

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

**WP(C) No. 121 of 2021**

***Shri Naoshekpam Rabi Singh***, aged about 45 years, S/o (L)  
Naoshekpam Nimai Singh of Bamon Kampu, P.O. Porompat,  
P.S. Irilbung, Imphal East District, Manipur.

***... Petitioner***

***-Versus-***

1. The State of Manipur represented by the Principal Secretary/Commissioner (RD & PR), Govt. of Manipur, South Block (Old Secretariat), Pin No. 795008.
2. The Director (RD & PR), Porompat, Govt. of Manipur. Pin No. 795005.
3. The Block Development Officer, Kshetrigao C.D. Block, Porompat, Pin No. 795005.

***... Respondents***

**WITH**

**WP(C) No. 132 of 2021**

***Naoshekpam Rabi Singh***, aged about 45 years, S/o (L)  
Naoshekpam Nimai Singh of Bamon Kampu, P.O. Porompat,  
P.S. Irilbung, Imphal East District, Manipur.

***... Petitioner***

***-Versus-***

1. The State of Manipur represented by the Principal Secretary/Commissioner (RD & PR), Govt. of Manipur, South Block (Old Secretariat), Pin No. 795008.
2. The Director (RD & PR), Porompat, Govt. of Manipur. Pin No. 795005.
3. The Block Development Officer, Kshetrigao C.D. Block, Porompat, Pin No. 795005.
4. Shri Nongthombam Akeshor Singh, aged about 37 years, S/o (Late) N. Gunindro Singh, resident of Kongba Kshetri Leikai, P.O. Singjamei, P.S. Irilbung, District – Imphal East District, Manipur.

***Impleaded as Respondent No. 4 vide order dated 16-03-2021 passed in common order with WP(C) No. 121 of 2021, MC(WP(C)) No. 64 of 2021.***

5. Moirangthem Ibema Devi, W/o M. Nando Meitei (Ward No. 8) of Bamon Kampu Makha Leikai, P.O. Porompat & P.S. – Irilbung, District – Imphal East, Manipur, Pin No. 795005.
6. Thokchom Khomdonbi Devi, aged about 47 years, W/o Thokchom Dorendro Singh (Ward No. 2) of Bamon Kampu Makha Leikai, P.O. Porompat & P.S. – Irilbung, District – Imphal East, Manipur, Pin No. 795005.
7. Wayengbam Sunildro Singh, aged about 29 years, S/o Wayengbam Tomba Singh (Ward No. 1) of Bamon Kampu Mayai Leikai, P.O. Porompat & P.S. – Irilbung, District – Imphal East, Manipur, Pin No. 795005.
8. Naoshekpam Luxmi Devi, aged about 52 years, W/o Naoshekpam Ibomcha (Ward No. 3) of Bamon Kampu Mayai Leikai, P.O. Porompat & P.S. – Irilbung, District – Imphal East, Manipur, Pin No. 795005.
9. Elangbam Surmala Devi, aged about 32 years, W/o Elangbam Gandhi Singh (Ward No. 4) of Kongba Nongthonbam Leikai, P.O. & P.S. Porompat, District – Imphal East, Manipur, Pin No. 795005.
10. Maibam Pramodini Devi, aged about 44 years, W/o Sanabam Jayenta Singh of Irilbung Machahal, P.O. Singjamei & P.S. Irilbung, District – Imphal East, Manipur.

***... Respondents***

**B E F O R E**  
**HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR**

|                          |    |   |
|--------------------------|----|---|
| For the petitioner       | :: | Mr. H.S. Paonam, Sr. Advocate                                       |
| For the respondents      | :: | Mr. Niranjan Sanasam, GA; Mr. Seityajeet, Advocate; Mr. A. Mohendro |
| Date of Hearing          | :: | <b>25-01-2022</b>   |
| Date of Judgment & Order | :: | <b>31-01-2022</b>   |

**JUDGMENT AND ORDER**

**[1]** The petitioner was elected as Pradhan of Bamon Kampu Gram Panchayat for the term 2017-22 in the 5<sup>th</sup> Manipur General Panchayati Raj Election of 2017 under the Panchayati Raj Act, 1994 (hereinafter the

Act of 1994). While functioning as Pradhan, the petitioner was arrested in connection with an FIR No. 30(4)2019 IBG PS US 302/120-B IPC and he was in judicial custody. The petitioner was released on bail on 12-2-2020 and his ad-interim bail has been extended from time to time.

