

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL
WP(C) No. 623 of 2020**

H. Nilamani Ngangkha Lampak Sports Complex Development Committee, Moirang, a registered Society being Regd. No. 60 of 2009 represented by its Vice-President, Moirangthem Ibocha Singh, aged about 65 years, S/o (Late) M. Iboton Singh of Moirang Ngangkhaliawai Awang Leikai, P.O. & P.S. Moirang, District Bishnupur, Manipur - 795133.

... Petitioner

-Versus-

1. The State of Manipur through the Chief Secretary (Home), Government of Manipur, Babupara, Old Secretariat Building, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.
2. Manipur Police Housing Corporation a Government of Manipur undertaking, through its Managing Director near 2nd Manipur Riles Complex, A.T. Line, P.O. & P.S. Imphal, Imphal West District, Manipur - 795001.

... Respondents

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

For the petitioner	:: Shri N. Ibotombi, Sr. Advocate
For the respondents	:: Shri N. Umakanta, Advocate; Shri Niranjan Sanasam, GA
Date of Hearing	:: 29-10-2021
Date of Judgment & Order	:: 30-11-2021

JUDGMENT AND ORDER

[1] Heard Shri N. Ibotombi, learned Senior Advocate appearing for the petitioner; Shri N. Umakanta, learned Advocate appearing for the respondent No.2 and Shri Niranjan Sanasam, learned Government Advocate appearing for the respondent No.1.

[2] By the instant writ petition, the petitioner committee has prayed for issuing a writ of mandamus or any other appropriate writ to direct the respondents to develop/ improve H. Nilamani Ngangkha Lampak Sports Complex Ground (hereinafter referred to as "**the Soprts Complex**") by filling earth i.e. 3 ft. above the helipads level with construction of drain in and around the Sports Complex and pucca fencing on its eastern and northern side as assured by the State Government.

[3.1] The petitioner committee is a society registered under the provisions of the Manipur Societies Registration Act, 1989 (hereafter referred to as "**the Act, 1989**") and it was founded in the year, 2006 which has been maintaining the Sports Complex developed with the land purchased with the funds donated by the family members of late veteran freedom fighter, Shri H. Nilamani Singh and Shri Moirangthem Ibocha Singh. The Sports Complex is the only play ground in the greater Moirang area and is a suitable ground for various games viz. Football, Hockey, Volleyball, etc. including athletic 400 meter track and field.

[3.2] Prior to the arrival of the Hon'ble President of India in connection with the Sangai Festival, 2017, the respondents without giving any information/ notice to the petitioner committee, tried to construct three helipads at war footing at the said Sports Complex. Being affronted at the damage caused by that, the committee members and well-wisher of the surrounding villagers requested the authority not to construct the helipads at the Sports Complex but to repair and use the existing helipad which was constructed a few years ago and located a kilometer away from the

present site.

[3.3] As the construction of helipads at the Sports Complex could not be done due to the objection raised by the committee members and well-wisher of the Sports Complex, the Hon'ble MLA of Moirang Assembly Constituency, Shri P. Sharatchandra who is the Government Chief whip and Advisor to the Chief Minister, Manipur (Economics Affairs & Human Resource Development) appealed to them for allowing the State Government to construct the helipads at the Sports Complex, for which he assured that the Sports Complex would be repaired/ developed on priority basis. Moreover, the then Hon'ble Minister, Shri Th. Shyamkumar, Forest and MAHUD, the Hon'ble MLA, Shri S. Shusindro assured the committee members and well-wisher of the Sports Complex that the State Government would improve/ develop the said Sports Complex by filling earth i.e. 3 ft. high above the helipad's level with construction of drain in and around the Sports Complex and pucca fencing on its eastern and the northern side and thereafter, three helipads were constructed at the Sports Complex. In fact, the petitioner committee expressed their heartfelt gratitude to the Hon'ble Minister, Forest & MAHUD for the assurance given by him for the improvement of the Sports Complex.

[3.4] But nothing was done, thereafter, towards the development of the Sports Complex and accordingly, the petitioner committee submitted a representation dated 21-11-2017 to the Hon'ble Chief Minister, Manipur requesting him to do the needful which was received by the Hon'ble Minister, Forest and MAHUD on his behalf. Thereafter, the respondents

made a measurement for the improvement of the Sports Complex by preparing estimates but the same was not approved till date. The petitioner committee, by way of a representation dated 13-12-2017, requested the Hon'ble Chief Minister, Manipur to develop it as agreed, followed by another representation dated 23-12-2017 submitted to him.

