

# IN THE HIGH COURT OF MANIPUR

## AT IMPHAL

### W.P. (Cril.) No. 32 of 2022

Shri Kaikam Kipgen, aged about 64 years, F/o Satminlen Kipgen of Loibol Village, Kangpokpi District, Manipur-795129.

*..... Petitioner/s*

**- Versus -**

1. The State of Manipur, represented by Chief Secretary, Government of Manipur, Babupara, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.
2. The Special Secretary (Home), Government of Manipur Babupara, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.
3. The Deputy Secretary (PIT-ND & PS) Ministry of Finance, Department of Revenue, near North Block, Room No. 26, Church Road, RFA-Barrack, New Delhi-110001.

*.....Respondent/s*

## B E F O R E

**HON'BLE THE ACTING CHIEF JUSTICE M.V. MURALIDARAN  
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA**

For the Petitioner	::	Mr. Ph. Sanajaoba, Advocate.
For the Respondents	::	Mr. Th. Vashum, G.A. and Mr. Boboy Potsangbam, CGC.
Date of hearing	::	20.02.2023
Date of Judgment and Order	::	28.02.2023

## **JUDGMENT & ORDER** **(CAV)**

**A. Guneshwar Sharma, (J)**

**[1]** The present writ petition has been filed by the father of the detenu. On 20.04.2022, a team of Commanda Unit/Bishnupur at Keinou Bazar arrested (i) Nongthombam Premjit Singh (45) S/o (L) N. Biren Singh of Terakhongshangbi Wahengbam Leikai, A/P Tingkai Khullen, Kangpokpi District and (ii) Satminlen Kipgen (24) S/o Kaikam Kipgen of Loibol Khullen, Kangpokpi District (the detenu herein) in connection with FIR No. 13(4)2022 BPR-PS U/S 18(b) ND & PS Act. From their possession, 5 (five) plastic packets filled with blackish sticky substances suspected to be opium weighing 4.800 kilograms (appox.) from Nongthombam Premjit Singh and 255 grams of opium (Kani) from Satminlen Kipgen were seized.

**[2]** Vide order dated 02.09.2022 passed by the Special Secretary (Home), Government of Manipur, the detenu namely Mr. Satminlen Kipgen was detained under Section 3(1) of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act (PIT-ND & PS Act), 1988 for effectively preventing him from further involvement in illicit trafficking of narcotic drugs and psychotropic substances for a period of three months until further orders. It is stated in the detention order that the detenu has filed Cril.Misc.(B) Case No. Nil of 2022 before the Special Judge (ND & PS), Bishnupur and it is highly suspected that on release from jail on bail, he would continue in illicit trafficking of drugs.

**[3]** Vide letter dated 06.09.2022 of the Special Secretary (Home), Government of Manipur, the grounds of detention was furnished to the detenu. It is stated the detenu was dealing in the illegal drug trafficking business to make easy money and he was likely to be released on bail and on being released, he would continue to engaged in illegal activities of drug trafficking. So, in order to prevent this, he was taken into preventive

detention. It is stated that the detenu was not produced before the State Advisory Board.

**[4]** The detenu submitted 2 (two) representations all dated 02.09.2022 through the Superintendent of Manipur Central Jail, Sajiwa to the Special Secretary (Home), Government of Manipur and to the State Advisory Board for revoking the detention order dated 02.09.2022. It is stated that he was falsely implicated by the police. Vide order dated 15.12.2022, the Commissioner (Home), Government of Manipur has revoked the detention order dated 02.09.2022 under Section 12(a) of PIT-NS & PS Act, 1988. Immediately thereafter, vide order dated 16.12.2022, the Commissioner (Home), Government of Manipur issued second detention order against the detenu, namely, Satminlen Kipgen to prevent him from further involvement in illicit trafficking of narcotic drugs and psychotropic substances for a period of three months until further orders on the ground that he was likely to be released on bail. Vide letter dated 20.12.2022, the Commissioner (Home), Government of Manipur, furnished the grounds of detention to the detenu alleging that he was dealing in the illegal drug trafficking to make easy money and on release on bail, he would engage in illegal activities including illicit trafficking of drugs. Vide order dated 01.12.2022 passed by the learned Special Judge (ND & PS), Bishnupur in Cril.Misc. (B) Case No. 74 of 2022, the detenu was directed to be released on default bail as charge sheet could not be submitted within the statutory period of 180 days.

