



MIZORAM LOKAYUKTA

(Constituted under the Mizoram Lokayukta Act, 2014)

ORDER

Case No. MLC- 14/2020

In the matter of:

Er. Rustom Chakma,
President, United Chakma Alliance (UCA),
Lawngtlai, Mizoram

:

Petitioner/Complainant

Versus

Shri Buddha Dhan Chakma,
MLA, 36-Tuichawng Constituency,
Mizoram Legislative Assembly

:

Respondent/OP

Date: 12.7.2022

I. A brief history of the case is that the Mizoram Lokayukta received a complaint petition dt. 19.3.2020 from Er. Rustom Chakma, President, United Chakma Alliance (UCA) against Shri Buddha Dhan Chakma, presently MLA from Tuichawng Constituency for alleged misuse and embezzlement of MLA-LAD funds in his constituency. After perusal of the complaint petition, **MLC Case No. 14/2020** was registered and the Lokayukta ordered the Anti-Corruption Bureau (ACB) to conduct Preliminary Enquiry (PE) vide No.C.13017/14/2020-ML dt. 4.5.2020. In pursuance of the Mizoram Lokayukta Order, the ACB registered Preliminary Enquiry (LOK) No.3/2020 dt.22.5.2020 and appointed Inspector Vanlalhruaia as Enquiry Officer to conduct the PE. The PE Report was submitted to the Mizoram Lokayukta on 14.7.2021.

II. According to the complaint petition, Er. Rustom Chakma alleged that despite release of funds in Tuichawng Constituency, many projects were not initiated and even though most of the projects were sanctioned in the name of various departments under CADDC, they were executed by the relatives of Shri Buddha Dhan Chakma, MLA. The complainant alleged that the following development plans were not executed:

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| (i) Construction of Recreation Hall at Borapansury | - | Rs 15.00 lakh |
| (ii) Purchase of Tata Sumo Ambulance for Borapansury PHC | - | Rs 7.50 lakh |
| (iii) Construction of Community Water Ponds at Borapansury | - | Rs 5.00 lakh |
| (iv) Repairing of staff quarters at Borapansury PHC | - | Rs 7.50 lakh |
| (v) Infrastructure Development of Borapansury PHC | - | Rs 5.00 lakh |
| (vi) Improvement of Borapansury PHC Road | - | Rs 7.50 lakh |

III. As per the PE Report submitted, the report on each allegation is as under:

- 1) Construction of Recreation Hall at Borapansury: Dr. BD Chakma, MLA proposed construction of Recreation Hall at Borapansury with an estimate amount of Rs 15 lakh under MLA LAD Fund and the Local Administration Officer (LAO), CADC was selected as implementing agency during 2017-2018. The Hall is constructed in the vicinity of Bhujayanti Bana Mandir. The construction is almost complete during the time of enquiry except for the room partition and inner furnishing, and is found to be commensurate with the sanctioned amount, i.e., Rs 15 lakh.

As per the statement of the LAO, CADC, the implementing agency did not execute the work, but was executed by a cement mistiri. The MLA stated that due to huge work load and limited man power , the LAO could not supervise the works.

- 2) Purchase of Tata Sumo Ambulance for Borapansury PHC: Purchase of Tata Sumo Ambulance was included in proposed work schedule submitted by MLA Dr. BD Chakma under MLA LAD Fund for the year 2014-2015 vide DO No. MOS/PB/SERI/FISH/13/5/7 dt.30.4.2014. This proposed work schedule was superseded by new proposals for work schedule vide DO No.MOS/PB/SERI/FISH/13/5/8 dt.2.6.2014 and vide DO No. MOS/PB/SERI/FISH/13 dt.11.3.2015. In these new proposals, purchase of Tata Sumo Ambulance was excluded but it did not mention whether the fund proposed for purchasing Tata Sumo was diverted. Hence, the allegation on purchase of Tata Sumo ambulance requires no further enquiry.

- 3) Construction of Community water ponds at Borapansury: Dr. BD Chakma, MLA allocated Rs 5.00 lakh for construction of community water pond under MLA LAD Fund for 2015-2016 vide DO No.MOS/PB/SERI/FISH/13/5 dt.7.12.2015 and the implementing agency is PWD, CADC. The work was supervised by the District Agriculture Officer (DAO), CADC as requested by the MLA. According to the Work Supervisor, the construction work was done by hiring JCB and completed in January 2016, and it was meant for water harvesting pond. After 2 or 3 months of completion, heavy down pour of rain damaged and washed away the newly constructed earthen dam.

According to PE Report, the construction site is now merely a mild gorge covered with wild plants and no sign board displayed, and it is improbable to assess the quality of the work as the construction took place 5 years back and the earthen dam was washed away by flood.

