Item No. 1
(Through Video Conferencing)

IN THE HIGH COURT OF MANIPUR
AT IMPHAL

PIL No. 6 of 2020

Shri Keisham Pradipkumar, aged about 52 years, D/o late K. Gourahari Singh, a resident of Wangkhei Ayangpalli Road, P.O. & P.S. Porompat, Imphal East District, Manipur, Pin – 795001.

... *Petitioner*

-Versus-

1. The State of Manipur represented through the Secretary (MAHUD) to the Government of Manipur, Manipur Secretariat Building, P.O. & P.S. Imphal, Imphal West District, Manipur, PIN – 795001.
2. The Imphal Municipal Corporation (IMC) through its Executive Officer having its office at Thangal Bazar, adjacent to the Chief Justice Bungalow, P.O. Imphal, P.S. City, Imphal West District, Manipur, PIN – 795001.
3. The Director General of Police, Manipur, P.O. & P.S. Imphal, Imphal West District, Manipur – 795001.

... Respondents

B E F O R E

HON'BLE THE CHIEF JUSTICE MR. RAMALINGAM SUDHAKAR
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

For the petitioner	:	Mr. M. Rakesh, Advocate
For the respondents	:	Mr. Lenin Hijam, Addl. Advocate General
		Mr. Y. Nirmolchand, Senior Advocate
Date of hearing & order	:	09.09.2020

O R D E R

[A.B., J.]

[1] Heard Mr. M. Rakesh, learned counsel appearing for the petitioner, Mr. Lenin Hijam, learned Additional Advocate General assisted by appearing for the respondents No. 1 & 3 and Mr. Y. Nirmolchand, learned Senior counsel appearing for the respondent No. 2.

[2] Mr. M. Rakesh, learned counsel appearing for the petitioner submitted that this Court had earlier disposed of a PIL being PIL No. 33 of 2018 by judgment and order dated 16.08.2018 wherein, similar issues and prayers made in the present PIL had been considered and disposed of. The operative portions of the said judgment and order are as under :

> *"[4]. The present PIL addresses on constituting the Town Vending Committee to solve the issue whereby they are seeking for implementation of various provisions of the Act mentioned in the prayer and also for formulation of a scheme as provided under Section 38 of the Act.*
>
> *In this regard, petitioner pleads that there has to be a proper assessment and survey by the concerned authorities. In effect, the petitioners seek interim direction to stop eviction of street vendors stating that the above law has not been properly implemented and preparatory steps have not been taken.*
>
> *[5] The learned Advocate General appearing for the State states that the authorities are well aware of the provisions of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 and the parameters for implementing the said Act and Rules. He further states that the Act and the Rules will be strictly complied with. The requirement of ease of movement in the road side as well as protection of right of street vendors will be taken on a common platform.*
>
> *In this regard, the learned Advocate General states that there will be a committee constituted to hear the grievance of the Street Vendors so as to enable them to express their views and opinion to the committee. Thereafter, suitable action will be taken as per law.*
>
> *[6] This assurance given by the learned Advocate General appears to be in consonance with the law in force. Therefore, we direct the State authority to proceed further in the matter in accordance with the above stated Act and Rules as may be applicable in a time bound manner and take decision on the issue of relocation of Street Vendors so as to make roads free from encroachment. The interest of the general public shall also be taken into consideration.*
>
> *With the above, PIL stands closed."*

[3] It is the case of the petitioner that there are about 170 street vendors doing their vending activities during day time on the southern side of the B.T. Road and similarly, on the northern side of the B.T. Road, there are about 156 street vendors conducting their vending activities during daytime. Further, there are about 50/60 street vendors on both sides of the road. Similarly, about 5/6 street vendors conduct their vending activities along Paona Bazar during day time. The tribal women street vendors' concentration areas are at Khuman Lampak, Nagaram, Dingku Road, Chingmeirong, Lamphel, etc. and the number of tribal women street vendors has greatly increased. These women vendors have no proper market shed till now, therefore, they occupy most of Khuman Lampak road, pavement, etc. and also at Lamlong market to sell their products. Thus, around 1000 street vendors have been operating in and around Khwairamband Market, Lamlong Market and Khuman Lampak Road during day time for the last many years and before enactment of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014.

