

IN THE HIGH COURT OF MANIPUR
AT IMPHAL
W.P. (C) No. 44 of 2020

1. **Thongam Shyamo Singh**, aged about 60 years, S/o (Late) Th. Tombi Singh of Thoubal Athokpam Awang Leikai, P.O. & P.S. Thoubal, Thoubal District, Manipur, Pin No. 795138
2. Khungamayum Thambal Singh, aged about 62 years, S/o (Late) Kh. Angoton Singh of Thoubal Haokha Mamang Leikai, P.O. & P.S. Thoubal, Thoubal District, Manipur, Pin No. 795138.
3. Ningombam Surjit Singh, aged about 36 years, S/o N. Dijendro Singh of Thoubal Ningombam Mayai Leikai, P.O. & P.S. Thoubal, Thoubal District, Manipur, Pin No. 795138.
4. Sanasam Ibotombi Singh, aged about 55 years, S/o (Late) S. Irabot Singh of Thoubal Sabantongba, P.O. & P.S. Thoubal, Thoubal District, Manipur, Pin No. 795138.
5. Waikhom Ongbi Sanathoi Devi, aged about 42 years, W/o W. Amujao Singh of Thoubal Pakhangkhong Leirak, P.O. & P.S. Thoubal, Thoubal District, Manipur, Pin No. 795138.
6. Hijam Jamuna Devi, aged about 52 years, D/o (Late) H. Tomal Singh of Thoubal Nongangkhong, P.O. & P.S. Thoubal, Thoubal District, Manipur, Pin No. 795138.
7. Moirangthem Rabi Singh, aged about 42 years, S/o M. Gokul Singh of Thoubal Khunou, P.O. & P.S. Thoubal, Thoubal District, Manipur, Pin No. 795138.
8. Thingujam Ongbi Sagita Devi, aged about 35 years, W/o Th. Arun Singh of Thoubal Kiyam, P.O. & P.S. Thoubal, Thoubal District, Manipur, Pin No. 795138.
9. Mutum Ibobi Singh, aged about 55 years of Kiyam Siphai Mamang Leikai, P.O. & P.S. Thoubal, Thoubal District, Manipur, Pin No. 795138.

... Petitioners

-Versus-

1. The State of Manipur, represented by the Commissioner/ Secretary (MAHUD), Government of Manipur, New Secretariat Building, North Block, P.O. & P.S. Imphal, Imphal West District, Manipur, Pin No. 795001.
2. The Under Secretary (MAHUD), Government of Manipur, New Secretariat Building, North Block, P.O. & P.S. Imphal, Imphal West District, Manipur, Pin No. 795001.
3. The Thoubal Municipal Council, represented by the Executive Officer, Thoubal Municipal Council, P.O. & P.S. Thoubal, Thoubal District, Manipur, Pin No. 795001.
4. The Executive Officer, Thoubal Municipal Council, P.O. & P.S. Thoubal, Thoubal District, Manipur, Pin No. 795138.
5. Akoijam Sanatomba Singh, aged about 60 years of Thoubal Wangmataba Sorok Mathak, P.O. & P.S. Thoubal, Thoubal District, Manipur, Pin No. 795138 Vice-Chairperson, Thoubal Municipal Council;
6. Shaphura, aged about 30 years, W/o Md. Khamba, Councillor Ward No. 17 of Thoubal Municipal Council, a resident of Phouden Maning Leikai, P.O. & P.S. Thoubal, Thoubal District, Manipur, Pin No. 795138.
7. Waikhom Ibochouba Singh, aged about 52 years, S/o (Late) W. Gouramani Singh of Thoubal Pakhangkhong Leirak, P.O. & P.S. Thoubal, Thoubal District, Manipur, Pin No. 795138.
8. Yumnam Prembati Devi of Athokpam Makha Leikai, P.O. & P.S. Thoubal, Thoubal District, Manipur, Pin No. 795138.
9. Khagembam Bishwajit Singh, aged about 49 years, S/o (Late) Kh. Kunjahari Singh of Thoubal Athokpam Mayai Leikai, P.O. & P.S. Thoubal, Thoubal District, Manipur – 795138.
10. Okram Inaotombi Devi, aged about 33 years, W/o O. Dine Singh of Thoubal Okram, P.O. & P.S. Thoubal, Thoubal District, Manipur, Pin No. 795138.
11. Akoijam Chandrajini Devi, aged about 45 years, W/o W. Dina Singh of Thoubal Awang Leikai, P.O. & P.S. Thoubal, Thoubal District, Manipur, Pin No. 795138.
12. Ningthoujam Shanti Devi, aged about 57 years, D/o N. Dhananjoy Singh of Kiyam Siphai Heibong Leirak, P.O. & P.S. Thoubal, Thoubal District, Manipur, Pin No. 795138.

