Item No. 4

IN THE HIGH COURT OF MANIPUR
AT IMPHAL

W.P(C) No.422 of 2018

Tongbram Tikendrajit Singh & anr. **…. Petitioners**

-Versus-

State of Manipur and anr. **…..Respondents**

BEFORE
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE MV MURALIDARAN

For the petitioners :: Mr.M.Rakesh, Advocate
For the Respondents :: Mr. H.Lenin, Addl.AG
Ms. Lungthan Kamei, Advocate
Date of Order :: **06.02.2020**

O R D E R (ORAL)

CJ,

[1] The writ petition has been filed challenging the notification dated 14.5.2018, Annexure-A/1, which reads as follows:-

"Annexure-A/1

GOVERNMENT OF MANIPUR
SECRETARIAT LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION
Imphal, the 14th May, 2018

No. 5/16/2018-L&E (MBOCWWB) In supersession of this Government Notification number 5/254/97-Lab(Pt-1) dated 24th May, 2017 and in exercise of the powers conferred under sub-section (1) of section 18 of the Building & other Construction Workers (Regulation of Employment and Condition of Service) Act, 1996, the Government of Manipur is pleased to order reconstitution of the Manipur Building & Other Construction Workers' Welfare Board consisting of the following officers/members as indicated against each of them hereunder with immediate effect in public interest and until further orders:-

1. Shri Heikham Dingo Singh, MLA, -As Chairperson,
Sekmai/Assembly Constituency

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Members representing Building Workers:

1	President, All Manipur Skilled Labour Union,Yaiskul Police Lane, Imphal West	Member
2	President, United Labour Union Manipur, RIMS Road, Uripok, Imhal West	Member
3	General Secretary, United Worker Association, Singjamei, Imphal West	Member
4	President, All Manipur Tribal Labour Union, Mantripukhri, Imphal East	Member
5	President, Tamenglong Constituency Workers' Union, Tamenglong	Member

2. Further, the term of services(s) of the Chairperson and the Member(s) shall be for a period of only 3(three) years or until further orders."

[2] The specific grievance of the petitioners represented by Mr.M.Rakesh, learned counsel is that on 24.5.2017, the following notification at Annexure-A/2 was issued :-

"Annexure-A/2

GOVERNMENT OF MANIPUR
SECRETARIAT LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

Imphal, the 24th May, 2017.

No. 5/254/97-Lab(Pt.1.). In supersession of this Govt. Notification of even number dated 16.12.2015 and in exercise of the powers conferred under sub-section (1) of Section 18 of the Building & Others Construction Workers (Regulation of Employment and Condition of Service) Act, 1996 the Governor of Manipur is pleased to order reconstitution of the existing Manipur Building & Others Construction Workers' Welfare Board consisting of the following Officers/Members as indicated against each of them hereunder with immediate effect in public interest.

1.Shri Sanglakpam Preshyojit Sharma, Chairman/S.P. Industries LTd. – Airport Raod Changangei Uchekon/Imphal West Dist, Manipur
-As Chairperson

2 A representative of the Ministry of Labour & Employment, Government of India, New Delhi.
-As Member

Members representing the Government of Manipur:

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**** *****

Members representing the employers

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**** *****

Member representing Building workers

1	President, All Manipur P.W.D.Employees and Workers' Association, Imphal	Member
2	Gen. Secretary, All Manipur I.F.C.D. Employees & Workers' Association, Imphal	Member
3	President , All Manipur skilled Labour Union, Yaiskul Police Lane/Imphal	Member
4	Gen. Secretary, United Self Workers' Welfare Union. Game Village/Langol	Meber
5	Gen. Secretary/Imphal West II CD Block Unorganised Workers Union, Irom Meijarao, P.S. Wangoi	Member

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**** ****"

[3] According to the petitioners, the tenure of office of a member of the Board is three years. On this aspect, para No.5 of the writ petition stated as below:

> "5. That Sub-rule (2) of Rules 18 of the Manipur Manipur Building and other construction workers (Regulation of Employment and Conditions of Service) Rules, 2008 (which is framed under Section 40 and 60 of the Building and other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996) provides that a member of the Board shall hold office for a period of three years from the date on which his appointment is notified in the official Gazette. Thus, the term of the Petitioners, who have been appointed as members of the Welfare Board with effect from 24th May, 2017, should be three years and their term cannot be shortened without following procedure established by law."