- 4) Repairing of staff quarters at Borapansury PHC: Dr. BD Chakma allocated MLA LAD Fund amounting to Rs 7.50 lakh for repairing Staff Quarters at Borapansury PHC for the year 2014-2015 and the implementing agency was the Medical Officer, Borapansury PHC. Repairing of staff quarters was executed by the then VCP of Borapansury-I and the brother of the MLA Dr. BD Chakma, and the then Medical Officer, Dr. Lauva Chakma was satisfied with the repairing works as per the deposition submitted by him to the Enquiry Officer.

- 5) Infrastructure Development of Borapansury PHC: Infrastructure Development of Borapansury PHC was included in proposed work schedule submitted by Dr. BD Chakma under MLA LAD Fund for the year 2014-2015 vide DO No. MOS/PB/SERI/FISH/13/5/7 dt. 30.4.2014. This proposed work schedule was superseded by new proposals for work schedule vide DO No. MOS/PB/SERI/FISH/13/5/8 dt. 2.6.2014 and vide DO No. MOS/PB/SERI/FISH/13 dt. 11.3.2015. In these new proposals, infrastructure development of Borapansury PHC was excluded.

The new proposal did not mention whether the said proposed work was diverted or not or whether it had been utilized for some other work was not enquired into. The Enquiry Officer thus reported that the allegation on Infrastructure Development of Borapansury requires no further enquiry.

- 6) Improvement of Borapansury PHC Approach Road: Dr. BD Chakma allocated MLA LADS Fund amounting to Rs 7.50 lakh for improvement of Borapansury PHC Road for the year 2014-2015. The implementing agency was VC Borapansury-1, and Shri Mongadhan Chakma, VCP of Borapansury-I executed the work. According to the Enquiry Report, improvement of Borapansury PHC Road was done and the Enquiry Officer visited the spot. And it was found out that the Plain Cement Concrete (PCC) was about 200-250 metres. As per the report, it is impossible to assess the quality of the work as repairing was done 5 years back. Both President, YCA and vice-VCP stated that the repairing of road was satisfactory.

IV. Apart from the points of allegations, the Enquiry Officer enquired into the following points:

(i). Construction of RCC Water Reservoir at Sadarsuk (Kamalanagar-IV) capacity of 80,000 litres: Under MLA LAD Fund for the year 2014-2015, Dr. BD Chakma allocated Rs 7.50 lakh for the construction of RCC Water Reservoir at Sarasuk (Kamalanagar- IV) with a capacity of 80,000 litres. The work site is in VC Kamalanagar-IV, and the water reservoir is being utilized by mandir communities.

(ii). Purchase of college bus: During financial year 2018-2019, Dr. BD Chakma allocated Rs 17.00 lakh under MLA LADS Fund for purchase of bus for Govt. Kamalanagar College. It is found that bus bearing registration No. MZ07 5249 was purchased from dealer Zothan Auto Works, Aizawl, and it is being utilized by the College. The operation costs and maintenance costs may have to be borne by the college as the Report did not mention how it is operated and maintained.

(iii). Visit of the Office of DC Lawngtlai: The Enquiry Officer visited the office of the DC Lawngtlai and examined the dealing clerk of MLA LADS Fund. She stated that each MLA submit work schedule proposal indicating name of work, work site, amount and implementing agency. As per the proposal of MLA, work order is issued requesting the implementing agency to submit plan and estimate. After submitting plan and estimate, 50%

of sanctioned amount is released as 1st installment. 2nd installment/final installment is released after submission of UC enclosing photos of the work duly certified by the concerned MLA or BDO. The UC is then carefully scrutinized and approved before releasing the final bill. She further stated that on some occasions, report of the concerned BDO is demanded for releasing 2nd installment/final bill and the final bill is kept pending for long period while awaiting the report of BDO. The concerned BDO requests TA/DA for his staff for inspecting the works under MLA LAD Fund as BDO jurisdiction covers a large area. DC Lawngtlai is not in a position to provide TA/DA for BDO staff. To avoid long period of pending bill, UC duly certified by the concerned MLA is accepted for release of final bills. She further stated that under MLA LAD Funds, 1% of sanctioned amount is deducted for making plan and estimate and also another 1% is deducted out of the sanctioned amount for labour cess.

(iv). Examination of Dr. BD Chakma, MLA: The Enquiry Officer examined the MLA Dr. BD Chakma who stated that he was fully satisfied with the execution of all works. He stated that unless there are serious complaints during execution of works, he relied on three photographs of the works- before, during and after the execution of works. He further stated that DC Lawngtlai Office demanded extra 1% of estimate amount for preparation of Plan & Estimate and another 1% for labour cess from the implementing/ executing agencies.