[2] While the petitioner was in judicial custody, the Up-Pradhan/respondent No. 4 was elected by the members of the Bamon Kampu Gram Sabha and was allowed to take charge and act as Pradhan by an order dated 24-6-2019 issued by the Director, Rural Development & Panchayati Raj, Manipur.

[3] After being released on bail, the petitioner made an application dated 16-6-2020 to the Director (RD & PR), Manipur requesting for allowing him to function as Pradhan under the Act of 1994. Thereafter, the Under Secretary (RD & PR), Government of Manipur wrote a letter to the Director (RD & PR) on 26-11-2020 and the same is reproduced hereinbelow:-

*"No. SEC-105/2/2020-RD and PR-RD&PR  
GOVERNMENT OF MANIPUR  
SECRETARIAT: RURAL DEVELOPMENT & PANCHAYATI RAJ DEPARTMENT*

.....

*Imphal, the 26th November, 2020*

To

*The Director,  
Rural Development & Panchayati Raj,  
Manipur.*

*Subject: Power & functions to Up-Pradhan due to absence of  
Pradhan in respect of Bamon Kampu Gram Panchayat  
of Kshetrigao C.D. Block –regarding.*

Sir,

*In inviting a reference to your letter No. 6/1-30/88-PR/Vol-V/667,  
dated the 8th September, 2020 on the above subject, I am directed to*

*state that the matter was referred to Law Department, Government of Manipur and views of Ld. Advocate General, Manipur is reproduced as below for taking of further necessary action:*

*“..... Since Shri N. Rabi Singh, Pradhan is enlarged on bail and since he is not removed or incapacitated or discharge under Section 30 of the Manipur Panchayati Raj Act, 1994 he may be allowed to take the charge of Pradhan of Bamon Kampu Gram Panchayat.”*

*Yours faithfully,*

*(V.R. Khongreingam)  
Under Secretary (RD&PR),  
Government of Manipur.”*

**[4]** Thereafter, the Director (RD & PR), Manipur by a letter dated 30-11-2020 addressed to the Block Development Officer, Kshetrigao, CD-Block by quoting the contains of the Letter dated 26.11.2020 requested to comply with the provisions of law and act accordingly. Accordingly, the Block Development Officer by a letter dated 15-12-2020 addressed to the Panchayat Secretary, Bamon Kampu Gram Panchayat requested to take necessary action as per the letter dated 30-11-2020 received from the Director (RD & PR), Manipur. Consequently, the Panchayat Secretary, issued a Meeting Notice dated 17-12-2020 requesting all the members of Bamon Kampu Gram Panchayat to be present on 21-12-2020 to discuss on the agenda with regard to the powers and functions to Up-Pradhan due to the absence of Pradhan in respect of Bamon Kampu Gram Panchayat. The petitioner in terms of the meeting notice dated 17-12-2020 attended the meeting on 21-12-2020, however, he was manhandled and beaten up in the meeting and therefore, the meeting could not be held. The petitioner, therefore, filed an Ezahar (O/E) before the Porompat police station and the same was registered as FIR No. 59(12)(2020) IBG PS US 325/384/34 IPC.

[5] By a letter dated 18-1-2021, the petitioner addressed to the BDO, Imphal East, Kshetrigao CD Block demanded with furnishing of the details and relevant documents concerning the applicants of the job card holders entitled to wages for the year, 2020-21 under the MGNREGA and for taking appropriate proceedings for releasing their entitled wages. The petitioner also made a representation addressed to the Principal Secretary/Commissioner, (RD & PR) and Director (RD & PR), Manipur on 19-1-2021 requesting for allowing him to function and discharge as Pradhan of Bamon Kampu Gram Panchayat, Kshetrigao CD Block. While the petitioner was anxiously waiting for a positive response, the Addl. Secretary (RD & PR), Government of Manipur wrote a letter to the Director (RD & PR), Manipur on 3-2-2021 and the same is reproduced hereinbelow:-

*"No. SEC-105/2/2020-RD and PR-RD&PR  
GOVERNMENT OF MANIPUR  
SECRETARIAT: RURAL DEVELOPMENT & PANCHAYATI RAJ DEPARTMENT*

.....

