

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

WP(C) No. 141 of 2024

Guruaribam Nalima Devi & 50 ors.

Petitioners

Vs.

State of Manipur & 2 ors.

Respondents

With

WP(C) No. 874 of 2024

Yendrenbam Radhamani Devi

Petitioner

Vs.

State of Manipur & 2 ors.

Respondents

**BEFORE
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH**

JUDGMENT & ORDER

(ORAL)

16.07.2025

[1] Heard Mr. A. Mohendro, learned counsel appearing for the petitioners in WP(C) No. 141 of 2024; and Mr. N. Jotendro, learned senior counsel assisted by Mr. Syed Murtaza Ahmed, learned counsel, appearing for the petitioner in WP(C) No. 874 of 2024. Heard also Mr. S. Nepolean, learned G.A. appearing for respondent Nos. 1 & 2 in both the writ petitions; and Mr. Y. Nirmolchand, learned senior counsel, appearing for respondent Nos. 3 in both the writ petitions.

[2] The present writ petitions have been filed assailing the letter dated 21.11.2023 from the Director, Vigilance & Anti-Corruption Department, Manipur, recommending to the Commissioner (Education/S),

Government of Manipur for streamlining the functioning of the Council of Higher Secondary Education, Manipur, and also for cancelling the promotion orders of 16(sixteen) employees as mentioned in the said letter on the ground that they have not completed the mandatory period of 8(eight) years' service as provided under the Recruitment Rules (R.R.) notified by the COHSEM on 27.02.2010(2019) and to hold a fresh DPC for those who have completed 8(eight) years in their respective posts or otherwise eligible as per the R.R. In the present two writ petitions, the petitioners have also assailed the letter dated 29.01.2024 from the Joint Secretary, Education(S), Government of Manipur, addressed to the Secretary, Council of Higher Secondary Education, Manipur, conveying the approval of the government to cancel the promotion of the aforesaid 16(sixteen) employees, who did not complete the probation period of 2(two) years and also to cancel the DPC held on 28.06.2022, except in cases of 4(four) employees who had completed 8(eight) years of mandatory service as well as directing to recover the excess amount paid due to such promotion in 6(six) Monthly installments.

[3] The case of the petitioners is that under the impugned letter dated 21.11.2023 from the State Vigilance Commission, recommendation has been made for cancelling the promotion order in respect of 16(sixteen) employees named in the impugned letter, who are the petitioners herein, on the ground that majority of them have not yet completed the mandatory period of 8(eight) years' service as provided under the Recruitment Rules

notified by COHSEM on 27.02.2019 and also for holding a fresh DPC only for those who have completed 8(eight) years' service. The simple case of the petitioners is that the so called R.R. alleged to be notified by the COHSEM on 27.02.2019 and on which, the State Vigilance Commission have relied on for making the recommendation for cancelling the promotion of the petitioners, is yet to be approved, notified and enforced by the Government. In short, it is the case of the petitioners that as on today, there is no approved or enforced R.R. in respect of the posts against which the petitioners have been promoted and as such, in the eyes of law there is no valid recruitment rules for regulating the promotion against the posts held by the petitioners. Accordingly, it has been submitted on behalf of the petitioners that the recommendation made by the State Vigilance Commission for cancelling the order of promotion in respect of the petitioners by solely relying on the provisions of an unenforced or unapproved RR is not sustainable in the eyes of law and that such recommendation has been made on misconceived facts and accordingly, such recommendation is not sustainable. Accordingly, a prayer has been made on behalf of the petitioners for quashing and setting aside both the impugned letters. It has also been submitted on behalf of the petitioners that as on today, neither the State authorities nor the Council have not yet issued any orders cancelling the promotion orders of the petitioners pursuant to the aforesaid recommendation made by the State Vigilance Commission as well as by the Joint Secretary, Education(s) Department

and that the petitioners are still continuing to discharge their duties of the posts to which they have been promoted.

[4] Mr. S. Nepolean, learned G.A. appearing on behalf of both the State respondents as well as the State Vigilance Commission, submitted the following contentions:-

- (i) The learned G.A. by drawing attention of this Court to the affidavit-in-opposition filed by respondent No. 2, i.e., Director, Vigilance & Anti-Corruption Department, Government of Manipur, more particularly at paragraph Nos. 4, 5, 7 & 9, submitted that it has been clearly stated in the said affidavit-in-opposition that the recommendation for cancellation of the promotion order of the petitioners has been made on the basis on the recruitment rules alleged to have been notified by the Council of Higher Secondary Education Manipur on 27.02.2019 and that this factum is clearly on record.
- (ii) The learned G.A. also by drawing attention of this Court to the affidavit-in-opposition filed on behalf of respondent No. 1, i.e., State of Manipur represented by the Commissioner/Secretary, Education (Schools) Department, more particularly at paragraph Nos. 6, 8 & 9, submitted that as there were no Recruitment Rules framed by the Council which have been approved by

the State Government for all the posts in COHSEM, including the posts held by the petitioners, the COHSEM by invoking its power provided under Section 13(xxi) of the Manipur Higher Secondary Education Act, 1992 and in consonance with the approval of the Administrative Committee and with due approval of the Council, have given promotion to the petitioners. It has also been submitted that such promotion has been given after due process as prescribed under the said Act and that as on today neither the government nor the council have issued any order cancelling such promotion pursuant to the recommendation made by the State Vigilance Commission.

