

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

W.P. (C) No. 497 of 2020

1. VS Nganingkhui, aged about 62 years, S/O Late Vs. Ningshok, resident of Khongbal Thangkhul Village, Sadar Hills, Senapati District, P.O. Pangei Yangdong, P.S. Saikul, District Senapati, Manipur.
2. A. Angoubi, aged About 78 years, S/o Late A. Lumadhaja, of Kakwa Naorem Leikai, Penakhongbam Pareng, P.O. Canchipur, P.S. Singjamei, Manipur.
3. Eunice Panmei, aged about 39 years, D/o (L) P. Gaidimlung R. Naga, resident of Nagaram, D. Block, P.O. Lamlong & P.S. Lamphel, District Imphal East, Manipur.
4. Md. Abdul Noor, aged about 60 years, S/o (L) Tompishak, of Thoubal Moijing, P.O. & P.S. Thoubal, Manipur.
5. P. Deben Singh, aged about 48 years, S/o (L) P. Tomba of Yairipok Malom Mayai Lekai, P.O. & P.S. Yairipok, Manipur.
6. Ph. Adim, aged about 59 years, S/O (L) Ph. Chakandinang, resident of Parengba, B.P.O. Nungshai Chiru & P.S. Bishenpur, District Senapati, Manipur.
7. G. Kakhangai Kabui, aged about 65 years, S/o (L) G. Kaboba of Ragailong Village, P.O. & P.S. Porompat, Manipur.
8. Ashing Kabui, S/o (L) Langbanjao Kabui of Changangei, P.O. Tuliha, P.S. Lamphel, Manipur.

... Petitioners.

-Versus -

1. The State of Manipur, through the Commissioner, Public Health Engineer Department, Government of Manipur, Imphal, Manipur.
2. The Addl. Chief Secretary (Finance), Government of Manipur, Imphal, Manipur.
3. The Chief Engineer, Public Health Engineer Department (PHED), Govt. of Manipur, Imphal, Manipur.

.....Respondents

B E F O R E

HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

For the Appellant : Mr. Th. Khagemba, Advocate
For the respondent : Mr. K. Jagat. GA
Date of Hearing : 21.04.2021.
Date of Order : 16.07.2021.

ORDER
(CAV)

[1] Heard Mr. Th. Khageba, learned advocate appearing for the petitioners and Mr. K. Jagat, learned GA appearing for the respondents.

The instant writ petition had been filed by the petitioners praying for issuing a writ of mandamus directing the respondents to refund their entitled security deposit amount of Rs. 83,04,170/- (Rs. Eighty three lakhs four thousand one hundred and seventy) only with 18% interest per annum within a stipulated period.

[2] The case of the petitioner is that they are all contractors engaged in construction, repair and other works as allotted/assigned to them by the Public Health Engineering Department, Manipur (herein after referred to as PHED for short). It has been stated by the petitioners that they have already executed various contract works assigned to them by the PHED and after completion of the said contract works, they have been paid their respective final bills, however, the security deposits due payable to them have not been released by the authorities even after the expiry of the period stipulated in the conditions of the contract and despite several request made by the petitioners.

[3] On the instruction of the Government as contained in the letter dated 04.08.2011 written by the Under Secretary (PHE), Government of Manipur, a consolidated liability statement for refunding security deposit amounting to Rs. 2,03,89,000 (Rs. Two crore three lakhs and eighty nine thousand) only to the

contractors including the petitioners were prepared by the office of the Chief Engineer (PHED).

[4] After making necessary verification about the correctness of the aforesaid liability statement, the Chief Engineer (PHED) wrote a letter dated 23.08.2014 addressed to the Principal Secretary (PHE), Government of Manipur requesting the latter to move the Finance Department for releasing Cheque Drawal Authority (CDA) for the amount of Rs. 2,03,89,000/- (Rs. Two crore three lakhs and eighty nine thousand) only for refunding the security deposit due payable to the contractors working in the PHED including the present writ petitioners. Subsequently, the Chief Engineer (PHED) issued a certificate to the effect that the proposal for release of Cheque Drawal Authority amounting to Rs. 2,03,89,000/- (Rs. Two crore three lakhs and eighty nine thousand) submitted earlier had been examine/vetted and found to be in order. The case of the petitioners is that out of the said total liability statement of Rs. 2,03,89,000/- (Rs. Two crore three lakhs and eighty nine thousand), Rs. 83,04,170/- (Rs. Eighty three lakhs four thousand one hundred and seventy) only has been earmarked for refunding to the petitioners as their security deposit.

[5] It is also the case of the petitioners that despite their repeated demands made to the concerned authorities for refunding the security deposits due payable to them, the respondents have failed to release the security deposits due payable to the petitioners till today. On the other hand, the respondents are refunding the security deposits of other contractors in a most discriminatory and pick and choose manner by totally ignoring the rightful and legitimate demands made by the petitioners.

