



MIZORAM LOKAYUKTA

(Constituted under the Mizoram Lokayukta Act, 2014)

Case No. MLC- 1/2019

In the matter of:

Pu P.C. Chuahhnuna
Darngawn Veng, Khawzawl : Petitioner/Complainant

Versus

1. Pu John Rotluangliana
Former Tourism Minister
Dawrpui Veng, Aizawl : Respondent/OP

2. Pu Biakthanmawia Pautu
Former Director, Tourism Department
Mission Veng, Aizawl : Respondent/OP

ORDER

Date: 01.12.2023

A brief history of the case is that the Mizoram Lokayukta received a complaint from Pu P.C. Chuahhnuna, Khawzawl regarding alleged misappropriation of Government money for the construction of tourist lodge at Khawzawl, under Product/Infrastructure Development for Destination and Circuits (PIDDC) Scheme. After examining the complaint, Case No. MLC-1/2019 was registered and the Lokayukta directed Anti-Corruption Bureau (ACB) to conduct Preliminary Enquiry (PE) vide letter No.C.13017/1/2019-ML dt.28.5.2019. The ACB then requested permission of Vigilance Department to conduct preliminary enquiry which was granted vide No.C.31016/99/2019-VIG dt.6.6.2019. Hence, ACB registered preliminary enquiry (LOK) No.8/2019 Dt.10.6.2019 and appointed Pu B. Lalnghakliana, Dy. SP, ACB as Enquiry Officer to conduct the enquiry. The Preliminary Enquiry Report was submitted to the Mizoram Lokayukta on 4.2.2020.

2. The main point of allegations is that, out of the total sanctioned amount of Rs. 304.08 lakhs under NEDP for completion of delink PIDDC Scheme, Rs. 67.49 lakhs for completion of Tourist Lodge construction at Khawzawl was not spent for the purpose of its sanction and was apparently misappropriated by some unnamed persons.

3. As per the findings of the first Enquiry Report, expenditure sanction of Rs 304.08 lakhs for completion of project delink PIDDC Scheme under NEDP during 2018 was diverted to clear liabilities of Tourism Department in delink PIDDC 7 (seven) projects as per collective decision made on 11.10.2018 in the office chamber of the then Tourism Minister Pu John Rotluangliana. No misappropriation of Government money was established. Further, North Eastern Council accorded administrative approval for support to project under PIDDC scheme in Mizoram and sanctioned Rs 278.05 lakhs for completion of 5 (five) PIDDC Project, in which construction/ completion of Tourist Lodge at Khawzawl was also included with the amount of Rs 67.49 lakh. The Enquiry Officer suggested that there was no reason to proceed on into the case as no criminal Act was made out.

4. After a thorough scrutiny of the Enquiry Report, the Lokayukta passed a Review Order, making several points that need to be examined and enquired. The Order was forwarded to the ACB on 3.3.2020. Pu B. Lalnghakliana was directed by the ACB to continue the Enquiry. The second report of the Preliminary Enquiry was submitted to the Mizoram Lokayukta on 10.2.2022.

5. As per the second PE Report, during the course of enquiry, the Enquiry Officer (EO) had collected documents relevant to the enquiry. He examined the complainant, officials of concerned Departments and contractors to whom NEDP fund amounting to Rs.304 lakhs was disbursed and their statements were recorded. The enquiry revealed that Govt. of India, Ministry of Tourism sanctioned Rs. 337.47 lakhs and released Rs. 269.98 lakh for construction of Tourist Lodge, Khawzawl to MTDA (Royal Engineering & Architectural Consultant, Thuampui). Before completion of the project under PIDDC Scheme, the Central Govt. delinked the project and stopped to sanction subsequent installment w.e.f 2015-2016. However, the PE further reveals that the contract amount for this particular scheme was Rs. 324,66,200/- against which sanctioned amount released to the contractor amounts to Rs. 269,24,703/- leaving liabilities amounting to Rs. 55,41,497/-.