13. Puyam Jiteswar Singh, aged about 41 years, S/o (Late) P. Shamu Singh of Thoubal Kshetri Leikai, P.O. & P.S. Thoubal, Thoubal District, Manipur, Pin No. 795138.

... Respondents

B E F O R E
HON'BLE MR. JUSTICE KH. NOBIN SINGH

For the petitioners	::	Shri Th. Mahira, Advocate.
For the respondents	::	Shri M. Rarry, Addl. AG; Shri Romendro Sharma, Advocate & Shri Y. Romeshchandra, Advocate.
Date of Hearing	::	28-01-2020
Date of Judgment & Order	::	31-01-2020

JUDGMENT AND ORDER

[1] Heard Shri Th. Mahira, learned Advocate appearing for the petitioners; Shri M. Rarry, learned Addl. Advocate General appearing for the State respondents; Shri Romendro Sharma, learned Advocate appearing for the private respondents and Shri Y. Romeshchandra, learned counsel appearing for the Thoubal Municipal Council.

[2] The validity and correctness of the Resolution of the Special Meeting held on 15-01-2020, the letter dated 17-01-2020 and the Notification dated 20-01-2020 removing the sitting Chairperson from the Office of the Thoubal Municipal Council (hereinafter referred to as "**the Council**") are under challenge in this writ petition.

[3.1] The petitioners are the Councillors of the Council elected vide Notification dated 15-01-2016, of which the petitioner No.1 was the Chairperson. On 24-10-2016, nine Councillors submitted a requisition for

convening a special meeting for consideration of no-confidence motion against him. This requisition became the source of litigations with the result that many writ petitions came to be filed either by the petitioners or other persons before this Court and all the writ petitions were heard and decided by this Court on 10-09-2019, the details thereof are not required to be referred to for deciding the issue involved herein. While disposing of the writ petitions by this Court on 10-09-2019, the following directions were issued by this Court:

- (a) It is open to the Councillors to submit a fresh requisition for convening a special meeting for consideration of 'No-Confidence Motion' against the Chairperson as provided under the provisions of Section 31 of the Act, 1994;*
- (b) In the event of such a requisition being submitted by the Councillors in terms of the provisions of Section 31 of the Act, 1994, the Executive Officer shall take appropriate steps as envisaged in it;*
- (c) All the stakeholders including the Councillors, the Executive Officer, State Government etc. ought to ensure that the democratic process is commenced correctly and smoothly and concluded in accordance with law so that there shall be no any room for anyone to approach the Court questioning it.*

[3.2] In a purported compliance with this Court's order, a requisition dated nil was submitted by eight Councillors, which was received by the respondent No.5, the Executive Officer on 21-12-2019. A notice dated 28-12-2019 was issued by the Executive Officer informing that a special meeting for consideration of no-confidence motion against the petitioner

No.1 will be held on 09-01-2020. But the date i.e., 09-01-2020 being declared a holiday, a corrigendum dated 31-12-2020 was issued by him to the effect that the said special meeting scheduled to be held on 09-01-2020, will be held on 10-01-2020. This corrigendum came to be challenged by a Councillor by way of **WP(C) No.6 Of 2020, Shri Kh. Thambal Singh Vs State of Manipur** but after having considered the joint submissions of the learned counsel appearing for the parties, this Court vide its order dated 06-01-2020 disposed of it with the direction that the special meeting be held on 15-01-2020 without fail. Since the special meeting was directed to be held on 15-01-2020, it became necessary for this Court to dispose of the writ petition being WP(C) No.2 of 2020 at the motion stage itself which this Court did on 06-01-2020.

