# IN THE HIGH COURT OF MANIPUR
# AT IMPHAL

## WP(C) No. 330 of 2020

1. **Yumnam Biramadhop Singh**, aged about 72 years, S/o(L) Y. Natum Singh, a resident of Keirak Leirak Achouba, P.O.- Kakching & P.S.- Kakching, Kakching District, Manipur, 795103;
2. **Thounaojam Nongyai Meitei**, aged about 60 years, S/o(L) Th. Amuchou Singh, a resident of Keirak Leirak Achouba, P.O.- Kakching, P.S.- Kakching, Kakching District, Manipur, 795103;
3. **Elangbam Irabot Singh**, aged about 62 years, S/o E. Tombi Singh, a resident of Keirak Leirak Achouba, P.O.- Kakching & P.S.- Kakching, Kakching District, Manipur, 795103.

**……. *Petitioner/s***

**– Versus –**

1. **The Director General**, National Rural Road Development Agency (NRRDA), Ministry of Rural Development, Government of India 5th Floor, NBCC Tower, Vikaji Cama Place, New Delhi – 110066;
2. The State of Manipur represented by the **Commissioner/Principal Secretary/ Secretary/ Additional Chief Secretary (RD&PR)**, Government of Manipur, Secretariat Complex, Babupara, Imphal West District, Manipur-795001;
3. **The Chief Engineer**, Rural Engineering Department (RED)/Manipur State Rural Roads Development Agency (MSRRDA), Government of Manipur, Smart

Office Complex, AT Line, North AOC Imphal, Manipur-795005;

4. **Executive Engineer**, Rural Engineering Department (RED)/Manipur State Rural Roads Development Agency (MSRRDA), Governmennt of Manipur, Smart Office Complex, AT Line North AOC Imphal, Manipur-795005.

**….** ***Respondent/s***

BEFORE
**HON'BLE MR. JUSTICE M.V. MURALIDARAN**

| | | |
|---|---|---|
| For the Petitioner/s | : | Mr. B. Prem Sharma, Advocate |
| For the Respondent/s | : | Mr. H. Samarjit, GA |
| | | Mr. W. Darakishwor, CGC |
| Date of hearing | : | 15.07.2020 |
| **Date of Judgment & Order** | **:** | **21.08.2020** |

**JUDGMENT & ORDER**
**(CAV)**

This writ petition has been filed by the petitioners to issue a writ of mandamus directing the respondents to stop construction of 50M span bridge at Wabagai Leirak Achouba, PO & PS, Kakching, Kakching District, Manipur under PHGSY scheme above Sekmai river.

**[2]** The petitioners, who are stated to be the resident of Keirak Leirak Achouba, have filed this writ petition stating that the proposed second plan to construct 50M span bridge at Wabagai Leirak Achouba, is against the wills of the petitioners and the public. In fact, the earlier plan to construct the bridge at Wabagai Leirak Achouba near the wooden bridge is the best feasible place.

**[3]** The learned counsel for the petitioners contended that earlier the petitioners have submitted a representation dated 14.02.2020 to the third respondent to take necessary action for the construction of 50M span bridge at Wabagai Leirak Achouba, Kakching near the present wooden bridge above Sekmai river. Since the representation of the petitioners was not considered by the authority concerned, the petitioners have filed W.P.(C) No.289 of 2020 before this Court and this Court, by an order dated 19.06.2020, disposed of the said writ petition directing the third respondent Chief Engineer to consider the representation dated 14.02.2020 within a period of two weeks from the date of the receipt of the copy of the order.

**[4]** The learned counsel would submit that instead of considering the representation of the petitioners, the respondents are planning to construct the bridge at Wabagai Leikai Achouba, Keirak by erecting

machines and storing materials. Since the act of the respondents is highly condemnable, the petitioners have no other option except to file the present writ petition seeking direction on the respondents to stop the proposed construction of 50M span bridge.

**[5]** On the other hand, the learned Government counsel submitted that since the earlier location is not feasible, after due consultation with the experts, the new proposed location was selected to construct the 50M span bridge. He would submit that the second proposed area of the bridge is not dangerous place as alleged by the petitioners.

**[6]** This Court considered the submissions made by the learned counsel appearing on either side and also perused the materials on record.

**[7]** The grievance of the petitioners is that the former Superintending Engineer, Executive Engineer and the Section Officer of the Rural Engineering Department, Manipur proposed for construction of a 50M span bridge at Wabagai Leirak Achouba near the present wooden bridge under PHGSY, as the best place for construction of the said bridge is near the present wooden bridge probably for the reason that appropriate place is available without

affecting the pattadars who are residing near the place of wooden bridge. However, after the retirement of the former Superintending Engineer, the new officials, without looking into the grievance of the petitioners, have suggested the present second location for construction of the said bridge near two Banyan trees and also near the community hall/mandop club/electric transformer towards the Wabagai Leirak Achouba approach road.

**[8]** According to the petitioners, if the respondents started construction of bridge at the second location, it would affect the school play ground, market shed, library hall. That apart, some private lands are to be acquired and necessary compensation has to be paid to the affected land owners. It is also the say of the petitioners that the experts who conducted soil test have stated that the construction of the bridge at the initially proposed site would be the better site.

