

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP(C) No. 876 of 2023

Md. Amir Khan

.....*Petitioner/s*

- Versus -

State of Manipur & 2 Ors.

.... *Respondent/s*

BEFORE
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

Order

21.10.2024

[1] Heard Mr. Kh. Tarunkumar, learned senior counsel assisted by Mr. W. Jamon, learned counsel for the petitioner and Mr. Shyam Sharma, learned G.A. for the State respondent.

[2] The petitioner approached this Court challenging the termination order dated 23.02.2023 issued by the Commandant, Home Guard (VA), Manipur striking off his name from the strength of Manipur Home Guards Organization due to his involvement in FIR No. 69(3) 2022 TBL PS U/S 21(a)/29 ND & PS Act with immediate effect.

[3] Mr. Kh. Tarunkumar, learned senior counsel for the petitioner, draws the attention of this Court to the order dated 24.11.2023 passed by the Ld. Special Judge (ND & PS), Thoubal in Cril.Misc.Application No. 256 of 2023 whereby the petitioner was discharged from the FIR case. Learned senior counsel further draws the attention of this Court to the provisions of Section 11(4) of Manipur Home Guards Act, 1989 which stipulates that before passing any order, due

enquiry should be conducted and reasonable opportunity of being heard to be given to the employee.

[4] Vide order dated 16.08.2024, this Court directed the State respondent as to whether the enquiry in pursuance of Section 11(4) of the Home Guards Act, 1989 was conducted or not.

[5] Mr. Shyam Sharma, learned G.A., handovers a copy of the letter dated 02.09.2024 issued by the Commandant, Home Guards (VA), Manipur to the Office of the Government Advocate General, Manipur stating that no enquiry under Section 11(4) was conducted and no opportunity of being heard was given to the petitioner before striking his name from the roll of the Home Guards.

[6] This Court is of the opinion that the impugned order dated 23.02.2023 issued by the Commandant, Home Guards(VA), Manipur, striking off the name of the petitioner from the roll of Home Guard is in violation of the mandatory provisions of Section 11(4) of the Manipur Home Guards Act, 1989 and the same is set aside. It is directed that the petitioner be re-instated and be taken on the roll of the Home Guards with immediate effect. State respondent may consider the payment of backwages for the period while the petitioner was out of service as per rule and State respondent is at liberty to initiate any appropriate disciplinary proceeding against the petitioner in terms of the relevant Acts and Rules.

[7] With this observation, writ petition is disposed of.

[8] Furnish a copy of this order to the learned counsel appearing for all the parties.

JUDGE