[4] Mr. M. Rakesh, learned counsel for the petitioner submitted that in order to minimize the sufferings and problems faced by the Street Vendors, the Government of India enacted the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 (hereinafter referred to as the Street Vendors' Act, 2014). He, further, submitted that in order to implement the said Act effectively in the State of Manipur, the Government of Manipur framed the Manipur Street Vendors (Protection of Livelihood and

Regulation of Street Vending) Rules, 2016 and published the same in the Manipur Gazette on 2nd May, 2016.

[5] The learned counsel also submitted that despite the assurance given by the learned Advocate General, Manipur before this Court that the provisions of the Act and Rules will be strictly complied with and despite the order of this Hon'ble Court directing the State authorities to proceed further in the matter in accordance with the provisions of the Act and Rules, the respondents have not yet framed a scheme as provided under Section 38 of the Street Vendors' Act.

However, instead of implementing the Act by framing the scheme as contemplated under Section 38 of the said Act and identifying Street Vendors, the respondent No. 2 issued the impugned order dated 16.01.2020 prohibiting Street Vendors from doing their vending activities in any public road, drain, sewer, foot path, pavement. etc. for any kind of vending/transacting business beyond the limited time period from 5.00 am to 9.00 am in a day. In the said impugned order, it is also notified that those violators would be punished with a fine of Rs. 2,500/- under Section 114 and 115 of the Municipalities Act, 1994.

[6] Having been aggrieved by the aforesaid order of the 16.01.2020, the present PIL had been filed praying for granting the following reliefs :

> *"ii) To issue a writ in the nature of Mandamus thereby directing the Respondents to implement the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 by (i) constituting Town Vending Committee (TVC); (ii) formulating appropriate scheme and notifying the same under Section 38 of the Act; (iii) conducting survey of all street vendors to be guided by the Town Vending Committee; (iv) restraining from eviction of street vendor until survey has been done; (v) issuing identity card to the surveyed street vendors ; (vi) preparing and approving street*

vending plan under the guidance of the Town Vending Committee; (vii) allocating space in vending zone along with certificate of vending to the surveyed street vendors; (viii) linking street vendors with various programmes like financial linkages and social security; (ix) proving basic infrastructure in the vending zone like clean drinking water, toilets, child care, street lights etc.;

iii) To issue a writ in the nature of Certiorari for setting aside/quashing the impugned orders dated 16th January 2020 (Annexure – A/2) as the same is vitiated with material irregularities and palpable error in the facts and circumstances of the present cases;

iv) In the interim to issue a writ in the nature of Mandamus thereby directing the Respondents to immediately stop eviction of the Street Vendors, who are plying their vending activities in and around Khwairamband Market till formation of Town Vending Committee, formation of the Scheme under Section 38 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, (iii) conducting survey of the Street Vendors by the Town Vending Committee in accordance with the Section 3 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014;

v) In the interim pending disposal of the present writ petition, Your Lordship's may be gracious enough to pass an order suspending/staying the impugned orders dated 16th January 2020 (Annexure – A/2) till the disposal of the Writ Petition for the ends of justice and to protect the rule of law."

[7] Mr. Y. Nirmolchand, learned Senior counsel appearing for the respondent No. 2 submitted that the Street Vendors created insurmountable problems on the road sides of thickly populated Khwairamband Bazar area by causing serious obstructions to the law enforcing agencies, commuters, health hazard, throwing solid garbage on the road, endangering public to accidents, etc.

[8] The learned Senior counsel also submitted that all the Street Vendors from different Districts of Manipur concentrated in and around Khwairamband Bazar for their vending activities which is impossible for the authority to accommodate them inside the already crowded Khwairamband Bazar area. It is also submitted that in compliance with the judgment and order dated 16.08.2018 passed by this Court in PIL No. 33 of 2018, the respondent No. 2 is trying to relocate the Street Vendors from

Khwairamband area at the available vacant space of Lamphel Super Market area and that relocation to Street Vendors will be done at the newly earmarked area at Lamphel Super Market complex after identifying their genuineness.

[9] Mr. Lenin Hijam, learned Additional Advocate General fairly submitted that any appropriate order may be passed and any direction given by this Court, which is within the frame work of the Street Vendors' Act, 2014 and Rules made there under, will be implemented by the Government.

