

GAHC030002072021



**THE GAUHATI HIGH COURT**  
**(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**Case No. : PIL/1/2021**

L.H Lalzarzoliana  
Zotlang, Serkawn  
Lunglei Mizoram

VERSUS

State of Mizoram and 3 Ors  
Secretariat, MINECO, Khatla, Aizawl, Mizoram    2:Secretary to the Govt of  
Mizoram Health and Family Welfare Department  
Secretariat  
MINECO  
Khatla  
Aizawl  
Mizoram

3:Director  
Directorate of Hospital and Medical Education  
New Capital Complex Khatla  
Aizawl  
Mizoram

4:Medical Superintendent  
Civil Hospital  
Chandmari  
Lunglei  
Mizora

**Advocate for the Petitioner** : Mr J C Lalnunsanga

**Advocate for the Respondent** : Mr C Zoramchhana

**BEFORE**  
**HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**  
**HONOURABLE MR. JUSTICE NELSON SAILO**

**ORDER**

**Date : 16.06.2021**

The proceeding is conducted via remote Video Conference.

2. Heard Mr. J C Lalnunsanga, Id. Counsel for the Petitioner. This Public Interest Petition is for a direction to be issued to the Respondents, in terms of the letter dated 07.05.2021 issued by the Director, Hospital & Medical Education, Mizoram, to install the RT-PCR machine at Civil Hospital, Lunglei which was donated to the Lunglei District Authorities on 26.06.2020.

3. The petitioner's case is that in view of the pandemic which resulted in a lockdown being imposed in March, 2020, the Health Department started taking steps to prepare for the fight against Covid-19 infections. In this regard, the Secretary to the Government of Mizoram, Health Department issued an Order No. D.33012/41/2020-HFW(ETCL)/90 dated 14.06.2020 stating that the competent authority was pleased to detail a team of experts to visit Lunglei, to explore the feasibility for establishment of a make-shift Covid-19 RT-PCR diagnostic laboratory at Civil Hospital, Lunglei, to cater to the needs of the 4 districts of south Mizoram and to fulfil the indication made to that effect by the Minister, Health & Family Welfare Deptt., during early March, 2020.

4. Subsequent to the above Order dated 14.06.2020, the Directorate of Information & Public Relations (DIPR in short) issued a news report dated 15.06.2020, which stated that the team of experts conducted an inspection for establishment of a RT-PCR diagnostic laboratory at Civil Hospital, Lunglei on 15.06.2020, consisting of –

- (1) Dr. H. Lalhlenmawia, HOD, Department of Pharmacy, RIPANS;
- (2) Prof. John Zothanzama, Department of Environmental Sciences, MZU;
- (3) Shri Vanramliana, Asst. Professor Zoology, PUC.

The above team of experts were joined by-

- (1) Shri LawmawmaTochhawng, Vice Chairman, Lunglei High Power Committee;
- (2) Dr. K. Pachhunga, MLA;
- (3) Dr. S.R. Ngurchamliana, Civil Hospital Medical Superintendent;
- (4) Dr. Thani Pachuau, CMO Lunglei.

5. The DIPR news report dated 15.06.2020 stated that the team of experts came to a finding that the 3 vacant rooms recommended for installation of the RT-PCR laboratory in Civil Hospital, Lunglei was found to be suitable/adequate. The report also stated that for making the RT-PCR laboratory functional in the 3 rooms, which would include purchase of a new RT-PCR machine, at least Rs. 100 lakhs would be required. The DIPR news report also stated that the expert team would send a recommendation to the Government for setting up an RT-PCR diagnostic laboratory in Civil Hospital, Lunglei. The DIPR news report also stated that the expert team also voiced the fact that the Health Minister had on several occasions, taken the initiative with the Indian Council of Medical Research (ICMR), New Delhi for installation of a RT-PCR diagnostic laboratory in Civil Hospital, Lunglei.

6. The Petitioner's further case is that Shri Zodintluanga, MLA donated a brand new RT-PCR machine on 26.06.2020 to the authorities of the Lunglei District for setting up a RT-PCR diagnostic laboratory in Civil Hospital, Lunglei. Thereafter, the Secretary to the Government of Mizoram, Health Department issued a Notification dated 02.07.2020 to immediately shift the RT-PCR machine donated by Shri Zodintluanga, MLA from the DC Office, Lunglei to the Lunglei District Hospital.