**[5]** In the representation dated 10.10.2022 (Annexure – P/3) submitted to the Special Secretary (Home), Government of Manipur, the detenu made a specific request to send photocopies of the same representation and forward the same to the Chief Secretary (Home), Government of Manipur, as well as the Deputy Secretary (PIT-ND & PS), Ministry of Finance, Department of Revenue, Government of India, New Delhi for their considerations. It is stated that the detenu has no information

whether the said representation was forwarded to the Chief Secretary (Home), Government of Manipur and to the Deputy Secretary (PIT-ND & PS), Ministry of Finance, Department of Revenue, Government of India. It is stated that till date, the representations were kept pending and not disposed of and thus violated the provisions of Article 22(5) of the Constitution of India. It is stated that the ground of detention relied in the 2<sup>nd</sup> detention order was the same which was relied in the earlier detention order dated 02.09.2022. It is stated that the respondent No. 1 violated Section 9(f) of the Act inasmuch as he failed to make the confirmation order even after the lapsed of about 13 weeks. The detention order was challenged on the following grounds:

- (a) The impugned detention order dated 02.09.2022 and 16.12.2022 were passed mechanically and without application of judicious mind;
- (b) There was no cogent materials to show that the detenu was involved in illicit trafficking of narcotic drugs and psychotropic substances;
- (c) The respondent No. 2 failed to comply Section 3(2) and Section 9(b) of PIT-ND & PS Act and the respondent No. 1 failed to comply Section 9(f) of PIT-ND & PS Act;
- (d) The respondent Nos. 1, 2 & 3 failed to consider and dispose of the representations dated 10.10.2022;
- (e) There is no inordinate delay on the part of the respondent No. 2 while forwarding the representation to the respondent Nos. 1 & 3;
- (f) The allegations made in the detention order are vague and not sufficient enough to warrant preventive detention.

**[6]** The respondent No. 2 has filed counter affidavit on behalf of the State Government. It is stated that the 1<sup>st</sup> detention order dated 02.09.2022 was revoked by order dated 15.12.2022 and as per record, the process for

revocation was started on 07.12.2022, by then, stipulated timeline of 5 weeks as provided under Section 9 (b). It is stated that the revocation order was done on technical ground after seeking advice of the Ld. Advocate General, Manipur and obtaining due approval by the then detaining authority as corrective measure. Since, no reference was made within 5 weeks as provided under Section 9(b) of PIT-ND & PS Act to the Advisory Board. The 1<sup>st</sup> detention order was revoked and the 2<sup>nd</sup> detention order dated 16.12.2022 was passed. It is stated that Section 12(2) of PIT-ND & PS Act provide revocation of the detention order under Section 12(1) does not bar detention of the same person. It is stated that the detention orders dated 02.09.2022 and 16.12.2022 are independent and the second detention order is not consequential order to the first. It is also stated that the detenu is a hardened drug peddler who buys, transports, stores and sells onward opium and is a member of dedicated drug trafficker network across the state. At the time of detention, there was possibility of him release on bail. It is also stated that the representation dated 10.10.2022 submitted by the detenu was received on 12.10.2022 and para-wise comment was sought from DGP vide letter dated 19.10.2022 and the para-wise comment was received on 07.12.2022, by then, the whole process for revocation. Para-wise comment was not received till 07.12.2022 when the process of revocation of the 1<sup>st</sup> detention order dated 02.09.2022 was started. As para-wise comment from the police was not received, the representation dated 10.10.2022 could not be disposed of by then. Further, representation was not referred to the Government of India and the representation dated 10.10.2022 was not forwarded to the Government of India. It is stated that that on 06.12.2022, the accused could not be released from jail even after granting of default bail as no revocation order was received from the Government for his detention. It is stated that the detenu was not released from jail as revocation order dated 15.12.2022 was received on 17.12.2022 and the detention order under NIT-ND & PS was also received on the same day. The 2<sup>nd</sup> detention order dated 16.12.2022 was also received on the same day. It is stated that there is no need for confirmation of the

