

REFERENCE UNDER ARTICLE 317(1) OF THE CONSTITUTION OF INDIA, REGARDING ENQUIRY AND REPORT ON THE ALLEGATIONS AGAINST SH. M. MEGHA CHANDRA SINGH, CHAIRMAN, MANIPUR SERVICE COMMISSION. A

FEBRUARY 18, 1994 B

[M.N. VENKATACHALIAH, CJ., S.R. PANDIAN, S. MOHAN, G.N. RAY AND FAIZAN UDDIN, JJ.]

*Constitution of India, 1950: Art. 317—Reference by the President of India—Chairman of Public Service Commission—Allegations of misbehaviour—Whether could be removed from office—Evidence to be recorded by a Sitting Judge of High Court—Directions and guidelines given.* C

The President of India made a reference to this Court under Article 317 of the Constitution of India for inquiry and report as to whether "M", Chairman of Manipur Public Service Commission ought to be removed from office on the ground of misbehaviour. Various allegations were alleged against him including tampering with question papers and answer sheets of candidates in certain competitive examinations, showing favour to candidates of his choice in the *viva voce* tests and receiving bribe. D

During the pendency of the Reference, "M" retired and the Government sanctioned his retiral benefits provisionally subject to the decision of this Court on the reference. E

"M" contended that this reference would have far reaching implications in so far as it gave credence to the fact of his retirement which was allowed by the Governor. He also contended that the appointments made by him were never questioned by anyone and that the selectees have been holding their posts for more than 10 years; and that the allegation of taking bribe was false. F

This Court gave the following directions and guidelines : G

1. It is appropriate to adopt the procedure indicated in *In Re Reference under Article 317(1) of the Constitution of India*, [1983] 4 SCC 258. The inquiry contemplated under Article 317 is into the facts themselves so as to enable this Court to pronounce upon the question whether the H

**A** allegations made against the Chairman of Manipur Public Service Commission are proved. Therefore, the evidence in relation to the reference will be recorded by a Sitting Judge of the High Court of Guwahati who will be nominated by the Chief Justice of Guwahati High Court within four weeks.

[41 A-B]

**B** 2. The affidavits filed in this Court will be treated as the examination-in-chief of the respective witnesses. The evidence to be recorded will be limited to the cross-examination of witnesses who have filed affidavits before this Court. In other words, no person who has not filed an affidavit in this Court will be examined or cross-examined as a witness, except with the leave of this Court. Witnesses who have filed affidavits in this Court may be summoned or requested by the Judge to attend his Court for the purpose of cross-examination. The proceedings will normally be held in Guwahati. Evidence may, however, be recorded at any other place if the Judge considers it necessary or convenient. The question relating to the admissibility and relevance of a particular evidence will be decided by this Court. [41 C-G].

**D**

ADVISORY JURISDICTION : Special Reference No. 1 of 1985.

Under Article 317(1) of the Constitution of India.

**E**

Ms. Indira Jaising, P.H. Parekh and Ms. Bina Madhavan for the Petitioner.

V.C. Mahajan and Ms. S. Janani for the Respondent.

The following Order of the Court was delivered

**F**

This is a reference dated 30.1.1985 under Article 317 of the Constitution of India by the President of India for inquiry and report as to whether Shri Megha Chandra Singh, Chairman of Manipur Public Service Commission, ought, on the ground of misbehaviour to be removed from the office of the Chairman of the Commission.

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The order of reference reads as under :

**H**

"Whereas the Chief Minister of Manipur has reported to the Government of India that he had been receiving complaint from different sources against Shri Megha Chandra Singh, Chairman, Manipur Public Service Commission, expressing doubts about his

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honesty and integrity.

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And whereas the Government of India felt it necessary that it should conduct a probe into the allegations through a central agency with a view to collecting such evidence as may be available and to satisfy itself that there is indeed a *prima facie* case, it entrusted the investigation to the Central Bureau of Investigation to give a report.

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And whereas according to the report of the Central Bureau of Investigation, the conduct of Shri Megha Chandra Singh did not appear to be above board and further that Shri Megha Chandra Singh refused to make available to the Investigation officer the relevant documents required for the purpose of the aforesaid inquiry, which were in his personal custody.