[3.3] As per schedule, the special meeting was held on 15-01-2020 at the conference hall of the Council and since the Councillors unanimously having opted for secret ballot system to consider and decide no-confidence motion, the Returning Officer opened the ballot votes and counted the same in the presence of the Councillors. The result was that out of 18 votes, 8 votes were in favour of the Chairperson, while 9 votes were against the Chairperson and 1 vote was invalid. The Presiding Officer declared that no-confidence motion was successful and the Chairperson was removed from the office. Since an objection was raised by some of the Councillors, the said result could not be declared by the Returning Officer. After a heated argument amongst the Councillors, the Presiding Officer asked the Returning Officer and Legal Advisor to clarify

the legal position. In spite of the Returning Officer clarifying that it was a short by 1 vote to declare the motion as passed as per Section 31(1) of the Act, 1994, the Presiding Officer declared the motion being passed and the Chairperson removed forthwith. On the same day, the Executive Officer of the Council wrote a letter dated 15-01-2020 to the Commissioner (MAHUD), Government of Manipur seeking a clarification as regards the validity and correctness of the proceeding and the resolution of the meeting of no-confidence of motion. In response to his letter, the Under Secretary (MAHUD), Government of Manipur informed him that since the vote of no-confidence motion has been passed by a majority of the Councillors, the decision of the Presiding Officer should be given effect to and he shall take further action in accordance with the provisions of the Manipur Municipalities Act, 1994 Act, 1994 (hereinafter referred to as "**the Act, 1994**") and consequently, a Notification dated 20-01-2020 was issued by him to the effect that the no-confidence motion was declared passed and that the Chairperson shall vacate the office forthwith. Being aggrieved by the actions of the respondents as aforesaid, the instant writ petition was filed by the petitioners challenging their validity and correctness.

[4] The subject matter in issue relates to the interpretation of the provisions of Section 31 and 51 of the Act, 1994 which read as under:

"31. No-confidence motion against Chairperson or Vice-Chairperson.- (1) Every Chairperson or the Vice-Chairperson shall be deemed to have vacated his office forthwith if the resolution expressing want of confidence in him is passed by a

majority of the total number of Councillors constituting the Council or the Nagar Panchayat at a meeting specially convened for the purpose.

(2) *For the purposes of sub-section (1) a meeting of the Nagar Panchayat or of the Council shall be held in the following manner, namely:—*

(i) *the meeting shall be convened by the Executive Officer on a requisition signed by not less than one-third of the total number of Councillors constituting the Nagar Panchayat or the Council for the time being;*

(ii) *the notice of such a meeting specifying the time and place thereof shall be dispatched by the Executive Officer to every Councillor ten days before the meeting;*

(iii) *the Chairperson or the Vice-Chairperson, as the case may be, against whom the resolution referred to in sub-section (1) is to be moved, shall not preside over the meeting;*

(iv) *a copy of the notice shall be sent to the State Government.*

(v) *No such meeting convened under sub-section (2) shall be adjourned for any reason except on the ground of natural calamities affecting the meeting.*

2(a) *Notwithstanding anything contained in this Act, where the Chairperson or the Vice-Chairperson or a Councillor is one of the signatories to the requisition for such meeting, the Chairperson or the Vice-Chairperson or the Councillor, as the case may be, shall not preside over such meeting and in such eventuality, the Deputy Commissioner of the concerned district, in case of a Council or the Sub-Divisional Officer nominated by the State Government for the purpose, in case of a Nagar Panchayat, shall preside over such meeting.*

(3) *If the office of the Chairperson becomes vacant all powers and duties of the Chairperson, may, until the election of a new Chairperson be exercised and performed by the Vice-Chairperson.*