[3.5] As the needful was not done by the State Government in spite of the assurance given by the Hon'ble Minister, the petitioner committee through its Vice-President, filed an application dated 12-11-2019 to the Deputy Commissioner, Bishnupur and the respondent No.2 under Section 6(1) of the RTI Act, 2005 for furnishing the following information:

- (i) *Copy of the decision taken by the competent authority for constructing the three numbers (s) of helipads which were constructed with link roads crossing over the ground along with copy of minutes of file noting of the decision.*
- (ii) *Who was the person that proposed for the selection of place/site for the said helipads to be constructed at the said complex?*
- (iii) *Whether the said land/sports complex is public land? If yes, please provide the copy of relevant land records. If not, please give the relevant rules/ laws permitting to the authority concern for executing a construction works at the premise of private land without requisition or prior information to the land owner.*
- (iv) *Copies of the work order, sketches/ engineering drawing, detailed abstract of cost, sanction orders, M.B. sources of the fund and detailed head of the account of the said construction of helipads.*
- (v) *Copies of the APRs, Vouchers and relevant documents for paying the bills of the said works along with the statement of*

expenditure and statement of account of the bank account deposited the said required amount of fund for constructing the said helipads.

- (vi) *Name of designation of the officials who were involved in the construction of the said helipads.*
- (vii) *Was there any repairing and developing the said playground and its relevant roads which is impacted by the construction of helipads? If yes, please give the copies of documents including sanction order, work order etc. indicating the said repairing and development. If not, please disclose as when the said works will be done.*

[3.6] The Deputy Commissioner, Bishnupur vide its letter dated 14-11-2019 forwarded the said RTI application to the Special Secretary (Home), Government of Manipur for providing information sought for by the petitioner committee. The office of the respondent No.2 vide a letter dated 11-12-2019 requested the Inspector General of Police (Adm.), Manipur to advise whether the information sought for should be provided or not. However, no information was provided by the authorities as contented by the petitioner committee. As the first appeal filed before the Commissioner (Home), Government of Manipur was also not disposed of, the petitioner committee filed a second appeal before the Manipur Information Commission on 05-03-2020. Thereafter, the Home Department vide its letter dated 24-09-2020 furnished information only in respect of query No. 2, 3 and 6. The SPIO of the respondent No.2 vide a letter dated 07-08-2020 also informed the petitioner committee that the construction of the three helipads at the Sports Complex was a project of the Home Department, Government of Manipur and the respondent No.2

was only the work agency.

[3.7] Being aggrieved by the inaction on the part of the respondents, the petitioner committee filed the instant writ petition on the inter-alia grounds that as the State Government assured the petitioner committee for the improvement of the Sports Complex and even the estimates had been prepared for that purpose, the State Government was duty bound to fulfill their promise. The assurance given by the authority was a promise by conduct and hence, the doctrine of promissory estoppel would bind them. It is well settled that the true principle of promissory estoppel is that where one party has by his word or conduct made to the other a clear and unequivocal promise or representation which is intended to create legal relations or effect a legal relationship to arise in the future, knowing or intending that it would be acted upon by the other party to whom the promise or representation is made and it is in fact so acted upon by the other party, the promise or representation would be binding on the party making it and he would not be entitled to go back upon it, if it would be inequitable to allow him to do so, having regard to the dealings which have taken place between the parties.

[4] An affidavit has been filed on behalf of the respondent No.2 stating that the petitioner committee being a society, ought to have filed the writ petition through an authorized person and since it had been filed by the Vice-President, his authority must be proved before going into the merit of the case. No direction can be issued against it, as the development of any sports infrastructure in a State is totally within the

domain of the Sports Authority of the State Government. The allegation by the petitioner committee regarding assurance given by the State Government is subject to strict proof thereof and cannot be looked into by this Court. Regarding the relief sought for, the petitioner committee may at best agitate before the appropriate forum and not before this Court. It is true that the respondent No.2 constructed the helipads at the Sports Complex but the role of the Respondent No.2, being an implementing agency, was to execute orders and instructions given by the State authorities. In this regard, the construction of the helipads as done by the respondent No.2, was on the instruction of the Home Department, Government of Manipur during the Sangai Festival 2017, for which His Honour, Shri Ram Nath Kovind, the President of India who is under Z+ Security cover, consented to be the Chief Guest at the last moment and the construction work had to be taken up on a war footing and in an urgent manner. If the petitioner committee had any grievances with the construction of the helipads, the same might be ventilated before the concerned authority. The Respondent No.2 furnished the information which was within its domain/ authority. For the rest of the queries made by the petitioner committee, the respondent No.2 informed it to seek information from the concerned authority, i.e, the State Home Department as envisaged under the RTI Act, 2005. The statement of the petitioner committee that the State Government had assured for improving the sports complex is a matter to be proved by it. The premise on which the petitioner committee founded its claim, is the assurance alleged to have

been made by the State Government which cannot be the basis for filing the writ petition. The remedy of the petitioner committee, if at all it is entitled to by it, lies elsewhere and not before this Court which is a Court of record and not a Court to adjudicate issues based on conjectures and accordingly, the writ petition is misconceived and without any foundation.

No counter was filed on behalf of the respondent No.1 and therefore, the averments made in the writ petition will be deemed to have been admitted by it in terms of various decisions rendered by the Hon'ble Supreme Court in this regard.