6. Further, the Govt. of Mizoram sanctioned Rs. 304.08 lakh under New Economic Development Programme (NEDP) with Administrative Approval issued vide No.D.21018/35/2016-TOUR Dt.5.10.2018 for completion of project delink PIDDC Scheme under NEDP during 2018-19. This includes sanctioned amount of Rs. 67.49 lakh against the shortfall/pending liabilities of the delinked project of Rs. 55,41,497/- relating to construction of Tourist Lodge at Khawzawl, meaning there was excess sanction of Rs. 12.07 lakh over the liabilities/requirements.

7. The second enquiry further reveals that Meeting of Officers under Tourism Department held in the office chamber of the then Minister of Tourism, Pu John Rotluangliana on 11.10.2018 decided to utilize the entire sanctioned amount i.e. Rs. 304.08 lakh to clear liabilities of pending bills which include construction/completion of Tourist Lodge at Khawzawl with an amount of Rs. 67.49 lakh. List of Projects for which bills are to be cleared did not include Tourist Lodge, Khawzawl, which means that the sanctioned amount of Rs. 67.49 lakh was diverted for some other schemes without obtaining fresh administrative approval and was not utilized for the scheme for which it was sanctioned.

8. On 23.10.2018, Pu John Rotluangliana, the then Tourism Minister wrote a D.O. letter to Pu Biakthanmawia Pautu, Director, Tourism Department instructing to release NEDP fund amounting to Rs 3,04,08,000/- to the contractors/sub-contractors to clear liabilities of the 7 Projects. Accordingly, the Director, Tourism Department disbursed the fund.

9. In some projects, construction works was split into several parts to pave the way for entry of sub-contractors/party workers to engage in the construction work. No proper tender was floated. However, they invited their favorite consultancy firm to submit tender/ expression of interest.

10. As per the provision of Section 19(3) of the Mizoram Lokayukta Act, 2014, opportunities of being heard was afforded to the parties concerned on 21.03.2022 vide Order dated 28.02.2022. Pu Lalnghakliana, Dy.SP who is the Enquiry Officer was present. Pu Raphael Vanlalringama appeared on behalf of the respondents 1 & 2 while the petitioner was absent. The learned counsel for the respondent No. 1 and respondent No. 2 prayed for time to file written statements which was allowed on the next date of hearing on 8th April 2022. In the meantime, an application for

obtaining photocopies of Preliminary Enquiry was submitted on 21.03.2022 by Pu J.H Ramneihmawia, the counsel for the respondents. The Mizoram Lokayukta through its Assistant Registrar replied stating that the gist of allegations and findings enclosed in the Order and Notice dated 28.02.2022 was based on the Preliminary Enquiry Report. Hearing was held on 8.4.2022 in Court Room No. 1 of Mizoram Lokayukta wherein the petitioner/complainant was present, the learned counsel for the respondents No.1 & 2 submitted written statements and the Enquiry Officer Pu B. Lalnghakliana was also heard and he explained how the PE was conducted.