revoked 1<sup>st</sup> detention order dated 02.09.2022. It is stated that the representation with respect to the 1<sup>st</sup> detention order dated 02.09.2022 does not survive as the same was revoked. It is stated in para 11 of the reply filed by the State Government that the detenu filed the 2<sup>nd</sup> representation dated 30.12.2022 against the detention order dated 16.12.2022 forwarded by the Superintendent, Manipur Central Jail, Sajiwa, vide letter dated 02.01.2023, the same has been referred to the police for para-wise comment.

**[7]** Vide letter dated 06.01.2023 and para-wise comment was received on 10.01.2023 and after due consideration, the representation was disposed of vide orders dated 13.01.2023. It is also stated that the 2<sup>nd</sup> detention order dated 16.12.2022 was intimated to Government of India vide letter dated 23.12.2022 within the stipulated time of 10 days. Further reference to Advisory Board was made vide letter dated 06.01.2023 which is also within the stipulated 5 weeks' as provided under Section 9(b) of PIT-ND & PS Act. It is stated that there is no violation of Section 3(2) and 9(b) of PIT-ND & PS Act. It is stated that the writ petition may be dismissed being devoid of merit. The Central Government did not file any reply as the representation was not forwarded to it.

**[8]** Heard Mr. Ph. Sanajaoba, learned counsel for the petitioner, Mr. Th. Vashum, learned PP for the State respondent Nos. 1 & 2 and Mr. Boboy Potsangbam, learned CGC for the respondent No. 3, Union of India.

**[9]** Mr. Ph. Sanajaoba, learned counsel for the petitioner, draws the attention of this Court that the 1<sup>st</sup> detention order dated 02.09.2022 was valid only for 3 months until further orders as there was no order extending the same. The 1<sup>st</sup> detention order expired on 01.12.2022 vide order dated 15.12.2022 passed by the Commissioner (Home), Government of Manipur and it was revoked after 13 days' of its lapse. He submits that the revocation order is illegal and any revocation of a lapsed order has no meaning. He refers to the provision of Section 11 of the PIT-ND & PS Act where maximum period of

detention is one year. However, the detaining authority may revoke or modified the detention within the validity. He further submits that the 1<sup>st</sup> detention order is illegal and without considering the relevant materials. The revocation order dated 15.12.2022 was also illegal as the same was done after 13 days of lapse of the 1<sup>st</sup> detention order and hence, the detaining authority cannot exercise the power confer under Section 12 of the PIT-ND & PS Act for revocation of lapsed order. It is further submitted that the 2<sup>nd</sup> detention order dated 16.12.2022 is also illegal because there is no new facts and it was issued on the same ground as the 1<sup>st</sup> detention order.

Mr. Ph. Sanajaoba, learned counsel, relies on the judgment of the Hon'ble Supreme Court in the case of **Union of India v. Paul Manickam and Anr.** reported in **(2003) 8 SCC 342**, at para 16 where it was held that meticulous compliance of the procedural safeguard provided in a preventive detention, however, technical, is mandatory. It is reproduced herein below:

*"16. In a case of preventive detention no offence is proved, nor is any charge formulated and the justification of such detention is suspicion or reasonability and there is no criminal conviction which can only be warranted by legal evidence. **Preventive justice requires an action to be taken to prevent apprehended objectionable activities. (See R. v. Halliday and Kubic Darusz v. Union of India). But at the same time, a person's greatest of human freedoms i.e. personal liberty is deprived, and, therefore, the laws of preventive detention are strictly construed, and a meticulous compliance with the procedural safeguard, however technical, is mandatory.** The compulsions of the primordial need to maintain order in society, without which enjoyment of all rights, including the right of personal liberty would lose all their meanings, are the true justifications for the laws of preventive detention. This jurisdiction has been described as a "jurisdiction of suspicion", and the compulsions to preserve the values of*

