KHOIROM BIPINCHANDRA SINGH
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**REPORTABLE**
*Item No. 13 - 14*

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

**W.A. No. 108 of 2022**

1. State of Manipur through the Principal Secretary/Commissioner/Secretary, Department of Education (S), Govt. of Manipur, Secretariat Building, Babupara, P.O. & P.S. Imphal, Imphal West District, Manipur – 795001.

2. The Director of Education, Govt. of Manipur, RIMS Doctors Colony, Lamphelpat, PO & PS Lamphel, District Imphal West, Manipur – 795001.

3. The DC/Chairman, District Board of Education, SSA, Imphal East, Govt. of Manipur Sarva Shiksha Abhiyan – Manipur, Babupara PO & PS Imphal West, Manipur – 795001.

*... Appellants*

*- Versus -*

1. Thounaojam Priyoranjan, aged about 39 years, S/o (L) Thaounaojam Yaikul, resident of Moirang Kampu Sajeb, PO & PS Porompat and District Imphal East, Manipur – 795005.

2. Yaithengbam Ganga Chanu, aged about 41 years, S/o Yaithengbam Khamba, resident of Khurai Sajor Leikai, PO Lamlong, PS Porompat and District Imphal East, Manipur – 795010.

3. Khundongbam Naba Singh, aged about 43 years, S/o (L) Khundongbam Kora Singh, resident of Phaknung, PO Lamlong, PS Lamlai and District Imphal East, Manipur – 795010.

4. Ashangbam Amusana Chanu, aged about 43 years, S/o (L) A. Tombi Meetei, resident of Khurai Chingangbam Leikai, PO & PS Porompat and District Imphal East, Manipur – 795005.

5. Kshetrimayum Premchandra Meitei, aged about 39 years, S/o Ksh. Ito Singh, resident of Khurai Sajor Leikai, PO Lamlong, PS Porompat and District Imphal East, Manipur – 795010.

6. Thaodem Kiranbala Devi, aged about 39 years, S/o Thaodem Shyama Singh, resident of Khurai Sajor Leikai, PO Lamlong, PS Porompat and District Imphal East, Manipur – 795010.

7. Lourembam Rashananda Singh, aged about 41 years, S/o Lourembam Komei Singh, resident of Phaknung, PO Lamlong, PS Lamlai and District Imphal East, Manipur – 795010.

*… Respondents*

**With**
**MC(WA) No. 174 of 2022**

**B E F O R E**
**HON'BLE THE CHIEF JUSTICE MR. M. SUNDAR**
**HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA**

| | | |
|---|---|---|
| For the appellant | : | Ms. Ch. Sundari, Government Advocate |
| For the respondents | : | Mr. Anjan Prasad Sahu, Advocate |
| Date of hearing | : | 24.02.2026 |
| Date of judgment & order | : | **24.02.2026** |

**JUDGMENT & ORDER**
***(O R A L)***

***(M. Sundar, CJ)***

[1] This order will govern captioned main writ appeal (WA) and captioned miscellaneous case (MC) thereat.

[2] Captioned main writ appeal is an intra Court appeal and the same has been filed by State assailing an 'order dated 08.06.2022 made by a Hon'ble Single Bench in W.P.(C) No. 178 of 2021' ('impugned order' for the sake of brevity, convenience and clarity).

