hon'ble Supreme Court's observation is not applicable in the present case. Further, it is seen that the nomination of the said 4 persons namely, L. Prameshwor Singh (Local Educationalist), Dr. W. Chandrakanta Singh (Medical Representative/Local Educationalist), A. Bimola Devi (Local Educationalist) and concerned Assistant Inspector of School and the same was approved by the concerned authority already. Further, it is seen that the notice for the meeting for the constitution of the committee was properly served to the petitioner No. 1 on 06.03.2021 and meeting the nomination of the committee was fixed on 13.03.2023 thereby showing that the petitioner

No. 1 was properly informed. It is further seen and satisfied that the petitioners failed to show that they have the locus standi to file the present petition.

[20] Therefore, after having considered the facts and circumstances of the case and in the background of the discussions made hereinabove and on taking an overall view, I find no merit in the present writ petition, accordingly, this writ petition is dismissed and disposed of.

JUDGE

FR/NFR

Bipin