*freedom of a democratic society and social order sometimes merit the curtailment of the individual liberty. (See Ayya v. State of U.P.). To lose our country by a scrupulous adherence to the written law, said Thomas Jefferson, would be to lose the law, absurdly sacrificing the end to the means. No law is an end in itself and the curtailment of liberty for reasons of the State's security and national economic discipline as a necessary evil has to be administered under strict constitutional restrictions. No carte blanche is given to any organ of the State to be the sole arbiter in such matters."*

Mr. Ph. Sanajaoba, learned counsel, also refers to another judgment of the Hon'ble Supreme court in the case of **Abdul Basit Alias Raju & Ors. v. Mohd. Abdul Kadir Chaudhary & Anr. reported in (2014) 10 SCC 754 at para 25** where it was held that what cannot be done directly, cannot be done indirectly. He also refers to another judgment of the Hon'ble Supreme Court in the case of **Banka Sneha Shella v. State of Telangana & Ors. reported in (2021) 9 SCC 415, at para 20, 21, 23, 24, 26 and 30** where it was held that the Hon'ble Supreme court has laid down the principle while interpreting the law of preventive detention and it requires strict construction as it affects the right and liberty of a person who has been detained without any fair trial. It was also held that preventive detention is an exception to general law and taking recourse to the provisions of preventive detention is contrary to the constitution guaranteed enshrined under Article 19 and 21 of the Constitution and sufficient grounds have to be made out by detaining authorities to invoke such provisions. The same has to be resorted if the detenu cannot be effectively dealt with by normal criminal procedure.

Mr. Ph. Sanajaoba, learned counsel, submits that there was an illegal detention from 02.12.2022 to 15.12.2022 of the detenu after the lapsed of the 1<sup>st</sup> detention order till the 2<sup>nd</sup> detention order was made and as such, he prayed for awarding adequate compensation to the detenu for



his illegal detention for the period from 02.12.2022 to 15.12.2022 even though the petitioner has not made any specific prayer. He submits that this prayer can be considered and moulded by this Court with respect to prayers (ii) & (iii) of the writ petition where the petitioner prayed for passing any other necessary order in the facts and circumstances of the case and for award of the cost of petition. It is prayed that the 1<sup>st</sup> detention order dated 02.09.2022 passed by the Special Secretary (Home), Government of Manipur and the 2<sup>nd</sup> detention order dated 16.12.2022 be set aside as there were no materials to detain the detenu under preventive detention and the representations have not been disposed of by the State and Central Authorities on time.

**[10]** Mr. Th. Vashum, learned PP for the State respondents, submits that the 1<sup>st</sup> detention order was made on the basis of police report and it was valid only for 3 months until further orders as there was technical defect of not forwarding the detention order to the State Advisory Board. The State Authority after taking opinion of the Ld. Advocate General and in exercise of power under Section 11 & 12 of PIT-ND & PS Act revoked the 1<sup>st</sup> detention order on 15.12.2022 and issued another 2<sup>nd</sup> detention order dated 16.12.2022 as the case of the detenu would be not able to be dealt with by normal criminal procedure. He stated that the 2<sup>nd</sup> detention order dated 16.12.2022 is valid as such order can be passed under Section 12(2) of PIT-ND & PS Act. He also refers to the judgment of the Hon'ble Supreme Court in the case of **Union of India v. Paul Manickam and Anr.** reported in **(2003) 8 SCC 342, at para 7**, where it was that the Hon'ble Supreme Court had explained the object beyond the preventive detention and he points out that preventive detention resorted to when the executive is convinced on the materials available and placed before it that such detention is necessary in order to prevent the person detained from acting in a matter prejudicial to certain objects which are specified by law. The action of the executive in detaining a person being only precautionary, the matter has

necessarily to be left to the discretion of the executive authority. He submits that when the 1<sup>st</sup> detention order is revoked, the representation against it does not survive and there is no need for formal order of disposal or confirmation of the same. It is stated that the 2<sup>nd</sup> representation dated 30.12.2022 against the 2<sup>nd</sup> detention order dated 16.12.2022 was duly disposed of on 13.01.2023. Hence, there is no delay on the part of the State Government. He prays that the writ petition may be dismissed as being devoid of merit.