[3] Short facts of the case (shorn of details not imperative for appreciating instant order) are that subject matter of case at hand is appointment of staff in a residential school in Khurai, Manipur that has been set up as part of Sarva Shiksha Abhiyan (SSA) programme; on 30.06.2012 State Project Director of SSA/SMA (to be noted, SMA denotes State Mission Authority) sent a communication to 'Deputy Commissioner' ('DC' for the sake of convenience) of various Districts about opening of residential school under SSA and requested formation of a adhoc committee with the concerned 'District Project Manager' ('DPM' for the sake of convenience) as chairman to run the residential school in buildings on rental basis until construction is completed; that this Court is informed that said Project Director is Director of Schools, Government of Manipur; that thereafter, as regards the residential school in Khurai under SSA (said school), a 14 (fourteen) member adhoc committee was constituted in a meeting convened by the then local legislator (MLA) on 24.09.2012; that this 14 (fourteen) member adhoc committee was duly approved by the DC/Chairman of the District Board of Education, SSA Imphal East on 17.10.2012; that in the interregnum the adhoc committee appointed 12(twelve) individuals {7(seven) teaching staff and 5 (five) non-teaching staff}; that 3 (three) teaching staff resigned and the remaining 9 (nine) continued to work in the school for over 10 (ten) years rendering blemishless service; that at such point of time, the same DC/Chairman issued show cause notices to appointees (staff) stating that appointment is irregular as it was on the basis of recommendation of adhoc committee

chaired by local legislator and not by DPM; that these show cause notices called upon the noticees to appear and submit their replies on 30.01.2021; that the noticees responded to the show cause notices and went before 'DC/Chairman, District Board of Education' ('said DC' for the sake of convenience) and submitted that they are not at fault, they have rendered blemishless service for over a decade and that they would continue to render blemishless service; that on the same day i.e. 30.01.2021 said DC made an order stating that the original appointment is irregular as the adhoc committee was not chaired by the DC and on that ground, all 9 (nine) individuals were disengaged; that out of 9 (nine) disengaged individuals 7(seven) approached this Court assailing the 30.01.2021 order of said DC by way of W.P.(C) No. 178 of 2021; that a Hon'ble Single Bench of this Court, after full contest allowed the writ petition in favour of 7 (seven) individuals; that State on 15.10.2022 filed the captioned main WA along with MC(WA) thereat; that on 09.11.2022 an interim order staying operation of the impugned order of Hon'ble Single Bench was made; that on 09.11.2022, 7 (seven) individuals were stopped from reporting to service; that this means that 4 (four) non-teaching staff and 3 (three) teaching staff who have rendered blemishless service for over a decade i.e., the period from 28.09.2012 to 09.11.2022 to be precise were disengaged; that the pleadings have been completed and main WA was heard out.

[4] In the hearing today, Ms. Ch. Sundari, learned State counsel for appellant and Mr. Anjan Prasad Sahu, learned counsel for all respondents [7(seven) writ petitioners before the Hon'ble Single Bench] are

before this Court, captioned WA was heard out in full and this Court comes to the conclusion that captioned WA deserves to be dismissed. The reasons are as follows:

(i) The sheet anchor contention of State in the captioned WA is that the initial appointment is irregular as adhoc committee was chaired by legislator (MLA) and not by DPM. In response to this primary contention of State, learned counsel for the respondents submitted that said DC approved the constitution of the adhoc committee on 17.10.2012. There is no dispute that on 17.10.2012 the adhoc committee was approved by the same DC i.e., said DC and this proceedings bearing reference No. 2/2012-RES(DPO-I/E)SSA is placed before us. To be noted, the disengagement order was made by said DC, though the approval of DC on 17.10.2012 is post appointment of 7 (seven) individuals on 28.09.2012. As there is clear approval with full knowledge of said DC, the argument that the adhoc committee is irregular and therefore the appointment is bad and flawed is flattened and it does not find favour with us. In other words, the ex-post facto approval of said DC on 17.10.2012 takes the wind out of the sails of the sheet anchor argument of State i.e., adhoc committee is irregular as it has not been chaired by DPM.

(ii) This Court notices that out of 7 (seven) individuals before this Court, 4 (four) are non-teaching staff i.e., Full Time Accountant, Assistant / Staff Support, Assistant Cook and Peon cum

Chowkidar. These 4 (four) non-teaching staff along with 3 (three) teaching staff, of which one is part time teacher had rendered blemishless service for over a decade and therefore, it cannot now be gainsaid that they have to apply again and they will be given a 'fair opportunity' to be recruited afresh.