*Imphal, the 3<sup>rd</sup> February, 2021*

To

*The Director,  
Rural Development & Panchayati Raj,  
Manipur.*

*Subject: Power & functions to Up-Pradhan due to absence of  
Pradhan in respect of Bamon Kampu Gram Panchayat of  
Kshetrigao C.D. Block – regarding.*

Sir,

*In supersession of the letter No. SEC-105/2/2020-RD and PR-RD&PR, dated the 26<sup>th</sup> November, 2020 and in continuation of this department's letter No. 7/26/2007-RD&PR, dated the 22<sup>nd</sup> June, 2019 (copy enclosed), whereby the Up-Pradhan of Bamon Kampu Gram Panchayat, Kshetrigao C.D. Block, Imphal East, was assigned the duties of the Pradhan, the Government has closely examined the matter and, in view of the expiry of the bail by 15<sup>th</sup> April, 2020 that was accorded to the Pradhan in the ongoing case of a murder of the said Panchayat, and the prevailing delicate*

*law and order situation, the status quo as intimated to your good office by the 22<sup>nd</sup> June, 2019 letter should remain until further orders.*

*Enclosed: As stated above.*

*Yours faithfully,*

*(Haulianlal Guite)  
Additional Secretary (RD&PR),  
Government of Manipur.”*

[6] Being aggrieved with the letter dated 3-2-2021, the petitioner is before this Court by way of the present writ petitions.

[7] Heard Mr. H. S. Paonam, learned Sr. Counsel appearing for the petitioner. Also heard Mr. Niranjana Sanasam, learned GA for the State respondents, Mr. Seityajeet, learned counsel for respondent No. 4 and Mr. A. Mohendro, learned counsel for the respondent Nos. 5 to 10.

[8] Mr. H.S. Paonam, learned Sr. Counsel for the petitioner submits that after the petitioner was released on bail, the Under Secretary (RD & PR), Government of Manipur wrote to the Director (RD & PR), Manipur on 26-11-2020 stating that the petitioner may be allowed to take the charge of Pradhan of Bamon Kampu Gram Panchayat. Thereafter, the Director (RD & PR), Manipur on 30-11-2020 addressed to the BDO requested to allow the petitioner to take the charge of Pradhan of Bamon Kampu Gram Panchayat. Consequent thereto, the BDO had also requested the Panchayat Secretary, Bamon Kampu Gram Panchayat on 15-12-2020 to take necessary action in terms of the letter dated 30-11-2020 written by the Director (RD & PR), Manipur. Instead of taking necessary steps in terms of the provisions of the Act of 1994 and the Rules framed

thereunder, the Panchayat Secretary issued a meeting notice on 17-12-2020 requesting the Pradhan and the members to attend the meeting on 21-12-2020 to discuss the agenda on the powers and functions to Up-Pradhan due to the absence of Pradhan in respect of Bamon Kampu Gram Panchayat. He submits that the Panchayat Secretary has no jurisdiction under the Act of 1994 to call for a meeting inasmuch as Section 45 of the Act, 1994 clearly defines the function of the Secretary, Gram Panchayat which generally states that the Secretary shall act in all matters under the control of the Gram Panchayat. Therefore, he submits that the meeting notice dated 17-12-2020 is highly illegal and beyond the scope of the Act of 1994. However, the petitioner had attended the said meeting with the hope of being allowed to take over as Pradhan of Bamon Kampu Gram Panchayat. Instead, the petitioner was manhandled by some of the supporters of Up-Pradhan and the meeting could not be held and therefore the petitioner had to file an Ezahar before the Porompat Police Station. The petitioner having no alternative made a representation to the concerned authorities on 19-1-2021 to allow him to function and discharge as Pradhan of Bamon Kampu Gram Panchayat, Kshetrigao CD Block. However, the State respondents had issued the impugned letter dated 3-2-2021 stating that the Government has closely examined the matter and in view of the expiry of bail by 15-4-2020 that was accorded to the Pradhan in the ongoing case of a murder in the said Panchayat status quo as intimated by the letter dated 22-6-2019 should remain until further orders. He submits that after the clearance was given by the Under

