

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

**WA No. 40 of 2023**

*Ref:- WP(C) No. 810 of 2022*

Shri Laishram Radhakishore Singh, aged about 65 years, S/o (L) L. Nityai Singh, resident of Keinou Thongkha Makha Leikai, P.O. Nambol, P.S. Bishnupur, Bishnupur District, Manipur.

**.... Writ Appellant**

**-Versus-**

1. The State of Manipur represented by the Additional Chief Secretary (Forest and Environment), Govt. of Manipur, Old Secretariat (South Block), Babupara, P.O. & P.S. Imphal, Manipur- 795001.
2. The Manipur Pollution Control Board, represented by its Member Secretary, MPCB, having its office at Lamphel, DC Complex, P.O. & P.S. Lamphel, Imphal West District, Manipur – 795004.

**... Official Respondents**

3. Shri Usham Deben Singh, aged about 53 years old, S/o Late Usham Pukchao Singh, a resident of Keirak Kanjeibung Mamang, P.O. & P.S. Kakching, Kakching District, Manipur – 795103.

**... Private Respondent**

BEFORE  
**HON'BLE THE ACTING CHIEF JUSTICE MR. M.V. MURALIDARAN**  
**HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA**

For the appellants :: Mr. Kh. Tarunkumar, Sr. Adv.

For the Respondents :: Mr. M. Devananda, Addl. AG  
Ms. N. Jyotsana, Adv.  
Mr. HS Paonam, Sr. Adv.  
Mr. S. Gunabanta, Adv.

Date of Hearing and  
Reserving Judgment & Order :: 03.10.2023

Date of Judgment & Order :: **19.10.2023**

**JUDGMENT AND ORDER**  
(CAV)

*(M.V. Muralidaran, Acting CJ)*

Heard Mr. Kh. Tarunkumar, learned senior counsel for the appellant; Mr. M. Devananda, the learned Addl. Advocate General for the respondent State; and Mr. HS Paonam, the learned senior counsel for the private respondent.

2. This writ appeal has been filed against the judgment and order of the learned Single Judge dated 14.3.2023 passed in W.P.(C) No.810 of 2022 dismissing the writ petition filed by the appellant.

3. The writ petition has been filed by the appellant to quash the orders dated 20.9.2022 thereby terminating the service of the appellant as Chairman of Manipur Pollution Control Board and appointing the third respondent as Chairman of Manipur Pollution Control Board.

4. Assailing the judgment and order of the learned Single Judge, Mr. Kh. Tarunkumar, the learned senior counsel for the appellant submitted that the learned Single Judge has failed to appreciate the fact that the show cause notice dated 9.9.2022 was issued with a pre-determined mind to punish the appellant. He would submit that without considering the reply dated 16.9.2022 submitted by the appellant to the show cause notice, the first respondent has issued the order dated 20.9.2022. The learned senior counsel submitted that a perusal of the order dated 20.9.2022 establishes that the said order was issued without considering the various correspondences referred to by the appellant as well as the order of the National Green Tribunal and that the order dated 20.9.2022 was issued in an arbitrary manner to accommodate the third respondent as Chairman of MPCB.

5. The learned senior counsel further submitted that the orders dated 6.9.1998 and 1.5.2012 referred to in the show cause notice are not applicable in the case of the appellant for the reason that the MPCB has its absolute power to create posts and make recruitment without seeking approval of the Government if financial burdens are borne by the Board which has been affirmed in the roadmap for strengthening of Pollution Control Board on 17.8.2009 mentioned in the National Environment Policy, 2006. Any appointment made within the Board's own resources created by the MPCB without any financial assistance from the Government if financial

burdens are taken by the Board itself which cannot supersede by the State Government proved to be distortive and futile with ulterior motive.

