

GAHC030004422024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/68/2024

Sh. Saithanpuia
S/o Pianmawii
R/o Lungsum, Aizawl District, Mizoram

VERSUS

The State of Mizoram and 7 Ors.
R/b Chief Secretary to the Govt. of Mizoram, Aizawl, Mizoram 2:The District
Magistrate
Aizawl District

3:The Secretary
Home Dept.
Govt. of Mizoram

4:The Superintendent of Police
Aizawl District
Govt. of Mizoram

5:The Officer-in-Charge
Sakawrdai Outpost

6:The President
Village Council

7:Sh. Lalnunhima

8:Smt. Hmangaihnatharzel

Advocate for the Petitioner : Mr. Lalrokunga Pautu

Advocate for the Respondent : Addl. AG/GA, Mizoram for R1-5

ORDER

BEFORE

HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

13.09.2024

Heard Mr. Lalrokunga Pautu, learned counsel for the petitioner. Also heard Mr. Samuel Vanlalhriata Chhangte, learned Addl. Advocate General, Mizoram for the State respondents and Mr. S. Vanlalhriata, learned counsel for the respondent Nos. 6 to 8.

2. The grievance of the petitioner is that he has been made to sign an agreement dated 15.06.2024 by the Joint Action Committee (JAC) of Lungsum village, Aizawl District, by which the petitioner was to leave the village for a period of two (2) years with effect from 15.06.2024, as the petitioner was allegedly caught with liquor in his possession. The diktat has been given to the petitioner in terms of Rule 2(b) made by the Joint Action Committee, hereinafter referred as the JAC, which is a unregistered body/authority. The learned counsel for the petitioner submits that the agreement dated 15.06.2024 has been signed by the petitioner under duress. He further submits that the petitioner had been given the option to either pay Rs. 1 lakh for having allegedly being caught with liquor in his possession or to leave the village for a period of two (2) years in terms of the Rules made by the JAC.

3. The petitioner's counsel submits that when there is a law promulgated by the Mizoram State Legislature, prohibiting the sale, possession and transportation etc. of liquor within the State of Mizoram, in terms of the Mizoram Liquor (Prohibition) Act, 2019 (MLP Act), the JAC could not have made rules in violation of the MLP Act. He submits that even if a private person arrests a person for contravention of the provisions of the MLP Act, the accused person has to be brought before the Excise & Narcotics Officer or Police Officer under Section 30 of the MLP Act. However, in the present case, the JAC have under their own rules, which is not in consonance with the MLP Act, evicted the petitioner from the village, without his consent. He further submits that the JAC do not have the competence/power to frame rules for controlling the sale, possession and transportation of liquor. He submits that the action of the respondent Nos. 6, 7 & 8 amounts to mob rule, acting as an extra constitutional authority/vigilantes, by taking the law into their own hands.

4. The petitioner's counsel submits that the petitioner has been continuing to live in the village as on date, under the umbrella of the protection orders passed by this Court.

5. The learned Addl. Advocate General, Mizoram, by relying upon the affidavit filed by the Superintendent of Police i.e., the respondent No. 4, submits that all help will be provided to the petitioner and he need not leave the village, in terms of the assurance given by the Officer-In-Charge, Sakawrdai Police Station. He further submits that an Assistant Sub-Inspector and a team of Police personnel from the Sakawrdai Police

Station, were deployed on 08.07.2024, to prevent any untoward incident during the road rally organized by the JAC, Lungsum and all NGO's of the village, in protest against the petitioner's non-compliance of the illegal agreement signed on 15.06.2024. He submits that the scooter of the petitioner bearing registration No. MZ05-6146, which was taken by the JAC, Lungsum Village on 14.06.2024, has been returned to the petitioner on 12.08.2024 by the JAC, Lungsum. He also submits that an undertaking was made by the JAC, assuring that no action in violation of the rights of the petitioner and his family will be taken by the JAC.

6. Mr. S. Vanlalhriata, learned counsel appearing for the respondent Nos. 6 to 8 submits that as a Young Men Association (YMA) General Conference was to be held at Sakawrdai in 2025, steps were being taken for eradication of liquor and other contraband articles within the village. YMA is a Non Governmental Organisation. In pursuance to the above objective, the JAC, Lungsum was formed by the villagers for one (1) year i.e. from January, 2024 to December, 2024 and rules were made towards obtaining the above objectives. On 14.06.2024, some liquor packets were seized from the petitioner's scooter. The petitioner was accordingly given the option to pay a fine of Rs. 1 lakh or to leave the village for two (2) years in terms of the rules made by the JAC. The counsel for the respondent Nos. 6 - 8 submits that the respondent Nos. 6 to 8 never had the intention to evict the petitioner from the village and this has been clearly substantiated by the allotment of land to the petitioner through a Village Council Pass in the Village Council Meeting dated 01.07.2024. Accordingly, the

petitioner can live peacefully in the village on his own land. If there was any real intention to evict the petitioner from the village, the Village Council Pass for a house would not have been issued to the petitioner. He also submits that though the police were to have been informed with regard to the seizure of liquor from the petitioner, as the Sakawrdai Police Station was about 12 kilometers away from Lungsum village, it was difficult for the respondents No. 6 to 8 to approach the police station. The counsel for the respondents no. 6 to 8 submits that the petitioner can continue to live peacefully in the village.