(iii) Next point which can be described as indefeasible and significant is, this Court finds that there are as many as 20 (twenty) such schools in the State of Manipur and with regard to the other 19 (nineteen) schools also, the same kind of appointment had been made but those appointees have been construed to have been duly appointed and are continuing. This has been articulated by the writ petitioners in Paragraph No. 8 of the writ petition which reads as follows:

> *'8. That, the process of appointment of teachers of all the 20 schools under SSA/SMA was undertaken in the exact same manner and therefore, the act of the respondents in calling upon only the petitioners and not teachers of the other said schools, amounts to undue victimization fueled by malafide.'*

This paragraph No. 8 has been made by the State in the affidavit-in-opposition in Paragraph No. 10 which reads as follows:

> *'10. That, with reference to Para No. 8 of the Writ Petition, the deponent denies that the respondents have victimized the petitioner alone in view of the submissions made I the foregoing paras of this affidavit-in-opposition.'*

As regards the nine paragraphs preceding Paragraph No. 10 of the affidavit-in-opposition, there is no averment whatsoever

either to the effect that appointment had been made by a proper committee headed by DPM in the remaining 19 (nineteen) schools or is there an averment that action has been taken with regard to the other 19 (nineteen) schools also. Though this Court is clear that there cannot be any equality and illegality, the point is, when similar appointments have been made in 19 (nineteen) other schools when the same have not been construed as irregular appointments, State singing a different tune with regard to said school alone is clearly discriminatory and this can neither be countenanced nor sustained.

(iv) This Court finds, as already alluded to supra that 4 (four) out of the 7 (seven) writ petitioners are non-teaching staff namely, Full Time Accountant, Assistant / Staff Support, Assistant Cook and Peon cum Chowkidar and they have rendered blemishless service for over a decade i.e., over 10 (ten) years now.

(v) As regards the adhoc committee, even according to the afore-referred 30.06.2012 communication from the State Project Director of SSA / SMA, it is only for the purpose of running residential schools on rental basis until construction is completed. Therefore, it cannot be gainsaid that this adhoc committee contemplated in the 30.06.2012 communication from the State Project Director of SSA/SMA to the DCs is adhoc committee which pertains to recruitment. In this view of the matter also, the

burden of the song qua the proposition on which the campaign of State is predicated is a non-starter.

(vi) As regards 17.10.2012 ex-post facto approval by said DC, the same committee with the same legislator had been approved by the very DC (said DC) who made the disengagement order.

(vii) There is no disputation or contestation before this Court that the 17.10.2012 ex-post facto approval of the said DC is operating even today. There is nothing to demonstrate that this ex-post facto approval by said DC has been nullified or cancelled. This means that the adhoc committee which was originally constituted in 24.09.2012 meeting as approved (ex-post facto) by said DC stands approved by said DC even as on today.

(viii) Learned counsel for respondents pressed into service an order made by a co-ordinate co-equal Division Bench of this Court being order dated 18.04.2024 in ***W.A. 34 of 2021 (State of Manipur –vs- Yaikhom Joykumar Singh & Anr.).*** In this ***Joykumar*** case, a question as to whether the DC who made a appointment was not the authorized appointing authority came up for consideration and this Court came to the conclusion that in the absence of any Rule demonstrating that the authority lacks authorization, the appointment cannot be interfered with. In the case on hand also, there is no material to demonstrate that the adhoc committee constituted in the meeting on 24.09.2012 is illegal or hit by vice of any Rule much less is there any condified

provision vide which adhoc committee lacks authority to make appointments. To be noted, as regards this 18.04.2024 order in ***Joykumar*** case made by a co-ordinate co-equal Bench, the same has been carried to Hon'ble Supreme Court by State vide SLP(Civil) No. 16703 of 2022 and Hon'ble Supreme Court has refused to interfere with the order and the SLP has been dismissed vide order dated 26.09.2022. Therefore, this Court is of the considered view that ***Joykumar*** principle buttresses the submission of learned counsel for respondents that it has not been demonstrated that the adhoc committee originally constituted is hit by any Rule or any codified provision and on the contrary adhoc committee has ex-post facto been approved by the very said DC who has now made the order of disengagement of the individuals/respondents.