(4) *The removal of the Chairperson or the Vice-Chairperson under sub-section (1) shall be effective from the date of its resolution in this regard.*

51. *Save as otherwise expressly provided in or under this Act all questions brought before any meeting of the Nagar Panchayat or of the Council or of any of its committees shall be decided by a majority of votes of the Councillors present and voting and in the case of equality of votes, on any question the person presiding shall have a second vote or casting votes:*

Provided that at the election-

- a) of Chairperson or Vice-Chairperson; or*
- b) of a Councillor to represent Nagar Panchayat or the Council as the case may, under the provisions of any other law for the time being in force, in case of equality of votes, the person presiding shall not exercise his casting vote and the result shall be decided by lot.”*

[5] In ***Thongam Shyamo Singh Vs. State of Manipur & ors., WP(C) No.2 of 2020***, this Court has given its observations as regards the interpretation of Section 31 of the Act, 1994 and its relation with respect to Section 51 of the Act, 1994. Paragraph 6 and 7 thereof read as under under:

“6. Section 31 of the Act, 1994 provides the procedure for consideration of no-confidence motion against the Chairperson or the Vice-Chairperson. Sub-section (1) provide that every

Chairperson or the Vice-Chairperson shall be deemed to have vacated his office forthwith if the resolution expressing want of confidence in him is passed by a majority of the total number of Councillors constituting the Council or the Nagar Panchayat at a meeting specially convened for the purpose. The expression **“by a majority of the total number of Councillors constituting the Council or the Nagar Panchayat at a meeting”** as mentioned therein is significant, for the reason that the majority is to be determined on the basis of the total number of the Councillors constituting the Council. Admittedly, if the special meeting is to be held for consideration of no-confidence motion against the Chairperson, the Vice-Chairperson shall preside over it and vice versa but if the special meeting is to be held for consideration of no-confidence against the both, the Deputy Commissioner or the Sub-Divisional Officer, as the case may, shall preside over the meeting. Section 51 provides that all questions brought before any meeting of the Nagar Panchayat or of the Council or of any of its committees shall be decided by a majority of votes of the Councillors present and voting and in the case of equality of votes, on any question the person presiding shall have a second vote or casting votes. The expression **“by a majority of votes of the Councillors present and voting”** as mentioned therein, is also significant. The wordings used in the expressions of Section 31(1) and 51 are different. If these two expressions are read together, it is clearly seen that both are meant for different purposes and to deal with different situations. In respect of the expression as contained in Section 31(1), the majority of votes is to be determined out of the total number of Councillors constituting the Council or the Nagar Panchayat, while in respect of that of Section 51, it is to be determined out of the Councillors present and voting in the meeting. The method of decision by way of

majority of votes as contemplated in Section 51 is in general for the reason that it applies to all questions brought before the Council or the Nagar Panchayat. But it is not so in respect of the method of decision as contemplated in Section 31(1) and it pertains to only one question relating to the consideration of no-confidence motion against the Chairperson or Vice-Chairperson. In this regard, if Section 31(1) and 51 of the Act, 1994 are read together, it appears that Section 31(1) is an exception to Section 51 because of the expression “**save as otherwise expressly provided in or under this Act**” as found in Section 51. That is how Section 31(1) and 51 are to be construed harmoniously so as to give them their appropriate and proper meanings. It is thus clear that any question relating to the consideration of no-confidence motion either against the Chairperson or the Vice-Chairperson, shall be decided by a majority of the total number of Councillors constituting the Council or the Nagar Panchayat at a meeting specially convened for the purpose but not by a majority of votes of the Councillors present and voting.