6. The learned senior counsel argued that the learned Single Judge has failed to appreciate the letter dated 10.11.2003 addressed by the Joint Secretary, Ministry of Environment and Forest, Government of India to the concerned Secretaries of all the States/UTs and the Chairpersons of the State PCBs wherein the Central Government specifically directed the respective States/UTs to take steps to ensure that State PCBs are strengthened in terms of the required manpower, infrastructure and trained technical personnel at higher level to ensure effective regulation and monitoring of the units generating hazardous waste, particularly with regard to ensuring installation of proper treatment and disposal facilities. The recruitment ban, if any, imposed by the State Governments/UTs shall not be made applicable for filling up the vacancies intended for the purpose of hazardous waste management. The appellant was charged for giving appointment without obtaining the prior approval of the State Government which is mandatory as per the order dated 5.9.1998. In fact the said order dated 5.9.1998 will override by the letter of the Ministry and Environment and Forest dated 10.11.2003.

7. The learned senior counsel submits that under the order dated 28.8.2019 in O.A.No.95 of 2018, the National Green Tribunal has directed all the State PCBs to fill up the vacancies in the State PCBs within four

months. Besides, the Chief Secretaries of the States have been directed to remove any embargo for filling up the vacant posts. As per the said direction dated 28.8.2019, the Member Secretary was requested to inform the Central Pollution Control Board by mail on the day itself of the details of the vacant posts in the MPCB. According to the learned senior counsel, as per Section 33 of the National Green Tribunal Act, 2010, the NGT Act will have overriding power over the other statutes and any restriction placed by any order will not stand in the way of carrying out of the direction.

8. The learned senior counsel urged that the learned Single Judge has failed to appreciate the factual position and instead observed that the appellant has appointed 107 persons without the approval of the State Government while holding the post of Chairman. The learned Single Judge has also failed to appreciate the fact that the scale of pay of Rs.3300/- which was mentioned in Rule 23 of the Manipur Water (Prevention and Control of Pollution) Rules, 1991 (for short, the “*Rules of 1991*”) issued under the Revision of Pay, 1990 was in existence and, as such, for every revision of pay like Revision of Pay, 1999 and Revision of Pay, 2010, the said scale of pay will also be revised. The said scale of pay of Rs.3300/- will not remain stagnant. The scale of pay which was fixed at a particular year will change for every subsequent Revision of Pays. According to the learned senior counsel, the appointments made during the tenure of the appellant as Chairman were on consolidated pay/contract basis. These factual positions were not properly analyzed by the learned

Single Judge while delivering the judgment. According to him, there is no illegality in issuing the appointment orders by the appellant.

9. The learned senior counsel next submitted that the learned Single Judge has failed to appreciate the fact that in the order dated 20.9.2022 impugned in the writ petition, the reply dated 16.9.2022 was not at all considered. Except by saying that the appointment of 107 posts in the MPCB was without the approval of the State Government and the appellant abused the position as Chairman, nothing has been stated in the order dated 20.9.2022. The order dated 20.9.2022 suffers from non-application of mind and no reason stated for not accepting the reply of the appellant dated 16.9.2022.

10. Finally, Mr. Kh. Tarunkumar, the learned senior counsel for the appellant submitted that the order dated 20.9.2022 is nothing but an eye wash just to remove the appellant from the post of Chairman and also to allow them to appoint the third respondent who is their blue eyed boy as Chairman of MPCB in the place of the appellant. Since the learned Single Judge has failed to appreciate the factual aspects, exercising the appellate power, this Court may interfere with the judgment and order of the learned Single Judge impugned in the present appeal.

11. Refuting the arguments of the learned senior counsel for the appellant, Mr. M. Devananda, the learned Addl. Advocate General for the respondent State submitted that the learned Single Judge has not

committed any error while dismissing the writ petition. He would submit that by abusing his official position as Chairman, the appellant has made illegal appointments and, as such, in exercise of the power conferred under Section 6(1)(g) of the Water (Prevention and Control of Pollution) Act, 1974 (for brevity, “*the Act of 1974*”), the respondent State terminated the service of the appellant, as his continuance as Chairman was detrimental to the interest of the general public.

12. The learned Addl. Advocate General further submitted that there is fallacy in the stand taken by the appellant that he appointed 107 posts in the MPCB as per the direction of the NGT and in terms of the letter of the Government, inasmuch both the orders were passed in the year 2021, whereas all the appointments were made in the year 2018. Therefore, the learned Single Judge was right in not entertaining the writ petition and has rightly dismissed the same. Thus, a prayer has been made to dismiss the appeal.

