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

WP(C)No.1057 of 2018

1. The Governing Body, Mayai Lambi College, Yumnam Huidrom, Rep. by its Secretary, Shri. L. Prakash Singh about 56 years, s/o (L) Nipamacha Singh, R/o Yumnam Huidrom, PO & PS Wangoi, Imphal West District, Manipur-795009.
2. The Governing Body, Thambal Marik Lambi College, Oinam, Bishenpur District, Rep. by its Secretary, Shri W. Debit Singh about 50 years, s/o W. Mangi Singh, R/o Oinam Mamang Leikai, PO & PS Nambol, Bishenpur District, Manipur-795134.

..... *Petitioners*

– Versus –

1. State of Manipur, Rep. by the Commissioner (University & Higher Education), Government of Manipur, Secretariat New Building, Babupara, PO & PS Imphal West, Imphal West District, Manipur-795001.

2. The Commissioner/Secretary, Department of Finance, Government of Manipur, Secretariat New Building, Babupara, PO & PS Imphal West, Imphal West District, Manipur-795001.
3. The Director, University and Higher Education, Government of Manipur, Neitaipat Chuthek, Imphal PO & PS Imphal, Imphal West District Manipur-795001.
4. The Chairman, Manipur Rural Bank, Keishampat Head Office, Imphal West District, PO & PS Keishampat, Manipur-795001.
5. The Branch Manager, Manipur Rural Bank, Nambol Branch, Nambol, Bishnupur District, Manipur-795134.
6. The Branch Manager, State Bank of India, Bishenpur Branch, Bishenpur District, Manipur-795134.
7. The Branch Manager, State Bank of India (RUSA) Bishenpur Branch, Bishenpur District, Manipur-795134.
8. The Branch Manager, State Bank of India, Nambol Branch, Nambol, Bishnupur District, Manipur-795134.

9. The Principal i/c, Mayai Lambi College, Yumnam Huidrom,
Mayai Lambi, Yumnam Huidrom, Imphal Manipur-795009.
10. The Principal i/c, Thambal Marik College, Oinam, Tiddim
Road, Bishenpur District, Manipur-795135.

....Respondents

BEFORE
HON'BLE MR. JUSTICE M.V. MURALIDARAN

For the Petitioner	:	Mr. D. Julius Riamei, Adv.
For the Respondents	:	Ms. Monomala, GA & Mr. H.S. Paonam Sr. Adv. Proforma Respondents.
Date of Order	:	25.02.2022.

JUDGMENT & ORDER
(Oral)

[1] This writ petition has been filed by the petitioners seeking to quash the impugned order dated 20.10.2018 passed by the first respondent and to direct the respondents to allow the petitioners' function till the handing

over and taking over of Mayai Lambi College, Yumnam Huridrom and Thambal Marik College, Oinam are completed.

[2] The case of the petitioners is that they are the Governing Bodies of two Colleges, namely, Mayai Lambi Collge, Yumnam Huridrom and Thambal Marik College, Oinam, which have been taken over and converted into full-fledged Government Colleges under the Department of Higher Education, Government of Manipur vide order dated 28.6.2018. Pursuant to the said Colleges being converted into Government Colleges, the petitioners stood abolished. Aggrieved by the order dated 28.6.2018, the petitioners have filed W.P.(C) No.608 of 2018 and by the order dated 16.7.2018, the said writ petition was disposed of by granting liberty to the petitioners to submit a representation to the State Government.

[3] In compliance with the order, the petitioners have submitted a representation on 25.7.2018 to the Commissioner (Hr. & Tech. Education) requesting to allow them to function till the completion of all formalities of handing over and taking over of the College assets and properties and also to verify the list of teaching and non-teaching staff submitted by the

Governing Bodies. Since the first respondent failed to consider the representation, the petitioners have filed W.P.(C) No.858 of 2018.

[4] By the order dated 14.09.2018, W.P.(C) No.858 of 2018 came to be disposed of by directing the first respondent to consider and dispose of the representation of the petitioners within a period of one month from the date of receipt of a copy of the order. Since the order of this Court dated 14.9.2018 has not been complied with, the petitioners have filed Contempt Case No.177 of 2018 and pending Contempt Case, the first respondent passed the impugned order dated 20.10.2018 rejecting the representation of the petitioners. Challenging the same, the petitioners have filed the present writ petition.

[5] Resisting the writ petition, the 9th respondent filed affidavit-in-opposition stating that while disposing of W.P.(C) No.608 of 2018, this Court clearly expressed the view that once the Government has taken a decision to take over the Colleges and convert these Colleges into full-fledged Government Colleges, normally the Governing Body would be rendered non-functional, as it would be the State Government who would look after the

affairs and administration of the Colleges. It is stated that it is not mandatory to follow handing over and taking over and it is the Government to decide in the circumstances. In the present case also, six Government Aided Colleges have been taken over by the Government and out of six, only the present petitioners have grievances against the order dated 28.6.2018. The grievances of the Governing Body to remain in office is only to manipulate the lists of teaching and non-teaching staff of the College. The representation of the petitioners was rejected by the competent authority for the reasons stated in the order dated 20.10.2018. Hence, prayed for dismissal of the writ petition.

