



MIZORAM LOKAYUKTA

(Constituted under the Mizoram Lokayukta Act, 2014)

Case No. **MLC- 29/2021**

In the matter of:

1. Pu Vanlalsiama,
Chairman, Chawlhmun Tlangveng Welfare
Chawlhmun, Aizawl : Petitioner/Complainant
2. Pu C. Rohnuna,
Secretary, Chawlhmun Tlangveng Welfare
Chawlhmun, Aizawl : Petitioner/Complainant

Versus

1. Pu C. Malsawma,
Executive Engineer, UD & PA Department
Govt. of Mizoram : Respondent/OP
2. Pu Laldinsanga Hnamte,
Assistant Engineer, UD & PA Department,
Govt. of Mizoram : Respondent/OP
3. Pu Rualthankhuma,
Junior Engineer, UD & PA Department,
Govt. of Mizoram : Respondent/OP
4. Pu Vanlalruatsanga,
Draftsman, UD & PA Department,
Govt. of Mizoram : Respondent/OP
5. Pu Lalramhluna (Contractor) s/o R. Thangbuanga,
Zotlang, Aizawl : Respondent/OP

ORDER

Date: 11.12.2023

A brief summary of the case is that the Mizoram Lokayukta received a complaint petition from Pu Vanlalsiama, Chairman and Pu C. Rohnuna, Secretary, Chawlhmun Tlangveng Welfare against the concerned officials of UD&PA Department on 8.1.2021 regarding mismanagement of government money for the construction of RCC Road at Chawlhmun Tlangveng, and alleged that the contractor appointed for the said construction did not carry out the construction works as per design and estimate. Letter No.C.13019/1/2019-ML dt.12.1.2021 was sent to the EE, UD&PA Dept. seeking specifications for the Road construction and reply was received vide letter No.D.24013/2/2019-DTE(UD&PA) dt.5.2.2021. After perusal of the documents received, another letter was sent to UD&PA Dept. vide letter No. C.13019/1/2019-ML dt. 10.2.2021. The EE, UD&PA sent a reply vide No.D.24013/2/2019-DTE (UD&PA) dt.26.3.2021. The Lokayukta perused the documents and **Case No. MLC-29/2021** was registered.

2. The Mizoram Lokayukta passed an Order dt.3.5.2021 for Preliminary Enquiry (PE) and directed the Anti-Corruption Bureau (ACB) to conduct PE. Hence, ACB registered **ACB PE No.8/2021dt 26.8.2021** and appointed Insp. Jerry Lalrinsanga, ACB as Enquiry Officer to conduct the enquiry. The Preliminary Enquiry Report along with its enclosures was submitted to the Mizoram Lokayukta on 23.2.2022.

3. The points of preliminary findings are as follows:

- i) The complaint relates to RCC flooring on the internal approach road of Chawlhmun Tlangveng. Plan and estimate was prepared by the Junior Engineer, checked by the Assistant Engineer and countersigned by the Executive Engineer. The work costing `6,80,000/- was allotted to Pu Lalramhluna, s/o R. Thangbuanga, Zotlang, Aizawl without inviting any tender as required under GFR 2017 and Mizoram Transparency in Public Procurement Act, 2008, etc.
- ii) The contractor, Pu Lalramhluna executed the work, but not in accordance with the plan and estimate. He had neither removed nor excavated stone rubbles nor earth nor removed them, and reportedly claimed payment of Rs. 9514.80 + Rs. 11,324.48 = Rs. 20,839.28 as earmarked in the plan & estimate. The stone rubbles were claimed to be cleared by the local people residing in the area and even after completion of construction, as the stone rubbles were not disposed by the contractor, the local people used the stone rubbles for constructing retaining wall for the road on their own expense.

- iii) The contractor, as per the direction of the Engineer/officials of UD& PA Department and without having any prior order superseding the original plan & estimate, laid RCC about 5 inch/0.127 m which is much less than what the plan & estimate provided, i.e., $0.08\text{m} + 0.12\text{m} = 0.20\text{ m}/7.87\text{ inch}$ at once in a proportion of 1:3:6 (M10) placing the iron rod on the sandy floor. He put a few stone aggregates to raise those iron rod about 2 inch high but were crushed by heavy vehicle carrying cement mixture, while the plan & estimate provides for laying of PCC in 1:3:6 proportion or M10 grade upto a height of 0.08 m, and to lay RCC in proportion of 1:1:5:3 or M20 grade of 0.12m high, i.e., $0.08\text{m} + 0.12\text{m} = 0.20\text{m}/7.87\text{ inch}$. But, Pu Laldinsanga, Asst. Engineer in his statement stated that laying of RCC was done at once in M20, which is found to be contradictory to the statement of the contractor.
- iv) Length of the road as per plan & estimate is 86 mtrs, while the enquiry reveals that the length of the road measured along the middle of the road is 83.82 mtrs. Width was supposed to be 3.20 m but on measurement it was much smaller, viz. 2.94 m, 3 m, 2.99m, 2.79m, 2.6m, etc.
- v) Pu Rualthankhuma, Junior Engineer prepared unrealistically high specification and high cost and he was negligent in supervision of the work to ensure fulfillment of specifications.
- vi) Pu Laldinsanga Hnamte, Assistant Engineer and Pu Vanlalruatsanga, Draftsman, both of UD&PA Department submitted a site inspection report of the work-construction of RCC flooring at ChawlhmunTlangveng that this work is executed as per the specification of the plan & estimate: -
- (a) The contractor did not excavate stone rubbles or earth which were provided by the plan & estimate
 - (b) Under their guidance, the contractor laid RCC much thinner in height/ thickness than what the plan & estimate had specified.
 - (c) They also reported that measurement was taken at the spot with length=86 mtrs and width=3.20 mtrs. While the length of the road as per plan & estimate is 86 mtrs, measurement taken during enquiry in the presence of reliable witnesses is 83.82 mtrs only.
- vii) Pu C. Malsawma, the Executive Engineer, as Technical Wing head is responsible for the supervision and implementation of the works and acted negligently in implementing and monitoring of the road construction.

