Item No. 1
(Through Video Conferencing)

IN THE HIGH COURT OF MANIPUR
AT IMPHAL

CONT. CAS(C) No. 164 of 2019

Irom Iboyaima Singh, aged about 56 years S/o (Late) I. Iboton Singh, a resident of Ningthoukhong Ward No. 7, P.O. & P.S. Bishnupur, Bishnupur District, Manipur, now working as Chief Executive Officer (CEO), Manipur State Cooperative Union (MSCU).

….*Petitioner*

- Versus -

1. Shri Gyan Prakash, IAS, the Principal Secretary / Commissioner/Secretary (Co-operation), Government of Manipur, Office at Old Secretariat, Babupara, P.O.& P.S. Imphal, Imphal West District, Manipur – 795001.

2. Robert Singh Kshetrimayum, IAS the Registrar, Co-operative Soceities, Manipur, Office at Lamphelpat, P.O. & P.S. Lamphel, Imphal West District, Manipur – 795001.

…*Respondents*

BEFORE
HON'BLE THE CHIEF JUSTICE MR. RAMALINGAM SUDHAKAR

For the petitioner	:	Mr. Juno Rahman, Advocate
For the respondents	:	Mr. RK. Deepak, Advocate
Date of hearing & order	:	17.07.2020

O R D E R

[1] Heard Mr. Juno Rahman, learned counsel appearing for the petitioner and Mr. RK. Deepak, learned counsel appearing for the respondents.

[2] The relevant pleadings in contempt petition are at para No. 16, 18, 19, 20 & 21 which read as follows :

> *"16. That, it is worthwhile to mention here that the order dated 15.04.2019 (AT ANNEXURE – R/4) which has been produced by the counsel for the respondents / contemnors has already been suspended by an interim order dated 30.04.2019 passed in WP(C) No. 349 of 2019 (AT ANNEXURE – R/5) concealing the very facts and records of the order dated 30.04.2019 passed in WP(C) No. 349 of 2019, the counsel for the respondents / contemnors has misleading / misrepresentation of the facts and records before the Hon'ble High Court of Manipur by showing the order dated 15.04.2019 which is already suspended by an interim order dated 30.04.2019 passed in WP(C) No. 349 of 2019 (AT ANNEXURE – R/5) which is highly illegal, floating the Court order, concealing and misrepresentation of the facts before the Hon'ble High Court of Manipur by the concerned Advocate of the respondents/contemnors of the Contempt Case No. 107 of 2019 (Ref : WP(C) No. 290 of 2019), the behavior, conduct of the concerned Advocate for the contemnors/respondents of the Contempt Case No. 107 of 2019 (Ref : WP(C) No. 290 of 2019) is highly illegal and not warranted.*
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> *18. That, the order dated 30.08.2019 (AT ANNEXURE – R/8) is similar order with the order dated 15.04.2019 (AT ANNEXURER – R/4), therefore, the order dated 30.08.2019 (AT ANNEXURE – R/8) is nothing but to avoid the Contempt proceeding of the Hon'ble High Court of Manipur in Contempt Case (C) No. 107 of 2019 (Ref : WP(C) No. 290 of 2019) and also misrepresentation and misleading of the Hon'ble High Court of Manipur by the Counsel for the respondents / contemnors of the Contempt Case No. 107 of 2019 (Ref : WP(C) No. 290 of 2019).*
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> *19. That, the humble petitioner begs to submit that, the petitioner had filed a writ petition being WP(C) No. 743 of 2019 before the Hon'ble High Court of Manipur praying for a direction directing the respondents to quash and set – aside the impugned orders No. Q-Coop/Case/Cont. Case No. 107 of 2019 Imphal, the 30th August, 2019 (AT ANNEXURE – R/8), and any other consequential orders / letters / notification pursuant to the impugned proceeding dated 30.08.2019 (AT ANNEXURE – R/8). The Hon'ble High Court of Manipur was pleased to pass order dated 16.09.2019 passed in WP(C) No. 743 of 2019 directing the respondent that :-*
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> *"Till then, the order dated 30.08.2019 shall not be given effect to."*
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> *True copy of the order dated 16.09.2019 passed in WP(C) No. 743 of 2019 is enclosed herewith and marked as ANNEXURE – R/9.*
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> *20. That, the petitioner begs to submit that, the contenmors/respondents knowing well the existence of the order dated 03.04.2019 passed in WP(C) No. 290 of 2019 have not taken up any concrete action in view of the Hon'ble High Court order dated 05.02.2019 till date rather the respondents are willfully and deliberately disobedience of the order dated 03.04.2019 passed in WP(C) 290 of 2019 (AT ANNEXURE – R/1), does the action and conduct of the respondents / contemnors are amounts to willful and deliberate disobedience violation of the order dated 03.04.2019 passed in WP(C) No. 290 of 2019 (AT ANNEXURE – R/1).*