[7] It has been vehemently submitted by the counsel appearing for the petitioner that on a careful reading of Section 51 of the Act, 1994, the presiding officer does not have a right of casting vote in the absence of an equality of votes. In order to substantiate his contention, he has relied upon the provisions of Article 189 of the Constitution of India. His contention appears to have no merit at all in view of the expression “**a second or casting votes**” being used in Section 51 of the Act, 1994. In the dictionary, the word “**second**” means happening or coming next after the first in a series of similar things. In short, it indicates more than one similar thing and in the absence of first in a series, the question of second will not arise at all. The expression “**casting votes**” is plural and it indicates more than

one vote. The wordings of the provisions of Article 189 of the Constitution of India are different from that of the provisions in the Act, 1994. In Article 189, it is specifically provided that while determining the majority of votes of the members present and voting, the vote of the Speaker or Chairman or person acting as such, shall not be counted and moreover, it has been provided further that the Speaker or Chairman or person acting as such, shall not vote in the first instance and shall exercise a casting vote in the case of an equality of votes. There is no such similar provision in the Act, 1994 which has been enacted by the State Legislature in exercise of its power conferred under Article 246 of the Constitution of India and on top of that, its constitutional validity has not been challenged in the present writ petition. Therefore, the provisions of the Act, 1994 are to be construed with reference to the object sought to be achieved by it. The reading of Section 51 makes it very clear that the presiding officer who is a councillor, has a right to vote in the meeting for consideration of no-confidence motion and in case of an equality of vote, he has a second vote. This construction is in tune with the factual aspect of the present case wherein, as is evident from the letter dated 30-08-2017 itself, there 18 Councillors at Thoubal Municipal Council. If the contention of the counsel appearing for the petitioner that the presiding officer does not have a right to vote in the first instance, is countenanced, the question of equality of votes will not arise at all. For example, since there are 18 Councillors in the Thoubal Municipal Council, it can be assumed that there are 18 votes and if the vote of the presiding officer is taken out on the ground that he has no right to vote at the first instance, the number of votes will be reduced to 17 which is an uneven number and therefore, while counting the votes for determining majority out of 17 votes, the question of equality of votes will never arise at

*all and consequently, the question of the presiding officer's exercising a second vote will not arise as contemplated in Section 51 of the Act, 1994. Moreover, it is nowhere provided specifically in Section 31 that the presiding officer does not have a right to cast his vote. The expression "**by a majority of the total number of Councillors constituting the Council or the Nagar Panchayat at a meeting**" as contained in Section 31(1) is clear, unambiguous and hence, it needs no interpretation at all. The word "**constituting**" as used in the expression is important which qualifies the word "**Councillors**". The word "**Councillor**" is defined in Section 2(9) of the Act, 1994 itself as a member of a Municipal Council or Nagar Panchayat or Municipal Corporation, as the case may be, elected or appointed under this Act and there is no specific provision in the Act, 1994 which provides that if a Councillor is appointed as the Chairperson or Vice-Chairperson, he/she will cease to be a Councillor. Therefore, the word "**Councillors**" as used in the said expression will definitely include the presiding officer, if he/ she is a Councillor.*

[6] It has been submitted by Shri Th. Mahira, learned counsel appearing for the petitioners that the issue involved herein is covered by the order dated 06-01-2020 passed by this Court in Shri Th. Syamo Singh Vs. State of Manipur & ors, WP(C) No.2 of 2020 and therefore, the instant writ petition shall be allowed in terms thereof. Combating his submission, it has been submitted by Shri M. Rarry, learned Addl. Advocate General that the said order was passed at the motion stage without any counter being filed on behalf of the respondents. It has been vehemently submitted by him that in order to know the true intent of the Legislature, the provisions of both the sub-Section (1) and (2) of Section 31 shall be

read together; that on a careful perusal of Section 31(1) and (2), it is seen that the majority of votes in respect of the consideration of no-confidence motion shall be determined on the basis of the Councillors present and voting; that Since non-obstante clause is not there in Section 31, Section 51 of the Act, 1994 shall prevail over it and that even on facts, 9 votes were in favour of the no-confidence motion, while 8 votes were against the motion. In support of his contention, he has relied upon the decisions rendered by the Hon'ble Supreme Court in ***Jagir Singh Vs. Ranbir Singh & ors., (1999) 1 SCC 560*** and ***Director of Settlements, AP & ors. Vs. M.R. Apparao & anr., (2002) 4 SCC 638***. Endorsing the submission of the learned Addl. Advocate General, Shri Romendro Sharma, learned Counsel appearing for the private respondent has submitted that the petitioner No.1 did not have any grievance immediately after the resolution being passed in the special meeting and therefore, the writ petition deserves no interference by this Court.