7. As the Respondent authorities did not take any concrete steps to utilise the donated RT-PCR machine and install a RT-PCR diagnostic laboratory in Lunglei District, various NGOs submitted representations for installation of a RT-PCR diagnostic laboratory in Civil Hospital, Lunglei.

8. After nearly a year passed and during the midst of a second wave of the Pandemic, the Director, Hospital & Medical Education, Mizoram, thereafter issued letter No. B.11013/76/2013-CHL/DHME(PP) dated 07.05.2021 addressed to the Medical Superintendent, Civil Hospital, Lunglei, which is to the following effect-

*“Subject: Installation of RT-PCR machine.*

*Dear Sir,*

*You are requested to install the RT-PCR machine which was donated by Pu Zodintluanga, MLA at Microbiology Deptt., Lunglei at the earliest. Compliance report is to be submitted to the undersigned.”*

The copy of the above letter dated 07.05.2021 was also given to-

- (1) P.S. to Hon'ble Minister, H&FW.
- (2) Vice Chairman, Health & Family Welfare Board.
- (3) Vice Chairman, HPC.
- (4) Special Secretary to the Government of Mizoram, H&FW.
- (5) Principal Director, H&FW Department.

9. Subsequent to the above, the DIPR issued a news report dated 02.06.2021 which is to the effect that the Director, Hospital & Medical Education visited the on-going construction of the Lunglei Civil Hospital Trauma Centre, the proposed place where the RT-PCR diagnostic laboratory was to be established and the various departmental quarters that were being

constructed. The DIPR news report stated that a Detailed Project Report (DPR) for establishing a laboratory block for the RT-PCR machine in the Civil Hospital, Lunglei, amounting to Rs. 7.8 crores, had been submitted to the North Eastern Council (NEC). The DPR was being pursued in the NEC and sanction of the amount by the NEC was being expected at an early date. Once money was received from the NEC, the laboratory block would be established and the RT-PCR machine would be put to use. The DIPR news Report also stated that till the RT-PCR diagnostic laboratory was operational, the Government was considering purchasing other TrueNAT Quattro machines. Also, the Government was expecting companies and NGOs to gift other TrueNAT machines to the Government for conducting Covid tests.

10. The Petitioner's counsel submits that the Respondents are not setting up the RT-PCR diagnostic laboratory only because the machine has been gifted by an Opposition MLA. He submits that the State Government should not be allowed to play politics/games with the lives of the people who are to be benefitted by the said machine. Further, the report of the team of experts constituted by the Health Department on 14.06.2020 and which also has been mentioned in the DIPR report dated 15.06.2020 shows that Health Minister and the Health Deptt. wanted a RT-PCR diagnostic laboratory in Civil Hospital, Lunglei.

The Petitioner's counsel submits that various High Courts in the country have issued directions for immediate establishment of RT-PCR diagnostic laboratory in various districts and accordingly this Court should also pass similar directions.

11. Mr. C. Zoramchhana, Addl. AG submits that prior to the filing of the instant PIL, the petitioner has not submitted a representation before the respondent authorities. Referring to appendix 37 Clause 10(g) of the Gauhati High Court (Public Interest Litigation) Rules, 2011, the learned counsel submits that the submission of representation to the respondent authority concerned prior to filing of the PIL is mandatory. In this connection, the learned State counsel relies upon the decision of the Division Bench of this Court in ***Rosemary Dzuwichu & Ors. Vs. State of Nagaland & Ors.***, reported in ***2017 2 GLT 443***. He therefore submits that the present PIL, in view of non-submission of the representation, is not maintainable, if not pre-mature.

12. The writ petition contains a letter dated 28.05.2021 issued by the Young Mizo Association, Sub Headquarters, Lunglei requesting the Health Minister to make use of the donated RT-PCR machine. Further, various NGOs of Lunglei had also submitted a signature campaign for utilization of the donated RT-PCR machine. The above facts clearly goes to show that the State respondents have been put to notice with regard to the non utilization of the donated RT-PCR machine with a request to discharge their duty. As the State respondents have not been caught unawares with regard to the request for utilization of the donated RT-PCR machine, which would be for the benefit of the people of the four southern districts of the State of Mizoram, we are of the view that notice had been issued to the State respondents and that there has been compliance with the requirements of appendix 37 Clause 10(g) of the Gauhati High Court Rules. We are also of the view that the issue brought forth in this case is in public interest.