[5] In its rejoinder, it has been stated by the petitioner committee that as Shri Shobha Hemamcha, the President and Shri Y. Babu Singh, Vice President-I of the petitioner committee were physically weak due to old age and could not discharge their duties effectively, a meeting of the petitioner committee was held on 12-01-2018 wherein it was resolved to allow the Vice-President-2, Shri N. Ibocha Singh to discharge the duties of the president of the petitioner committee, for which an order dated 12-01-2018 was issued. As assured by the State Government including the then Hon'ble Minister, Forest and MAHUD, Government of Manipur, the Hon'ble MLA Shri S. Shusindro and Hon'ble MLA of Moirang Assembly Constituency, Shri P. Saratchandra for improvement and development of the Sports Complex, the petitioner committee allowed them to construct three helipads at the Sports Complex.

[6] From the pleadings as aforesaid, it is not in dispute that the

petitioner committee is a society registered under the provision of the Act, 1989 and as the president was weak due to old age, the vice-president was authorized to file the instant writ petition. From perusal of the jamabandis placed on record, it is seen that the lands which appear to be agricultural land, are either in the name of the Secretary/ President of the petitioner committee or in the name of Shri H. Nilamani Singh as the Secretary/ President of the petitioner committee, as the pattadar. But it is not clear as to whether the petitioner committee is the owner of the said lands or not because it is nowhere stated in the petition about its being the owner except stating that it maintains the Sports Complex. Whether the petitioner committee is the owner of the said lands or not, the fact remains that it is in possession of the said lands maintaining the Sports Complex in public interest wherein three helipads had been construct by the respondent No.2 as per the direction of the State Government.

[7] The allegation of the petitioner committee, in short, is that when the members of the committee and the well-wishers of the Sports Complex raised objection to the construction of the three helipads, the Hon'ble MLA of Moirang Assembly Constituency, Shri P. Sharatchandra who is the Government Chief whip and Advisor to Chief Minister, Manipur (Economics Affairs & Human Resource Development) appealed to them for allowing the State Government to construct the helipads at the Sports Complex, for which he assured that the Sports Complex would be repaired/ developed on priority basis. It has further been alleged that the then Hon'ble Minister, Shri Th. Shyamkumar, Forest and MAHUD, the

Hon'ble MLA, Shri S. Shusindro assured the committee members and well-wisher of the Sports Complex that the State Government would improve/ develop the said Sports Complex by filling earth i.e. 3 ft. high above the helipad's level with construction of drain in and around the Sports Complex and pucca fencing on its eastern and northern side and thereafter, three helipads were constructed at the Sports Complex. But they failed to honour their assurances and promises.

[8] The doctrine of promissory estoppels mandates that the Government cannot escape its liability when a citizen has altered his position relying upon the representation or assurance made by public officials. The short question that arises for consideration by this Court is as to whether the State Government had ever made any promise for the development of the Sports Complex as alleged by the petitioner committee. As regards the facts of the present case, the said three helipads were undoubtedly constructed by the State Government through its construction agency, the respondent No.2 herein. However, there is no any material on record to show that the State Government or for that matter, the respondent No.2 had ever given any assurance or made any promise that if they were permitted to construct the said three helipads, they would repair/ develop the Sports Complex. It may be noted that if any assurance or promise is to be made by the State Government, it shall be in writing through the Secretary of the concerned Department for the reason that the State is an institution. Neither the then Hon'ble Minister (Forest and MAHUD), Shri Th. Shyamkumar, who was not the Minister in

charge of Home Department nor the Hon'ble MLA, Shri S. Shusindro nor the Hon'ble MLA, Shri P. Sharatchandra could represent the State Government, in the sense that they could make no assurance or promise on behalf of the State Government. Moreover, although the allegation had been made against them, none of them was made a party in the writ petition. The only document, in respect of the assurance alleged to have been given by them, which is on record, is the letter/ appeal dated 20-11-2017 issued by the Hon'ble MLA, Shri P. Saratchandra representing Moirang Constituency. As has been observed hereinabove, he cannot give any assurance on behalf of the State Government and it may have been done by him in his individual capacity as the Hon'ble MLA, for which he being a representative of the people, is morally responsible. But nothing can be done by this Court against him in this regard, as he is not a party in the writ petition. In other words, he cannot be condemned unheard. Moreover, it is nowhere stated in his letter/ appeal that repairing/ development of the Sports Complex would be done by the State Government. All that he has stated, is that the Sport Complex would be developed/ repaired with the Government assistance on priority basis. In view of the aforesaid facts and circumstances, this Court is of the view that no writ of mandamus can be issued to the State Government directing it for the development of the Sports Complex.

[10] Even though no writ lies in the matter, the fact remains that it is the State Government which had constructed the said three helipads at the Sports Complex causing damages thereon. In other words, since it is

[12]

the duty and responsibility of the Governments including the State Government to provide requisite infrastructure for the development of sports in the country, even assuming that no promise was made by the State Government as alleged, it is its moral responsibility to repair the damage caused by the construction of the three helipads in the interest of public leaving aside the legal technicalities.

[11] In view of the above and for the reasons stated hereinabove, the instant writ petition stands disposed of with the direction that the State respondent may sympathetically consider the claim of the petitioner committee, irrespective of whether the promise was made by the State Government or not, so that the Sports Complex can be brought back towards its original position, in the sense that the Sports Complex can be used by the people of that area for the sports purpose.

JUDGE

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