[7.1] The contentions of the learned Addl. Advocate General have no merit and substance and therefore, they cannot be countenanced by this Court. In tune with the constitutional mandate, the Act, 1994 was enacted by the State Legislature, Section 31(1) thereof reads as under:

“31(1) The State Government may remove by a Notification in the Official Gazette, from office the Chairperson or the Vice-Chairperson, in pursuance of a resolution passed a majority of the total number of the Councillors and supported by not less than two-third of the Councillors present and voting at a

meeting specially convened for the purpose under sub-section (2).”

By an amendment of the Act, 1994, Section 31(1) was substituted by the following Section 31(1) which reads as under:

“Section 31(1)- Every Chairperson or the Vice-Chairperson shall be deemed to have vacated his office forthwith if the resolution expressing want of confidence in him is passed by a majority of the total number of Councillors constituting the Council or the Nagar Panchayat at a meeting specially convened for the purpose.”

On perusal of Section 31(1), original and amended, demonstrates that in the original of Section 31(1), the resolution was to be passed by a majority of the total members of the Councillors and supported by not less than two-third of the Councillors present and voting, while in the amended Section 31(1), a resolution is to be passed by a majority of the total number of Councillors constituting the Council. The expressions, used in both the original and amended Section 31(1), are gulf of difference. The expression **“a resolution is to be passed a majority of the total number of Councillors constituting the Council”** as used in the amended Section 31(1) is plain, clear and unambiguous which require no interpretation at all. The expression **“present and voting”** cannot be read into it after the amendment. In other words, the expression **“a majority of the total members of the Councillors”** is being continued in the amended Section 31(1) with a slight modification to the extent that the expression **“constituting the Council”** has been

added therein. Since it is the State legislature which has amended Section 31(1), it shall be given effect to because the intent of the State Legislature is very clear. At this juncture, it may be noted that in respect of such no-confidence motion, the Law Department, Government of Manipur has given its opinion as mentioned in the letter dated 30-08-2017 addressed to the Executive Officer of the Council by the Under Secretary (MAHUD), Government of Manipur which reads as under:

“It has been pointed out that in the no-confidence motion, all the Councillors were present and voted in the meeting. As the total number of Councillors is 18, the majority shall be 10 (ten) Councillors as provided under Section 31(1) of the Act. In view of Section 51, the Presiding Officer of the meeting shall have a second vote or casting vote in case of equality of votes”.

In spite of the above legal opinion given by the Law Department, the Under Secretary (MAHUD), Government vide its letter dated 17-01-2020, has stated that out of 17 valid numbers of votes casted, the votes secured against the sitting Chairperson is 9 and votes secured in favour of the sitting Chairperson is 8 and that the votes of no-confidence against the Chairperson has been passed by a majority of the Councillors. Accordingly, the Executive Officer was requested to give effect to the decision of the Presiding Officer. It is unfortunate that such a responsible officer of the State Government appears to have deliberately made such a contradictory statement in the form of official document which smacks arbitrary and mala fide warranting disciplinary proceedings against him. Such a responsible officer is expected to be wary before

making such a contradictory statement. On top of that, the learned Addl. Advocate General also has made the submission contrary to the legal opinion expressed by the Law Department with the result that the stand of the State Government is not clear to this Court. But if the legal opinion of the Law Department, if not withdrawn or overruled by the learned Advocate General, is final as per the rules of business, the statement made by the Under Secretary (MAHUD), Government of Manipur contrary thereto, has no meaning and cannot be given effect to at all.