21. That, the respondents/contemnors are now willfully and deliberately disobeying the above said order / direction of the Hon'ble High Court order dated 03.04.2019 passed in WP(C) No. 290 of 2019 (AT ANNEXURE – R/1) till date, as such willful and deliberate non-compliance of the Hon'ble High Court's order dated 03.04.2019 passed in WP(C) No. 290 of 2019 (AT ANNEXURE – R/1) is not only effect the interest of the petitioner but also lowered down the dignity of the Hon'ble Court in the eyes of the general public such unwanted action of the executive is not checked by punishing the responsible officer, the faith of the people at Judiciary is the only way of getting justice will be lost."

[3] Prayer in the contempt petition reads as follows :

"i) To issue rule nisi calling upon the contemnors/respondents to show cause as to why a contempt proceeding should not be initiated against the respondents/contemnors by exercising the power of the Hon'ble High Court, under relevant Rule of the Contempt of Courts Manipur High Court Rules and Section 12 of the Contempt of Courts Act, 1971, read with article 215 of the Constitution of India, giving adequate punishment for their willful and deliberate disobedience of the above order dated 03.04.2019 passed in W.P.(C) No. 290 of 2019 (Annexure – R/1)."

[4] Order dated 03.04.2019 passed in WP(C) No. 290 of 2019 (Annexure – R/1) reads as follows :

"Heard Mr. M. Hemchandra, learned senior counsel for the petitioner. Also heard Mr. Sukumar, learned GA for the respondents No. 1 & 2.

The petitioner was initially appointed as Cooperative Education Instructor of Manipur State Cooperative Union by an order dated 2nd December, 1988. On the recommendation of the Departmental Promotion Committee, the petitioner was again appointed as Assistant Cooperative Education Officer/District Cooperative Education Officer/ Vice Principal (C.C.M) of Manipur State Cooperative Union by an order dated 14th September, 2010. Thereafter, on the recommendation of the Departmental Promotion Committee, the petitioner was again appointed as District Cooperative Education Officer by an order dated 2nd March, 2011. By another order dated 7th March, 2016, the petitioner was appointed as Principal In- charge of the Centre for Cooperative Management of Lamphelpat, Imphal (CCM). Finally, by an order dated 22nd September, 2016, the petitioner was appointed as Chief Executive Officer (CEO), Manipur State Cooperative Union, Lamphelpat.

Thereafter, the petitioner on the strength of the order dated 22nd September, 2016, started to enjoy pay and allowances of Chief Executive Officer till July, 2018. However, without assigning any reasons and without issuing any show cause notice or giving an opportunity of hearing to the petitioner, the pay and allowances of the petitioner was withheld from the month of August, 2018 till date.

Being aggrieved with non-payment of the salaries since August, 2018, the petitioner made a representation dated 30th March, 2019 (it has been wrongly entered as 30th April, 2019, Annexure-A/6 to the writ petition) before the Principal Secretary/Commissioner/ Secretary (Cooperation), Government of Manipur and the Registrar, Co-operative Societies, Manipur. Despite the representation being made, the respondents are yet to address the same and therefore, the present writ petition.

After hearing learned counsel for the parties and without expressing any opinion on the merit of the case, this writ petition is disposed of by directing the petitioner to file a fresh representation before the respondent No. 2 by taking all available grounds within a period of three days from today. Thereafter, the respondent No. 2 on receipt of the representation to be filed by the petitioner shall consider and dispose of the same by a speaking order and in accordance with law within a period of one month from the date of receipt of the representation.

With the above observations and directions, the present writ petition stands disposed of."