C

And whereas the Government of Manipur has reiterated their request that because of the gravity of the allegations the State Government desire to have a full-fledged investigation so that the real truth may come out and the issues involved are settled to the satisfaction of all concerned.

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And whereas I am satisfied from the above referred materials before me that it is necessary that the said allegations be inquired into;

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Now therefore, in exercise of the powers conferred upon me by clause (1) of Article 317 of the Constitution, I Zail Singh, President of India, hereby refer to the Supreme Court of India, for inquiry and report as to whether Shri Megha Chandra Singh, Chairman, Manipur Public Service Commission, ought, *on the ground of misbehaviour to be removed from the office of the Chairman of the Commission.*

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New Delhi

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Delhi : 30th January, 1985

Sd/-

(Zail Singh)

PRESIDENT OF INDIA". H

A The allegations against Shri Megha Chandra Singh are as follows :

"(a) That the mark-sheets of the prospective candidates for the posts of Assistant Engineer (Electricals) and Assistant Director (Statistics) were tampered with, forged and fabricated in the office of the Chairman, Manipur Public Service Commission in order to show favours to certain candidates.

(b) That the answer books for the Manipur Civil Service/Manipur Police Service Examination conducted in September, 1981 were tempered with. The mark-sheets and the tabulated charts furnished by the examiners and kept in the personal custody of the Chairman, were also tampered with and forged to show favours to certain candidates.

(c) The Chairman introduced a new system of marking in the *viva voce* tests in which marks were recorded and signed only by the Chairman. Other Members of the Commission or representatives of Government Departments were not allowed to sign the mark-sheets. The Chairman introduced this new consensus system in *viva-voce* tests to enable him to make manipulations in the mark-sheets with a view to showing favour to candidates of his choice.

(6) One Shri L. Ibomacha Singh is alleged to have stated to have paid a bribe of Rs. 15,000/- to the Chairman for his selection as a Sub-Deputy Collector under Manipur Government."

F In the meanwhile, Shri Megha Chandra Singh retired and the State was directed to take appropriate instructions in the matter. Shri Megha Chandra Singh filed a counter to the effect that this order has far reaching implications in so far as it gave credence to the fact of his retirement on 19.1.1987 which retirement was allowed earlier by the Governor by his order dated 5.1.1987. On 31.7.1991, the Government was pleased to sanction the payment of admissible pension provisionally subject to the final pension and the decision of this Court on reference.

H On the charges, he would urge that the appointments made by him were never questioned by anyone. The selectees have been holding their posts for more than 10 years. The allegation of taking bribe is false, baseless

and malacious.

A

Under these circumstances, we feel appropriate to adopt the procedure indicated in *In Re Reference under Article 317(1) of the Constitution of India*, [1983] 4 SCC 258. The inquiry contemplated under Article 317 is into the facts themselves so as to enable this Court to pronounce upon the question whether the allegations made against the Chairman of Manipur Public Service Commission are proved. Therefore, we direct evidence in relation to the reference will be recorded by a sitting Judge of the High Court of Guwahati who will be nominated by the learned Chief Justice of High Court of Gauhati. The nomination may be made within four weeks from the date of this order.

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In recording the evidence, the learned Judge may adopt the following guidelines:

(i) The affidavits filed in this Court will be treated as the examination-in-chief of the respective witnesses.

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(ii) The evidence to be recorded by the learned Judge will be limited to the cross-examination of witnesses who have filed affidavits before us. In other words, no person who has not filed an affidavit in this Court will be examined or cross-examined as a witness, except with the leave of this Court.

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(iii) Witnesses who have filed affidavits in this Court may be summoned or requested by the learned Judge to attend his Court for the purpose of cross-examination. The proceedings will normally be held in Guwahati. Evidence may, however, be recorded at any other place if the learned Judge considers it necessary or convenient."

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The question relating to the admissibility and relevance of a particular evidence will be decided by this Court.

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The first date of hearing is fixed on Monday, the 4th April, 1994 at 11 A.M. Thereafter, it will proceed from day to day till the completion of evidence.

G.N.

Petition disposed of.