

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

WP(C) No. 155 of 2025

Thokchom Sur Singh

Petitioner

Vs.

Union of India

Respondent

Clubbed with MC(WP(C)) No. 374 of 2025

BEFORE

**HON'BLE THE CHIEF JUSTICE MR. KEMPAIAH SOMASHEKAR
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA**

ORDER

(K. Somashekar, C.J.)

12.08.2025

[1] Heard Mr. N. Mahendra, learned counsel for the petitioner; Mr. Kh. Samarjit, learned DSGI; Mr. Lenin Hijam, learned Advocate General, Manipur and also Mr. Tushar Mehta, the learned Solicitor General of India who is appearing through video conferencing for the respondent/Union of India.

[2] This writ petition has been initiated by the petitioner under Article 226 of the Constitution of India whereby seeking for issuance of a writ in the nature of certiorari and/or any other appropriate writ or order or direction raising various grounds. Whereas, in this writ petition the petitioner is challenging the Notification issued by the President of India dated 13.02.2025 and imposition of Article 356 of the Constitution of India.

[3] This writ petition has been initiated by the petitioner under Article 226 of the Constitution of India against the respondent i.e., Union of India through the Secretary of the Ministry of Home Affairs, Government of India being arrayed as respondent.

[4] The petitioner is an elector enrolled in the Mayang-Imphal Assembly Constituency, Manipur. He is an advocate by profession and a socio-political activist/worker. Whereas, in paras 3 of this writ petition, it reveals as elections to the 12th Manipur Legislative Assembly, having a total strength of 60 (sixty) Membership, was held in the month of February/March, 2022 and it was duly constituted, following the announcement of election result which is in detail stated in para 3 of the writ petition.

[5] Whereas in para 5 of the writ petition it reveals as it is relevant to state that the then Governor of Manipur, in exercise of the powers conferred on her under Clause (1) of Article 174 of the Constitution of India summoned successfully the 6th Session of the Twelfth Manipur Legislative Assembly beginning with 31.07.2024 vide Notification No.3/1(4)/2022-LA(Legn.) Imphal, the 13th July, 2024 and the same has been stated in detail in para 5 of the writ petition.

[6] Whereas in para 10 the writ petition, it is stated that after the resignation of N Biren Singh from the office/post of Chief Minister on 09.02.2025, the Governor of Manipur issued an Order, being, declaring his previous directive to summon the Assembly 7th Session as "null and void" which step is illegal and unconstitutional one committed not by the elected

Members of the House (Manipur Legislative Assembly). The Governor of Manipur himself while discharging his constitutional duties violated the mandatory duties under A.174(1) of the Constitution of India. These all are the grounds as raised in this writ petition as raised in this writ petition which has been initiated by the petitioner against the respondent/Union of India.

[7] Whereas, in para 12 of this writ petition, it reveals as that the President of India on receiving a report from the Governor of the State of Manipur and after considering the report and other information issued by Ministry of Home Affairs Notification G.S.R. 134(E) New Delhi, the 13th February, 2025 and consequential Order G.S.R. 135(E) New Delhi, the 13th February, 2025 [F. No. 11013/01/2025-CSR-1] thereby imposing President's Rule in the state, keeping the Assembly in suspended animation as the President of India satisfied that a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of the Constitution of India. These are all the contentious contention taken by the learned counsel for the petitioner in this matter. However, various grounds have been urged by the learned counsel for the petitioner in this writ petition and it is relevant to refer para 13 of the writ petition which reads as thus :

“13. That the act of omissions and commissions of the respondent is objected to on the following, inter alia, grounds:

G R O U N D S

- i) Because the imposition of President's Rule is arbitrary and/or mala fide;*

- ii) *Because it is unconstitutional to impose President's Rule without giving the duly elected legislatures a chance to form a new government;*
- iii) *Because it is a case of misuse of Art.356 and the potential erosion of democratic principles. While originally designed to uphold the integrity and unity of the nation, it is being deployed again in the instant case for political undue advantage, as a tool for centralizing power at the expense of federalism which is a basic feature of the Constitution of India;*
- iv) *Because it amounts to disruption of the normal democratic process, sidelining elected representatives of the State of Manipur and thus, eroding the principles of representative democracy;*
- v) *Because the instant imposition of President's Rule does not have any valid grounds except possible unauthorized grounds. In other words, there are no grounds which can justify the imposition of the impugned President's Rule in the State of Manipur;*
- vi) *Because it was not a case situation in which it could be said the government of the State of Manipur can not be carried out in conformity with the provisions of the Constitution of India when Everything and every aspect of the governance of the Government of Manipur were perfectly being carried out as per the constitutional requirements and seventh session was fixed and scheduled to be held; So, how come*

all of a sudden constitutional breakdown did arise in the Government of Manipur State;