[10] The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 had been enacted to protect the rights of the Urban Street Vendors and to regulate street vending activities and for matters connected therewith or accidental thereto. The said Street Vendors' Act, 2014, inter alia, provided as under :

> *"3. (1) The Town Vending Committee shall, within such period and in such manner as may be specified in the scheme, conduct a survey of all existing street vendors, within the area under its jurisdiction, and subsequent survey shall be carried out at least once in every five years.*
>
> *(2) The Town Vending Committee shall ensure that all existing street vendors, identified in the survey, are accommodated in the vending zones subject to a norm conforming to two and half percent of the population of the ward or zone or town or city, as the case may be, in accordance with the plan for street vending and the holding capacity of the vending zones.*
>
> *(3) No street vendor shall be evicted or, as the case may be, relocated till the survey specified under sub-section (1) has been completed and the certificate of vending is issued to al vendors.*
>
> *4. (1) Every street vendor, identified under the survey carried out under sub-section (1) of Section 3, who has completed the age of fourteen years or such age as may be prescribed by the appropriate Government, shall be issued a certificate of vending by the Town Vending Committee, subject to such terms and conditions and within the period specified in the scheme including the restrictions specified in the plan for street vending.*

Provided that a person, whether or not included under the survey under sub-section (1) of Section 3, who has been issued a certificate of vending before the commencement of this Act, whether known as licence or any other form of permission (whether as a stationary vendor or a mobile vendor or under any other category) shall be deemed to be a street vendor for that category for the period for which he has been issued such certificate of vending.

18. *(1) The local authority may, on the recommendations of the Town Vending Committee, declare a zone or part of it to be a no-vending zone for any public purpose and relocate the street vendors vending in that area, in such manner as may be specified in the scheme.*
(2) The local authority shall evict such street vendor whose certificate of vending has been cancelled under Section 10 or who does not have a certificate of vending and vends without such certificate, in such manner as may be specified in the scheme.
(3) No street vendor shall be relocated or evicted by the local authority from the place specified in the certificate of vending unless he has been given thirty days' notice for the same in such manner as may be specified in the scheme.
(4) A street vendor shall be relocated or evicted by the local authority physically in such manner as may be specified in the scheme only after he had failed to vacate the place specified in the certificate of vending, after expiry of the period specified in the notice.
(5) Every street vendor who fails to relocate or vacate the place specified in the certificate of vending, after the expiry of the period specified in the notice, shall be liable to pay for every day of such default, a penalty which may extend up two hundred and fifty rupees, as may be determined by the local authority, but shall not be more than the value of good seized.

21. *(1) Every local authority shall, in consultation with the planning authority and on the recommendations of the Town Vending Committee, once in every five years, prepare a plan to promote the vocation of the street vendors covering the matters contained in the First Schedule.*
(2) The plan for street vending prepared by the local authority shall be submitted to the appropriate Government for approval and that Government shall, before notifying the plan, determine the norms applicable to the street vendors.

27. *Notwithstanding anything contained in any other law for the time being in force, no street vendor who carries on the street vending activities in accordance with the terms and conditions of his certificate of vending shall be prevented from exercising such rights by any person or police any other authority exercising powers under any other law for the time being in force.*

38. *(1) For the purpose of this Act, the appropriate Government shall frame a scheme, within six months from the date of commencement of this Act, after due consultations with the local authority and the Town Vending Committee, by notification, which may specify all or any of the matters provided in* ***the Second Schedule****.*
(2) A summary of the scheme notified by the appropriate Government under sub-section (1) shall be published by the local

authority in at least two local newspapers in such manner as may be prescribed.

