

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

W.A. No. 105 of 2022

With

W.A. No. 103 of 2022

Langpoklakpam Kamal & Anr.

... Appellants

- Versus -

State of Manipur & 4 Ors.

... Respondents

B E F O R E

**HON'BLE THE CHIEF JUSTICE MR. D. KRISHNAKUMAR
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA**

O R D E R

08.04.2025

[D. Krishnakumar, CJ]

[1] Heard Mr. BP Sahu, learned senior counsel assisted by Ms. Loha Liirina, learned counsel appearing for the appellants, Mr. HS Paonam, learned senior counsel assisted by Mr. A. Arunkumar, learned counsel appearing for the respondent No. 5 and Mr. M. Rarry, learned senior counsel assisted by Ms. Nikita, learned counsel appearing for the respondents No. 1 & 2.

[2] The appellants filed writ petitions being W.P.(C) No. 968 of 2021 and W.P.(C) No. 569 of 2022 challenging the impugned dissolution order dated 29.09.2021 withdrawn under Section 27(d) of the Manipur Education Code, 1982 and subsequently order dated 27.11.2021 issued by the Deputy Secretary (Hr. & Tech. Edn.) Government of Manipur; order dated 29.11.2021 passed by the Director of University & Higher Education, Government of Manipur and order dated 18.12.2021 passed by the Principal in-Charge, Naorem Birahari College, Khundrakpam.

[3] The aforesaid writ petitions have been filed by the appellants before this Court by contending that the said dissolution order dated 29.09.2021 of the Director of University & Higher Education, Government of Manipur is illegal and without any justification and the writ petitions came to be taken for hearing, but the same were dismissed on 20.09.2022 and challenging the aforesaid order of the Writ Court, the appellants have filed writ appeal before this Court being W.A. No. 103 of 2022 and another writ appeal being W.A. No. 105 of 2022 has also been filed before this Court against the order for extending the term of Caretaker Governing Body for another period of 3 (three) months.

[4] According to the learned counsel appearing for the appellants, at the time of taking up the matter for admission, interim order was granted by a Division Bench of Meghalaya High Court vide order dated 03.03.2023 which reads as follows:

"It is ultimately found that the relevant governing body had been illegally dissolved, the remainder of the tenure of such governing body would be restored to it, irrespective of time running out."

Subsequently, the aforesaid appeals have been transferred before the High Court of Manipur i.e. W.A. No. 103 of 2022 and W.A. No. 105 of 2022 and the appeals along with applications being MC(WA) No. 164 of 2022 and MC(WA) No. 165 of 2022 have been taken up for hearing by the Division Bench of this Court for interim suspension of the aforesaid order dated 20.09.2022 passed by the Ld. Single Judge.

[5] When the matter is taken up for final hearing, the learned senior counsel appearing for the appellants submit that the Government has passed order for appointment of the appellants as Governing Body vide order dated

02.03.2021 and subsequently, the aforesaid order was dissolved by the respondents authority without giving any prior show cause notice to the appellants and therefore, the instant writ appeals have been filed before this Court.

[6] According to the learned senior counsel appearing for the appellants, the Ld. Single Judge dismissed the writ petition without considering the contentions of the appellants and further, it is submitted that the appellant is a Governing Body constituted vide order dated 02.03.2021 and the tenure of the said period is for 3 (three) years as per the Manipur Education Code, 1982.

According to the appellants, though the aforesaid period expired in March, 2024, the prayer have to be considered for extending the tenure.

[7] Mr. HS Paonam, learned senior counsel appearing for the respondent No. 5 and Mr. M. Rarry, learned senior counsel appearing for the respondents No. 1 & 2 strongly objected that as per the Manipur Education Code, Section-IV(10)(a)(vii), the period of tenure is 3 (three) years. The aforesaid period of 3 (three) years expired on 02.03.2024. Therefore, the same cannot be extended to the appellants.

Further, the learned senior counsel appearing for the respondent No. 5 submits that while pending the writ petition before this Court, the appellants have not obtained any interim order. Subsequently, the writ petitions came up for hearing and the same was dismissed on 20.09.2022 and also subsequently, the Government of Manipur passed the order dated 06.10.2022 for constituting new Governing Body appointing new members for a period of 3 (three) years as per the Manipur Education Code, 1982.

[8] Further, it is admitted that the appellants have not challenged the aforesaid order dated 06.10.2022 passed by the Government of Manipur. The newly appointed Governing Body has also not been impleaded as necessary party in the aforesaid writ appeals.