**[11]** Mr. Boboy Potsangbam, learned CGC for the Central Government, submits that the representations were not forwarded to the Central Government by the State Authority and the same cannot be processed. However, the Union of India has not filed any counter affidavit and the learned CGC has no specific instruction in this regard.

**[12]** The 1<sup>st</sup> detention order dated 02.09.2022 was valid only for 3 months and on its expiry, there was no order for extension of the same nor no confirmation order was issued prior to 02.12.2022. However, vide order dated 15.12.2022, the State Government revoked the detention order without assigning any specific reason and the 2<sup>nd</sup> detention order dated 16.12.2022 was issued. But in the counter affidavit filed by the State Authority, it is stated that the 1<sup>st</sup> detention order was revoked due to technicalities. From the period 02.12.2022 to 15.12.2022, there was no order from the State Authority to keep the detenu under detention. So, in another word, the detenu was under illegal detention for the period from 02.12.2022 to 15.12.2022 and the State Authority has not given any justification in this regard. It is the specific case of the detenu that he was under illegal detention for 13 days.

**[13]** In the case of **Ujjal Mandal v. State of W.B.** reported in **(1972) 1 SCC 456**, the Hon'ble Supreme Court held that the detention order is valid only for three months as mandated under Article 22(4) of the Constitution and unless it is confirmed before the expiry of three months,

further detention would be without any authority of law. The relevant paras. are reproduced below:

“8. Article 22(4) of the Constitution has specified the maximum limit of initial detention, and detention for a longer period than three months can only be made on the basis of the report of the Board. The Act authorises a possible detention of more than three months. It is because the appropriate Government wants to detain a person for more than three months that the matter is referred to the Board and it is only when the Board makes its report that the appropriate Government can fix the period of detention under sub-section (1) of Section 12. So, when the Government receives the report of the Board stating that there is sufficient cause for detention of a person, if the Government wants to detain him for a period beyond three months, it has to pass an order or make a decision under Section 12(1) to confirm the order of detention. The confirmation of the detention order without anything more would result in an automatic continuation of the detention, even if there is no separate decision to continue the detention for any specific period as held by this Court in *Dattatreya Moreshwar Pangarkar v. State of Bombay*. When Section 12(1) of the Act speaks of “and continue the detention of the person concerned for such period as it thinks fit”, it can only mean continuance of detention from the point of time at which detention would become illegal if the order of detention is not confirmed, namely, the expiry of three months from the date of detention. It would not be necessary to confirm the order of detention even after the receipt of the report of the Board by the Government if the Government only wants to continue the detention for the period of three months from the date of detention, as the initial order of detention would authorise the continuance of detention for that period without any confirmation. Confirmation is necessary only to continue the detention after the expiry of three months. If that be so, it stands to reason to hold that the order of detention must be confirmed before the expiry of the three months.”

9. To put the matter in a nut-shell: the State Government has power under the Act to detain a person without trial beyond a period of three months but limited to a period of one year. That power the State Government may exercise on the receipt of the opinion of the Board that there is sufficient cause for the detention. When the State Government receives that opinion, it has still the option to exercise the power and to continue the detention beyond the period of three months or not.

Confirmation is the exercise of the power to continue the detention after the expiry of three months. Unless that power is exercised within the period of three months from the date of detention, the detention after the expiry of that period would be without the authority of the Law.

.....

14. The question was considered by this Court in *Deb Sadhan Roy v. State of West Bengal* and the Court took the view that the order of detention must be confirmed within three months of the date of detention; else the detention beyond that period would become illegal. We see no reason to doubt the correctness of this decision and we follow it.”