[4] Rule 18 of Chapter III of the Manipur Building and other construction workers (Regulation of Employment and Conditions of Service) Rules, 2008 reads as below:-

> "18. Terms of Office.- (1) The Chairperson of the Board shall office for a period of three years from the date on which his appointment is notified in the official Gazette:
>
> Provided that he shall hold the office until the appointment of his successor is notified in the official gazette.
>
> (2) A member of the Board shall hold office for a period of three years from the date on which his appointment is notified in the official Gazette."

[5] The grievance appears to be that without any just or reasonable cause, the respondents, in an arbitrary and capricious manner, issued the impugned proceeding dated 14.5.2018, Annexure-A/2, reconstituting the members of the Manipur Building and other Construction Workers' Welfare Board thereby depriving the petitioners who are the existing members the right to participate in the meetings/proceedings of the Board which is a welfare Board to further the cause of Building and Construction Workers and conditions of service of building and other construction workers.

[6] Mr.M.Rakesh, learned counsel for the petitioners pleaded only on the above issue and also submits that neither of the Boards is functioning. This is affirmed by Mr.Lenin Hijam, learned Addl.AG.

[7] When the case was taken up, notice was issued on 22.05.2018 and it was tagged with PIL No. 6 of 2019 and PIL No.36 of 2017. The said PIL No.6 of 2019 was already disposed of on 02.5.2019 with the following direction as para Nos. 4 and 5 as quoted below:-

> "[4] Mr. N.Kumarjit, learned AG appearing for the state assisted by Mr. Lenin Hijam, Addl.AG pointed out that the anomaly pointed out by the petitioner has already been taken into consideration by the State and the Law Department is actively considering the issue of re-framing the Rules, more particularly, with relation to the appointment of the post of Chairperson of the Board. Once the issue is resolved by amendment of the Rules as may be necessary, the issue can be resolved.
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> [5] In this view of the matter, the PIL stands disposed of with the direction to the State to deal with the matter in the appropriate manner at the earliest preferably within a period of 8 to 12 weeks."

[8] Mr. Lenin Hijam, learned Addl. AG stated that due to inconsistencies in the Rules, the impugned proceedings are challenged. In view of the order passed in PIL No.6 of 2019, the issue will be addressed by

way of framing new Rules. It is pending before the State Cabinet. He also stated that both the notification dated 24.5.2017, Annexure-A/2, old board and the impugned notification dated 14.5.2018, Annexure-A/1 reconstituting the board with new Board members are in suspended animation and are not functioning. As and when new Rules are framed, the new Board will be constituted and board members appointed. He has no dispute that both the notifications may be set aside allowing the Government to constitute a new Board.

[9] Mr.Rakesh, learned counsel appearing for the petitioners states that they have no issue so long as new rules are framed and a proper Board is constituted.

[10] There is no necessity to cancel the two notifications as they are in suspended state as stated by the petitioners and the respondent State. The State is in the process of framing new Rules. As a result, the new board will be formed. That will give a resolution to the issue. Therefore, Annexure-A/1(New Board) dated 14.5.2018 and Annexure-A/2 (Old Board) dated 24.05.2017 need not be set aside because as and when new Rules are framed, the authority/respondent will constitute a new Board and appoint members. The new board will supercede the board. No further adjudication is required on the same.

[11] In view of the above stand taken by the State represented by Mr. Lenin Hijam, learned Addl.AG, the writ petition is closed as no further

direction or order is required.

JUDGE **CHIEF JUSTICE**

FR/NFR

Opendro(rt)

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