Item No. 4
(Video Conferencing)

IN THE HIGH COURT OF MANIPUR
AT IMPHAL

PIL No. 9 of 2020

Smt. Lourembam Rebika Chanu, aged about 44 years, W/O Elangbam Lokeshore Singh, a resident of Khurai Thongam Leikai, P.O. Lamlong, P.S. Porompat, Imphal East District, Manipur, PIN – 795010.

……. ***Petitioner***

- Versus –

The State of Manipur through the Secretary/Commissioner (Health), Government of Manipur, Manipur Secretariat, P.O. & P.S. Imphal, Imphal West District, Manipur, PIN – 795001.

…. Respondent

BEFORE

HON'BLE THE CHIEF JUSTICE MR. RAMALINGAM SUDHAKAR
HON'BLE MR. JUSTICE KH. NOBIN SINGH

For the petitioner	:	Mr. M. Rakesh, Advocate
For the respondents	:	Mr. N. Kumarjit, A.G.
Date of Order	**:**	**10.08.2020**

ORDER

R.S. C.J

[1] Heard Mr. M. Rakesh, learned counsel appearing for the petitioner and Mr. N. Kumarjit, learned Advocate General appearing for the State respondent.

[2] The prayers in the PIL are as follows:-

> ***"ii)*** *to issue a writ in the nature of Mandamus or any other appropriate writ or order directing the Respondent to provide effective and proper Personal Protective Equipment (PPEs) to the Accredited Social Health*

Activists (ASHAs) while assigning them to combat COVID 19 Pandemic in Manipur;

(iii) *in the interim pending disposal of the present writ petition, to pass an order restraining the Respondent from engaging ASHAs in combating COVID 19 pandemic without providing proper and effective PPEs to all ASHAs."*

[3] The PIL has been filed under Article 226 of the Constitution of India for issuance of a Writ in the nature of Mandamus or any other appropriate writ(s) or order(s) for directing the concerned authority to ensure the availability of all necessary Personal Protection Equipment (PPE) to all Accredited Social Health Activists (ASHAs), who are engaged in combating COVID 19 Pandemic in the State of Manipur.

In order to utilize service of the ASHAs in combating COVID 19 pandemic in Manipur, recently the Respondent imparted training to ASHAs for performing various activities including the following :-

(i) House to house visit to search clinically suspect cases;
(ii) Identify contacts of confirmed and suspect cases;
(iii) Maintain line list of suspect/ confirmed cases and contacts;
(iv) Monitoring contacts and inform Supervisory Medical Officer about suspect cases and their contacts;
(v) Create awareness among community about disease prevention, home quarantine, common signs and symptoms and need for reporting suspect cases;
(vi) Counsel individuals to take precautions to avoid contact with those with symptoms suggestive of COVID-19;
(vii) Home visit of each and every home quarantined individuals and submit report to the supervisory officer every day.

In order to perform the above mentioned additional tasks, ASHAs require to have proper and effective Personal Protection Equipment (PPE) such as triple layer medical masks, gloves, hand sanitizers etc. However, the Respondents miserably failed to provide proper and effective PPEs to the ASHAs of Manipur. On 18th and 19th April 2020, the petitioner has conducted a fact finding and interviewed to various AHASs of Imphal East and Imphal West Districts and they expressed their anguish over the steps taken by the Respondent and that they are willing to execute the tasks assigned to them with proper PPEs. Without proper PPEs, they are not willing to execute the assigned tasks inasmuch as the chance of infection of corona virus during discharge of duty is very high. During survey, the petitioner came to know that most of the ASHAs are not provided proper PPEs and there are instances of not providing any sort of protective gears to the ASHAs. Presently, the respondent failed to provide adequate and proper Personal Protection Equipment to ASHAs even though the respondent compelled ASHAs to work without proper PPE which is very risky to the ASHAs as well as to the community. Working of ASHAs without proper PPE may lead to spreading the pandemic rather than combating.

