

Sl. No. 13,14 &15

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WA No.66 of 2023

With

WA No.67 of 2023

With

WA No.68 of 2023

State of Manipur & Anr.

Appellants

Vs.

Khaidem Narendrajit Singh & Anr.

Respondents

BEFORE

**HON'BLE THE CHIEF JUSTICE MR. M. SUNDAR
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH**

(ORDER)

(Order of the Court was made by M. Sundar, CJ)

22.01.2026.

[1] This common order will now dispose of the captioned 3(three) 'writ appeals'('WAs' in plural and 'WA' in singular) which are directed against a 'common judgement & order dated 10.10.2022' made by Hon'ble Single Judge in 3(three) writ petitions namely, WP(C)No.727 of 2019, WP(C)No.208 of 2022 and WP(C)No.209 of 2022 and. This 10.10.2022 order shall be referred to as 'impugned order' for the sake of convenience and clarity.

[2] At this juncture, it will suffice to write that all 3(three) writ petitions filed by two individuals were allowed and State is on appeal. To be noted, the writ petitions pertain to appointment of two individuals (direct recruitment) as

Store keeper in Consumer Affairs, Food & Public Distribution (CAF & PD) department, State of Manipur.

[3] Mr. Y. Ashang, learned senior advocate instructed by Mr. Phungyo Zingkhei, learned State counsel is before us on behalf of appellants (State). Mr. H.S Paonam, learned senior advocate instructed by Mrs. Ksh. Harichhaya Chanu, learned counsel on record for the two respondents is before us on the other side. The appellants shall be referred to as 'State' and the respondents shall be referred to as 'writ petitioners' both for the sake of convenience. To be noted, the respondents are being referred to as 'writ petitioners' based on their rank before the learned Single Judge.

[4] Factual matrix in a nutshell is as follows:

(4.1) CAF & PD department issued a notification dated 16.12.2016 inviting applications from eligible candidates for appointment to various posts qua (a) Civil Supplies Inspector (b) Store Keeper (c) Quality Inspector and (d) LDC/Office Assistant (this Court is informed that LDC denotes 'Lower Division Clerk').

(4.2) The two writ petitioners responded to afore-referred notification and applied (they being eligible), they were called for an interview, the interview was held on 03.01.2017 and the result was announced on the same day i.e., 03.01.2017. Suffice to say that the writ petitioners were successful and they were selected. The very next day i.e., on 04.01.2017 appointment orders were issued to the writ petitioners, they also joined and gave a joining

report on 04.01.2017. Before proceeding further, it is necessary to record that the case file says that the selection was by a 'DPC' and that 'DPC' denotes 'Departmental Promotion Committee'. This in our considered opinion is a misnomer in terms of nomenclature because the writ petitioners and other candidates who responded to 16.12.2016 notification are not in-service candidates who were to be promoted but were applying for direct recruitment. Therefore, it would be appropriate to construe DPC to be a Selection Committee. To be noted, learned senior counsel for State very fairly submitted that Selection Committee would be the appropriate nomenclature.

(4.3) Reverting to the calendrical progression of events, on the date on which appointment orders were issued and the writ petitioners joined and gave a joining report i.e. 04.01.2017, General Elections were announced by the Election Commission for the State of Manipur and the Model Code of Conduct kicked in i.e. came into force. Thereafter, when the writ petitioners were working, it appears that some complaints erupted *qua* certain alleged irregularities committed by the department of CAF & PD, in recruitment to the afore-referred posts. This resulted in constitution of a 'Special Investigation Team'(SIT) and this SIT is being referred to as 'SIT-1'. To be noted, the alleged irregularities are fourfold and they are: (a) excess appointments, (b) missing signature of DPC members, (c) allowing candidates to participate

in selection process for more than one post and (d) recommending candidates for both posts. The SIT-1 enquired into the matter and gave a report under cover of a letter dated 13.09.2017. Certain parts of this report under cover of letter dated 13.09.2017 has been placed before this Court as part of the case file and suffice to say that the report does not indict the writ petitioners in any manner. To put it differently, no wrong doing *qua* the recruitment and appointment has been attributed to writ petitioners much less have they been indicted. Reverting to the narrative at hand, post report of SIT-1, Show-cause notices ('Show-Cause Notice' shall be referred to as 'SCN' in singular and 'SCNs' in plural in instant order for the sake of convenience) dated 06.02.2018 were issued saying that SIT has advised CAF & PD department to cancel the purported irregular appointments.