(ix) Judgment of Hon'ble Supreme Court in ***'Bhartiya Seva Samaj Trust through President & Anr. –vs- Yogeeshbhai Ambalal Patel & Anr.'*** reported in ***(2012) 9 SCC 310*** was pressed into service by learned counsel for respondents for the proposition that a person alleging infamy cannot be heard at any forum. ***Bharatiya Seva Samaj Trust*** case on facts is one where an assistant teacher who did not possess prescribed qualification of primary training certificate was appointed and subsequently terminated. In the case on hand, said DC who has made the order impugned in the writ petition has approved the adhoc committee

and therefore, ***Bharatiya Seva Samaj Trust*** principle does come to the aid of respondents.

(x) As regards the impugned order, Hon'ble Single Bench has noticed that it is nobody's case that respondents (writ petitioners before the Single Bench) are not eligible candidates or they are not eligible at the relevant point of time. This finding returned by the Hon'ble Single Bench in the impugned order has not been assailed. This means that the respondents before us were eligible to be appointed to their respective posts as of 28.09.2012. Hon'ble Single Bench has also noticed that the DPM participated in the committee meeting held on 28.09.2012 but in his capacity as Vice Chairman and therefore, this buttresses the case of the writ petitioners before the Hon'ble Single Bench and this finding returned by the Hon'ble Single Bench also cannot be found fault with and the same deserves to be sustained.

(xi) Hon'ble Single Bench has also noticed that said DC has approved the adhoc committee (as this Division Bench has also done) and as the conclusion that this Court has arrived at is in tandem with the dispositive reasoning of Hon'ble Single Bench, we find that there is no reason to interfere with the impugned order.

(xii) The argument that there is no formal advertisement, in the instant case, considering the facts and circumstances and trajectory the matter has taken pales into insignificance for three reasons and they are (a) admittedly it is nobody's case that the

respondents did not possess requisite qualification on the date of appointment i.e., on 28.09.2012 and (b) the adhoc committee which appointed 7 (seven) respondents has subsequently been approved (ex-post facto approval) by the said DC and (c) this Court finds that there is no iota of blemish qua respondents i.e., they have all rendered blemishless service for well over a decade now. Therefore, the respondents cannot be disengaged and cannot be penalized for what according to the State is an appointment that is not regular which was done way back in 2012 particularly when a similar course of appointment has been made in 19 (nineteen) other schools and all those appointees are continuing.

[5] This Court wanted to know whether any appointments have been made to the posts of 7 (seven) individuals i.e., 3 (three) teaching staff and 4 (four) non-teaching staff post 09.11.2022. In response this Court has been informed by learned State counsel that no appointments have been made and the posts are lying vacant. In this scenario, this Court is of the considered view that State will do well to ensure that the 7 (seven) respondents resume their work forthwith. This is more so as it is a case of a school under SSA programme and it is not desirable to understaffed schools as that would ultimately impair the education of children.

[6] Though obvious we make it clear that originally on 28.09.2012, 12 (twelve) individuals were appointed, 3 (three) had resigned and out of remaining 9 (nine) individuals, only 7 (seven) are before us.

Therefore, other than 7 (seven) respondents, it is open to the State to resort to recruitment as per prevailing/operating recruitment procedures.

[7] Apropos, in the light of narrative, discussion and dispositive reasoning supra, captioned writ appeal (WA) fails and the same is dismissed. Consequently, captioned miscellaneous case (MC) thereat also perishes with the WA and the same is also dismissed, though obvious for the purpose of specificity it is made clear that the interim order dated 09.11.2022 made in the captioned MC now stands effaced. There shall be no order as to costs.

**JUDGE** **CHIEF JUSTICE**

**FR/NFR**

*Bipin*

**P.S. I :** **Upload forthwith.**

**P.S. II :** **All concerned will stand bound by web copy uploaded in High Court website.**