13. Supporting the judgment and order of the learned Single Judge, Mr. HS Paonam, the learned senior counsel for the third respondent submitted that the appellant has been removed from service in terms of the provisions under Section 6 of the Act of 1974 and he is no longer eligible for re-nomination as the member of the Board. According to the learned senior counsel, the appellant has *locus standi* to question the appointment of the third respondent unless and until he succeeded in challenging his

removal order. The third respondent is more qualified than the appellant for being appointed as Chairman. After analyzing the factual aspects, the learned Single Judge has dismissed the writ petition, which warrants no interference. Thus, he prayed for dismissal of the writ petition with costs.

14. We have considered the submissions made by learned respective senior counsels and the learned Advocate General and we have also perused the materials available on record.

15. The case of the appellant before the writ court is that he was nominated as Chairperson of MPCB on 24.3.2017. Thereafter, the MPCB was re-constituted on 30.7.2021 and the appellant has to continue for another period of three years from 30.7.2021. On 14.7.2022, the third respondent was appointed as Chairman and the said order was assailed in W.P.(C) No.562 of 2022. The said writ petition was allowed by the order dated 11.8.2022 whereby the order dated 14.7.2022 was quashed and the Government was given liberty to re-consider the claim of the appellant by affording reasonable opportunity and also by following the procedure as contemplated under Section 5(3) or Section 6(2) of the Act of 1974. On 9.9.2022, a show cause notice was issued to the appellant thereby charging him for the appointment of 107 posts made in the Board without the approval of the State Government and he was asked to show cause as to why disciplinary action should not be initiated against him. On 16.9.2022, the appellant has submitted a reply to the show cause notice. However,



without taking into consideration the reply dated 16.9.2022, the State Government has issued the orders dated 20.9.2022 terminating the appellant from the post of Chairman and appointed the third respondent in his place as Chairman of MPCB.

16. The Manipur Pollution Control Board is a statutory authority established under the Act of 1974 which works under the supervision of the Central Pollution Control Board to implement the environmental laws and rules within the State for protection of environment. The principal function of the State Pollution Control Board spelt out in the Act of 1974, Air (Prevention and Control of Pollution) Act, 1981 and Environment (Protection) Act, 1986. Apart from the above Acts, the Board has entrusted varied of regulations to lay down standards for the quality of environment and discharge environmental pollutants to monitor and enforce the standard laid down for a sustainable development of environment in the State. Under Section 11-A of the Act of 1974, the Chairman of the Board shall exercise such power and perform such duty as may be prescribed or may from time to time be delegated to him by the Board.

17. As per Rule 23 of the Rules of 1991, the MPCB may create such post as it considers necessary for the efficient performance of its functions and may abolish so created and further it is provided that both the creation and appointment, the prior sanction of the State Government is must. As per Rule 39, no expenditure which is not covered by the provision

in the sanction budget estimate or which is likely to be in excess over the amount provided under any head shall be incurred by the Board without the provision being made by re-appropriation from some other head under which saving are firmly established and available.

18. The appellant assailed the orders dated 20.9.2022 before the learned Single Judge, on the following grounds:

- (1) As the tenure of the service of the appellant as Chairman of MPCB is of three years with effect from the date of appointment, the State Government cannot terminate the service of the appellant before the completion of the tenure of his service.
- (2) The orders dated 20.9.2022 have been issued in complete violation of the order of the learned Single Judge dated 11.8.2022 passed in W.P.(C) No.562 of 2022.
- (3) The appellant has not committed any illegality in making appointment of 107 employees, as the appellant had appointed those 107 employees as per the direction given by the NGT in O.A.No.95 of 2018 dated 28.8.2019.

- (4) The scale of pay of Rs.3300/- as mentioned under proviso to Rule 23 of the Rules of 1991 was increased from time to time under the Revision of Pay Rules issued by the Government from time to time. Since all the pay scale of the said 107 employees are below the revised pay scale, there is no requirement to obtain prior sanction of the Government before appointing them, especially when the Board has absolute and unfettered power to create posts and make recruitment without seeking approval of the Government, if financial burdens are taken by the Board.

