

Mangjacob Tungdim and 1 Anr.

.... *Petitioners*

- *Versus* -

State of Manipur & 4 Ors.

.... *Respondents*

B E F O R E
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

ORDER
(Oral)

25.11.2025

[1] Heard Mr. HS Paonam, learned sr. counsel assisted by Mr. A. Arunkumar, learned counsel for the petitioners; Mrs. Ch. Sundari, learned GA for the State respondent nos. 1, 2 & 5 and Mr. K. Achouba, learned counsel for the respondent no. 3.

[2] The respondent no. 4 (Shri Tongkhogin Tungdim) who is the original Chief of the village and father of the 2(two) petitioners died in the year 2019 during the pendency of the present writ petition. However, admittedly 2(two) petitioners are the only serving LRs of the respondent no. 4. Hence, no LRs are brought on record to represent the respondent no. 4.

[3] The petitioners approach this Court challenging the order dated 19.02.2014 issued by Deputy Commissioner, Churachandpur declaring respondent no. 3 as Chief of the Tuinuphai Village, Churachandpur as well as other consequential relief of the chiefship to the respondent no. 4, who is the father of the petitioners herein and original Chief of the said village. The prayer is reproduced herein below:

- i) Issue rule nisi and call for the records,*
- ii) quash and set aside the impugned order dt. 19-2-2014 declaring the respondent No. 3 as Chief of Tuinuphai Village,*

Churachandpur as illegal as well as any consequential order for restoring the chiefship to the respondent No. 4 & iii) pass any further order(s) direction(s) which this Hon'ble court may seem fit and proper to secure the ends of justice.

[4] The learned sr. counsel for the petitioners submits that the D.C., Churachandpur issued an order dated 23.05.2009 declaring that Chiefship of Tuinuphai Village has been transferred from Tongkhogin Tungdim (respondent no. 4 herein) to Letsei Vaiphei (respondent no. 3 herein). The said order was challenged by respondent no. 4 before the Court of Civil Judge (Sr. Divn.), Churachandpur by way of Original Suit No. 1 of 2010/ 6 of 2011. In the suit filed by the respondent no. 4, the Trial Court framed 8(eight) issues and the same are reproduced below:

"ISSUES

The 29th day of September, 2010

- 1. Whether the plaintiff borrowed a sum of Rs. 1,30,000/- from the defendant or not?*
- 2. Whether the plaintiff was taken by the defendant to the Office of Sub-Registrar, Churachandpur and induced him to sign on stamp paper or not?*
- 3. Whether the plaintiff was taken by the defendant on 10-10-2008 to the Office of Sub-Registrar, Imphal or not? If so, whether the plaintiff was induced to sign on an already prepared stamp paper or not?*
- 4. Whether the plaintiff has sold out the Tuinuphai Village along with its lands to the defendant or not?*
- 5. Whether the order dated 23-5-2009 of the D.C. Churachandpur was passed without the knowledge and consent of the plaintiff or not? If so, what is the legal consequences?*
- 6. Whether the Suit is maintainable or not?*
- 7. Cause of action?*
- 8. Reliefs, if any?"*

[5] With respect to issue nos. 3, 4 & 5, it was held that there was a sale deed executed by respondent no. 4 in favour of respondent no. 3. However, with respect to issue no. 5 regarding validated order dated 23.05.2009 issued by D.C., Churachandpur transferring the chiefship from respondent no. 4 to respondent no. 3, it was held that chiefship cannot be transferred and that too without affording opportunity of being heard. It was also held that respondent no. 4 herein, borrowed a sum of Rs. 1,30,000/- (Rupees one lakh thirty thousand) only from defendant no. 3 herein and for that purpose, the sale deed dated 10.10.2008 was executed. The respondent no. 3 filed an appeal against the order dated 27.05.2013 passed by the Ld. Civil Judge (Sr. Divn.), Churachandpur, cancelling the transfer of the chiefship vide order dated 23.05.2009 issued by D.C., Churachandpur, transferring the chiefship of Tuiniphai Village, Churachandpur from respondent no. 4 to respondent no. 3.

[6] Vide order dated 04.12.2013 in Civil Appeal No. 7 of 2013, the Ld. District Judge, (the then Manipur West) now, Imphal West dismissed the appeal holding that execution of the sale deed is not accompanied by transfer of chiefship. Accordingly, the findings of the Trial Court in suit merged with the judgment of the Ld. District Judge, Manipur West in appeal to the fact that chiefship cannot be transferred by sale deed.

