

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

Rev. Pet. (J2) No. 2 of 2024

State of Manipur; & Anr.

Petitioners

Vs.

M/S Sanmati Traders

Respondent

BEFORE

**HON'BLE THE CHIEF JUSTICE MR. D. KRISHNAKUMAR
ORDER**

19.12.2024

Mr. M. Devananda, learned Additional Advocate General, Manipur, appearing for the review petitioners, submitted that arbitration petition, being Arb. P. (J2) No. 3 of 2024, came up for hearing on 26.09.2024 and on that day, Mr. S. Nepolean, learned Government Advocate, appeared on behalf of the State of Manipur. Final order was passed in the aforesaid arbitration petition on the said day by recording the statement of the counsel for the parties. Relevant portion of the order is extracted as follows:

"In view of the foregoing, learned counsel appearing on behalf of the parties, on instructions from the latter, stated that a retired Judge of the High Court may be appointed by this Court as the sole Arbitrator to adjudicate the claims and disputes between the parties."

Recording the aforesaid statement of the learned counsel appearing on behalf of the parties, this Court has appointed a Former Judge of the High Court.

Learned Additional Advocate General, Manipur, submitted that on receipt of the aforesaid order passed by this Court, Ms. RK Emily Devi, learned Dy. Government Advocate, sent a communication to the Department on 14.10.2024,

by stating that the learned senior counsel appearing for the State respondents has not actually made the above extracted statement before the Court and therefore, made a request to take a decision for filing a review petition at the earliest.

Learned Additional Advocate General, Manipur, further submitted that as per the agreement entered between the parties, if any dispute arises between the parties, the said dispute shall be referred to an Arbitrator, who is a Government servant.

Mr. H. Kenajit, learned counsel appearing for the respondent, made an objection stating that the said order was passed by this Court with the consent of the parties. According to him, no prejudice is caused to the review petitioners, if a former Judge of the High Court is appointed as an Arbitrator to decide the issues among the parties concerned.

After hearing both the parties, this Court is of the view that any concession given by the Government Advocate, without getting any specific instructions, should not be a binding on the department as decided by the Hon'ble Supreme Court in the case of **Periyar and Pareekanni Rubbers Ltd. Vs. State of Kerala**, reported in **AIR 1990 SC 2192**. Relevant para is extracted below:

"9. Any concession made by the government pleader in the Trial Court cannot bind the Government as it is obviously, always, unsafe to rely on the wrong or erroneous or wanton concession made by the counsel appearing for the State unless it is in writing on instructions from the responsible officer. Otherwise it would place undue and needless heavy burden on the public exchequer. But the same yardstick cannot be applied when the Advocate General has made a statement across the bar since the Advocate General makes the statement with all responsibility."

The aforesaid decision has been relied upon in the recent decision of the Hon'ble Supreme Court in the case of **Prasanta Kumar Sahoo and Ors. Vs. Charulata Sahu and Ors, reported in (2023) 9 SCC 641** in para 101 sub-para 29 of the said decision.

The learned counsel appearing for the respondent herein has not specifically denied the contention made by the review petitioners in the affidavit and in the light of the decision of the Hon'ble Supreme Court in **Periyar and Pareekanni Rubbers Ltd. (Supra)**, this Court accepts the submission made by the review petitioners and consequently, the order passed by this Court dated 26.09.2024 in Arb. P. (J2) No. 3 of 2024 is recalled.

The present review petition is accordingly allowed.

List Arb. P. (J2) No. 3 of 2024 for hearing on 23.01.2025.

In the meantime, the review petitioners may file their counter affidavit, if any, in the Arbitration Petition.

CHIEF JUSTICE

Sandeep