- (iii) The learned G.A., further submitted that as there is no approved RR for the said posts, the authorities of COHSEM have exercised its power as provided under Section 12(6) and Section 13(xxi) of the Manipur Higher Secondary Education Act, 1992 and have given promotion to the petitioners and that COHSEM have the power and authority to give such promotion.

[5] The learned G.A., accordingly submitted that any appropriate order as deem fit and proper may be passed by this Court taking into

consideration the facts and circumstances of these cases as well as the relevant provisions of law.

[6] Mr. Y. Nirmolchand, learned senior counsel, representing respondent No. 3, i.e., the Council of Higher Secondary Education, Manipur (COHSEM) submitted that even though the authorities of the COHSEM have, under the notification dated 27.02.2019, proposed various Recruitment Rules for regulating the appointment to various posts in COHSEM for obtaining approval of the State government, the said notification as well as the proposed Recruitment Rules are yet to be approved and enforced by the Government. The learned senior counsel accordingly submitted that as on today, there is no approved RR for the various post in COHSEM including the posts against which the present petitioners have been promoted. The learned senior counsel submitted that in absence of any approved RR, the authorities of COHSEM have the power and authority to appoint and to give promotion to any posts in the Council by resorting to the provisions of Section 12 & 13 of the Manipur Higher Secondary Education Act, 1992 and there is no illegality in giving such promotion. It has been submitted by the learned senior counsel that as there is no approved or enforced RR in respect of the posts against which the petitioners have been given promotion, the recommendation made by the State Vigilance Commission for cancelling such promotion order by relying only on the provisions of RR, which is yet to be enforced or notified, is per se arbitrary and unsustainable. The learned senior

counsel also endorsed the submission made by the learned G.A. that as on today neither the State Government nor the Council have issued any order cancelling the order of promotion of the petitioners pursuant to the recommendation made by the State Vigilance Commission and that the petitioners are also continuing in their service. The learned senior counsel also submitted that any appropriate order as deem fit and proper may be passed by this Court taking into consideration the facts and circumstances of the present case.

[7] I have heard at length the submissions advanced by the learned counsel appearing for the parties and also carefully examined all the materials available on record. In the present case, under the notification dated 27.02.2019 of the Council of Higher Secondary Education, Manipur, various recruitment rules, specifying the method of recruitment, age limit, qualification and other matters, were annexed thereto. However, in the affidavit in opposition filed by respondent No. 1 as well as respondent No. 3, who are the competent authorities, it has been clearly and specifically stated that as on today, such recruitment rules as proposed by the Council of Higher Secondary Education, Manipur are yet to be approved by the government and as such, there is no valid recruitment rules for regulating the appointment against various posts, including the posts presently held by the petitioners, in the Council of Higher Secondary Education, Manipur.

[8] On perusal of the affidavit in opposition filed on behalf of respondent No. 2, i.e., the State Vigilance Commission as well as the

affidavit in opposition filed by the respondent No. 1, it is clearly seen that the recommendation made by the State Vigilance Commission for recommending the cancellation of the order of promotion of the petitioners is solely based on the provisions of an unapproved, un-notified and unenforced recruitment rules. In the face of such undisputed facts, this Court has no hesitation to arrive at the conclusion that the recommendation made by the State Vigilance Commission is without any basis and not sustainable in the eyes of law.

[9] On perusal of the affidavit in opposition filed on behalf of respondent Nos. 1 & 2, this Court also finds that it has been clearly and specifically stated that respondent No. 3 has the power and authority to appoint, either by direct or by promotion, officers and employees of the COHSEM whenever it may consider necessary for discharging its functions, as provided under Section 12 & Section 13 of the Manipur Higher Secondary Education Act, 1992. In view of such clear and ambiguous statement made by respondent Nos. 1 & 3 in their affidavit-in-opposition, this Court did not find any illegality in the promotion given to the present petitioners and as such, this court did not find any ground or reason to uphold the recommendation made by the State Vigilance Department as well as by the Joint Secretary, Education(S), Government of Manipur, under the two impugned letters dated 21.11.2023 and 29.01.2024. Accordingly, this Court is of the considered view that the petitioners have been able to make out a case of interfering with the impugned letters.

This Court also takes note of the submission advanced by the learned counsel appearing for the parties that as on today, neither the State Government nor the authorities of the COHSEM have issued any order cancelling the order of promotion in respect of the petitioners and that the petitioners are still discharging their duties efficiently and to the satisfaction of the concerned authorities.

[10] Taking into consideration the undisputed facts and circumstances of the present case, this Court come to the conclusion that the recommendation made by the State Vigilance Commission and the Secretary, Education (S) Department under the two impugned letters are arbitrary and without any authority of law. Accordingly, the said two impugned letters dated 21.11.2023 and 29.01.2024 are hereby quashed and set-aside.

With the aforesaid direction, both the writ petitions are disposed of. Parties are to bear their own costs.

JUDGE

FR/NFR

Indrajeet