[7.2] The contention of the learned Addl. Advocate General that since one-fifth of the total number of Councillors is enough for signing the requisition, the majority can be determined by a majority of the Councillors present and voting, has no substance at all for the reason that the expression **“a resolution is to be passed a majority of the total number of Councillors constituting the Council”** is quite different from the expression **“present and voting”**. If his contention is accepted, the purpose of the amendment will have no meaning at all and will stand defeated.

[7.3] As regards the submission of the learned Addl. Advocate General that as non-obstante clause is not there in Section 31(1), Section 51 will have to be read together. In this regard, it may be noted that this Court has considered and observed that the wordings used in the expressions of Section 31(1) and 51 are different. If these two expressions are read together, it is clearly seen that both are meant for

different purposes and to deal with different situations. In respect of the expression as contained in Section 31(1), the majority of votes is to be determined out of the total number of Councillors constituting the Council or the Nagar Panchayat, while in respect of that of Section 51, it is to be determined out of the Councillors present and voting in the meeting. The method of decision by way of majority of votes as contemplated in Section 51 is in general for the reason that it applies to all questions brought before the Council or the Nagar Panchayat. But it is not so in respect of the method of decision as contemplated in Section 31(1) and it pertains to only one question relating to the consideration of no-confidence motion against the Chairperson or Vice-Chairperson. In this regard, if Section 31(1) and 51 of the Act, 1994 are read together, it appears that Section 31(1) is an exception to Section 51 because of the expression “**save as otherwise expressly provided in or under this Act**” as found in Section 51. That is how Section 31(1) and 51 are to be construed harmoniously so as to give them their appropriate and proper meanings.

[7.4] As regards the facts of the present case, it is not in dispute that the result of the special meeting for consideration of no-confidence motion against the chairperson, was that out of 18 votes, 8 votes were in favour of the Chairperson, while 9 votes were against the Chairperson and 1 vote was invalid. The facts of the present case are to be understood in the light of the law applicable for it. The law as interpreted by the Law Department, Government of Manipur, which is acceptable to

this Court, is that as the total number of Councillors is 18, the majority shall be 10 (ten) Councillors as provided under Section 31(1) of the Act, 1994 and in terms of this legal position, the majority of the total number of the Councillors constituting the Council is 10 votes. In the present case, only 9 votes are against the Chairperson which is short by 1 vote of being majority. What is important, is the number of votes voted in favour of the no-confidence motion in order to determine the majority and not the votes against it which is irrelevant. To constitute a majority of the total number of Councillors constituting the Council, the minimum votes required is 10 and therefore, 9 votes voted in favour of the no-confidence motion, cannot be said to be a majority of the total number of Councillors constituting the Council. Thus, the no-confidence motion has failed and stands defeated.

[8] The decisions of the Hon'ble Supreme Court, relied upon by the learned Addl. Advocate General, will have no application to the facts and circumstances of the present for the reason that the facts of that cases are not identical with of the present case. Moreover, the said decisions have not been rendered by the Hon'ble Supreme Court with regard to the interpretation of Section 31(1) of the Act, 1994. Having heard the learned counsel appearing for the parties, this Court is of the view that there is no point of having a different view as against the one taken by this Court in ***Thongam Shyamo Singh Vs. State of Manipur & ors., WP(C) No.2 of 2020***. In other words, the learned Advocate General has failed to point out any error as regards the interpretation of Section 31(1) made by this

Court. Therefore, this Court has no option but to hold that the actions of the respondents as aforesaid are bad in law and are liable to be quashed and set aside by this Court.

[9] For the reasons as stated hereinabove, the instant writ petition is allowed and consequently, the resolution of the special meeting held on 15-01-2020; the letter dated 17-01-2020 of the Under Secretary (MAHUD), Government of Manipur addressed to the Executive Officer of the Council and the Notification dated 20-01-2020 issued by the Executive Officer of the Council removing the sitting Chairperson from the office of the Council are quashed and set aside with the direction that the petitioner No.1 be reinstated as the Chairperson of the Council forthwith. There shall be no order as to costs.

JUDGE

FR / NFR

Devananda

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