19. The appellant was initially appointed as the Chairman of MPCB on 24.3.2017 as per Section 4(2) of the Act of 1974 and during the tenure of the service of the appellant, the rule has been framed and pursuant to the order dated 22.9.2017 passed in Civil Appeal No.1359 of 2017 thereby directing all the States/UTs to frame appropriate guidelines/recruitment rules for appointment of Chairman and Member Secretary of the State Pollution Control Boards. As per Section 64(2)(e) of the Act of 1974, the Governor of Manipur, in consultation with the MPCB, framed rules for appointment of Chairman. Pursuant to the said rules, the

MPCB has been reconstituted by an order dated 30.7.2021 consisting of 11 members including the appellant as Chairman of the re-constituted Board. Apprehending removal and seeking continuance to the said post for a period of three years w.e.f. 30.7.2021, the appellant has submitted several representations to the respondent authorities. On 14.7.2022, the Additional Chief Secretary, Government of Manipur, issued an order appointing the third respondent as Chairman of the MPCB. Aggrieved by the said appointment, the petitioner has filed W.P.(C) No.562 of 2022.

20. By the order dated 11.8.2022, W.P.(C) No.562 of 2022 was allowed thereby setting aside the order dated 14.7.2022. The operative portion of the order reads thus:

*“21. From the discussion aforesaid, it is apparent that the order impugned for removal of the petitioner, irrespective of the fact whether it is an order under Section 5 or under Section 6 of the Act is not sustainable having been passed in contravention of the mandatory requirement of Sub-section (3) of Section 5 or Sub-section (2) of Section 6 of the Act. The order impugned, thus, is liable to be quashed.*

*22. In view of the detailed discussions,*

*a) this writ petition is allowed and the impugned order dated 14.7.2022 is hereby quashed, in the light of the above observations.*

*b) the State Government is at liberty to reconsider the case of the petitioner, if they are so advised, by*

*following the due procedure of law contemplated under Section 5(3) or under Section 6(2) of the Act.*

*c) there will be no order as to costs.”*

21. Soon after the order dated 11.8.2022 passed in W.P.(C) No.562 of 2022, on 9.9.2022, a show cause notice was issued to the appellant calling upon him to submit explanation regarding the appointment and extension of 107 posts without prior approval of the State Government. On 16.9.2022, the appellant has submitted his reply stating that there is no question of violation of Section 6(1)(g) of the Act of 1974 on any occasions except the compliance of the order dated 28.8.2019 passed in O.A.No.95 of 2018 by the NGT. After considering the reply dated 16.9.2022 submitted by the appellant, on 20.9.2022, the Additional Chief Secretary, Government of Manipur has issued an order terminating the service of the appellant with immediate effect. On the very same day i.e. on 20.9.2022, a separate order was issued thereby appointing the third respondent as Chairman of the MPCB under Section 4(2)(a) of the Act of 1974. According to the appellant, the orders dated 20.9.2022 are in complete violation of the order dated 11.8.2022 passed in W.P.(C) No.562 of 2022.

22. It is seen that while allowing W.P.(C) No.562 of 2022, liberty was given to the State Government to reconsider the case of the appellant by following due procedure of law contemplated under Section 5(3) or under Section 6(2) of the Act of 1974. Pursuant to the said direction/liberty, when the respondent State considered the case of the appellant. While

considering the case of the appellant, they found the illegal appointments made by the appellant, which necessitated in issuing the show cause notice dated 9.9.2022 calling for explanation. The first respondent after considering the reply/written statement of the appellant, passed an order dated 20.9.2022 terminating the service of the petitioner from the post of Chairman of the MPCB. The order dated 20.9.2022 read thus:

*“No.B/267/2022-For.(MPCB)(I): WHEREAS, Manipur Pollution Control Board is a statutory body constituted under Section 4 of the Water (Prevention and Control of Pollution) Act, 1974 by the Government of Manipur to act as a regulatory body in the prevention and control of pollution and monitoring of environmental parameters as per the Environmental (Protection) Act and the Rules framed thereunder, through financial assistance both from the Central and State Government. The Board is dependent on the funds provided by the State Government in grant-in-aid.*