Secretary (RD & PR), Government of Manipur by the letter dated 26-11-2020 by reproducing the views of the learned AG, Manipur, the respondents again had issued the impugned letter dated 3-2-2021 going back to 15-4-2020 to indicate that his bail had expired. This would clearly demonstrate that the respondents are not acting in a transparent manner but are passing the orders on the dictates of some high officials who is working hand in glove with the Up-Pradhan of the said Panchayat. Referring to para 16 of the writ petition, he submits that when the petitioner had approached the concerned BDO, he was informed by the BDO that as directed by the concerned Hon'ble Minister, the petitioner could not be allowed to function as Pradhan of Bamon Kampu Gram Panchayat.

**[9]** Learned Sr. Counsel appearing for the petitioner has also drawn the attention of this Court to the supplementary affidavit filed by the petitioner wherein the Order dated 12-11-2021 passed by the learned Sessions Judge, Imphal East in Cril. Misc. (B) Case No. 84 of 2019 and Cril. Misc. Case No. 74 of 2021 is annexed as Annexure K/I whereby the interim bail granted to the accused/petitioner vide order dated 12-2-2020 is made absolute. Therefore, when the interim bail granted to the petitioner is made absolute, there was no scope for the respondents to have issued the letter dated 3-2-2021 maintaining status quo as on 22-6-2019 on the ground that the bail granted to the petitioner had expired on 15-4-2020. He further submits the impugned letter dated 3-2-2021 should be set aside and quashed.



**[10]** Counter affidavit on behalf of respondent No. 1 has been filed and Mr. Niranjana Sanasam, learned GA on the basis of the counter affidavit submits that as the petitioner was enlarged on bail and he is not removed or incapacitated or discharged under Section 30 of the Act of 1994, it was the opinion of the learned Advocate General, Manipur that the petitioner may be allowed to take the charge of Pradhan of Bamon Kampu Gram Panchayat. Accordingly, the department has conveyed the same to the Director (RD & PR), Manipur on 26-11-2020. However, in the said letter dated 26-11-2020 there is no instructions or directions to allow him to exercise the power and perform the functions and discharge all the duties of the Pradhan of Bamon Kampu Gram Panchayat. He also submits that the Government has been closely examining the matter relating to the exercise of the power and duties of the Pradhan by the Up-Pradhan, Bamon Kampu Gram Panchayat and in view of the expiry of the bail by 15-4-2020, that was granted to the petitioner, the Department had requested the Director (RD & PR), Manipur by a letter dated 3-2-2021 to allow the Up-Pradhan to exercise the powers and duties of Pradhan. He, however, submits that in view of the order dated 12-11-2021 passed by the learned Sessions Judge, Imphal East annexed to the supplementary affidavit filed by the petitioner as Annexure K/1, para 8 of the counter affidavit of the respondent No. 1 has no relevance and also the letter dated 3-2-2021 has also become redundant.

**[11]** Mr. Seityajeet, learned counsel for respondent No. 4 submits that the respondent No. 4 was allowed to exercise the powers and

functions of Pradhan under Section 28(2) of the Act of 1994. He also submits that in the letter dated 26-11-2020, the Government had simply intimated the opinion of the learned AG, Manipur but there is no specific direction to allow the petitioner to take the charge of Pradhan of Bamon Kampu Gram Panchayat. He also denies the allegation made by the petitioner that the petitioner was manhandled by his supporters in the meeting that was held on 21-12-2020.

**[12]** Respondent No. 5 to 10 were impleaded as party respondents in WP(C) No. 132 of 2021 by an order dated 10-1-2022 passed in Misc. Case No. 1 of 2022. Mr. A. Mohendro, learned counsel appearing on behalf of respondent Nos. 5 to 10 submits that charge sheet has already been filed against the petitioner and trial is undergoing presently. He submits that the petitioner was detained for more than 48 hours and bail was granted to the petitioner only on health ground. Therefore, petitioner is deemed to be under suspension particularly when he is charged for a heinous crime and the trial is going on. He also submits that such tainted person cannot be accepted as Pradhan by the respondent Nos. 5 to 10 and therefore, there was no infirmity in the letter dated 3-2-2021 as the same has been passed after proper application of mind by the State respondents. The learned counsel also submits that the statute is not exhaustive and there are some lacunae in the Act of 1994 and such lacunae can be filled up after borrowing from other statutes and therefore, submits that the present writ petition has no merit and the petition should be dismissed.