[7] It is admitted at the bar that no further appeal or review have been preferred against the orders passed by the Civil Courts and the same have attained finality. However, the D.C., Churachandpur passed the impugned order dated 19.02.2014 recognizing the respondent no. 3 as Chief of the Tuinuphai Village, Churachandpur district, thereby, impliedly restoring the earlier order dated 23.05.2009 passed by D.C., Churachandpur.

[8] Mr. HS Paonam, learned sr. counsel for the petitioners submits that the impugned order dated 19.02.2014 is issued restoring the earlier order dated 23.05.2009 transferring the chiefship to respondent no. 3 from respondent no. 4, even though, the earlier order dated 23.05.2009 has been set aside by the 2(two) Civil Courts on the ground that chiefship is not transferable. The learned sr. counsel for the petitioners further submits that as per decisions of Gauhati High Court in "**Ningom & Ors. –vs- Samjamang, Chief**" reported in

"(1990) 2 GLR 331" at para no. 18, it is stated that the kuki tribe holding chiefship is a hereditary one and submitted that chiefship cannot be transferred by way of sale deed.

[9] The learned sr. counsel for the petitioners also relies on the decisions of Hon'ble Supreme Court in **"M.P. Peter vs. State of Kerala"** reported in **"(2009) 7 SCC 786"** there is a prima-facie that executive order cannot be nullified the judicial order which attains finality. It is prayed that the impugned order dated 19.02.2014 issued by D.C. Churachandpur be set aside.

[10] On the other hand, Mrs. Ch. Sundari, learned GA relying on the counter affidavit, it is mentioned that the impugned order dated 19.02.2014 was passed by the D.C. Churachandpur as the petitioners herein and their representatives failed to appear and this Court may pass appropriate order in the facts of the present case.

[11] Mr. K. Achouba, learned counsel for the respondent no. 3 submits that the respondent no. 3 purchased the Tuinuphai village, Churachandpur from respondent no. 4 by way of registered sale deed with a consideration amount of Rs. 1,00,000/- (Rupees one lakh) only. The learned counsel for the respondent no. 3 refers to the judgment and decree dated 27.05.2013 passed by the Ld. Civil Judge (Sr. Divn.), Churachandpur in O.S. No. 1 of 2010/ 06 of 2011 whereby, there is definite findings that respondent no. 4 executed sale deed of the village in favour of respondent no. 3 for a consideration of Rs.1,00,000/- (Rupees one lakh) only and Civil Court set aside the earlier order dated 23.05.2009 issued by D.C., Churachandpur confined to transfer of the chiefship from respondent no. 4 to respondent no. 3. The Trial Court gave the findings that there was a registered sale deed in favour of the respondent no. 3. Since, the whole village was transferred by sale deed, the chiefship was rightly transferred by D.C., Churachandpur vide order dated 23.05.2009. As the sale deed was not cancelled by the Civil Court, the impugned order dated 19.02.2014 just recognized chiefship of the respondent no. 3. It is also submitted that order dated 19.02.2014 is in compliance of the decree of the Civil Court.

[12] Mr. HS Paonam, learned sr. counsel for the petitioners has pointed out that in the decree passed by the Ld. Civil Judge (Sr. Divn.),

Churachandpur it was held that respondent no. 4 borrowed a sum of Rs. 1,30,000/- (Rupees one lakh thirty thousand) only from respondent no. 3 for his personal use and order dated 23.05.2009 passed by D.C., Churachandpur was held to be nullity. The learned sr. counsel for the petitioners refers to the additional affidavit dated 28.11.2017 filed by the petitioners herein, to the fact that in Civil (Execution) Case No. 1 of 2015 with regards to the decree filed by the respondent no. 3, the Ld. Civil Judge (Sr. Divn.), Churachandpur passed an order dated 28.08.2017 directing deduction of a sum of Rs. 1,30,000/- (Rupees one lakh thirty thousand) only from the account of the respondent no. 4 and it is stated that the whole amount has been deducted as directed by the Executive Court and the money has been executed by respondent no. 4 without any protests. In the circumstances, upon the return of the borrowed money, the registered sale deed has become infructuous and a nullity. The following case laws have been relied by Mr. HS Paonam, learned sr. counsel for the petitioners:

1. Commissioner of Central Excise, Nagpur v. Gurukripa Resins (P) Ltd., (2011) 13 SCC 180

It was held that the Board circular will not prevail over the Order of the Supreme Court. It was further held that a circular which is contrary to the statutory provisions has no existence in law.