[6] Mr. K. Jagat, learned GA appearing for the respondents submitted that the Department prepared annual work programme based on the requirements of water supply schemes in the divisions and for implementation of the said schemes, work orders were issued by the concerned divisions. It has also been submitted that while issuing work orders, security deposit was deducted from the contractors either through treasury challan and book transfer and that the petitioners claim for refund of security deposit is for the work completed in the year 2004-2010. It has further been submitted that in order to verify and ascertain the amount deposited by the contractors, the Department has instructed Chief Engineer (PHED) to furnish relevant vouchers, challan and necessary documents and that on receipt of the required documents and after proper verification Government will take further decisions on the matter.

[7] Mr. Th. Khagemba, learned counsel appearing for the petitioners submitted that similar issues raised in the present writ petition had already been decided by this Court by a Common Judgment and Order dated 16.10.2018 passed in W.P. (C) No. 740 of 2017 and 3 others analogous cases. In the said Judgment and Order, this Court directed the respondents to refund to the petitioners their security deposits within 3 (three) months from the date of receipt of a copy of the said Judgment and Order with interest @ Rs. 6 % for the period from the date of completion of the work till the payment of the said amount. The operative portion of the said Judgment and Order are as under:-

“[6] It may be noted that the amount deposited by the petitioners towards security, is not public money in true sense of

the term and it belongs to them. These amounts have been collected by the State Government from the petitioners through its Executive Engineers in the manner as stated hereinabove while paying the running bills. Such amount collected by way of security deposits is to be and can be kept by the State Government till the completion of the work in terms of the agreement entered into between the State Government and the petitioners. Such security deposit is to be refunded immediately after the work is over. Since the work having being completed admittedly to the satisfaction of the State Government, the security deposit ought to have been refunded along the payments made by it towards final bill. The State Government has failed to do that. According to the State Government, it is the fault of the Executive Engineers, because of which the security deposits could not be refunded but it cannot be attributed to the petitioners. It is a matter of internal affairs between the State Government and its employees. The petitioners cannot be penalized for no fault of theirs. The controversy has arisen because the State Government has failed to take appropriate action in time. The State Government cannot take advantage of its own mistake. The State Government cannot wash off its hands taking an unjustified plea that the original challans are not submitted by the Executive Engineers. Since the problem is its own creation, the State Government has to solve it. The State Government being an institution, ought to act fairly and reasonably within the bounds of the Constitution of India and cannot withhold the security deposits after the work is over. There is no justification at all on the part of the State Government to withhold the security deposits. Failure on the part of the State Government to refund the security deposit is highly unreasonable, malafide and illegal being violative Article 14, 19 and 21 of the Constitution of India.

[7] In view of the above and for the reasons stated hereinabove, all the four writ petitions mentioned above are allowed with the direction that the respondents and in particular, the Principal Secretary/Commissioner/Secretary (PHED), Government of Manipur and the Chief Engineer (PHED), Manipur shall refund to the petitioners their security deposits for a total amount of Rs. 1,23,71,211/- (rupees one crore twenty-three lakhs seventy-one thousand two hundred and eleven) only within three months from the date of receipt of a copy of this judgment and order with interest @ Rs. 6 % for the period from the date of completion of the works till the expiry of said three months or till the payment of the said amount whichever is earlier. There shall be no order as to costs”.

[8] The learned counsel for the petitioners vehemently submitted that the respondents have not denied the claims made by the petitioners in their writ petition and that the issues involved in the present case is squarely covered by the aforesaid Judgment and Order dated 16.10.2018 passed by this Court in W.P. (C) No. 740 of 2017. Accordingly, it has been submitted that the present writ petition can be allowed by giving similar directions given by this Court.

[9] After hearing, the learned counsel appearing for the parties and after perusal of the record of the present case, this Court is of the considered view that the disputes and the issues involved in the present case is squarely covered by the aforesaid Judgment and order dated 16.10.2018 passed by this Court in W.P. (C) No. 740 of 2017.

Accordingly, the present writ petition is disposed of by directing the respondents to refund to the petitioners their security deposit altogether amounting to Rs. 83,04,170/- (Rs. Eighty three lakhs four thousand one hundred and seventy) only within a period of 3 (three) months from the date of receipt of a copy of this order along with interest @ Rs. 6 % per annum for the period from the date of completion of the works till the payment of the said amount.

Parties are to bear their own costs.

JUDGE

FR/NRF

Sapana

**KABORA
MBAM
SAPANA
CHANU**

Digitally signed by KABORA CHANU
DN: cn=KABORA CHANU, o=SAPANA
CHANDU, email=chanu@kabarachandu.com,
c=IN
Reason: I am a Judge
Date: 2021.07.16 12:28:45 +05'30'