

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

W.P.(CRL) No. 21 of 2025

Smt. Tongbram Ichan Devi

... Petitioner

- Versus -

State of Manipur & 2 Ors.

... Respondents

B E F O R E

**HON'BLE THE CHIEF JUSTICE MR. M. SUNDAR
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA**

O R D E R

[M. Sundar, CJ]

06.10.2025

[1] Mr. Ph. Sanajaoba, learned counsel for petitioner; Mr. Th. Vashum, learned Public Prosecutor for respondent Nos. 1 & 2 and Mr. S. Kaminikumar, learned Central Government Standing Counsel (CGSC) for respondent No. 3 are before this Court.

[2] Captioned habeas corpus petition has been filed assailing an order of preventive detention dated 13.05.2025 made by second respondent (The Additional District Magistrate, Bishnupur District) whereby, Shri Angom Ibochouba @ Lanchaba @ Lanchiba @ Punshiba @ Muba @ Chingkheinganba spouse of writ petitioner who shall be referred to as 'detenu', for the sake of convenience and clarity has been detained. To be noted, impugned preventive detention order has been made under

the 'National Security Act, 1980 (65 of 1980)' [hereinafter 'NSA' for the sake of brevity].

[3] On 18.09.2025 when the matter was listed, the following proceeding was made:

'Mr. Ph. Sanajaoba, learned counsel for the petitioner; Mr. Th. Vashum, learned Government Advocate for respondent Nos. 1 & 2; and Mr. S. Kaminikumar, learned CGSC for respondent No. 3; are present before us in the physical Court.

In the captioned Habeas Corpus Petition, Mr. Ph. Sanajaoba, learned counsel for the petitioner, makes two points and they are as follows:

- (i) The impugned detention order has been made by R2 , who is the Additional District Magistrate, Bishnupur, [L/A (which denotes 'Look After') District Magistrate, Bishnupur]. There is no delegation of power to pass detention order in favour of R2. This is the admitted position of the State vide paragraph 11 of the affidavit-in-opposition.*
- (ii) The grounds of detention has not been forwarded to the State Government 'forthwith' along with the detention order.*

In support of this contention, learned counsel pressed into service Hetchin Haokip case of Hon'ble Supreme Court of India reported in (2018) 9 SCC 562 and drew our attention to paragraph 13-15 thereof.

The term 'State Government' is defined vide 2(e) of National Security Act, 1960 but that pertains to Union Territory.

The position regarding States which are not Union Territory is not within the statutory perimeter of the definition.

Learned counsel for the petitioner sought for time to examine this position and revert to this Court. List one week hence.

List on 25.09.2025.'

[4] Before we delve into matter, it is deemed appropriate to record that the impugned detention order is predicated on as many as 4 (four) cases, details of which are as follows:

- (i) FIR No. 19(3)2011 BPR-PS, U/S 20/17 UA(P)Act & 25(1-C) A. Act.
- (ii) FIR No. 95(11) 2012 PSI-PS, U/S 364-A/400/34 IPC, 16-B/17/20 UA(P) Act & 25(1-C) A. Act.
- (iii) FIR No. 10(4) 2023 HLM-PS U/S 20 UA(P) Act.
- (iv) FIR No. 17(04)2025 MRG-PS, U/S 17/20 UA(P) A Act.

To be noted, 'FIR' denotes 'First Information Report' and 'UA(P) Act' denotes 'The Unlawful Activities (Preventive) Act, 1967 (37 of 1967)'.

[5] Today, learned counsel for writ petitioner elaborated on both points captured in afore-referred 18.09.2025 proceedings.

[6] The first point was reiterated and elaborated by saying that there is no delegation of powers to make preventive detention order *qua* second respondent under Section 3(3) of NSA.

[7] The affidavit-in-opposition, in Para – 11, no doubt says that there is no delegation in favour of second respondent. Nonetheless, today learned State counsel drew our attention to an order of State Government dated 08.05.2025 bearing reference No. TRNGE-1/12021-DP-DP. This order has been placed by the learned State counsel as Annexure, X-1 before us. A careful perusal of this 08.05.2025 order, made by the State Government, makes it clear that duties of certain officers who have been deputed to

participate in 22nd Round of Phase – III training of Mid-Career Training Programme (MCTP) for IAS Officers schedule from 12.05.2025 to 06.06.2025 at LBSNAA, Mussoorie have been conferred on certain other officers for 'looking after' ('L/A' is the abbreviation used by State) the affairs. It has been mentioned that 7 (seven) officers would be attending MCTP. Out of 7 (seven) officers, duties of 3 (three) officers have been conferred/assigned on 3 (three) other officers to look after their work. A careful perusal of Annexure, X-I makes it clear that second respondent is one of the officers who has been conferred/assigned powers of District Magistrate, Bishnupur who undisputedly is an officer to whom detention powers have been conferred by State Government.

