

PETITIONER:
PEOPLE'S UNION FOR CIVIL LIBERTIES (PUCL)

Vs.

RESPONDENT:
UNION OF INDIA AND ANOTHER

DATE OF JUDGMENT 30/03/1995

BENCH:
JEEVAN REDDY, B.P. (J)
BENCH:
JEEVAN REDDY, B.P. (J)
SEN, S.C. (J)

CITATION:
1995 SCC Supl. (2) 572 JT 1995 (3) 365
1995 SCALE (2) 542

ACT:

HEADNOTE:

JUDGMENT:

B.P. JEEVAN REDDY, J.:

1. This writ petition under Article 32 of the Constitution is filed by the People's Union for Civil Liberties (PUCL) for the issuance of an appropriate direction instituting a judicial enquiry to enquire into the incidents mentioned in the writ petition and to further direct the respondents (Union of India and State of Manipur) to take action against the erring police officers. A direction for awarding compensation to the members of the family of the deceased is also prayed for.

2. The petitioner says that on 3rd April, 1991 a fake encounter was staged by the Imphal District Police in Lunthilian village in Churachandpur District wherein two persons viz., Lalbeiklien s/o Thatngur of Lunthilian village and Saikaplien, s/o Tenga of Tingbum village of Mizoram were killed. It is alleged that a false FIR was lodged by the District Police at Imphal Police Station at 4.30 p.m. on 4.4.1991 wherein it was alleged that on receipt of reliable information to the effect that some hardcore leaders of the Hamar People's Convention (HPC) were camping at Lunthilian village, they rushed to the village on 3.4.91 and that when they reached the village at about 11.00 p.m. on that day, they were fired upon by the members of the HPC. It was alleged that in the exchange of fire, the two aforesaid persons died and three others were apprehended. It was also stated that the police recovered a .22 country revolver with seven rounds of ammunition, a cash amount of Rs. 1,213/- and a large number of incriminating documents. It is stated by the petitioner in the writ petition that the above version of the police is strongly denied by the relatives of the said deceased persons. According to them, no encounter as such took place in the village and not a single shot was fired. According to them, the said two deceased persons were taken away by the police and killed in a cold-blooded manner and that this version is corroborated by villagers

who were present when he said persons were taken away and also from the various reports appearing in the local and national media. According to the petitioner further the true case is that the Police came to the village at about 9.30 p.m. on that day and took away five persons including the two deceased. They took away the Chairman of the Village also with them, but he was let-off on the out-
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skirts of the village. Remaining five persons were taken away in a truck after blindfolding them. At about 2.00 p.m. on 4.4.91, i.e., after travelling for about 16 hours and after crossing the Lanva Bridge which is about 5 km. from Churachandpur, the two deceased were called by the police and taken away from the back. They were taken to some distance and shot there. The remaining three persons in the truck heard the gunshots. Subsequently, the dead bodies were dumped in the truck and taken to Imphal where the other three persons were kept in the Imphal Police Station for four days. Then they were taken to Churachandpur Police Station and were kept there for about 9 days. They were then brought back to Imphal Police Station and lodged in the Imphal Central Jail. Ten days later they were taken to Mizoram where they were released on bail on 22.7.1991. The affidavits of two of the said three persons, viz., Remthang and Lalsansuot, sworn before the Judicial Magistrate, 1 Class on 20th August, 1991, are filed alongwith the writ petition. Affidavits of villagers and wives of the deceased are also filed in support of the above version. The writ petition then sets out, what it calls, the serious lacunae, irregularities and inconsistencies in the version put forward by the police, vide para 7 of the writ petition.

3. On 13th November, 1992 this Court issued notice to the respondents in this writ petition returnable within six weeks. A counter-affidavit has been filed on behalf of the second respondent (State of Manipur) sworn to by Shri Kh. Mohendro Singh, Joint Secretary (Home) Government of Manipur. He has denied the several averments in the writ petition and has affirmed the version put forward in the FIR as the true one. Alongwith the counter-affidavit, copies of postmortem reports relating to the said two deceased persons are filed.

4. A rejoinder has been filed on behalf of the petitioner denying the averments in the counter affidavit and reiterating the statements made in the writ petition. Alongwith the rejoinder some more affidavits have been filed.

5. It would be evident from a perusal of the pleadings that there is a serious dispute as to relevant facts. One of the aspects stressed by Shri Rajender Sachar, learned senior advocate for the petitioner is that according to the postmortem report filed by the respondents, not only the entry point of all the bullets is in the back of the deceased, there is blackening, tattooing and scrooting in respect of one of the bullet entry points pertaining to Beiklin. The learned counsel submits that the said circumstance supports the petitioner's case that the said deceased were shot from behind and at a close range.

6. The learned counsel for the respondent, however, disputes the correctness of the said submission.

7. In view of the aforesaid two contradictory versions, we think it appropriate in the facts and circumstances of the case that an enquiry is made by the learned District and Sessions Judge, Churachandpur, State of Manipur into the said incident. The learned District Judge shall record the

evidence of the relevant witnesses and submit a report to this Court within six months. To enable the teamed District Judge to appreciate the facts of the case and also to enable him to identify the witnesses to be

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summoned, copies of writ petition, counter and rejoinder alongwith the enclosed documents and affidavits shall be forwarded to him. The learned District Judge shall examine the deponents of the said affidavits, if they are available and willing to come forward to give evidence, And all such persons as he thinks appropriate in the circumstances and make his report.

8. It is obvious that before commencing the enquiry, the learned District Judge shall send notices to the petitioners as well as the respondents.

9. List after the receipt of the report from the learned District Judge, Churachandpur, Manipur.

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