*AND WHEREAS, vide Order No.19/1/93-FR, dated 19<sup>th</sup> October 1999, issued by the Finance Department (Resources Department), Government of Manipur, ban has been imposed on the creation or upgradation of posts. It is clearly reflected in the said Order that the ban should also be adopted in respect of all Public Sector Undertakings, Autonomous Bodies and Banks that are financially assisted by the Govt. in the form of grand-in-aid (sic), share capital contribution, etc., if the assistance by the State Govt. is to be continued. The order is still*

*subsisting. Accordingly, if any appointment process is to be taken up, the same is to be done following proper procedure by obtaining prior approval of the Government and with the concurrence of Department of Personnel, Government of Manipur and Finance Department, Government of Manipur.*

*AND WHEREAS, on examination of the matter regarding “107 posts in MPCB appointed fraudulently” alleged against Shri L.Radha Kishore Singh, Chairman, Manipur Pollution Control Board along with the Written Statement submitted by Shri L.Radha Kishore Singh vide Letter No.PCB/6/Chairman-MPCB/2022, dated 16<sup>th</sup> September 2022, in reference to this Govt’s Memorandum of even No. issued on 9<sup>th</sup> September 2022 upholding the Principle of Natural Justice being statutory mandate incorporated under Section 5(3) and 6(2) of the Water (Prevention and Control of Pollution) Act, 1974 affording to the incumbent of showing cause of the allegations alleged against him, if is found that in respect of appointment against 107 (and more) posts of MPCB, no approval or concurrences have been obtained; thus amounting the appointment as illegal appointments.*

*AND WHEREAS, in making such illegal appointments, Shri L.Radha Kishore Singh has abused his position as the Chairman as to render his continuance on the Board detrimental to the interest of the general public as provided under Section 6(1)(g) of the Water (Prevention and Control and Pollution) Act, 1974.*

*NOW, therefore, the Governor of Manipur is pleased to order that the service of Shri L.Radha Kishore*

*Singh as Chairman of Manipur Pollution Control Board is hereby terminated with immediate effect; and that the post of Chairman, Manipur Pollution Control Board is deemed to be vacant with effect from the date of issuance of this Order.”*

23. On a thorough reading of the termination order, it is clear that only after affording sufficient opportunity to show cause the allegations alleged against the appellant and upon considering the reply dated 16.9.2022 submitted by the appellant, the termination order dated 20.9.2022 came to be passed. Therefore, it cannot be contended that the termination order dated 20.9.2022 has been passed in violation of the direction given in W.P.(C) No.562 of 2022, dated 11.8.2022.

24. The allegation against the appellant is that he made appointment of 107 posts of MPCB without the approval or concurrence from the State Government. According to the appellant, he has appointed 107 employees as per the direction given by the NGT in its order dated 5.2.2021 passed in O.A.No.95 of 2018 and also in terms of the letter dated 26.2.2021. Since the 107 appointments are made in terms of the order dated 5.2.2021 and also the letter dated 26.2.2021, the appellant has not committed any illegality in appointing the 107 posts.

25. Drawing our attention to Rule 23 of the Rules 1991, the learned Advocate General submitted that without obtaining approval from the State Government and in complete violation of the order dated 5.9.1998



issued by the Forest Department, the appellant has made 107 appointments and such appointments are illegal appointments.

26. In reply, Mr. Kh. Tarunkumar, the learned senior counsel for the appellant submitted that for creation and appointment to the post in the pay scale, the maximum of which is above Rs.3300/- per month, the Board is required to obtain prior approval of the State Government. He would submit that as per the revised scale, the scale of pay of Rs.3300/- had been increased to Rs.9000/- per month. Since all the pay scales of 107 appointees are below Rs.9000/-, there is no requirement to obtain prior sanction of the State Government before appointing the 107 incumbents.