The SCNs enlist the afore-referred 4(four) alleged irregularities and call upon the appointees/noiticees to show-cause. Therefore, these appear to be 'purported SCNs' rather than a SCNs. The reason is that there is nothing attributed to the noticees i.e. writ petitioners calling upon them to show-cause. To be noted, there will be further allusion about this elsewhere infra in this order. Likewise, there will be further allusion elsewhere infra in this order regarding the SIT-1 report sent under cover of letter dated 13.09.2017.

[5] Be that as it may, the noticees sent detailed replies dated 21.02.2018(replies to SCNs) inter alia contending that they are not guilty of any wrong doing, the contents of the purported SCNs do not attribute any wrong doing to them and even on a demurer, they are noway responsible for the purported irregularities.

[6] At this juncture, when the noticees, i.e. writ petitioners had responded to the purported SCNs and when the causes shown by the noticees/writ petitioners had to be considered, the writ petitioners were not permitted to work. In other words, they were disengaged and an office memorandum(OM) dated 19.08.2019 was issued calling upon those of the noticees/appointees who have not responded to the SCNs to respond forthwith.

[7] When matters stood as above, writ petitioners approached this Court by way of WP(C)No.727 of 2019(filed on 05.09.2019) assailing the purported SCNs dated 06.02.2018 and the office memoranda(OMs in plural and OM in singular) dated 19.08.2019. In this writ petition, on 09.09.2019 an interim order was granted suspending the operation of the purported SCNs and the OMs.

[8] The writ petitioners sent a representation dated 04.11.2019, making a plea to permit them to work but this was negatived/rejected in and by an order dated 25.02.2021 and corrigendum dated 26.02.2021, assailing this 25.02.2021 order and corrigendum, another writ petition being WP(C)No. 208 of 2022 was filed alongwith another writ petition(third writ petition) being WP(C)No.209 of 2022 with a mandamus plea seeking a direction to the State

to issue necessary orders for retaining the services of the writ petitioners as Store Keepers in CAF & PD department, Manipur.

[9] The afore-referred 3(three) writ petitions(WPs) were taken up together, heard out in full and the impugned order dated 10.10.2022 (allowing the WPs) came to be made by Hon'ble Single Judge.

[10] Assailing the impugned order, State has filed the captioned intra-court appeals i.e. 3(three) WAs.

[11] This Court having set out factual matrix in a nutshell i.e., facts that are imperative for appreciating instant order, or in other words, short facts shorn of elaboration, now proceeds to set out the points that came up for arguments in the hearing together with discussion on the same and dispositive reasoning one after with other, an adumbration of which is as follows:

(11.1) The first point that fell for consideration is, whether writ court will interfere in a SCNs. In this regard, the writ petitioners predicated their campaign against the SCNs primarily on the ground that the SCNs are pre-determined. To be noted, as alluded to supra, the SCNs in the content itself vide paragraph 5 say that SIT-1 has advised the department of CAF & PD to cancel the appointments and therefore the SCNs are being issued and it is also being made clear vide paragraph 6 that the SCNs are being issued on advice of the Law department. In this regard, it is clear that a decision has been taken to oust the writ petitioners and other noticees and thereafter, the SCNs had been issued.