[5] Contempt notice dated 03.05.2019 (Annexure – R/6) reads as follows :

"In the facts and circumstances stated above, I hereby give you this legal notice for your kind perusal and immediate compliance of the order dated 30.04.2019 passed in W.P.(C) No. 349 of 2019, 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 30.04.2019 above referred before the Hon'ble High Court, to meet the ends of justice and to protect the rule of law."

[6] Contempt notice dated 31.05.2019 (Annexure –R/3) reads as follows :

"2. That, the Hon'ble High Court of Manipur after perusal the materials available before the Court and also hearing both the parties was pleased to pass order stating that :-

"After hearing learned counsel for the parties and without expressing any opinion on the merits of the case, this writ petition is disposed of by directing the petitioner to file a fresh representation before the respondent No. 2 by taking all available grounds within a period of three days from today. Thereafter, the respondent No. 2 on receipt of the representation to be filed by the petitioner shall consider and dispose of the same by a speaking order and in accordance with law within a period of one month from the date of receipt of the representation.

With the above observations and directions, the present writ petition stands disposed of."

True copy of the order dated 03.04.2019 passed in WP(C) No. 290 of 2019 is enclosed herewith and marked as ANNEXURE – D/1.

In the facts and circumstances stated above, I hereby give you this legal notice for your kind perusal and immediate compliance of the order dated 03.04.2019 passed in WP(C) No. 290 of 2019, 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 03.04.2019 above referred before the Hon'ble High Court, to meet the ends of justice and to protect the rule of law."

[7] In compliance of the order of this Court dated 03.04.2019, order dated 15.04.2019 (Annexure, A/4) has been issued that is compliance order which reads as follows :

"GOVERNMENT OF MANIPUR
OFFICE OF THE REGISTRAR OF COOPERATE SOCIETIES : MANIPUR
O R D E R S
Imphal, the 15th April, 2019

No. Appt./MSCU/1/2016/102 : Whereas in compliance of the Hon'ble High Court of Manipur order dt. 03/04/2019 on WP(C) No. 290 of 2019, the representation of Shri I. Iboyaima Singh is hereby disposed of herewith as given below :

Whereas the applicant was appointed as Cooperative Education Instructor (CEI) on officiating basis vide order No. MSCU/8-Vol-VI/80-81/Pt-I dt. 2/12/1988 in the scale of pay Rs. 720-30-1010-EB-45-1470 and no regularization to the said post was made till date.

Whereas the applicant was appointed on promotion to the post of Assistant Cooperative Education Officer (ACEO)/District Cooperative Education Officer (DCEO) with the recommendation of DPC vide Order No. MSCU/9-Vol-IV/02-03 Dt. 14/09/1010 in the scale of pay Rs. 5500-175-9000(old)/Rs. 9300-34800+4300 (new), prior to regularization or without being regularized to the post of Cooperative Education Instructor (CEI).

Whereas Shri I. Iboyaima Singh was again appointed to the post of Principal, CCM on in-charge basis vide order No. MSCU/9-Vol-IV/02-03 Dt. 7/03/2016 against the vacancy caused by retirement of Shri Kh. Kesho Singh, Principal, CCM and he took his salary in the scale of Rs. 9300-34800+5400 without govt's approval as against established financial norms. The actual pay scale of the Principal as mentioned in the Recruitment Rules is (pre-revised) Rs. 6500-200-10500 (Revised) – Rs. 9300-34800+4400. As Principal in-charge he is entitled only of the salary of his substantial post and not as in-charge Principal.

Whereas the Board of Management, MSCU took a decision vide their meeting held on 22/8/2016 for giving the charge of CEO to Shri I. Iboyaima Singh against the leave vacancy / period of Shri W. Komol Singh, CEO, MSCU taken for outside medical treatment. Accordingly, RCS vide letter No. Appt.MSCU/1/2016 dt. 12/09/2016 has recommended Shri I. Iboyaima Singh to appoint as CEO in addition to his normal duties. In the light of the recommendation, Administrative Department issued an order of appointment without mentioning pay scale as why the appointment is neither promotion nor recruitment to the post. With the issuing of orders, Shri I. Iboyaima Singh took his salary in the scale of Rs. 15600-39100+6600 in his capacity. The actual pay scale as mentioned in the Recruitment Rules is (Pre-revised) 8000-275-13500 (Revised) Rs. 9300 – 34800+5400.