27. Countering the aforesaid argument of the learned senior counsel for the appellant, Mr. M. Devananda, the learned Advocate General submitted that all the pay scale of 107 incumbents who have been appointed are above Rs.3300 per month and, therefore, obtaining prior sanction of the State Government before making such appointment was mandatory.

28. With regard to the scale of pay of the 107 incumbents and approval of the State Government and also the rule position, the learned Single Judge in his order held thus:

*“[18] In the present case, it is undisputedly on record that the petitioner, while holding the office of the Chairman of MPCB, appointed as many as 107 (118) persons in*

*different capacities in the Board without following the procedure for public employment and without obtaining prior sanction of the Government. It is also undisputedly on record that the pay scale of the posts held by the said 107 (118) employees or the monthly emoluments given to the said 107 (118) employees are above Rs.3300/-. Since the monthly emoluments given to the said 107 (118) employees are above Rs.3300/-, the petitioner was required to obtain prior sanction of the State Government before making such appointment in terms of the mandatory provisions under the proviso to Rule 23 of the said rules. As the petitioner failed to obtain prior sanction of the State Government before making such appointments and as the petitioner did not follow any of the procedure for public employment, the authorities issued a memorandum dated 09.09.2022 raising such allegations against the petitioner and directing him to submit a written explanation as to why disciplinary action should not be taken up against him. In response to the said memorandum, the petitioner submitted a detailed written explanation in his defense. After taking into consideration the written statement submitted by the petitioner, the authorities issued the impugned order dated 20.09.2022 thereby terminating the service of the petitioner as Chairman of MPCB, in exercise of the power conferred under Section 6 (1) (g) of the said Act. In view of the above undisputed factual position and provisions of law, this Court is not inclined to accept or entertain the first ground raised by the learned senior counsel appearing for the petitioner. In my considered view, the judgment of the Hon'ble Gauhati High Court in the case of Chandam*

*Manihar Singh (Supra) cited by the learned senior counsel for the petitioner is of no help to the petitioner as the said judgment is not applicable in the facts and circumstances of the present case.”*

29. According to Mr. Kh. Tarunkumar, the learned senior counsel for the appellant, the scale of pay of Rs.3300/- which was mentioned in the proviso to Rule 23 is as per the Revision of Pay, 1990 was issued under the Revision of Pay, 1990 was in existence and, as such, for every revision of pay like Revision of Pay, 1999 and Revision of Pay, 2010, the said scale of pay will also be revised and that the scale of pay Rs.3300/- will not remain stagnant.

30. Under the proviso to Rule 23 of the Rules of 1991 for creation and appointment to the post in the scale, the maximum of which is above Rs.3300/- per month, the Board shall obtain prior sanction of the Government. In the instant case, nothing has been produced by the appellant to substantiate that the scale of pay of Rs.3300 has been increased to Rs.9000/- as contended by him.

31. It is pertinent to mention that the maximum scale of Rs.3,300/- per month concerns only with respect to scales under Manipur Services (Revised Pay) Rules, 1990. In the absence of such provisions in the rules, the provision of Rule 23 have to be followed in totality. In fact, the notification and amendment of the Rules 1991 is a State Government subject as envisaged under Section 64 of the Act of 1974. The Chairman

is not authorized to interpret the rules at his own discretion or wisdom. Under the provisions of Rule 22(6) of the Rules of 1991, the sanction of the State Government is required in such cases.

32. On a perusal of some of the appointment orders filed along with the pleadings, it is seen that appointment to the posts of Junior Law Officer and Assistant Programmer etc. in the scale of pay of Rs.9300 plus GP4200 was made and accordingly appointment order has been issued by the present appellant. Thus, the argument of the learned senior counsel for the appellant that since all the pay scales of 107 appointees are below Rs.9000/- and there is no necessity to obtain prior sanction of the State Government before appointing the 107 incumbents, cannot be countenanced. The relevant rule provides that before making appointment, the appellant was required to obtain sanction from the State Government and, in the instant case, the appellant has failed to obtain sanction from the State Government before appointing the 107 incumbents.