[9] To be noted, second respondent is Additional District Magistrate, Bishnupur, he is looking after (L/A) duties of the District Magistrate, Bishnupur and second respondent is not lower in hierarchy *qua* District Magistrate. As there is no contestation as regards Annexure X-I, it is not necessary to dilate on definition of State Government. In this view of the matter, the argument that the second respondent has not been vested with powers to make the impugned preventive detention order pales into insignificance. Therefore, the first point does not find favour with us.

[10] This takes the legal drill at hand to the second point. The file placed before us by the learned State counsel makes it clear that impugned detention order has been sent by the second respondent to the State Government on the same day i.e. 13.05.2025 (to be noted, the same day

on which the impugned detention order was made) albeit without the grounds, however, the grounds have been sent subsequently by second respondent to the State Government on 17.05.2025 and the State Government has thereafter made an order of approval on 23.05.2025, which is also placed before us. This order of approval is within the meaning of sub-Section (4) of Section 3 of NSA. Subsequently, an order of confirmation vide Section 12(1) of NSA has also made by the State Government on 16.06.2025. This proceedings reads as follows:

*'GOVERNMENT OF MANIPUR
SECRETARIAT: HOME DEPARTMENT*

*ORDERS BY THE GOVERNOR: MANIPUR
Imphal, the 16th June, 2025*

No.H-14/12/2025-HD-HD: Bishnupur District, Manipur vide his order vide No.Cril-1/NSA/DM-BPR/2025 dated 13.05.2025 passed Whereas, the Addl. District Magistrate, Bishnupur, (L/A District Magistrate, under Sub-section 3 of Section 3 of the National Security Act, 1980 (hereinafter referred to as the said Act). made a detention Shri Angom Ibochouba Lanchaba Lanchaiba Punshiba Muba Chingkheinganba (44 yrs), s/o Late A. Ibocha Singh of Moirang Khoiru Mayai Lambi Ward No. 10, PS Moirang. District-Bishnupur, Manipur (hereinafter referred to as the said person);

And whereas, after examination of the report, the detention order, grounds of detention and other relevant papers furnished by the Addl. District Magistrate, Bishnupur, (L/A District Magistrate, Bishnupur) District, Manipur under Section 3(2) of the said Act, the Government has approved the said detention order made by the District Magistrate, Bishnupur, (L/A District Magistrate, Bishnupur District, Manipur, vide Government order No. H-14/12/2025-HD-HD dated 23 May, 2025.

And whereas, the Advisory Board constituted under Section 19 of the said Act has carefully considered the case of the said person in its sitting held on 05.06.2025 and submitted the report on 10.06.2025 and unanimously held that there are grounds and sufficient causes for detention of the detenu under the provision of the said Act.

And whereas, the Governor of Manipur after considering the proximate past of the detenu being an underground worker of the banned organization, namely KCP(PWG) which are prejudicial to the security of the State and maintenance of public order and there is apprehension of his continuing to commit similar prejudicial activities, unless his activities are prevented by preventive measures under the provision of NSA 1980, and therefore is of the opinion that the said person should be detained for the maximum period of 12 (twelve) months as provided under Section 13 of the said Act.

Now, therefore, in consonance with the opinion expressed by the Advisory Board and in exercise of the powers conferred under Section 12(1) of the said Act, the Governor of Manipur is pleased to order that the detention of Shri Angom Ibochouba Lanchaba Lanchaiba Punshiba Muba Chingkheinganba (44 yrs), s/o Late A. Ibocha Singh of Moirang Khoiru Mayai Lambi Ward No. 10, PS-Moirang. District-Bishnupur, Manipur vide his order vide Mo. Cril-1/NSA/DM-BPR/2025 dated 13.05.2025 is hereby confirmed and further fix the period of detention for a period of 12 (twelve) months from the date of detention.