13. The matter at hand has to be taken seriously as the continuous lockdown imposed by the State for a period of 2 months at a stretch shows the seriousness of the predicament the State is in. The Pandemic cannot be taken lightly. The State Government and the Central Government have imposed lockdowns on and off since March, 2020. It is surprising to note that the State Respondents have not taken steps to utilise the donated RT-PCR machine even after a year of the same being donated. The report made by the team of experts, as reflected in the DIPR news report dated 15.06.2020, shows that the RT-PCR diagnostic laboratory, which is purportedly the gold standard for Covid-19 testing among all the other tests, was a necessity for the benefit of the people of the 4 southern districts of Mizoram.

14. It is the requirement of the State Government to give the best to the people that it has to serve. The documents on record, though few, however gives rise to an inference that the State Government is not serious in trying to utilise the gifted RT-PCR machine. The flip-flops made by the Government is quite apparent as the letter dated 07.05.2021 issued by the Director, Hospital & Medical Education clearly shows that the RT-PCR machine can be installed

in the Microbiology Department at Civil Hospital, Lunglei. We hope that the Government is not playing politics with the installation of the RT-PCR diagnostic laboratory in Lunglei which would be of great help in the fight against Covid-19. The fact that the State needs machines for further testing in the fight against the Pandemic is quite apparent from the DIPR news report dated 02.06.2021. The DIPR report dated 02.06.2021, wherein the Director, Hospital & Medical Education has apparently stated that DPR for Rs. 7.8 crores for construction of RT-PCR diagnostic laboratory is being pursued with the NEC is in direct contradiction to the letter dated 07.05.2021 issued by the same authority and the DIPR news report dt. 15.06.2020.

15. The stand taken by the Director, Hospital and Medical Education in the DIPR news report dated 02.06.2021 is akin to the stable door being shut after the horse has bolted. However, the fact remains that the DIPR news report dated 02.06.2021 is at variance with the letter dated 07.05.2021 issued by the Director and the DIPR news report dt. 15.06.2020.

16. The above being said, it is not understood as to why the State Government through the Health Department is not considering or attempting to establish RT-PCR diagnostic laboratories not only in the Civil Hospital, Lunglei, but also in all the District capitals within the State of Mizoram, especially when the guidelines for effective control of Covid-19 provided in the Ministry of Home Affairs (MHA) order No. 40-3/2020-DM-1(A) dated 23.03.2021 requires the scaling up of the proportion of RT-PCR test in all districts of the States and Union territories.

In view of the above, the Secretary to the Government of India, Ministry of Home Affairs is impleaded as respondent no. 5. Registry to make correction to the Cause Title.

17. Issue notice returnable in one week.

18. Mr. C. Zoramchhana, Addl. AG accepts notice on behalf of the Respondents no. 1 to 4. Petitioner shall serve a copy of the petition to Ms. Zairemsangpuii, CGC within 2 days.

19. On the next date, the Id. Addl. AG shall inform the Court as to the steps taken for establishment of the RT-PCR diagnostic laboratory in terms of the letter dated 07.05.2021 issued by the Director, Hospital and Medical Education. The Id. Addl. AG shall produce the records pertaining to the donated RT-PCR in original on the next date and also inform the Court as to how many RT-PCR machines are put to use in the various districts of Mizoram. He shall also inform this Court of the number of technicians that are being utilised for the in-use RT-PCR machines in the State and their locations.

20. The learned Additional Advocate General shall also obtain instructions as to the number of regular sanctioned posts of Lab Technicians in the Health Department and the number of vacant regular posts of Lab Technician as on date. He shall also obtain instructions as to the number of regular sanctioned posts of Micro-biologist and Health Workers in the Health Department and the number of actual vacancies of the two posts as on date. He shall also obtain instructions as to the number of volunteers that are working in the Health Department on voluntary basis for the collection of swab samples and for helping in covid testing. The learned Additional Advocate General shall also obtain instructions as to the number of Micro-biologist, Lab Technicians, Health Workers and volunteers being utilized in the RT-PCR laboratory in Zoram Medical College (ZMC) and the number of persons working per shift in the RT-PCR laboratory in ZMC. The respondents no. 1 to 4 shall file their affidavit in opposition by the next date.

21. In view of the matter being urgent, list the matter again on 23.06.2021.

**JUDGE**

**Comparing Assistant**