[6] Assailing the impugned order, Mr.D.Julius Riamei, learned counsel for the petitioner submitted when the petitioners filed Contempt Case No.177 of 2018 for non-compliance of the order dated 14.9.2018 and on the issuance of legal notice dated 25.10.2018 to the respondents, the impugned order rejecting of the representation of the petitioner came to be passed back-dating as 20.10.2018 in order to avoid the contempt proceedings. He would submit that the necessity of handing over and taking over is to create transparency in the conversion of the Colleges and most importantly to

ensure that all the assets and properties, bank accounts and teaching and non-teaching staff of the Colleges are handed over to the Government free of liabilities and encumbrances in any manner and also to avoid discrepancies in future.

[7] The learned counsel further submitted that while it is the convention and norms followed by the State Government in handing over and taking over from the respective Governing Bodies of the Government Aided College or Private Colleges, as the case may be, the petitioners have been denied and deprived of handing over and taking over in a fair and transparent manner creating clouds and doubts and grey areas in the conversion process. According to the learned counsel, the petitioners are challenging the conversion of the Colleges into full-fledged Government College *per se* but is only asking for formal execution of handing over and taking over as done earlier, particularly, Jiri College. In view of the above, the learned counsel for the petitioners prayed for setting aside the impugned order and allow the petitioners' function till the handing over and taking over process of the Colleges are completed.

[8] Per contra, Ms. Monomala, learned Government Advocate, appearing for the respondents submitted that consequent upon the taking over of the Colleges by the Government, the whole area of land, building, other infrastructure, property/assets either movable or immovable and all the monetary fund of any kind of belonging to the Colleges in question shall be deemed acquired, possessed and owned by the Department of Higher Education. As such, the continuation of the Governing Bodies do not arise. She would submit that after due consideration and examination of the request of the petitioners, the impugned order has been passed and there is no illegality in it. Hence, prayed for dismissal of the writ petition.

[9] This Court considered the rival submissions and perused the materials available on record.

[10] The grievance of the petitioners is that till handing over and taking over of Mayai Lambi College and Thambal Marik College are fully completed, the respondents are to be directed to allow the petitioners to function as such. Further grievance of the petitioners is that though the Government had taken the overall administration of the two Colleges, the

only issue pending is absorption of 11 employees, which includes the teaching and non-teaching staff of Thambal Marik College.

[11] It appears that earlier, challenging the order dated 28.6.2018 to the extent of abolishing the petitioners without having undertaken necessary arrangements for handing over the College assets and properties, bank accounts and staff, the petitioners have filed W.P.(C) No.608 of 2018 before this Court. By the order dated 16.7.2018, this Court disposed of the said writ petition. The operative portion of the order dated 16.7.2018 reads thus:

“7. Accordingly, the present petition is closed with liberty to the petitioners to file appropriate representation to the State Government and it would be within the wisdom of the State Government to pass appropriate order as it may consider appropriate.”

[12] Pursuant to the direction of this Court, the petitioners submitted a representation dated 25.7.2018 to the Commissioner of Higher and Technical Education to permit them to function as such till the completion of all formalities of handing over of the College assets and properties and making payment of due salaries for five months to the employees. In the

said representation, the petitioners have also requested to act upon the verified list of teaching and non-teaching staff submitted by the present Governing Bodies. Since the first respondent failed to take action on the representation of the petitioners, the petitioners have filed W.P.(C) No.858 of 2018 before this Court.

[13] By the order date 14.9.2018, this Court disposed of the writ petition. The operative portion of the order reads thus:

“When the matter was taken up for consideration, Shri PH. Sanajaoba, learned counsel appearing for the petitioner submits that the instant writ petition can be disposed of by issuing an innocuous order and accordingly, the writ petition stands disposed of with a direction that the respondents and in particular, respondent No.1 shall consider and dispose of the said representation dated 25.7.2018 submitted by the petitioners within a period of one month from the date of receipt of a copy of this order and issue a speaking order in respect thereof.”

[14] It also appears that since the respondents failed to comply with the order dated 14.9.2018, the petitioners have filed Contempt Case No.177

of 2018 and this Court admitted the Contempt Case on 25.10.2018 and issued notice to the contemnors, thereby directing the Contempt Case to be listed after four weeks for reporting compliance.

[15] Pending Contempt Case, the first respondent passed the impugned order dated 20.10.2018 rejecting the representation of the petitioners. While rejecting the representation of the petitioners, the first respondent observed as under:

“6. Now, therefore, in view of the above-facts and circumstances, the Governor of Manipur is pleased to order that after due consideration and minute examination of the prayer of the petitioners for allowing the Governing Bodies of Mayai Lambi College, Yumnam Huidrom and Thambal Marik College, Oinam to function as such till the completion of all formalities of handing over of College assets and properties is rejected.”

[16] The order dated 28.6.2018 has been passed as a natural consequence of the decision taken by the State Cabinet to take over six Colleges, including Mayai Lambi College and Thambal Marik College and to

convert them to full-fledged Colleges and consequent upon the taking over by the Government, the whole area of land, building and other infrastructure, property/assets shall be deemed acquired, possessed and owned by the Department of Higher Education, Government of Manipur.