**[9]** It is to be noted that earlier the petitioners have submitted a representation dated 14.02.2020 to take action for construction of 50M span bridge at Wabagai Leirak Achouba, Kakching. When the respondents have not considered the representation of the petitioners dated 14.02.2020, the petitioners have filed W.P.(C) No.289 of 2020 before this Court. By an order dated 19.06.2020, this Court disposed

of the said writ petition and the operative portion of the order reads thus:

> *"7. When the matter is taken up for consideration today, it has been submitted by Shri B. Prem Sharma, learned counsel appearing for the petitioners that the instant writ petition can be disposed of by issuing an innocuous order and accordingly, the instant writ petition stands disposed of with the direction that the respondents and in particular, the Chief Engineer, RED, Government of Manipur shall consider the representation dated 14.02.2020 submitted by the petitioners as quickly as possible preferably within a period of two weeks from the date of receipt of a copy of this order. The respondents and in particular, the Chief Engineer, RED is directed to stop the construction of the said bridge till the disposal of the said representation."*

**[10]** According to the petitioners, despite the order of this Court and the same being communicated to the respondents, the respondents are proceeding to construct the said bridge. In support, the petitioners have annexed photographs of the engine to be used at the construction of second proposed site and also materials stored there.

**[11]** Earlier, this Court passed an order in W.P.(C) No.289 of 2020

on 19.06.2020 in the presence of the learned Government counsel and this Court also directed the third respondent to stop the construction of the said bridge till the disposal of the representation of the petitioners. There is nothing on record to show that the respondents have received a copy of the order passed in W.P.(C) No.289 of 2020. Moreover, the two weeks period given to the respondents, particularly, the third respondent was expired on 03.07.2020. While that being so, the petitioners have hurriedly filed the instant writ petition on 01.07.2020 without giving breathing time to the respondents to consider the representation dated 14.02.2020 as directed by this Court.

**[12]** It is also to be noted that the petitioners have enclosed legal notice dated 20.06.2020 along with the petition. On a perusal of the same, this Court finds that the said self-styled legal notice does not contain details as to which authority the said notice was addressed. For better appreciation, the said notice is re-produced hereunder:

> *"B. Prem Sharma*
> *Advocate, High Court of Manipur*
> *Keirak Tomal Makhong*
> *Kakching District, MANIPUR*
>
> *In the facts and circumstances above said, I hereby given you this legal notice for your kind perusal and immediate compliance of the order dated 19.06.2020 passed in W.P.(C)*

*No.289 of 2020 by the Hon'ble High Court of Manipur failing which, I have no alternative but to file the Contempt petition under Section 12 of the Contempt of Courts Act, 1971, read with Article 215 of the Constitution of India for willful and deliberate disobedience of the order dated 19.06.2020 above referred before the Hon'ble High Court, to meet the ends of justice and to protect the rule of law.*

*Dated/Imphal*
*The 20th June, 2020*

*Yours faithfully,*

*(Sd)/- xxx*
*(B. Prem Sharma, Advocate)*
*High Court of Manipur"*

**[13]** When the respondents have been given two weeks' time to consider the representation of the petitioners on 19.06.2020 and when the two weeks' period of time was not expired on the date of issuance of the alleged legal notice, how the act of the respondents would constitute contempt of Court as alleged by the petitioners. That apart, by way of the alleged legal notice, the learned counsel for the petitioners insisted immediate compliance of the order dated 19.06.2020. Since the alleged legal notice is not legally sustainable, the petitioners cannot rely upon the same.

**[14]** Of course, this Court in the order dated 19.06.2020 directed the Chief Engineer, RED to stop the construction of the said bridge till

the disposal of the representation of the petitioners. As stated supra, the petitioners have not given breathing time to the Chief Engineer, RED to consider the representation, instead, they have hurriedly filed the second writ petition. The second writ petition more or less for the same prayer cannot be entertained by this Court.

**[15]** Coming to the erection of engine and the iron rods for construction of the bridge at the second proposed site are concerned, the photographs annexed with the petition do not disclose that the respondents have started constructing the bridge at the proposed second site. The photographs showing presence of oil engines and iron rods at the second proposed site have no help to contend that the respondents are constructing the bridge by violating the orders of this Court. On a perusal of the photographs, this Court is able to see the presence of three oil engines. There is also nothing on record to show that in the second proposed site only, the above said three oil engines were kept.

**[16]** This Court is of the view that the construction of bridge is based on the experts' opinion and the Court cannot dictate that the bridge should be constructed in a particular location/site. These are all the matters of expertise.

**[17]** Since the present writ petition has been filed by the petitioners in a hurried manner without giving sufficient breathing time to the respondents, particularly, the third respondent to consider the representation of the petitioners dated 14.02.2020, the writ petition is not legally sustainable and accordingly, the same is not entertained.

**[18]** In the result,

**a)** the writ petition is dismissed;

**b)** the Respondents are directed to comply the order dated 19.06.2020 in W.P.(C) No.289 of 2020 immediately without any further delay.

**JUDGE**

**FR/NFR**

***-Larson***