4. 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 11.4.2022 vide order dated 23rd March, 2022. Accordingly, hearing was held on 11.4.2022 in Court Room No.1 of the Mizoram Lokayukta. The Enquiry Officer Inspector Jerry Lalrinsanga, ACB, the petitioners and all respondents were present, including the wife of Respondent No.5. The respondents prayed time to submit related documents. Thus, the Executive Engineer, UD&PA submitted information including documents to the Lokayukta vide No.C.30010/5/2021-Tech/DTE(UD&PA) dated 2.5.2022.

5. During hearing, it was clarified that there are more than 800 works which is under the supervision of only 4 (Four) Junior Engineer. It was difficult for the technical experts to supervise all the works. The works were to be executed within a financial year in different districts in Mizoram. Since the numbers of employees in UD&PA were few in number, the engineers were unable to inspect the work properly. The works also include housing for all schemes in different districts and the scheme is sometimes taken up by co-terminus staff. The respondent no. 1 stated that though agreement is not signed yet the contractors are expected to work as per the specifications. The respondent No. 2 also stated that they could not visit the site of the works all the time. They visited the site only when there arose problems in execution of the work. That regarding the issue in the instance case, the concern officials visited the work site and took measurements. The respondent no.1 also stated that they did not demand any money from the contractors/sub-contractors. There are many cases where the works are not commensurate with the contract amount. The respondent No. 5 stated that the work is done as per the specification and they tried their best in executing the work.

6. Considering the facts and circumstances of the case, the Lokayukta directed the ACB, Mizoram to conduct Full Investigation by passing Order dt.9.6.2022. In pursuance of the said Order, the ACB conducted Full Investigation and submitted the Report to the Lokayukta on 16.3.2023.

7. Following are the points of Investigation Findings:

- i) The investigation reveals that RCC flooring at Chawlhhmun Tlangveng was to be originally constructed at the estimated cost of Rs.6.8 lakhs and the construction work was awarded to Mr. R. Lalramhluna of Zotlang, Aizawl. The work of the construction was awarded under SEDP Scheme of UD&PA Department and that the construction was supervised by Mr. Laldinsanga Hnamte, Assistant Engineer and Mr. Vanlalruatsanga, Draftsman, both of UD&PA Department, Government of Mizoram.

- ii) According to assessment report on probable expenditure on the work construction of RCC flooring at Chawlhmun Tlangveng (SEDP 2019-2020) under UD&PA Department executed by Mr. R. Lalramhluna s/o R. Thangbuanga of Zotlang, Aizawl, which was received from the Engineer-In-Chief, Public Works Department, Mizoram, Aizawl, the construction work was assessed at the value of Rs.4,99,500/-.
- iii) The investigation also reveals that after the construction work had been completed by the contractor, measurement on the work was re-conducted by Engineers of UD&PA Department, Government of Mizoram and as per the new measurement, estimate of the cost of construction was re-fixed at Rs.5,27,000/- instead of the original Rs.6,80,000/- and after deduction of security deposit of Rs.26,350/- the net amount payable to the contractor becomes Rs.5,00,650/-
- iv) On comparison of the amount received by the contractor Pu R. Lalramhluna i.e. Rs.5,00,650/- and the probable expenditure amount assessed by PWD, Mizoram i.e. Rs.4,99,500/-, the difference is Rs.1,150/0 only.

8. After receiving the Investigation Report, the Lokayukta sought clarification from the ACB, Mizoram on 3.4.2021. Based on the clarification sought from ACB, the contractor was appointed from the higher authority by nomination and the contractor's qualification is a Class-IV contractor registered under Aizawl Road South Division, MPWD (Reg. No. 24/ARSD/IV/2017-2022 and renewal is under process).

9. The Lokayukta again sought clarifications to the ACB that arise out of the PE Reports and Investigation Report on 25.8.2023 and the ACB clarified that

- i) The findings regarding violation of GFR 2017 and Mizoram Transparency in Public Procurement Act 2008 has been done away with at the time of investigation because the Department (UD&PA) received a written instruction from higher Authority for allotment of various works to specified contractors. Accordingly, the Department had processed the instruction urgently and then work order was issued to various appointed contractors as per the written instruction.
- ii) The construction work has been executed as per plan and estimate as far as practicable. However, minor re-arrangement had been made in consultation with Local Welfare Committee.

iii) There was no conspiracy committed by the Supervising Engineer and the contractor as the final bill was paid to the contractor as per work done measured, and that there was no wrongful gain to the official or the contractor as the amount released to the contractor is as per the work done measured.

10. The ACB also sent result of testing of concrete sample to ascertain the composition of cement sand and stone aggregate of RCC flooring at Chawlhmun, Tlangveng.

11. 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. Accordingly, the case stands closed. The ACB may now file a report seeking required Order from the Special Court.

Sd/- LALSANGLURA
Member
Mizoram Lokayukta

Sd/- C. LALSAWTA
Chairperson
Mizoram Lokayukta