It is clear from the above cited case law that preventive detention is valid for only three months unless it is extended or confirmed before its expiry. Any further detention without confirmation will render the detention illegal.

**[14]** On perusal of the 1<sup>st</sup> detention order dated 02.09.2022 and the 2<sup>nd</sup> detention order dated 16.12.2022, both are almost similar contains and there is no fresh material in the 2<sup>nd</sup> detention order. There is justification in the submission of Mr. Ph. Sanajaoba, learned counsel for the petitioner that in the preventive detention, the 2<sup>nd</sup> detention order ought to be based on new facts and the repeated detention order cannot be passed on the same set of facts. It may be noted that FIR was lodged in the month of April and the 1<sup>st</sup> detention order was issued in the month of September, 2022 and the 2<sup>nd</sup> detention order was issued to overcome technicalities only in the month of December, 2022 after a lapsed of more than 105 days. In the 2<sup>nd</sup> detention order, no new facts have been disclosed for detaining the detenu under preventive detention and it was based on the same set of facts. It may be noted that the preventive detention is not an alternative means to keep a person in detention without any trial only on the ground that he will be released on bail. All mandatory, technicalities and constitutional safeguards have to be meticulously complied with.

**[15]** In the present case, the representations are not disposed of on time and the delay in the disposal of the representations and non-furnishing of the information on time vitiate the detention order. Moreover, the Central Government has not acted upon the representation while the State Government in their counter affidavit states that the necessary documents have already been forwarded to the Central Authority on time. The learned counsel for the Central Government submits that no representation has been forwarded to it and hence, no decision by the Central Government. So, we are of the view that in the present case, this is a classic case where both the State and Central Authority have flouted the statutory safeguards given to a person taken into preventive detention. The detention orders cannot be sustained in the eye of law [Kindly see Sarabjeet Singh Mokha v. District Magistrate, Jabalpur: MANU/SC/1010/2021 @Para 55]. Accordingly, detention order dated 02.09.2022 and 16.12.2022 are set aside and the detenu, Mr. Satminlen Kipgen be released from detention, if not required in any other case.

**[16]** The law of compensation under public law for violation of fundamental right enshrined under Article 21 of the Constitution has been upheld by the Hon'ble Supreme Court in a catena of cases.

**[17]** In the case of **Sube Singh v. State of Haryana, (2006) 3 SCC 178**, Hon'ble Supreme Court recognised the award of compensation against State for infringement of fundamental right under Article 21 under the public law in addition to the right of the citizen to claim compensation under private law of tort. It is held in para 38 as:

"38. It is thus now well settled that the award of compensation against the State is an appropriate and effective remedy for redress of an established infringement of a fundamental right under Article 21, by a public servant. The quantum of compensation will, however, depend upon the facts and circumstances of each case. Award of such compensation (by way of public law remedy) will not come in the way of the

aggrieved person claiming additional compensation in a civil court, in the enforcement of the private law remedy in tort, nor come in the way of the criminal court ordering compensation under Section 357 of the Code of Criminal Procedure.”

[18] In the case of **Inhuman Conditions in 1382 Prisons, In re, (2017) 10 SCC 658**, Hon’ble Supreme Court considered the concept of compensation for custodial death and illegal detention under public law relying on the famous case of D K Basu and held in para 46 as:

“46. In *D.K. Basu v. State of W.B.*<sup>9</sup> this Court recognised that at the time of ratification of the International Covenant on Civil and Political Rights, 1966 in 1979, the Government of India made a specific reservation to the effect that the Indian legal system does not recognise a right to compensation for victims of unlawful arrest or detention and only became a party to the covenant, subject to this reservation. It was noted, however, that the reservation has lost its relevance in view of the law laid down by this Court in several cases wherein compensation has been awarded for the infringement of a fundamental right of a citizen. It was also noted that while there is no express provision in the Constitution for grant of compensation, this right has been judicially evolved in cases of established unconstitutional deprivation of personal liberty or life. This Court summed up the law in the following words: (SCC p. 443, para 54)