12. Placing reliance on the decision of the Constitution Bench of this Court in CCE v. Ratan Melting & Wire Industries [(2008) 13 SCC 1] , learned counsel contended that the circulars issued by the Revenue Department cannot be given primacy over the decisions of the courts. In order to substantiate his point that it is not necessary that power should be used in all the processes involved in the manufacture of finished goods, the learned counsel placed reliance on the decision rendered by the Constitution Bench of this Court in Union of India v. Delhi Cloth & General Mills Co. Ltd. [AIR 1963 SC 791 : 1963 Supp (1) SCR 586] It was thus stressed that in the light of the settled legal position on the issue by this Court, the impugned decisions deserve to be set aside.

30. In that view of the matter, when the law on the question at issue before the Tribunal had already been declared by this Court, the Tribunal should not have based its decisions on the clarification issued by the Board, which otherwise stood rescinded, on the specious ground that the said clarification issued by the Board was binding on the Deputy Commissioner as also on the Commissioner (Appeals). It is well-settled proposition of law that circulars and instructions issued by the Central Board of Excise and Customs are no doubt binding in law on the authorities under the respective statutes but when this Court or the High Court declares the law on the question arising for consideration, it would not be appropriate for the courts or the Tribunal, as the case may be, to direct that the Board's circular should be given effect to and not the view expressed in a decision of this Court or a High Court.

2. Commissioner of Central Excise, Bolpur v. Ratan Melting & Wire Industries, (2008) 13 SCC 1

Order of the Supreme Court/High Court will prevail over circular and instructions issued by the Central Board of excise and Customs.

7. Circulars and instructions issued by the Board are no doubt binding in law on the authorities under the respective statutes, but when the Supreme Court or the High Court declares the law on the question arising for consideration, it would not be appropriate for the court to direct that the circular should be given effect to and not the view expressed in a decision of this Court or the High Court. So far as the clarifications/circulars issued by the Central Government and of the State Government are concerned they represent merely their understanding of the statutory provisions. They are not binding upon the court. It is for the court to declare what the particular provision of statute says and it is not for the executive. Looked at from another angle, a circular

which is contrary to the statutory provisions has really no existence in law.

3. Commissioner of Income Tax (CNTL) vs. Hero Cycles (P) Ltd., (1997) 8 SCC 502

14. Moreover, it is well settled that circulars can bind the Income Tax Officer but will not bind the appellate authority or the Tribunal or the Court or even the assessee. There is nothing in the alleged circular which supports the contention of the assessee. It merely says that each case has to be examined and the issue would be basically a find of fact. The assessee had not made his claim before the Income Tax Officer by relying on this circular.

4. Ravi S. Naik v. Union of India, 1994 Supp (2) SCC 641 at page 661

40. As to whether the order of the Speaker could be a subject-matter of court proceedings and whether his decision was final were questions involving the interpretation of the provisions contained in Tenth Schedule to the Constitution. On the date of the passing of the stay order dated December 14, 1990, the said questions were pending consideration before this Court. In the absence of an authoritative pronouncement by this Court the stay order passed by the High Court could not be ignored by the Speaker on the view that his order could not be a subject-matter of court proceedings and his decision was final. It is settled law that an order, even though interim in nature, is binding till it is set aside by a competent court and it cannot be ignored on the ground that the court which passed the order had no jurisdiction to pass the same. Moreover the stay order was passed by the High Court which is a superior Court of Record and "in the case of a superior Court of Record, it is for the court to consider whether any matter falls within its jurisdiction or not. Unlike a court of limited

jurisdiction, the superior Court is entitled to determine for itself questions about its own jurisdiction.

5. Manohar Lal v. Ugrasen, (2010) 11 SCC

29. In view of the above, it is evident that any order passed by any authority in spite of the knowledge of the interim order of the court is of no consequence as it remains a nullity.

6. State of Haryana v. Ram Kumar, (2002) 9 SCC 703

5. This order dated 8-3-2000 was not brought to the notice of this Court on 10-4-2000 and apart from that, it is not known under what authority the Government can refuse to pay back wages etc. by way of an administrative order when the High Court order dated 20-5-1999 was in full force. By an administrative order the Government cannot overrule a judgment. Such an administrative order is no ground for review.

[13] Mr. K. Achouba, learned counsel for the respondent no. 3 has strongly objected the submissions of the learned sr. counsel for the petitioners that upon the acceptance of decretal amount by the respondent no. 3, the sale deed dated 10.10.2008 (which has been upheld by the Civil Court) cannot be nullified.

[14] This Court has considered the materials on record, the submissions made at the bar and case laws cited by the parties.