According to them, the aforesaid writ appeal is liable to be dismissed on the ground that the new Governing Body is not impleaded as necessary parties in the writ appeal. Therefore, he seeks to dismiss the appeals as not maintainable, without going into merit of the case.

[9] Mr. HS Paonam, learned senior counsel appearing for the Principal of the Naorem Birahari College, Khundrakpam submits that on the aforesaid ground, the present writ appeals are not maintainable and liable to be dismissed.

[10] Considering the submission, the appeals cannot be entertained to decide, without going into merit of the case.

We have to consider that firstly, the primordial contention as raised by the respondents that the writ petition under writ appeal is not maintainable. Therefore, the said issue is to be decided in the appeal. According to the learned senior counsel appearing for the appellants that the Government of Manipur by its order dated 02.03.2021 appointed the appellants as Governing Body for the respondent College and subsequently, the Governing Body was dissolved by its order dated 29.09.2021. The appellants are challenging the order dated 29.09.2021 and the subsequent orders in W.P.(C) No. 968 of 2021 and also filed writ petition being W.P.(C) no. 569 of 2022 challenging the order for extending the term of Caretaker Governing Body for another period of 3 (three) months.

Both the petitions came up and dismissed by the Writ Court. Challenging the said order, the instant writ appeals have been filed before this Court.

[11] According to the learned senior counsel appearing for the appellants, though he made submission that the said order dated 29.09.2021 is unsustainable in the eyes of law and without providing any show cause notice to the appellants. It is admitted that subsequently, the State of Manipur, respondent herein quashed the subsequent order dated 06.10.2022 by re-constituting the new Governing Body for a period of 3 (three) years as per the Manipur Education Code, 1982 and further, the appellants have not obtained any interim order to the writ petition. Subsequently, the interim order passed by the Division Bench of Meghalaya High Court in the aforesaid writ appeal is that if it is ultimately found that the relevant governing body had been illegally dissolved, the remainder of the tenure of such governing body would be restored to it, irrespective of time running out.

The interim order passed by the Court has been relying upon by the appellants that the entitlement for continuation of the remaining tenure of the Governing Body of the respondents College. But the specific contention has been raised by the respondents that the said order dated 06.10.2022 re-constituting new Governing Body was not placed before the Division Bench at the time of granting the interim order. The appellants have not challenged the said order and also not impleaded them as necessary parties in the writ petitions or writ appeals. There is some force on the contention of the respondents that the appellants have knowledge about the said order dated 06.10.2022. But, there has been no question before the authority or before this Court.

Prima facie we are of the view that the prayer as sought by the appellants in the writ petitions or writ appeals are not maintainable and therefore, the writ appeals are liable to be dismissed on the aforesaid grounds of not being impleaded the appellants as necessary parties in the writ petitions or writ appeals.

[12] Secondly, the tenure of the appellants expired on 02.03.2024 under Section-IV(10)(a)(vii) which prescribed the tenure of 3 (three) years. The relevant provision of the section is extracted herein below:

"Section-IV(10)(a)(vii) :

10. A college applying for grant-in-aid must be registered as a Society under the Societies Registration Act 1880 or a Public Trust under any law for the Society shall consist of members not exceeding 11 in number which shall included:-

(a)(vii) The term of the Governing Body should be three years. Action should be taken by the Governing Body, failing which by the Principal to constitute a new Governing Body before the expiry of the term of the outgoing Governing Body so as to enable the new Governing Body to take over charge from the outgoing Governing Body immediately, on the expiry of the term latter."

The said period of 3 (three) years is now being expired for the appellants and therefore, the Court cannot extend further period of tenure as sought in the writ petitions or writ appeals, and the same is also not permissible in the eyes of law. Besides that, the newly re-constituted Governing Body is being now taken charge from the date of order passed on 06.10.2022 and the period will expire only on 06.10.2025.

[13] On the aforesaid reasons, we are not inclined to accept the contention of the appellants and therefore, there is no force to interfere the order of the Writ Court and the appeals are liable to be dismissed.

[14] However, the learned senior counsel appearing for the appellants would submit that after expiring the tenure of new Governing Body on 06.10.2025 and appellants being considered for the next tenure, this aspect is concerned, the learned senior counsel for the State states that can be considered for the next tenure in accordance with the aforesaid rules.

[15] Considering the facts and circumstances of the case, we are of the view that there is no reason to interfere with the order of the Writ Court and therefore, the writ appeals are liable to be dismissed. Interim order, if any, merges with the final order.

[16] Accordingly, the instant writ appeals stand dismissed. No costs.

JUDGE

CHIEF JUSTICE

Bipin