- vii) Because no case is made out to say that constitutional machinery in the Government of Manipur failed;*
- viii) Because from the date of Notification dated 24.01.2025 calling for holding 7th Session of the Twelfth Manipur Legislative Assembly to meet at 11.00 AM on Monday, the 10th February 2025 in the Assembly Hall, Imphal until it was declared as 'null and void' on 09.02.2025, there was no constitutional breakdown or failure of governance at the state level; no any political instability of the like of a hung assembly, or a sudden breakdown of law and order arose all of a sudden;*
- ix) Because in fact there were no circumstances existing necessary for the issuance of the impugned Presidential proclamation;*
- x) Because the recommendation for the President's Rule should be based on objective criteria, not solely on the subjective opinion of the central government. The objective criteria for arriving at the subjective satisfaction of the President for the impugned proclamation, in the facts and circumstances of the present case in the State of Manipur, is lacking. Though the satisfaction being purely subjective of the President, there must be objective criteria for arriving at the satisfaction which is subjective;*

- xi) *Because Article 365 of the Constitution of India cannot be used/resorted to to resolve intraparty issues;*
- xii) *Because Governor cannot advise/recommend to the President to impose Article 356 of the Constitution of India until they have taken steps to form an alternative government as required under the constitutional scheme, democratic principles and rule of law;*
- xiii) *Because besides there are other good grounds for filing the present writ petition.”*

[8] However, in this writ petition, the petitioner is seeking (a) to issue a rule-nisi in this behalf. That is the first relief; (b) to make the rule absolute if and when the respondent fail to show cause or sufficient cause in this regard; (c) to call for the file bearing no. F. No. 11013/01/2025-CSR-1 lying with the office of the respondent and/or any other relevant file, in case of need, so as to find out the absence/presence of relevant objective criteria for the exercise of A.356(1) of the Constitution of India; (d) to quash the Ministry of Home Affairs Notification G.S.R. 134(E) New Delhi, the 13th February, 2025 and consequential Order G.S.R. 135(E) New Delhi, the 13th February, 2025 [F. No. 11013/01/2025-CSR-1] and further consequential Order, if any.

[9] Whereas, the grounds which have already been given in the writ petition and also taken various grounds by the learned counsel for the

petitioner seeking intervention of the orders rendered by the President of India which is stated supra in detail.

[10] Whereas, the learned counsel for the petitioner Mr. N. Mahendra further submitted that this writ petition is surviving for consideration of the issues in between the petitioner and the respondent even though imposition of the President's Rule on 13th February, 2025 but it would be expired on 13th August, 2025. However, keeping in view the scope of eplex and influx in respect of the recording the period for 6 (six) months and more so, keeping in view the scope of recurring course of action and even though in this writ petition seeking for intervention of the Notification issued by the President of India as keeping in view the Article 356 of the Constitution of India but keeping in view the submission made by Mr. Tushar Mehta, the learned Solicitor General of India who is appearing through video conferencing for the respondent/Union of India and even though the learned Solicitor General of India in this matter emphatically submitted that this writ petition does not survive for consideration and also answering to the issues even though made a recurring cause of action would be taken into consideration but the Parliament of the Government of India had already been issued the Notification for continuity of the President's Rule for another 6 (six) months which would be effective from 13th August, 2025 and therefore, keeping in view the submission made by the learned Solicitor General of India for the Union of India and also keeping view the learned counsel for the petitioner Mr. N. Mahendra and even the learned counsel Mr. N. Mahendra has taken us to the grounds which are stated

supra. Even, the learned counsel for the petitioner in the prayer column, it is reflected as further consequential order, if any but the further consequential order, if any, can't be at this stage taken into consideration to address the issues in between the petitioner and the respondent in respect of the President's Rule which was imposed as per the Notification issued by the President of India and also further Notification would be issued and would be effective from the 13th August, 2025.