33. The contention of the appellant is that as per the letter of the Central Pollution Control Board dated 7.2.1996, the Board is authorized to create the post and appoint all categories of employees and that any ban on appointment in the State Pollution Control Board is against the sweet will of the Government of India. Further, it is the say of the appellant that the State Government is not empowered to interfere with the decision of the Board. The said contention of the appellant cannot be appreciated. By

violating the rules, the Chairman cannot make appointments. As stated supra, in terms of the mandatory provisions of the Rules of 1991, the appellant has to obtain prior sanction of the State Government before making such appointments. Merely because the letter of the Joint Secretary, Ministry of Environment and Forests states that the respective States/UT Governments shall take steps to ensure that SPCBs/PCCS are strengthened in terms of the required manpower, it does not mean that the appointments can be made as per the whims and fancies of the Chairman without following the relevant rules. As rightly held by the learned Single Judge, it is a clear case of abuse of power.

34. It is also the argument of the learned Addl. Advocate General that the Chairman under his own signature appointed 107 persons without following the due process of law. He would submit that while issuing the appointment orders, there were enormous malpractices, some of which are highlighted by the learned Advocate General. The same are quoted hereunder for reference:

- (i) Article 14 and 16 of the Constitution of India which are applicable to appointments in the Board were violated.
- (ii) The so-called appointees were given appointments without semblances of any test of integrity or merit.

- (iii) The financial competency of the Board was not taken into account.
- (iv) The Member Secretary who is Fund Operator of the Board under the provisions of Rule 41 of the Rules of 1991 was bypassed in making such appointments.

35. Any appointment order issued bypassing the Member Secretary of the MPCB is in violation of Rule 41 of the Rules of 1991. Nothing has been produced by the appellant to show that only after consulting with the Member Secretary of MPCB and after following the due process of law the appointments were made. In this regard, the Gauhati High Court in W.A.No.22 of 2009, dated 25.6.2013 made serious observation against similar action of the Chairman, MPCB of bypassing the Member Secretary of MPCB. The Chairman of the Board is only a nominee of the State Government and cannot act arbitrarily. The engagement or appointment requires a source of fund. Further, the appointments were made without providing equality of opportunity in matters of public employment as envisaged by Article 16(1) of the Constitution of India.

36. It is apposite to mention that while the recommendations concern technical and scientific staff, the appellant has appointed many non-scientific and non-technical staff. In fact, the appellant is not at liberty to appoint every staff he proposes for appointment to the State Government

unless and until the sanction has been accorded by the State Government. The appellant simply cannot act arbitrarily on decades old recommendations made to the State Government. When the appellant was nominated as Chairman under the provisions of Section 4 of the Act of 1974 by the State Government, he is bound by the instructions/directions issued by the State Government from time to time.

37. The next ground raised by the appellant is that all the appointment orders were issued pursuant to the judgment of the NGT and that the appellant has not committed any illegality in carrying out the said appointments.

38. On the other hand, Mr. M. Devananda, the learned Addl. Advocate General submitted that the order of the NGT is of the year 2021, whereas all the appointments were made in the year 2018. Therefore, the learned Single Judge was right in rejecting the said contention of the appellant.

39. After considering the submissions, the learned Single Judge held that there is a fallacy in the said ground raised by the appellant. When we peruse some of the appointment orders filed along with the present appeal, we find that all the appointments were made in the year 2018 and not in 2021 pursuant to the judgment of the NGT. That apart, the direction of the NGT was relating to the filling up of vacant post in the State Pollution Control Boards. The State had noted the arbitrary

engagements/appointments without authority carried out by the appellant before the order of the NGT in his capacity as Chairman without following proper norms. The fact remains that the appellant had not submitted any proposal to the State Government for engaging the existing vacancies of the Board. The said view taken by us is strengthened by seeing the representation dated 5.5.2022 and the reminder representation dated 10.11.2022 submitted by the President, Manipur Pollution Control Board Contractual Staff Welfare Association to the Hon'ble Chief Minister, wherein the employees have sought regularization of the services. In the said representations, it has been categorically stated that the appointments were made in 2018 on different dates. In view of the above, we are of the view that the learned Single Judge was right in holding that there is a fallacy in the third ground raised in the writ petition on behalf of the appellant that the appellant had issued all the appointment orders as per the direction given by the NGT and in terms of the letter of the State Government.

