



MIZORAM LOKAYUKTA

(Constituted under the Mizoram Lokayukta Act, 2014)

Case No. MLC- 12/2020

In the matter of:

Pu Lalrosiem,

President,

Hmar People's Convention (HPC)

Gen. Hqrs, Sakawrdai, Mizoram

:

Petitioner/Complainant

Versus

1. Pu Lalthlamuana Hmar,

Chief Executive Member, Sinlung Hills Council, :

Sakawrdai, Mizoram

Respondent/Opp.Party

2. Lalremlien Faihriem,

Junior Engineer, Sinlung Hills Council, :

Sakawrdai, Mizoram

Respondent/Opp. Party

ORDER

Date 26.4.2022

1.As per the provision of Section 19(3) of the Mizoram Lokayukta Act, 2014, the opportunity of being heard was afforded to the parties concerned on 29.03.2022 vide Order dated 15.03.2022. In the meantime, the respondent No. 1 submitted an application to the Mizoram Lokayukta stating that due to the Session of Sinlung Hills Council being summoned at Sakawrk dai between 29th to 30th March 2022, he would not be able to appear and requested adjournment of the hearing and on prayer made by the respondent, hearing was rescheduled and notice was served to the parties concern and hearing was held accordingly on 4.4.2022 in Court Room No. 1 of Mizoram Lokayukta wherein the petitioner/complainant was absent, the respondent No.1 & 2 were present and were heard and they submitted documents related in their defense. The Enquiry Officer was also heard and he explained how the PE was conducted and stated that he collected the relevant documents pertaining to the allegations.

2. A brief summary of the case is that First Information Report /Complaint Petition was submitted on 10.04.2019 to the Superintendent of Police, Anti-Corruption Bureau

(ACB) by Pu Lalrosiem, President, Hmar People's Convention (HPC) Gen. Head Quarters, Sakawrdai, Mizoram against Pu Lalthlamuana Hmar, Chief Executive Member, Sinlung Hills Council (SHC) for alleged misappropriation of fund under NEDP amounting to Rs. 50 lakhs under Sinlung Hills Development Council which was sanctioned vide No. D. 13023/6/2018-GAD dated 3.10.2018.

3. The Superintendent of Police, ACB then forward the complaint petition to Vigilance Department requesting to grant permission for registration of Preliminary Enquiry as per clause-23 of ACB Manual, 2012. The Vigilance Department, in pursuance of the complaint, sent a letter to the Secretary, Sinlung Hills Development Council requesting to furnish the factual and detail information on the expenditure made along with supporting documents vide No. C. 31016/94/2019-VIG on 1.05.2019. In reply to this letter, Development Officer, Sinlung Hills Council submitted the comments of utilization of funds under NEDP 2018-2019 for Sinlung Hills Council along with photo pictures on utilization of Rs. 50 lakhs. On receiving the said information, the Vigilance Department requested Deputy Secretary, Public Works Department vide I.D. No. 31016/95/2019-VIG dated 13.09.2019 for cross verification and examination by technical experts so as to give a clear-cut opinion with justification. PWD through its Under Secretary(T) sent the comments on utilization of funds to Vigilance Department which was endorsed to Deputy Director (Admn.) and Sr. Executive Engineer, P.W.D., Project Division-II, Aizawl stating that for evaluation of work done, the rates adopted in the preparation of estimates is S.O.R. 2016 (PWD Building) for building works and S.O.R. 2014 for road works.

4. The Mizoram Lokayukta received the complaint from the Vigilance Department along with subsequent correspondences with SHC and PWD for necessary action. The Mizoram Lokayukta after perusing the complaint petition decided to proceed further with the case and subsequently passed an Order dated 24.2.2020 directing the ACB to conduct preliminary enquiry into the allegations against the public servant to decide further course of actions. The Vigilance Department through its Under Secretary conveyed Government approval to conduct Preliminary Enquiry u/s 17A of the PC Act, 198 and the ACB Preliminary Enquiry No. 1/2020 dated 17.03.2020 was registered and Inspector George Lalhmingzauva Chinzah, ACB was appointed as Enquiry Officer.

5. The ACB submitted Preliminary Enquiry Report along with Executive Summary to Mizoram Lokayukta on 25th February 2022. The points of allegations in the complaint petition submitted by Pu Lalrosiem, the Preliminary Enquiry Report, and the observations based on documents and hearing conducted can be summed up as follows:

6. The complaint petition, alleged that the Sinlung Hills Council (SHC) had received Rs. 50 lakhs under NEDP for various developmental works at different villages viz. Saipum, Khawlian, Mauchar, Tinghmun, Vaitin, Sakawrdai, Khawlek, Khawdungsei, and Saiphai, for the year 2018-2019, but the amount was misused and misappropriated

by Pu Lalthlamuana Hmar, Chief Executive Member (CEM), Sinlung Hills Council (Interim Council, 2019).