[4] The ASHA workers are one of the key players in the control of the pandemic. They are entrusted with the job of home visits and also to monitor the spread of COVID 19 pandemic and report to the health authorities. They are in direct contact with the public and infected persons at times. Therefore, the need to provide Personal Protective Equipments

(PPEs) including face masks, hand sanitizers etc. becomes imperative and necessary. The case was taken up on 24.04.2020 and Mr. N. Kumarjit, learned Advocate General was asked to file report. Reply affidavit of respondent was filed on 02.05.2020 by the State Government with Annexure-R/1 issued by the Government of India to take care of ASHA workers in controlling the COVID 19 pandemic. He refers to Annexure-R/3 dated 06.04.2020 directing the CMOs to provide masks and hand sanitizers to ASHA workers.

[5] A rejoinder affidavit dated 11.05.2020 was filed by the petitioner, for which the State has replied by filing reply affidavit dated 28.05.2020. Para 4 & 5 of the reply affidavit dated 28.05.2020 filed by the State read as follows :-

> ***"4.*** *That with reference to para No. 5 to 7 of the rejoinder affidavit filed by the petitioner, the humble deponent submits that it is a false and fabricated statement that even after issuance of the specific direction to all the respective Chief Medical Officers of all 16 Districts in Manipur for providing sufficient face mask and hand sanitizer, ASHAs could not get desired articles. There is no question of non-distribution of face mask or hand sanitizer to ASHAs. It is also a false statement made by the petitioner that she conducted subsequent fact finding by making telephonic call to various ASHAs. The petitioner also failed to disclose the particulars of ASHAs or the phone records or the date & time on which she made the telephonic call to the ASHAs. It is also false and fabricated story that no hand sanitizer was provided to ASHAs till date.*
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> ***5.*** *That with reference to Para No. 8 and 9 of the rejoinder affidavit filed by the petitioner, the answering deponent submits that adequate face mask and hand sanitizer has been supplied from time to time by the authorities to the ASHAs who are used as frontline workers in the course of preventing spread of COVID-19. There is also no complaint as regards non-availability of face mask or hand sanitizer form these ASHAs and the petitioner filed the case without proper verification and for reasons best known to her.*
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> *In the light of the facts stated above, the PIL be dismissed with cost."*

[6] Mr. N. Kumarjit, learned Advocate General also filed a letter dated 09.06.2020 written by one Dr. Somorjit Ningombam, SNO (ASHA)/DD(PH) addressed to the Principal Secretary (Health & FW), Government of Manipur, enclosing the records/data submitted by CMOs and MOs of districts for distribution of face masks and hand sanitizers.

Mr. N. Kumarjit, learned Advocate General also filed report of the following Chief Medical Officers :-

(i) Report dated 25th July, 2020 submitted by District Mission Director/CMO, Imphal West

(ii) Report dated 25th July, 2020 submitted by District Mission Director, District Health Society, Bishnupur.

(iii) Report dated 28th July, 2020 submitted by District Mission Director/CMO, District Health Society, Ukhrul.

(iv) Report dated 28th July, 2020 submitted by CMO/ Director, District Health Society, Thoubal.

(v) Report dated 28th July, 2020 submitted by Chief Medical Officer, Churachandpur.

(vi) Report dated 28th July, 2020 submitted by Mission Director, CMO, District Health Society, Chandel.

[7] We take the above stated reports on record. While appreciating these officers for doing their best to address the COVID-19 pandemic and support ASHA workers in controlling the spread of COVID-19 and giving awareness to the people in various districts, we call upon the respondents to take steps to implement the directive of Central Government and Provide ASHA workers of the entire State with the PPEs without any default. We

direct the State Government to do so without any break as the spread of COVID-19 pandemic in Manipur appears to be growing from day to day.

With the above direction, the PIL stands disposed of.

JUDGE CHIEF JUSTICE

FR/NFR

Sandeep

WAIKHOM TONEN MEITEI Digitally signed by WAIKHOM TONEN MEITEI Date: 2020.08.11 15:06:18 +05'30'