Therefore, the argument that the SCNs are pre-determined has substantial force. Be that as it may, the buttressing factor is, as alluded to supra elsewhere in this order, the SCNs do not attribute any wrong doing to the writ petitioners/noticees but it calls upon the writ petitioners/noticees to show-cause. Therefore, they are hardly SCNs and they are purported SCNs. In this regard, the ratio laid down by Hon'ble Supreme Court in **Siemens** case i.e. **Siemens Ltd vs State of Maharashtra & others** reported in **(2006) 12 SCC 33** is of immense relevance. **Siemens** case on facts is, one where a company which had a factory at Kharghar was directed to pay taxes for its Kalwe office. In this backdrop, Hon'ble Supreme Court referred to the SCN as 'purported SCN' as, for all practical purposes it was a demand to pay tax and not a notice calling upon noticees to show cause. The case on hand is typical in nature as it puts the noticees on notice that they are going to be ousted/disengaged without attributing any wrong doing to them and it really puts them on notice qua ouster rather than calling upon them to show cause. Therefore, the SCNs at hand i.e., the SCNs dated 06.06.2018 are clearly purported SCNs if the **Siemens** principle is applied. Be that as it may, **Siemens** principle, comes to the aid of the writ petitioners not only for the principle that a writ court would normally interfere qua SCNs only when the authority issuing the SCN lacks authority or powers but in a case where it is a SCN and it is a pre-determined

communication, the writ Court will interfere but for the further principle that this is a case of 'purported SCN' rather than SCN as it put the writ petitioners/noticees on notice of ouster rather than calling upon them to respond to indictments or wrong doings. In **Siemens** case, Hon'ble Supreme Court interfered with the SCN exercising discretionary power and making it clear that a pre-determined communication **when signed** as SCN can certainly be interfered with. Hon'ble Supreme Court after referring to **Brahm Datt Sharma** case reported in **(1987) 2 SCC 179** and **Ghulam Ghouse** case reported in **(2004) 3 SCC 440** which deal with the principle that a writ court would interfere qua SCN only in cases of lack of jurisdiction or lack of powers, made it clear that another dimension is interfering when it is a pre-determined communication. Relevant paragraph in **Siemens** paragraph 9 and the same reads as follows:

'9. Although ordinarily a writ court may not exercise its discretionary jurisdiction in entertaining a writ petition questioning a notice to show cause unless the same inter alia appears to have been without jurisdiction as has been held by this Court in some decisions including State of UP v. Brahm Datt Sharma, Special Director V. Mohd. Ghulam Shouse and Union of India v. Kunisetty Satyanarayana, but the question herein has to be considered from a different angle viz. when a notice is issued with premeditation, a writ petition would be maintainable. In such an event, even if the court directs the statutory authority to hear the matter afresh, ordinarily such hearing would not yield any fruitful purpose. (See K.I. Shephard V. Union of India). It is evident in the instant case that the respondent has clearly made up its mind. It explicitly said so

both in the counter-affidavit as also in its purported show-cause notice.'

In this regard, it is deemed appropriate to write that **Siemens** was pressed into service by the writ petitioners before the learned Single Judge and learned Single Judge has adverted to and respectfully applied **Siemens** in interfering with the SCNs. This means that on this point we are unable to accept the argument of the appellant(State) that the impugned order of the learned Single Judge warrants interference. On the contrary it deserves to be sustained as it has respectfully followed **Siemens** principle laid down by Hon'ble Supreme Court.

(11.2) The next point that fell for consideration turns on discrimination. As already alluded to supra in setting out the factual matrix, the notification dated 16.12.2016 invited applications from eligible candidates for (a) Civil Supply Inspectors, (b) Store Keepers, (c) Quality Inspectors and (d) LDC/Office Assistants. In earlier proceedings by way of judicial orders, State was called upon to file an affidavit responding to the contention of the writ petitioners that persons selected with regard to other categories (other than Store Keepers) have been continued or in other words allowed to continue whereas the Store Keepers alone have been singled out for being eased out, more particularly the two writ petitioners. The State responded to this judicial order by way of a detailed affidavit dated 11.08.2025 and