THE SECOND SCHEDULE

Matters to be provided in the scheme for street vendors framed by the appropriate Government –

(a) the manner of conducting survey;
(b) the period within which certificate of vending shall be issued to the street vendors identified under the survey.
(c) the terms and conditions subject to which certificate of vending may be issued to a street vendor including to those persons who wish to carry on street vending during the intervening period of two surveys;
(d) the form and the manner in which the certificate of vending may be issued to a street vendor;
(e) the form and manner of issuing identity cards to street vendors;
(f) the criteria for issuing certificate of vending to street vendors;
(g) the vending fees to be paid on the basis of category of street vending, which may be different for different cities;
(h) the manner of collecting, through banks, counters of local authority and counters of Town Vending Committee, vending fees, maintenance charges and penalties for registration, use of parking space for mobile stalls and availing of civic services;
(i) the period of validity of certificate of vending;
(j) the period for which and the manner in which a certificate of vending may be renewed and the fees for such renewal;
(k) the manner in which the certificate of vending may be suspended or cancelled;
(l) the categories of street vendors other than stationary vendors and mobile vendors;
(m) the other categories of persons for preference for issue of certificate of vending;
(n) the public purpose for which a street vendor may be relocated and the manner of relocating street vendors;
(o) the manner of evicting a street vendor;
(p) the manner of giving notice for eviction of a street vendor;
(q) the manner of evicting a street vendor physically on failure to evict;
(r) the manner of seizure of goods by the local authority, including preparation and issue of list of goods seized;
(s) the manner of reclaiming seized goods by the street vendor and the fees for the same;
(t) the form and the manner for carrying out social audit of the activities of Town Vending Committee;
(u) the conditions under which private places may be designated as restriction free-vending zones, restricted-vending zones and no-vending zones;
(v) the terms and conditions for street vending including norms to be observed for up keeping public health and hygiene;
(w) the designation of State Nodal Officer for co-ordination of all matters relating to street vending at the state level;
(x) the manner of maintenance of proper records and other documents by the Town Vending Committee, local authority, planning authority and State Nodal Officer in respect of Street vendors;
(y) the manner of carrying out vending activities on time-sharing basis;

(z) the principles for determination of vending zones as restriction-free-vending zones, restricted-vending zones and no-vending zones;

(za) the principles for determining holding capacity of vending zones and the manner of undertaking comprehensive census and survey;

(zb) principles of relocation subject to the following :

(i) relocation should be avoided as far as possible, unless there is clear and urgent need for the land in question;

(ii) affected vendors or their representatives shall be involved in planning and implementation of the rehabilitation project;

(iii) affected vendors shall be relocated so as to improve their livelihoods and standards of living or at least restore them, in real terms of pre-evicted levels;

(iv) livelihood opportunities created by new infrastructure development projects shall accommodate the displaced vendors so that they can make use of the livelihood opportunities created by the infrastructure;

(v) loss of assets shall be avoided and in case of any loss, it shall be compensated;

(vi) any transfer of title or other interest in land shall not affect the rights of street vendors on such land, and any relocation consequent upon such a transfer shall be done in accordance with the provisions of this Act;

(vii) state machinery shall take comprehensive measure to check and control the practice of forced evictions;

(viii) natural markets where street vendors have conducted business for over fifty years shall be declared as heritage market, and the street vendors in such market shall not be relocated.

(zc) any other matter which may be included in the scheme for carrying out the purposes of this Act."

[11] After hearing all the counsel for the parties and perusal of the records and also after examining the provisions of the Street Vendors' Act, 2014 quoted hereinabove, we are of the considered view that the State Government is statutorily duty bound to frame a scheme specifying all or any of the matters provided under the **Second Schedule** of the said Act within a stipulated period and notify the same to protect the rights of Urban Street Vendors and to regulate street vending activities in the State.

Unless and until such a scheme as contemplated under Section 38 of the Street Vendors' Act, 2014 is framed by the Government, the problems and grievances raised in the present PIL will continue to subsist. We also failed to understand as to why the Government is not framing the

said scheme despite the assurance given earlier by the learned Advocate General before this Court and despite the judgment and order dated 16.08.2018 passed by this Court in PIL No. 33 of 2018.

[12] In view of the above, we direct the respondents to frame a scheme as contemplated under Section 38 of the Street Vendors' Act, 2014 specifying all or any of the matters provided under **Second Schedule** of the said Act within a period of 6 (six) months.

[13] With the above directions, the present PIL is disposed of.

Registry is directed to furnish a copy of this order to all the counsel for the parties for doing the needful.

JUDGE **CHIEF JUSTICE**

FR/NFR

bipin

Yumkham Rother

Digitally signed by Yumkham Rother
Date: 2020.10.22 12:23:48 +05'30'