

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

W.P. (Cri.) No. 6 of 2021

Nandita Haksar

Petitioner

Vs.

State of Manipur; &Ors.

Respondents

**BEFORE
HON'BLE THE CHIEF JUSTICE MR. SANJAY KUMAR
HON'BLE MR JUSTICE LANUSUNGKUM JAMIR**

20.04.2021

Sanjay Kumar (C.J.)

[1] Ms. Nandita Haksar, the petitioner/party-in-person, espouses the cause of 7(seven) persons from Myanmar, four adults and three children, who are presently taking refuge at Moreh in Tengnoupal District, Manipur. She seeks a direction to the State of Manipur to provide safe passage to them to go to Delhi, to enable them to seek protection from the United Nations High Commissioner for Refugees (UNHCR), Vasant Vihar, New Delhi.

[2] By order dated 17.04.2021, this Court impleaded *suo-motu* the Ministries of Home Affairs, Defence, and External Affairs, Union of India, as respondent Nos. 3, 4 & 5, and adjourned the matter to enable the learned counsel for the State and Central Government to obtain necessary instructions. However, Mr. RK Umakanta, learned Government Advocate, appearing for the State authorities, and Mr. S. Suresh, learned ASG, appearing for the Union of India, state that they were unable to complete instructions as on date and seek a further adjournment.

[3] The petitioner/party-in-person would however seek interim relief at this stage in the form of making necessary arrangements to bring these 7(seven) Myanmarese persons from Moreh to Imphal, in terms of the order

dated 29.03.2021 issued by the Home Department, Government of Manipur. Thereby, the State Government had withdrawn its earlier order dated 26.03.2021, which was misconstrued and interpreted differently, and made it clear that it was taking all humanitarian steps, including taking injured Myanmarese nationals to Imphal for providing them aid.

[4] Mr. S. Suresh, learned ASG, would however rely on the letter dated 10.03.2021 issued by the Ministry of Home Affairs (NE Division), Government of India, to the effect that steps should be taken to prevent possible illegal influx from Myanmar into Indian territory and to initiate legal proceedings against illegal migrants. Reference was made in the said letter to an earlier communication dated 08.08.2017.

[5] This Court is conscious of the fact that India is not a signatory to the Geneva Refugee Convention, 1951, or the New York Protocol of 1967. However, it is a party to the Universal Declaration of Human Rights and also the International Covenant on Civil and Political Rights. That apart, the protection afforded by Article 21 of the Indian Constitution is not limited to citizens and can be availed by non-citizens also. The principle against refoulement, i.e., the forcible return of refugees to a country where they are liable to be subjected to persecution, can *prima facie* be read into Article 21 of the Indian Constitution.

[6] These aspects require further examination, but in the meanwhile, as we are informed that these 7(seven) persons need to be protected and are under constant threat of apprehension/deportation by the authorities, there shall be a direction to respondent Nos. 1 & 2 to forthwith arrange for the safe transport and passage of these 7(seven) Myanmarese individuals from Moreh in Tengnoupal District to Imphal.

[7] The petitioner/party-in-person undertakes to accompany the Deputy Commissioner, Tengnoupal, to the location where these 7(seven) persons are in hiding so that they may be given safe transport to Imphal under

appropriate escort. The petitioner/party-in-person also undertakes to provide them residence and boarding at her own house in Imphal pending further orders.

[8] It would be open to the State authorities to arrange for necessary security at the residence of the petitioner/party-in-person after these 7(seven) individuals are brought there, so as to ensure their protection and also to curb their further movement. Before they are brought to Imphal, the District authorities at Moreh are permitted to take these 7(seven) individuals to the Senior Immigration Officer at Moreh for the purpose of noting their details and also obtaining their biographic and biometric particulars. Thereafter, they shall be brought safely under escort to Imphal and stationed at the residence of the petitioner/party-in-person under adequate security and guard till the next date of hearing.

[9] It is also made clear that, pending further orders, no coercive steps or adverse action shall be taken in relation to these 7(seven) Myanmarese persons, be it by the State or by the Central Government authorities.

[10] Mr. RK Umakanta, learned GA, appearing for the State authorities, and Mr. S. Suresh, learned ASG for the Union of India, shall complete their instruction by the next date and file their affidavits, if possible.

[11] Registry is directed to furnish a copy of this order online to the petitioner/party-in-person, Mr. RK Umakanta, learned Government Advocate, and Mr. S. Suresh, learned ASG, for necessary further action at their end.

Post on 26.04.2021.

JUDGE

CHIEF JUSTICE

Sandeep