in this affidavit in paragraph 11, State has categorically averred that Civil Supplies Inspectors of the CAF & PD department have been regularized pursuant to a State Cabinet decision. In other words, while the Civil Supplies Inspectors have been allowed to continue notwithstanding the SIT-1 report under cover of letter dated 13.09.2017, the Store Keepers have been discriminated and have been ousted. In this regard, one interesting feature that was brought to our notice is, in the report of SIT-1, as regard Store Keepers there is a reference to 14(fourteen) individuals, the 2(two) writ petitioners are serial Nos. 9 and 12 thereat and no wrong doing has been attributed to the two writ petitioners. On the contrary with regard to Civil Supplies Inspectors, the report makes it clear that the irregularities have been set out in the findings and observations of the recruitment process by the department. Therefore, it is clear that the State has applied different yardsticks to different posts with regard to the same recruitment process based on the same SIT-1 report under cover of letter dated 13.09.2017. This Court is reminded of the age-old English adage '*sauce to goose is sauce to gander too*'. What applies to the Civil Supplies Inspectors cannot be made inapplicable to the Store Keepers as they stand on the same nay better footing. This discrimination aspect also clearly vitiates the ousting of the writ petitioners. As regards Quality Inspectors and LDC/Office Assistants, the position is not clear in response qua the State

affidavit dated 11.08.2025 but the writ petitioners have filed a rejoinder in which proceedings of CAF & PD department of State of Manipur dated 08.06.2023 bearing reference No.SMCAP-101/3/2022-CAFANDPD-CAF&PD has been filed and this proceedings makes it clear that as many as 83(eighty three) posts have regularized but it may not be necessary to delve more into this aspect to the matter as Civil Supplies Inspectors have admittedly been allowed to continue. To be noted, as regards same 06.12.2016 notification itself, while the Civil Supplies Inspectors have been allowed to continue, the Store Keepers have been ousted/eased out. To be noted, this discrimination point was also argued before the learned Single Judge and the learned Single Judge, after noticing the discrimination point has come to the conclusion that the easing out of the writ petitioners alone while retaining the others who were recruited pursuant to the same notification vide the same recruitment process is clearly discriminatory. In this regard also, we are unable to sustain the submission of State that the learned Single Judge order i.e. impugned order warrants interference. We refrain from interfering with the order of the learned Single Judge on this point also and on the contrary, we sustain this point also.

(11.3) It was contended by learned counsel for State that on issue of SCNs(which are being referred to as 'purported SCNs' in this order) without waiting for a decision to be taken on the same, the

writ petitioners rushed to this Court and obtained interim orders. This argument does not cut ice with this Court and the reason is, the writ petitioners who are noticees have promptly and diligently replied to the SCNs vide applies dated 21.02.2018. Instead of considering the replies and communicating the stated position of the State, State has eased out the writ petitioners and therefore, the writ petitioners have no option other than coming to this Court.

(11.4) The last point that fell for consideration is that the appointment of writ petitioners are hit by Model Code of Conduct of Election Commission. In the considered view of this Court, this argument is clearly a non-starter. The reason is, the results saying that the writ petitioners had been selected were declared on the same day as that of the interview, *i.e.*, on 03.01.2017. This means that the decision to appoint the writ petitioners was made before the Model Code of Conduct kicked in. Only the procedural formality of issuing appointment orders, writ petitioners joining and giving joining reports happened on 04.01.2017, on that very day when the Model Code of Conduct kicked in. However, in this regard also, it is clear that no decision has been taken by the State after coming into force of the Model Code of Conduct. On the contrary, the decision to appoint writ petitioners was taken before the Model Code of Conduct came into force.

[12] Notwithstanding myriad grounds raised in the memorandum grounds of appeal, the intra-court appeals i.e. captioned WAs were argued on the above points and therefore, we have confined our discussions and dispositive reasoning qua points that were urged before this Court.

[13] The sequitur of the narrative thus far, followed by the discussions and dispositive reasoning is, the State appeals fail and the same are dismissed. For the sake of specificity, it is made clear that the judgement and order of Hon'ble Single Judge i.e., the impugned judgment and order dated 10.10.2022 being a common order made in WP(C)No.727 of 2019, WP(C) No.208 of 2022 and WP(C)No.209 of 2022 is sustained.

[14] Apropos, all three writ appeals are dismissed. There shall be no order as to costs.

JUDGE

CHIEF JUSTICE

John Kom