[11] In the meanwhile, Mr. N. Mahendra, learned counsel for the petitioner, in support of his contention, referred the citations in WP(C) No. 155 of 2025 in the case of Thokchom Sur Singh vs. Union of India through the Secretary of the Ministry of Home Affairs, Government of India. Whereas in this judgment, there shall be some addressing the scope and rule of law and also discretion and the same has been addressed. Following are the authorities relied upon by the counsel for the petitioner in this writ petition :

Authorities relied upon on behalf of the petitioner:

1. In constitutional matters it is advisable to decide only those points which necessarily arise for determination on the facts of the case. Constitution of India is not an Act of Parliament, a Constitution which establishes a Parliamentary system of Government with a Cabinet. **U. N. Rao v. Indira Gandhi (1971) 2 SCC 63 (5 Judges Bench) (Para 3, 4, 6 and 7) (para 133, Samsher Singh);**
2. The fundamental principle of English Constitutional Law that Ministers must accept responsibility for every executive act is incorporated in our Constitution. The President as well as the Governor is the constitutional or formal head. satisfaction of the President required by the Constitution, ... is the satisfaction of the President or of the Governor in the constitutional sense under the Cabinet system of Government. The Indian Constitution envisages a Parliamentary and responsible form of Government at the Centre and in the States and not a Presidential form of Government. The powers of the Governor as the constitutional head

are not different ...; Where the Governor has any discretion the Governor acts on his own judgment. Unsavoury politics of power ... at the State level, with the additional factor that an area of discretionary power is expressly left to him **Samsher Singh v State of Punjab, AIR 1974 SC 2192: (1974) 2 SCC 831 (7 Judges Bench) (Para 27, 28, 30, 32, 33, 35, 36, 47, 48, 88, 95, 97, 99, 127, 128, 130, 132, 133, 138, 139, 142, 149, 150 and 153)**

3. "State Government" **S.3 (60)(c) General Clauses Act, 1897** shall mean, in a State, the Governor. (Para 132, Samsher Singh).
4. Other discretionary functions of Governor: In view of the responsibility of the Governor to the President and of the fact that the Governor's decision as to whether he should act in his discretion in any particular matter is final [Article 163(2)], it would be possible for a Governor to act without ministerial advice in certain other matters, according to the circumstances, even though they are not specifically mentioned in the Constitution as discretionary functions.
Samsher Singh v State of Punjab, (Para 32) (Para 47, 88, 153)
5. **Article 355 refers to three situations viz., (i) external aggression, (ii) internal disturbance, and (iii) non-carrying on of the Government of the States, in accordance with the provisions of the Constitution, Art.356 refers only to one situation viz. the third one. nor internal disturbance can justify issuance of Proclamation under Art.356(1), unless it disables or prevents carrying on of the Government of the State in accordance with the provisions of the Constitution. S. R. Bommai v. UOI, (1994) 3 SCC 1 (Para 57). ... The common thread running through all these Articles in Part XVIII relating to emergency provisions is that the said provisions can be invoked only when there is an emergency and the emergency is of the nature described therein and not of any other kind. (para 58 S. R. Bommai) Conclusions (para 153 of S.R. Bommai)**
6. The validity of the proclamation issued by the President u/A.356(1) is judicially reviewable to the extent of examining whether it was issued on the basis of any material at all or whether the material was relevant or whether the proclamation was issued in the malafide exercise of the power. When a prima facie case is made out in the challenge to the proclamation, the burden is on the Union Government to prove that the relevant material did in fact exist, such material may be either the report of the Governor or other than the report. **(Para 153, S. R. Bommai); (para 112, Rameswar Prasad Case, 2006) Rameshwar Prasad and others (VI) v**