The Enquiry Officer concluded that all allegations were enquired into and the enquiry reveals that all works were executed but the exact quality of works could not be assessed as some of the works were executed 5 years back, and impossible to collect sufficient evidences to substantiate the allegations.

V. On receipt of the PE Report and its enclosures, letter dt.1.9.2021 seeking clarifications was sent to the Chief Executive Member, Chakma Autonomous District Council. After a long delay, letter vide No.C.13011/03/2021/CADC(LAD) dt. 25.1.2022 was received from the Executive Secretary, CADC stating that the CADC is not the nodal department for implementation of MLA LAD Fund, and that the required information may be sought from the Deputy Commissioner, Lawngtlai District, Lawngtlai. Thus, letter dt.27.1.2022 was sent to the DC, Lawngtlai. The different queries requiring clarifications and the reply received vide letter No.B.17013/4/2016-DC(LTI) dt.8.6.2022 may be summed up as under:

(1) As it transpired from the Preliminary Enquiry Report, Local Administrative Officer, CADC was selected as the Implementing Agency during the year 2017-2018 vide memo No. MOS/PB/SERI/FISH/13/5/500 dt. 26.7.2017. However, the construction of Recreation Hall was executed by one cement mistiri. On what basis did the mistiri execute the work? Whether the prescribed procedure for execution of work with reference to Rule 136, Rule 139 of GFR 2017 is followed may be clarified along with relevant documents.

As per the reply received, the Implementing Agency was Local Administrative Officer, CADC. It was the discretion of the Implementation Agency to engage mistiri/skilled labour as per their requirement and DC office has no role in this regard. Further, the final bill was released only

after Implementation Agency produced Utilization Certificate duly countersigned by the concerned MLA.

(2) Whether the construction of Recreation Hall has been carried out in conformity with Sl. No. 5/5.03, 6/5.11, 9/16.01, 14/6.09, 15/9.05 in the Detailed Estimate may be clarified.

According to the reply received, some files containing MLA LADS w.e.f. 2014-2018 financial year which have been stored in the Office store room/ archive were unfortunately damaged due to heavy rain, and the damaged files containing Plan & Estimate were disposed of around 2017. So, it could not be ascertained whether the work was carried out in conformity with Sl.No. 5/5.03, 6/5.11, 9/16.01, 14/6.09, 15/9.05 in the Detailed Estimate.

(3) With respect to the construction of Community Water Pond at Borapansury under MLA LAD fund for 2015-2016 vide DO No.MOS/PB/SERI/FISH/13/5 dt. 7.12.2015, whether the excavation of earth work was carried out as per estimate has to be verified. Though the Enquiry Report reveals that it is not possible to assess the quality of work as the construction was done 5 years ago and the earthen dam was washed away by flood, whether the Measurement Book was filled up, checked and maintained to assess the quality of work done may be clarified.

As per the letter, Measurement Book (MB) has to be maintained for every work as per CPWD manual. However, in case of MLA LADS the practice has not been adopted till date.

(4) Rule 139 (IV, V) of GFR, 2017 mandates calling of open tenders for work costing Rs 5 lakhs to Rs 30 lakhs and limited tender for works costing less than Rs 5 lakhs. Particulars of tender may be checked and verified with respect to works under the MLA LAD Fund.

As per the reply received, since tendering process had not been adopted for MLA LADS, particulars of tender could not be checked and verified.

(5) With respect to repairing of Staff Quarter at Borapansury PHC which was allocated from MLA LAD fund amounting to Rs 7.50 lakh for the year 2014-2015, whether contract agreement and work order as required under Rule 139 (V) of GFR 2017 may be clarified. Whether there is detailed estimate with regard to this work, and whether tender as required under Rule 139 of GFR 2017 was floated may also be clarified.

According to the reply received, the closed files damaged by heavy rain were already disposed of.

(6) Whether there is detailed estimate with respect to improvement of Borapansury PHC Approach Road as proposed in the work schedule submitted under MLA LAD fund for the year 2014-2015 may be clarified.

According to the reply received, closed files pertaining to implementation of MLA LADS for financial year 2014-2015 could not be traced as it was damaged due to heavy rain and the then dealing clerk had passed away.

(7) Whether there are technical and administrative sanctions accorded of the works under the said scheme may also be clarified.

As per the reply, closed files for financial year 2014-2018 could not be traced, but it is likely that technical & administrative sanctions were accorded for the said works.

VI. I have gone through relevant materials connected with the case and have come to the conclusion that the evidence collected during Preliminary Enquiry was not sufficient to sustain the allegations against the respondent. Where the allegations made in the complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out any criminal case against the respondent., there is no sufficient ground to proceed further with the case hence the only option is to close the case. It is also suggested by the ACB that Enquiry may be closed without further investigation. 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