[13] I have considered the submissions made by the learned counsel for the parties.

[14] This Court has considered the letter dated 26-11-2020 which is already reproduced hereinabove. In the said letter, the views of the learned AG, Manipur is reproduced wherein an opinion was given that the petitioner may be allowed to take the charge of Pradhan of Bamon Kampu Gram Panchayat. The Director (RD & PR), Manipur had also requested the BDO by a letter dated 30-11-2020 reproducing the opinion given in the letter dated 26-11-2020 and requesting the BDO to comply with the provision of the letter and act accordingly. The BDO, Kshetrigao, CD Block had also written to the Panchayat Secretary enclosing the copy of the letter dated 30-11-2020 and to take necessary action. It was after the letter dated 15-12-2020 has written to the Panchayat Secretary by the BDO that things started to go wrong for the petitioner inasmuch as the Panchayat Secretary issued a meeting notice dated 17-12-2020 requesting all members of Bamon Kampu Gram Panchayat to attend the meeting on 21-12-2020 to discuss on the agenda of the powers and functions of Up Pradhan due to the absence of Pradhan in respect of Bamon Kampu Gram Panchayat. The meeting notice dated 17-12-2020 is reproduced hereinbelow:-

“OFFICE OF THE  
BAMON KAMPU GRAM PANCHAYAT  
KSHETRIGAO C.D. BLOCK

No. 4/12/BM/2020

Dated : 17<sup>th</sup> Dec, 2020

**MEETING NOTICE**

*In accordance with a letter of the Block Development Officer, Kshetrigao C.D. Block vide letter No. 1/4/KSH/GC/2018 dated 15<sup>th</sup> December, 2020 a meeting is going to be held on 21/12/2020 (Monday) at 9.00 a.m. for the Bamon Kampu Gram Panchayat at the Panchayat Office. Related Pradhan and members are requested for your timely presence to discuss about the agenda as mentioned above.*

*Agenda :- Powers and functions to Up-Pradhan due to absence of Pradhan in respect of Bamon Kampu Gram Panchayat.*

*As informed,  
Sd/-  
A. Deebika Devi  
Panchayat Secretary  
Bamon Kampu G.P.  
Kshetrigao C.D. Block”*

[15] A reading of the meeting notice would clearly indicates that there is a reference to the letter of BDO dated 15-12-2020 and the meeting was held in accordance with the said letter. However, a reading of the letter dated 15-12-2020 written by the BDO to the Panchayat Secretary does not indicate any direction to hold a meeting to discuss on the agendas as indicated in the meeting notice.

[16] This Court has also considered Section 45 of the Act, 1994. A reading of the same clearly indicates that the Panchayat Secretary has no authority to call for a meeting of the Gram Panchayat and the Secretary is permitted only to act in all matters under the control of Gram Panchayat. Therefore, in the considered opinion of this Court, the meeting notice dated 17-12-2020 was highly illegal.

[17] The impugned letter dated 3-2-2021 has also been considered by this Court. In the said letter reference is made on the date 15-4-2020 wherein the State respondents claimed that the bail granted to the petitioner had expired. At this juncture, it would be appropriate to refer to Annexure K/I annexed to the supplementary affidavit dated 21.12.2021 filed by the petitioner which is the order dated 12-11-2021 passed by the learned Sessions Judge, Imphal East in Cril. Misc. (B) Case No. 84 of 2019 and Cril. Misc. Case No. 74 of 2021 wherein the interim bail granted to the accused/ petitioner vide order dated 12-2-2020 was made absolute on the same conditions. Para 4.6 of the order dated 12-11-2021 passed by the learned Sessions Judge, Imphal East is also reproduced hereinbelow:-

*“4.6 During the pendency of the present bail application, the accused petitioner filed Cril Misc. Case No 30 of 2020 on 12/02/2020 seeking absolute bail on the previously granted interim. However, the said application was rejected vide order dtd. 06/06 2020. In the meantime, the interim bail granted to the accused/petitioner was extended on subsequent hearings, considering the medical condition of the accused/petitioner Further, the accused/petitioner, as per direction of this Court submitted various documents pertaining to his effort to get medical treatment/medical investigation. It is pertinent to mention herein that the petitioner reportedly could not get necessary medical treatment investigation owing to Covid-19 restrictions imposed in Delhi and Chandigarh.”*

A perusal of para 4.6 as reproduced hereinabove would clearly indicate that the interim bail granted to the petitioner was being extended on subsequent hearings.