7. According to the Preliminary Enquiry Report, the Enquiry Officer visited the site of all the works and took photographs of each worksite and collected documents relevant to the enquiry. The enquiry reveals that during the year 2018-2019, SHC has received a fund of Rs. 50 lakhs for execution of twelve minor works for nine (9) villages under NEDP fund and the works were departmentally executed.

8. Regarding the allegations, the respondent vehemently denied the allegation and stated that the complainant was executive member during the interim period. He stated that the decision regarding the work was made by the council and not solely by him. The earlier interim council made a decision for the said work and according to the said decision it was acted upon by the present council. He stated that there was no misused nor misappropriation of fund as alleged.

9. The Enquiry conducted by the Anti- Corruption Bureau (ACB) reveals that Sinlung Hills Council under the Chairmanship of Pu Lalthlamuana Hmar, CEM (Interim period) had executed 8 (eight) minor works (out of 9 works) as per the sanction order but diverted one of the minor works namely, Construction of road from Vaitin Village to Sikpui Tourist Spot amounting to Rs 7 lakhs to 4 (four) other minor works without getting prior approval from the concern authority (Govt. of Mizoram, Finance and GAD Department) and also without getting approval from Executive Committee, Sinlung Hills Council, which is against Rule 10(5) (i) of Delegation of Financial Rules 1978 and Government of Mizoram Notification No. G.17012/1/2010-F. Est dated 18th November, 2019 and that the approval was not obtained before execution due to ignorance of rules and regulations by the Chief Executive Member.

10. The respondent denied the allegation and stated that in pursuance of their letter GAD obtained approval from Finance Department. The respondent in his defense submitted a letter No. D. 13023/6/2018-GAD dated 3.10.2018 issued by Under Secretary, General Administration Department wherein an administrative approval and expenditure sanctioned of Rs. 50 lakhs for the construction of developmental works under Sinlung Hills Council are reflected and as per the letter, the department was advised to execute the work departmentally. Further, as per the letter sent to the Under Secretary, GAD, Govt. of Mizoram by the Development Officer, SHC vide letter No.21014/1/2018-SHC dated 31.01.2022, the Council had sought for ex-post-facto approval for diversion of work which was eventually approved vide No. D.13023/6/2018-GAD dated 31.3.2022.

11. Another allegation is that several works, some of them costing Rs. 5 lakh or more were executed without floating tenders which is a violation of GFR 2017, the Mizoram Transparency in Public Procurement Act, 2008, and the Mizoram Public Procurement Rules, 2020. These works were claimed to have been taken up as departmental works but without employing any departmental officials. The works were allotted to political party and village council.

The respondent stated that any developmental work for the council is sought through General Administration Department and file is put up accordingly and that without the approval of Finance Department, no work can be executed. In order to substantiate his defense, the respondent submitted relevant document issued by GAD vide No. D. 13023/6/2018-GAD dated 31.3.2022 wherein ex-post facto approval for diversion of work was granted to Sinlung Hills Council. The respondent also stated that the officials from the Council did not have any monetary benefit regarding the works and stated that under the jurisdiction of Sinlung Hills Council, there are 31 villages. It is also submitted that the concerned Village Councils supervised the work.

12. The concerned engineer Pu Lalremlien Faihriem, JE, SHC is in-charge for execution of most of the developmental works and civil works under Sinlung Hills Council. All the utilization certificates, details on expenditures and assessment reports were certified and prepared by him. As per the findings of the Enquiry Report, most of the works were executed departmentally and the works were taken up departmentally by utilizing the services of labourers on payment of daily wages. The VC lend their support by helping the JE in supervision of the work.

13. The respondent at the time of hearing stated that for execution of developmental works under Sinlung Hills Council, technical expertise was required and that only one person having the required knowledge is the JE who is arrayed as respondent No. 2. As most of the work is civil in nature and JE is entrusted for the works. The respondent no. 2 Pu Lalremlien Faihriem stated that the area covered by the council includes parts of three districts viz. Aizawl district, Saitual district and Kolasib district. He further stated that he had supervised all the work which required technical knowledge and stated that all the plan and estimate was prepared by him. He also stated that he did not have any monetary benefit in the work entrusted to him.

14. The documents produced by the respondents at the time of hearing reveals that the Government of Mizoram granted administrative approval and expenditure sanctioned of Rs. 50 lakhs for developmental works vide no. D. 13023/6/2018-GAD dated 3.10.2018 and also granted ex-post facto approval for diversion of works. It appears there is no violation of rules by the respondents as alleged in the complaint petition.

As per the Enquiry Report, the work done also seems to be commensurate with the allotted fund. Hence there is no evidence to establish any criminal act and there is no justification to continue investigating the case without prima facie evidence.

15. Accordingly, in terms of Section 19(3)(c) of the Mizoram Lokayukta Act, 2014, I consider the facts and circumstances of the case and I hereby decide to close the case. Accordingly, the case stands closed.



(C.LALSAWTA)
Chairperson
Mizoram Lokayukta