[17] The petitioners now claim that while it is the convention and norms followed by the State Government in handing over and taking over from the respective Governing Bodies of the Government Aided College or Private College and the same has been extended to similarly placed Colleges, the petitioners have been denied and deprived of the handing over and taking over in a fair and transparent manner.

[18] The specific case of the petitioners is that an actual handing over and taking over by following the conventions and norms was done to Tamenglong College vide order dated 16.3.1996, published in Manipur Gazette on 10.6.1996; Chandel College, vide order dated 26.07.1996, published in Manipur Gazette on 13.9.1996 and Jiri College, Jiribam vide order dated 8.12.2016 and annexed the orders in respect of Jiri College along with the writ petition. However, in the case on hand, no formal

execution of the handing over and taking over as done in the case of Jiri College, has not done. To rebut the said plea of the petitioners, the respondents have not produced any materials.

[19] This Court is of the view that once the Government has taken a decision to take over the Government Aided Colleges and convert the Colleges into full-fledged Government Colleges, normally, the Governing Body also would be rendered non-functional as it would be the State Government who would look after the affairs and administrations of such Colleges. Even though the two Colleges in question have been taken over by the Government and converted into full-fledged Government Colleges, according to the petitioners, there are still certain fundamental issues yet to be settled between the Government and the Governing Bodies of the said Colleges and their Trusts.

[20] In fact, in their representation dated 25.7.2018, the petitioners have specifically stated that the fundamental issues including the rights to properties and the rights to handing over and the Government did not follow any procedural law in taking over the properties of the Colleges, which is

owned and run by the Trust, a purely private bodies. In the said representation, the petitioners have also claimed denying rights to handing over the assets of the Colleges by the Governing Bodies amounts to violation of Article 14 of the Constitution of India i.e. equality with Tamenglong College and United College, Chandel etc.

[21] On a thorough reading of the impugned order, this Court finds that the aforesaid aspects of the matter canvassed by the petitioners in their representation dated 25.7.2018 have not been considered by the first respondent while issuing the impugned order. In the impugned order, the first respondent merely by referring the earlier litigations and directions of this Court, simply rejected the representation. Such approach adopted by the first respondent is unsustainable. When the respondents have raised a plea that denying the rights to handing over the assets of the Colleges by the Governing Bodies amounts to violation of Article 14 of the Constitution of India and the petitioners have been denied and deprived of the handing over and taking over in a fair and transparent manner, it is the bounden duty of the first respondent to consider the said aspect while issuing the impugned order. In the case on hand, the first respondent has failed to do the same

and the impugned order came to be passed during the pendency of the Contempt Case to avoid the contempt proceedings against the respondents.

[22] The petitioners claim that till the handing over and taking over of Mayani Lambi College and Thambal Marik College are completed, they will have to be allowed to function. Admittedly, the said aspect has not been considered by the first respondent in the impugned order. Therefore, this Court is of the view that the impugned order has been passed in a hurried manner.

[23] While pendency of the writ petition, the writ petitioners have filed additional affidavit dated 24.02.2022 by enclosing the orders dated 17.03.2019 and 24.12.2021 and prayed this Court that this Court may issue directions to the respondent Nos. 1 to 3 for considering the 11(eleven) employees of Thambal Marik Lambi College for absorption in the interest of justice.

[24] By showing the additional affidavit dated 24.02.2022, Mr. D. Julius Riamei, learned counsel for the petitioners submitted that this Court may direct the respondents to allow the petitioners to functions until the

handing and taking over of the Mayai Lambi College, Yumnam Huidrom and Thambal Marik College Oinam are completed. Mr. D. Julius Riamei, learned counsel for the petitioners further stated that the Government had taken the overall administration of the subject two Colleges and the only issue pending is absorption of 11(eleven) employees(Teaching Staff-5 and Non-Teaching-6) of the Thambal Marik College.

[25] Mr. D. Julius Riamei, learned counsel for the petitioners further submitted that suitable direction may be issued to the respondents for considering the absorption of the said 11(eleven) employees of the Thambal Marik College.

[26] By reading the said orders dated 17.03.2019 and 24.12.2021, it is made clear that though the taking over of overall administration of the subject two Colleges completed and the only issue pending before the respondents are that the absorption of 11(eleven) employees (Teaching Staff-5 and Non-Teaching-6) of the Thambal Marik College. Therefore, in the interest of justice it is fair enough to issue direction to the respondents though the subject Colleges were taken over by the Government the overall

administration, to consider the said 11(eleven) employees of Thambal Marik College for absorption in the interest of justice.

[27] In the above circumstances,

(a) the writ petition is disposed of .

(b) the respondent Nos. 1 to 3 are hereby directed to absorb the 11(eleven) employees (Teaching Staff-5 and Non-Teaching-6) of the Thambal Marik College, Oinam.

(c) the said exercise shall be done within a period of 8(eight) weeks from the date of receipt of copy of this order.

JUDGE

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