[15] Upon execution of sale deed dated 10.10.2008 in favour of respondent no. 3 for sale of Tuinuphai village, Churachandpur, the claim of the respondent no. 3 is that he become the chief of the said village and chiefship has been transferred along with sale deed. In the circumstances, the D.C., Churachandpur issued order dated 23.05.2009 transferring the chiefship from respondent no. 4 to respondent no. 3 and the same was challenged by respondent no. 4 before the Civil Court and the Civil Court decreed that chiefship cannot be transferred by sale deed. However, the sale deed was upheld by Trial Court vide order dated 10.10.2008. The operative part of the decree is that

respondent no. 4 borrowed a sum of Rs. 1,30,000/- (Rupees one lakh thirty thousand) only from the respondent no. 3. The order dated 23.05.2009 transferring the chiefship from respondent no. 4 to respondent no. 3 was set aside as chiefship is non-transferrable. However, in the execution case filed by respondent no. 3 against the respondent no. 4, vide order dated 28.08.2017 passed by the Executive Court and a sum of Rs. 1,30,000/- (Rupees one lakh thirty thousand) only was order to be deducted from the salary of respondent no. 4. It is submitted at the bar that the money has already been deducted.

[16] By the impugned order dated 19.02.2014, the D.C., Churachandpur recognized the respondent no. 3 as chief of the Tuinuphai village, Churachandpur. In passing the impugned order, the D.C., Churachandpur also directed to make necessary entry in the land record as sale deed was valid. This Court is of the opinion that the Civil Court order did not set aside the sale deed dated 10.10.2008 executed by respondent no. 4 in favour of respondent no. 3 transferring the whole Tuinuphai village, Churachandpur, but the decree set aside the transfer of the chiefship from respondent no. 4 to respondent no. 3 by earlier order dated 23.05.2009 passed by D.C., Churachandpur on the ground that chiefship is not transferrable. This finding has attained finality and the same is not open to be agitated before the D.C. Churachandpur or others on administrative side. If the respondent no. 3 is still aggrieved by the finding of the Civil Court, the correct course should be to challenge the same on the judicial side or higher forum or by filing review of the same. The operative portion of the impugned order dated 19.02.2014 is reproduced herein below:

*"Therefore, in suppression of the earlier order issued vide No. DC(CCP)/Hills/Misc- Case No. 1 of 2014 dated 10-01-2014 regarding Chiefship of Tuinuphai village, Churachandpur Sub-Division and from all supporting documents and circumstances stated above, it hereby order that Shri Letsei Vaiphei is recognized as the chief of Tuinuphai village, Churachandpur with immediate effect. The SDO/Churachandpur is directed to make necessary entry and correction in Touzi records accordingly. However, upon clarification of the status of land ownership by any competent authority or upon nullification of **SALE DEED bearing No. 2754 of***

2008 dated 10-10-2008 which is presently in favour of Shri. Letsei Vaiphei this order may be reviewed and Order issued accordingly."

[17] This Court is of the opinion that transfer of chiefship from respondent no. 4 to respondent no. 3 and/or recognition of respondent no. 3 as chief of Tuinuphai village, Churachandpur is not opened today in terms of the earlier decisions of the Civil Courts. Accordingly, the first part of the impugned order recognizing respondent no. 3 as chief of the Tuinuphai Village, Churachandpur is set aside and chiefship be determined in terms of the applicable rules and customary practices. This Court is not able to agree with the submissions of Mr. HS Paonam, learned sr. counsel for the petitioners that return of the amount of Rs. 1,30,000/- (Rupees one lakh thirty thousand) only by respondent no. 4 to respondent no. 3 in the execution case, will amount to cancellation of the sale deed dated 10.10.2008. It may be noted that sale deed has been upheld by Civil Courts. In the conclusion, the writ petition is partly allowed by setting aside the operative portion of the impugned order dated 19.02.2014 passed by D.C., Churachandpur transferring/recognizing the chiefship to respondent no. 3, as the same is amounts to review of the order dated 27.05.2013 passed by Civil Judge (Sr. Divn.), Churachandpur in O.S. No. 1 of 2010/ 6 of 2011 and affirmed by Ld. District Judge, Manipur West in Civil Appeal No. 7 of 2013. However, remaining portion of the impugned order is not disturbed.

[18] It is made clear that this Court does not express any opinion on other matter and the issues of chiefship is decided in terms of the applicable rules and customary practices subject to the conditions that chiefship is not saleable.

[19] The W.P. (C) No. 210 of 2015 is disposed of in terms of the earlier observations. No cost.

JUDGE

Thoiba