In view of the above facts, the pay and allowances of Shri I. Iboyaima Singh is allowed to draw/release his pay in the pay scale of substantive post held by him and excess and pay drawn by him is to be refunded to the Department within 3 (three) months and the same shall be deposited to Govt. account. The Manipur State Cooperative Union shall submit the actual pay to be drawn by Shri I. Iboyaima Singh showing the statement of already drawn and excess amount to be recovered from the incumbent within 1(one) month for settling the issues.

Further it may be mentioned that the matter has been put up to the Government for further necessary action to be taken up for his pay correction as stated above and recovery of the excess drawn to be done in consultation with Finance Department.

Sd/-
(Armstrong Pame)
Registrar of Cooperative Societies, Manipur"

[8] The contempt petition has been filed on misconception, misconstruction and confusion in the dates of various orders passed by this Court in different proceedings and as a result, this contempt petition appears to be totally misconceived. The reasons are as follows :-

(i) W.P. (C) No. 290 of 2019 was disposed of on 03.04.2019 with a simple direction to dispose of the representation by a speaking order. Alleging that it was not complied, on 31.05.2019, the petitioner issued a contempt notice. However, even before that, on 15.04.2019, the respondent had issued one order (Annexure-R/4) complying with the direction passed in W.P. (C) No. 290 of 2019 dated 03.04.2019. Hence on a subsequent date, the CONT. CAS (C) No. 107 of 2019 arising out of W.P. (C) No. 290 of 2019 was closed on 29.08.2019 recording the passing of the order dated 15.04.2019 (Annexure-R/4). The specific order passed by this Court on 03.04.2019 in W.P. (C) No. 290 of 2019 has been complied with by the respondent by passing the order No. Appt/MSCU/1/2016/102 dated 15.04.2019 (Annexure-R/4). Therefore, the contempt petition was correctly closed. Nothing further survives for consideration.

(ii) The order dated 15.04.2019 (Annexure-R/4) was subsequently challenged in W.P. (C) No. 349 of 2019 and by order dated 30.04.2019 recorded supra. It was suspended. No other direction was issued. However, the petitioner issued another contempt notice dated 03.05.2019 referring to the order dated 30.04.2019 in W.P. (C) No. 349 of 2019 alleging contempt of Court's order. It was stated that the respondents have disobeyed the interim order dated 30.04.2019. This Court is unable to understand as to how the contempt notice will lie for inaction or no action by the respondents, when the order dated 15.04.2019 has been suspended.

In any event, the prayer in the present contempt petition which has been recorded above, is relating to the first case, namely, order dated

03.04.2019 passed in W.P. (C) No. 290 of 2019 which has already been disposed of and the contempt petition was closed pursuant to the compliance order passed by the respondent on 15.04.2019. Therefore, nothing survives for adjudication.

(iii) A reading of the contempt notices dated 31.05.2019 and 03.05.2019, make it clear that the petition is referring to two writ petitions and 2 different orders, but the present contempt petition is filed only in respect of earlier case, namely, order dated 03.04.2019 passed in W.P. (C) No. 290 of 2019 which has become final and the contempt petition has also been closed. The petitioner has challenged the order dated 15.04.2019 in the subsequent writ petition namely, W.P. (C) No. 349 of 2019. There is an interim suspension order. Therefore, the prayer in the contempt petition appears to be totally misconceived. The petitioner's averment is so confusing that he wants to re-agitate the contempt proceedings in a disposed of writ petition and a disposed of contempt petition, which has already been closed.

(iv) There is no material or substance in the contempt notice dated 03.05.2019 (para 5 above) to indicate that there is a violation of interim order dated 30.04.2019 granted by the Hon'ble Court. The prayer in this contempt petition (para 3 above) is contrary to the notice.

[9] In view of the above, clear contradiction and confusion in the mind of the petitioner there is no scope for proceeding further in this contempt petition.

Recording the same, the contempt petition stands closed.

CHIEF JUSTICE

WAIKHOM TONEN MEITEI
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Date: 2020.07.20 16:26:29 +05'30'

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