*By orders & in the name of Governor,
Sd/-
(A. Subhash Singh)
Additional Secretary (Home).
Government of Manipur'*

[11] This means that State Government has approved the detention order within 12 (twelve) days and confirmation order has been made well within 3 (three) months vide Section 3(4) and 12(1) of NSA respectively.

[12] This Court carefully and respectfully perused **Hetchin Haokip [(2008) 9 SCC 562]** which was pressed into service by learned counsel for petitioner for the proposition that detaining authority not forthwith sending detention order with grounds to State Government is fatal qua detention order. Learned State counsel contends that **Hetchin Haokip** is clearly distinguishable on facts as that is a case, where the detaining

authority had not communicated even the factum of detention to the State Government for 5 days whereas in the case on hand, the factum of detention (to be noted detention order itself) has been communicated to the State Government on the same day albeit without the grounds.

[13] We agree and accept the argument of learned State counsel that ***Hetchin Haokip*** is clearly distinguishable on facts. The reason as to why we agree with the State counsel is declaration of law made by Hon'ble Supreme Court in ***Padma Sundara Rao*** reported in ***(2002) 3 SCC 533***. ***Padma Sundara Rao*** declares law as to how precedents are and Paragraph 9 reads as follows:

*'9. Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances are made in setting of the facts of a particular case, said Lord Morris in ***Herrington v. British Railways Board (1972) 2 WLR 537, (1972) 1 All ER 747 (HL)***. Circumstantial flexibility, one additional or difference fact may make a world of difference between conclusions in two cases.'*

[14] On facts, ***Padma Sundara Rao*** is one where land acquisition proceedings under Central Act (Land Acquisition Act, 1894) was assailed and the question as to whether a fresh period of one year would be

available arise for making declaration under Section 6 of Central Act was examined.

[15] In the light of ***Padma Sundara Rao*** principle, which is declaration of law made by a Constitution Bench, we have no difficulty in accepting the argument that ***Hetchin Haokip*** is clearly distinguishable on facts. In addition to ***Hetchin Haokip*** placed before us, an order of a Division Bench of this Court being order dated 11.07.2022 made in W.P.(CrI) No. 6 of 2022, (***Ruhida*** case) was pressed into service. In ***Ruhida*** case, Division Bench of this Court while applying ***Hetchin Haokip*** had no occasion to resort to ***Padma Sundara Rao*** principle as the argument that ***Hetchin Haokip*** is distinguishable on facts was not raised in ***Ruhida*** . To be noted, in ***Ruhida*** sending detention order alone without grounds (to be noted, grounds also sent later but before approval in instant case) was held to vitiate detention order in the light of ***Hetchin Haokip*** principle. Therefore, this Court has not difficulty in writing that we would respectfully follow Constitution Bench declaration of law in ***Padma Sudara Rao*** and hold that the argument that ***Hetchin Haokip*** is distinguishable on facts is accepted.

[16] There are other reasons as to why ***Hetchin Haokip*** does not come to the aid of the writ petitioner in the case at hand and the same are as follows:

- (i) In ***Ameena Begum*** reported in (2023) 9 SCC 587, Honb'le Supreme Court made it clear that the State

Government need not review an order of detention every 3 (three) months, after confirmatory order is made as it was noticed in ***Ameena Begum*** that ***Pesala Nookaraju*** [(2023) 14 SCC 641] overruled ***Cherukuri Mani*** [(2015) 19 SCC 722] on this point.

- (ii) In the case on hand, we find that the approval order under Section 3(4) of NSA has been made by the State Government (after receipt of grounds) within 12 (twelve) days and the confirmation order under Section 12(1) of NSA has been made well within 3 (three) months. Therefore, it cannot be gain said that fair procedure has been violated.
- (iii) The grounds of detention have been served to the detenu well within 5 (five) days provided vide Section 8(1) of NSA. There is no disputation about this aspect of the matter and therefore, this buttresses the position that there is no infraction of Constitutional rights of the detenu.
- (iv) Notwithstanding the above, second respondent sent the grounds of detention to the State Government subsequent to sending the detention order forthwith (same day), approval and confirmation by State Government was after receipt of grounds.

[17] Ergo, sequitur is, the two points which have been canvassed in the hearing (notwithstanding myriad grounds raised in the writ petition) fail and further sequitur is, captioned writ petition perishes and the same is dismissed. There shall be no order as to costs.

JUDGE

CHIEF JUSTICE

Bipin