40. The appellant has also challenged the order dated 20.9.2022 appointing the third respondent as Chairman of MPCB. Admittedly, to support the said challenge, the appellant has not stated anything in the writ petition. The appellant has stated that the Additional Chief Secretary (For. Env't. & CC), Government of Manipur has deliberately ignored the judgment and order passed by this Court on 11.8.2022 in W.P.(C) No.562 of 202, more particularly, para 22(a) of the judgment and order which is neither challenged nor appealed before the competent forum and without setting



aside the said portion of the judgment and order, the Additional Chief Secretary cannot issue the order dated 20.9.2022 thereby appointing the third respondent as the Chairman and, as such, the impugned order dated 20.9.2022 requires to be quashed.

41. The first respondent State contended that respondent No.3 is more qualified than the appellant for consideration for appointment to the post of Chairman and he is a social worker having experience in environmental issues and having master in Science and Ph.D. On the other hand, the appellant is having the qualification of Prakshastra (intermediate). Further, the appointment of the third respondent as Chairman does not violate any of the provisions of law as well as the order of the Court. As stated supra, while allowing W.P.(C) No.562 of 2022, the learned Single Judge passed an order to the effect that the State Government is at liberty to reconsider the case of the appellant, if they are so advised, by following the due procedure of law contemplated under Section 5(3) or under Section 6(2) of the Act. Since the appellant abused his position as Chairman and made illegal appointments, he was terminated under the order dated 20.9.2022. The learned Single Judge held that the termination was valid. We have also affirmed the said view of the learned Single Judge in the earlier paragraphs.

42. It is reiterated that the State Government after examining the candidature and in the light of the materials connected with the issue that

the appellant had abused his position in making illegal appointments and he is no longer suitable for appointment decided to appoint the third respondent as Chairman of MPCB.

43. The other ground raised by the appellant is that as the tenure of the appellant as Chairman of MPCB is of three years with effect from the date of appointment, the State Government cannot terminate his service before completion of the tenure of his service. It is submitted that there is violation of the terms and conditions as provided under Rule 2(iii)(b) and (c) of the Appointment of Chairman of Manipur Pollution Control Board 2021 Rules framed by the Forest, Environment and Climate Change Department, Government of Manipur vide notification dated 8.7.2021. The plea of the appellant is that the State Government has violated the direction of this Court dated 11.8.2022 in W.P.(C) No.562 of 2022 while disqualifying and removing the appellant from holding the post of Chairman and in appointing the third respondent as the Chairman. It is the specific case of the appellant that para 22 of the order dated 11.8.2022 passed in W.P.(C) No.562 of 2022 has been ignored by the State while exercising its power in issuing the impugned orders.

44. We have thoroughly gone through the order dated 11.8.2022 passed in W.P.(C) No.562 of 2022 and in paragraph 19, it has been held that removal of Chairman is permissible only after observance of the principle of natural justice, to wit, after giving a reasonable opportunity to

show cause and, thereafter, at paragraph 22 issued direction. As stated supra, the State Government has observed the due procedure as contemplated under Section 5(3) and Section 6(2) of the Act of 1974 as well as the rule prescribed for appointment of the Chairman was adhered to before terminating the service of the appellant and after finding the suitability of the third respondent, the State Government has rightly appointed him as Chairman. In view of the above, the appellant cannot contend that he is entitled to continue the service up to 30.7.2024.

45. For all the reasons stated above, we are of the view that the learned Single Judge has not committed any error while delivering the impugned judgment and order. Having found that no valid grounds have been made to interfere with the orders dated 20.9.2022 and finding no merit in the writ petition, the learned Single Judge has rightly dismissed the writ petition. Such a well-considered order of the learned Single Judge cannot be interfered with. There is no merit in the appeal.

46. In the result, the writ appeal is dismissed. There will be no order as to costs.

**JUDGE**

**ACTING CHIEF JUSTICE**

**FR/NFR**

*Sushil*