Union of India and Another (2006) 2 SCC 1 (Para 112, 148, 152, 153, 154, 227,

7. The manner in which the Governor acts. **State of Gujarat and Another v Justice R. A. Mehta (Retd.) and others, AIR 1974 SC 2192: (2013) 3 SCC 1 (Para 33 to 57, 106)**
8. **Article 355 refers to three situations viz., (i) external aggression, (ii) internal disturbance, and (iii) non-carrying on of the Government of the States, in accordance with the provisions of the Constitution, Art.356 refers only to one situation viz. the third one. nor internal disturbance can justify issuance of Proclamation under Art.356(1), unless it disables or prevents carrying on of the Government of the State in accordance with the provisions of the Constitution. S. R. Bommai v. UOI, (1994) 3 SCC 1 (Para 57). ... The common thread running through all these Articles in Part XVIII relating to emergency provisions is that the said provisions can be invoked only when there is an emergency and the emergency is of the nature described therein and not of any other kind. (para 58 S. R. Bommai) Gujarat Mazdoor Sabha and Another v State of Gujarat, (2020) 10 SCC 459 (para 12 to 19)**
9. The functions Governor exercises in his discretion are the ones which expressly require the Governor to act in his discretion. The only other functions which he can discharge in his discretion are "where such intent emerges from a legitimate interpretation of the provision concerned, and the same cannot be construed otherwise" or "where the Supreme Court has declared that the Governor should exercise the particular function at his own and without any aid or advice because of the impermissibility of the other alternative, by reason of conflict of interest."
..... The exercise of any discretion by the Governor is subject to judicial Review. the summoning of Assembly in A.174(1), i.e., the Governor must act on the aid and advice of his Council of Ministers. Summoning of any House without such advice is unconstitutional.; **Nabam Rebia & Bamang Felix v Dy. Speaker, Arunachal Pradesh Legislative Assembly, (2016) 8 SCC 1 (Para . 186;**
10. [An existing legislature meets at least every six months] Article 174 of the Constitution of India deals with a live legislature. The purpose and object of the said provision is to ensure that an existing legislature meets at least every six months, as it is only an existing legislature that can be prorogued or dissolved. **Thus Art.174 which is a complete code in itself deals only with a live legislature.** As far as frequency of meetings of the

Assembly is concerned, the six months' rule is mandatory, ... In the matter of **Special Reference No.1 of 2002 (Gujarat Assembly Election Matter) (2002) 8 SCC 237 (para 14 to 18, 42, 47, 51, 84).**

11. Application of Article 356 on the infraction of the provisions of Article 174. (It was left open) It was not required to be gone into (para 84, In re Spl. Ref. no. 1 of 2002).
12. The Governor was bound by the advice of the Council of Ministers in the matter of prorogation. **K. A. Mathialagan V Governor, AIR 1973 Mad 198.**
13. Art.85 (compare A.174): The President, under this Article, exercises three functions, namely, summoning, prorogation and dissolution, in relation to the Houses of Parliament. Summoning....., Prorogation: A prorogation ends a session. Prorogation is the act of terminating a parliamentary session. It differs from adjournment because adjournment does not end the session but suspends the sittings of the House. The power to adjourn the House belongs to the House, but prorogation of the session can be effected by the President alone. **Ramdas Athawale(5) v UOI, (2010) 4 SCC 1 : AIR 2010 SC 1310.**
14. There is no mention of any care-taker Government as such, in our constitution or in the constitutional law, though Sir Ivor Jennings has described in his book – Cabinet Government Third Ed. P. 85 the ministry that was formed by Mr. Churchill as care-taker **Government Madan Murari Verma v Choudhuri Charan Singh and another, AIR 1980 Cal 95 (Para 15, 20);**
15. Parliamentary democracy generally envisages i) representation of the people; ii) responsible government, iii) accountability of the Council of Ministers to the Legislature. **S. R. Chaudhuri Vs. State of Punjab & Ors, AIR 2001 SC 2707 (3 Judges Bench) (Para 21, 38 part, 39 – 41,**
16. [This Hon'ble High Court is under the constitutional obligation for the sake of democracy and political justice, (preamble) to direct for calling a Spl. Session of the State Assembly] The constitutional obligation to innovate the method for One day Spl. Session ... **Jagdambika Pal v UOI (1999) 9 SCC 95 (page 96, paras 1-2)**
17. Calling for Spl. Session for a day by keeping in abeyance the impugned order for a day. **UOI v Harish Chandra Singh Rawat & Anr, (2016) 16 SCC 744 (Para 16, 26, 28 to 31)**

[12] However, keeping in view the ratio of reliances which have been facilitated by the learned counsel for the petitioner, it can't be an assistance in support of his contention in this writ petition. Even on this premise also, this writ petition does not survive for consideration and even on the premise of maintainability as there shall be eflux and influx of the enforcement of the President's Rule in the State of Manipur and accordingly, this writ petition is hereby disposed of.

[13] Therefore, keeping in view the scope of Article 356 of the Constitution of India are concerned, it is said that this writ petition does not survive for consideration. Therefore, the writ petition is hereby disposed of as has become infructuous.

[14] Consequent upon disposal of this writ petition, the connected miscellaneous application in MC(WP(C)) No. 374 of 2025 also stands disposed of.

Sushil

JUDGE

CHIEF JUSTICE