11. During hearing, it was clarified that under the Ministry of Tourism, Government of India there was one scheme named Product Infrastructure Development at Destinations and Circuits (PIDDC) in which funding was given upto Rs. 5.00 crore for one destination and upto Rs.8.00 crore for more than three (3) circuits. In Mizoram, the Tourism Department had received a fund under the scheme of PIDDC in which several tourist lodges and tourist infrastructures were constructed. However, this PIDDC scheme was delinked in the year 2015 by the Central Government without informing the State Government. Due to this delink, all the contracts which was already granted under the PIDDC scheme suffered financial constraint and Tourism Department had a huge amount of liabilities amounting to Rs. 4223.87 lakh to finish the constructions under PIDDC Scheme. In respect of the sanction of Khawzawl Tourist Lodge under the scheme of PIDDC, the Ministry of Tourism had accepted the cost of construction for the said Tourist Lodge amounting to Rs. 337.47 lakh, in which 80% of the sanction amount i.e, Rs. 269.98 lakh had already been released by Ministry of Tourism. It is pertinent to mention here that, when the PIDDC scheme was delinked by the Central Government, 20% of the sanction amount for the said tourist lodge remained to be released by the Central Government for the said construction. As per the documents available on record, the contract work for Khawzawl Tourist Lodge was done by the Royal Engineering and Architectural Consultant (RE&AC) and the said contractor was directed not to continue the said construction works since the scheme under the said construction work was delinked. On 11.10.2018, a meeting was held at the office chamber of the then Minister Tourism Department in which it was reported that sanction for Seven (7) PIDDC delinked scheme amounting to Rs. 304.08 lakh was received under NEDP and in the said meeting it was stated that under the PIDDC scheme the Tourism Department has a liability of Rs. 40.15 crore to the contractors for which works have already been executed and some of which have been completed and at last, it was decided that the amount sanctioned under NEDP

may be used to clear liabilities of pending bills. The said meeting was attended by the concerned officials of the Tourism Department, Government of Mizoram. According to the decision of this said meeting, all the liabilities of the Department under PIDDC scheme were cleared and liquidated.

12. As per the PE Report the respondents did not follow the proper procedure in the diversion of works and also in awarding of the contract as laid down in the General Financial Rules. In order to address issues and also matters relating to instances of financial and administrative irregularities, the financial and administrative approval was to be obtained but no such approval was obtained by the respondents during the relevant time. The process of awarding the works and the procedure adopted by the respondent is contrary to the General Financial Rules and violation of The Mizoram Transparency in Public Procurement Rules. It is pertinent to mention here that the State, its corporations, instrumentalities and agencies have the public duty to be fair to all concerned but non-observance of financial rules, improper maintenance of accounts, award of contracts without floating of tenders in violation of the provisions of GFR etc. were observed.

13. Despite the respondents' denying liability regarding the allegations, the Lokayukta directed the Anti-Corruption Bureau (ACB) to conduct Full Investigation by passing Order dt.13.5.2022. In pursuance of the said Order, the ACB conducted Full Investigation and submitted the Report to the Lokayukta on 23.3.2023.

14. During the course of investigation, it is established that construction of Tourist Lodge, Khawzawl was completed by utilizing Rs. 67.49 lakhs sanctioned by North Eastern Council and not from NEDP, Government of Mizoram.

15. The IO visited the work site and found that the construction work was completed.

16. The IO also found from the examination of Pu Saitluanga, Director, Pi Lalrinchhani, Deputy Director and Pi Esther Laldusaki, Project Engineer, all of Tourism Department revealed that the remaining amount of fund for construction of Tourist Lodge, Khawzawl i.e. Rs.3,24,66,200.00-Rs.3,20,51,340.00=Rs.4,14,860.00 is still safely kept in official account of Tourism Department.

17. The investigation found that Pu John Rotluangliana, the then Tourism Department instructed Pu Biakthanmawia Pautu, Director, Tourism Department to release NEDP fund amounting to Rs.304.08 lakhs to the contractors to clear liabilities of Tourism Dept. in the 7 projects. Pu Biakthanmawia Pautu, then disbursed Rs.304.00 lakhs as per the direction of Pu John Rotluangliana, the then Minister of Tourism, and the remaining Rs.8,000/- is safely kept by the Treasurer, Mizoram Tourism Development Authority.

18. Accordingly, in terms of Section 19(3)(c) of the Mizoram Lokayukta Act, 2014, after considering all the facts and circumstances of the case and materials available on record, we hereby decide to close the case since there is no proof of misappropriation of Government's money. Accordingly, the case stands closed. The ACB may file appropriate report to the Special Court.

Sd/-LALSANGLURA
Member
Mizoram Lokayukta

Sd/-C.LALSAWTA
Chairperson
Mizoram Lokayukta