“54. Thus, to sum up, it is now a well-accepted proposition in most of the jurisdictions, that monetary or pecuniary compensation is an appropriate and indeed an effective and sometimes perhaps the only suitable remedy for redressal of the *established* infringement of the fundamental right to life of a citizen by the public servants and the State is vicariously liable for their acts. The claim of the citizen is based on the principle of strict liability to which the defence of sovereign immunity is not available and the citizen must receive the amount of compensation from the State, which shall have the right to be indemnified by the wrongdoer. In the assessment of compensation, the emphasis has to be on the compensatory and not on punitive element. The objective is to apply balm to the wounds and not to punish the transgressor or the offender, as awarding appropriate punishment for the offence (irrespective of compensation) must be left to the criminal courts in which the offender is prosecuted, which the State, in law, is duty-bound to do.

The award of compensation in the public law jurisdiction is also without prejudice to any other action like civil suit for damages which is lawfully available to the victim or the heirs of the deceased victim with respect to the same matter for the tortious act committed by the functionaries of the State. The quantum of compensation will, of course, depend upon the peculiar facts of each case and no straitjacket formula can be evolved in that behalf. The relief to redress the wrong for the *established* invasion of the fundamental rights of the citizen, under the public law jurisdiction is, thus, in addition to the traditional remedies and not in derogation of them. The amount of compensation as awarded by the Court and paid by the State to redress the wrong done, may in a given case, be adjusted against any amount which may be awarded to the claimant by way of damages in a civil suit."

[19] Regarding the compensation for illegal detention, it is an admitted fact that the detention of the detenu with effect from 02.12.2022 to 15.12.2022 was without any authority of law and hence illegal. It may be noted that there is no remand order from the Court nor any order extending the detention beyond 01.12.2022. In fact, the detenu got favourable order from the Ld. Special Judge (ND & PS) where he was directed to be released on default bail vide order dated 01.12.2022 passed in Cril. Misc. (B) Case No. 74 of 2022 as charge sheet could not be filed within the stipulated period of 180 days as prescribed under Section 167(2) Cr.P.C. (the Manipur amendment). There is no extension for the period of illegal detention by the State Authority. The explanation given for the same is that the revocation order dated 15.12.2022 and the detention order dated 16.12.2022 were received on the same day, i.e., 17.12.2022. In the judgment of **DG & IG of Police v. Prem Sagar** reported in **(1999) 5 SCC 700**, the Hon'ble Supreme Court granted a compensation of Rs. 20,000/- for illegal detention. Reliance was placed on the judgment of the Hon'ble Supreme Court in the case of **Bhwneshwar Singh v. Union of India** reported in **(1993) 4 SCC 327** where the compensation of Rs. 1000/- was enhanced to Rs. 30,000/- for illegal pretrial custody.

**[20]** In the present case, it is a fact that the detenu was under illegal detention for a period of 02.12.2022 to 15.12.2022 without any authority by the State Authority while exercising the extra-ordinary power of preventive detention in a very casual and callous manner without taking scant respect for the statutory safeguard provided by the statute for which the detenu have to be adequately compensated. This Court expresses deep anguish in the manner which the law of preventive detention has been resorted to by the State Authority in a very mechanical and casual manner and this requires to be rectified immediately. Exercising the inherent power conferred on this Court and in order to do complete justice, the State Authority is directed to pay a nominal sum of Rs. 50,000/- (Rupees fifty thousand) to the detenu as compensation for his illegal detention for the period from 02.12.2022 to 15.12.2022 within a period of one month from the date of receipt of this order failing which, it shall carry an interest at the rate of 6% from the date of this order.

**[21]** Writ petition is allowed and disposed of in terms of the above observations and directions.

**[22]** Send a copy of this order to the Chief Secretary, Government of Manipur, for information and necessary compliance.

**JUDGE**

**ACTING CHIEF JUSTICE**

**FR/NFR**

*joshua*

KH. JOSHUA  
MARING

Digitally signed by KH.  
JOSHUA MARING  
Date: 2023.03.02  
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