[18] At this stage, it is also relevant to record the statements of learned Government Advocate who had submitted that the para 8 of the

counter affidavit filed by the respondent No. 1 has no relevance in view of the order dated 12-11-2021 passed by the learned Sessions Judge, Imphal East and therefore, the letter dated 3-2-2021 impugned in the writ petition has become redundant.

**[19]** Another important point of note is the allegation of the petitioner made in para 16 of the writ petition that he is not being allowed to function as Pradhan of Bamon Kampu Gram Panchayat on the behest of concerned Minister. Paragraph 16 of the writ petition is also reproduced hereinbelow:-

*“16. That, the conduct of respondents for issuing impugned order at Annexure A/11 is on the behest of concern Minister. When the petitioner approached to the concerned Block Development Officer, he was informed by the Block Development Officer, that as per the direction of concerned Hon’ble Minister, the petitioner should not be allowed to function as Pradhan of Bamon Kampu Gram Panchayat. The conversation between the petitioner and the Block Development Officer, is recorded in the mobile phone of the petitioner.”*

In response to para 16 of the writ petition, the respondent No. 1 replies in his counter affidavit at para 9 as under:

*“9. That, with reference to para 15 to 18, the deponent has no comment to offer.”*

A consideration of the same would clearly indicate that the State respondents does not deny the allegations made by the petitioner in the writ petition against the concerned Minister. However, as no allegation of mala fide is alleged in the writ petition against the concerned Minister nor is the concerned Minister made a party respondents, this Court is not

making any observation on the allegation made by the petitioner.

[20] The contention of the learned counsel for the respondent Nos. 5 to 10 that the petitioner has been released on bail only on health grounds and that the charge sheet has been submitted and trail is going on against the petitioner has been considered by this Court. It has to be borne in mind that whether the interim bail is granted on health ground or any other grounds, the petitioner is still deemed to be on bail.

The other contention of the counsel appearing for respondent Nos. 5 to 10 that the petitioner is a tainted person and therefore, the respondent Nos. 5 to 10 cannot accept the petitioner as Pradhan has also been considered by this Court. The petitioner may be charge sheeted and trail may be proceeding against the petitioner. However, till the petitioner is convicted, he cannot be termed as a tainted person. Further, if the respondent Nos. 5 to 10 are unable to accept the petitioner as Pradhan of the concerned Panchayat, there is appropriate provision under the Act of 1994 (as amended) for removal of the Pradhan and therefore, the submissions made by the learned counsel for the respondent Nos. 5 to 10 also fails. The last ground of the learned counsel for the respondent Nos. 5 to 10 is that the Act of 1994 is not exhausted and there are some lacunae and the same can be filled up by borrowing from other statutes also has been considered by this Court. However, learned counsel for respondent Nos. 5 to 10 has failed to show this Court as to what lacunae exist in the Act of 1994 and under such circumstances this Court is unable

to accept the submission made by the learned counsel.

[21] In view of the discussion and observation made by this Court in the foregoing paragraphs, this Court holds that the letter dated 3-2-2021 was passed without any application of mind and the same is held to be illegal particularly taking into consideration the order dated 12-11-2021 passed by the learned Sessions Judge, Imphal East and accordingly, the Letter dated 03.02.2021 issued by the Additional Secretary (RD & PR), Government of Manipur is set aside and quashed. The respondents are directed to further allow the petitioner to take charge of Pradhan of Bamon Kampu Gram Panchayat and allow him to function and discharge the duties of Pradhan of the said Panchayat immediately.

[22] Accordingly, WP(C) No. 121 of 2021 and WP(C) No. 132 of 2021 are allowed. No costs.

**JUDGE**

**FR / NFR**

*Victoria*

KH. JOSHUA  
MARING

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