7. I have heard the counsels for the parties.

8. A perusal of the averments made in the pleadings of the parties and the submissions made by the counsels for the parties show that the petitioner had been asked to pay Rs. 1 lakh or leave the village for two (2) years due to some packets of liquor being seized from the petitioner's scooter. The petitioner was accordingly made to sign an agreement dated 15.06.2024, which was to the effect that he would have to leave the village from the night of 15.06.2024. This agreement signed by the petitioner can under no circumstance be considered to be an agreement signed by the petitioner on his own free will, inasmuch as, the other option required the petitioner to pay Rs. 1 lakh. Further, when there is unequal bargaining power, the agreement cannot be said to be a valid agreement in terms of the judgment of the Supreme Court in the case of ***Balmer Lawrie & Company Ltd. Vs. Parthasarathi Sen Roy***, reported in ***(2013) 8 SCC 345***.

9. In the case of ***Takseen S. Poonawalla Vs. Union of India & Ors.***, reported in **(2018) 9 SCC 501**, the Supreme Court has held that law does not empower anyone to authorize himself to behave as a protector of law and impose punishment as per his choice and fancy. No one is entitled to take the law into his own hands and annihilate anything that the law protects. When the vigilantes involve themselves in lynching or any kind of brutality, they, in fact, put the requisite accountability of a citizen to law on the ventilator, That cannot be countenanced. Such core groups cannot be allowed to act as they please They cannot be permitted to indulge in freezing the peace of life on the basis of their contrived notions. They are no one to punish a person by ascribing any justification. The Supreme Court further stated that self styled vigilantes have no role in taking the law into their own hands and their only right is to inform the crime, if any, to the law enforcing agency. It is the duty of the law enforcement agency and the prosecutors to bring the accused persons before the law adjudicating authorities. In the scheme of things, external forces like vigilantes and extra constitutional authorities cannot assume the role of protectors and once they pave the said path, they associate themselves with criminality and bring themselves in the category of criminals. It is imperative for them to remember that they are subservient to the law and cannot be guided by notions or emotions or sentiments or, for that matter, faith. Thus, The Supreme Court further held that every citizen has to abide by the law and the law never confers the power on a citizen to become the law unto himself or take the law into his hands.

10. The above being said, the Joint Action Committee (JAC) is not an organization constituted under any statute or rule. It is neither a registered body. As such, it is not a juristic person. An extra constitutional authority imposing its will through sheer physical brute force in numbers, in violation of Article 21 of the Constitution of India, cannot be allowed to function in the manner it has sought to do so in the present case. Vigilantism and mob rule cannot be allowed to function in violation of statutory laws and the Constitution of the Country. The penalties sought to be imposed by the JAC, as per the rules made by them regarding payment of Rs. 1 lakh or eviction from the village, are in complete violation of the Constitution and the MLP Act. In case of ***Union of India v. Tulsiram Patel***, reported in **1985 (3) SCC 398**, the Supreme Court held that the source of power must exist for exercise of the same. In the present case, not only does the JAC have no source of power to make such rules (penalties), but the JAC itself is a non-juristic person. The respondent Nos. 6-8 have to act within the four corners of the Constitution and the laws made under and it cannot act on its own sweet will, in violation of the prevailing laws.

11. The above being said, as the State respondents have guaranteed the protection of the petitioner while living in Lungsum village and as the respondent Nos. 6 to 8 have also made an undertaking in their affidavit that the petitioner can continue to live in the village, this Court is not inclined to go in deeper into the issue. However, the respondent Nos. 6 to 8 should keep in mind the fact that they have got no right to act beyond the laws framed by the Parliament and the State Legislature.

12. In view of the above reasons, this Court finds that the writ petition has become infructuous. The writ petition is accordingly closed, with a direction to the respondents to ensure that the petitioner is allowed to live peacefully in the village and he is not to be disturbed in violation of the Constitution and the prevailing laws of the State. Consequently, the Agreement dated 15.06.2024 is hereby set aside as being arbitrary and in violation of Article 14 & 21 of the Constitution of India.

JUDGE

Comparing Assistant