LOUREMBAM DEBEN SINGH & ORS. A

v.

UNION OF INDIA & ORS. ETC.

(CRL.M.P. No. 125554 of 2018)

in

Writ Petition (Criminal) No. 205 OF 2018 B

NOVEMBER 12, 2018

[MADAN B. LOKUR AND UDAY UMESH LALIT, JJ.]

Extra-judicial Executions: Mandamus – Role of Constitutional Court in monitoring investigations in continuing mandamus – The instant writ petitions were filed by some police personnel of Manipur Police aggrieved by certain observations made in EEVFAM *case and seeking mandamus for quashing the observations – The prayer of the applicants/petitioners was that in view of the observations made in* EEVFAM *case on 30th July, 2018, the investigations be monitored by another set of judges of the Supreme Court – Recusal of the bench was, therefore, sought on the ground that as a result of the observations said to have been made, the applicants had a real apprehension that either the investigations or the trial would be tainted to their prejudice – Held: The apprehension of the applicants/ petitioners that justice will not be done to them is misplaced – The purpose of a continuing mandamus is only to ensure that there is no interference during the course of investigations from anybody, whether due to political pressure or executive pressure or any other pressure that could compromise the investigations – Yet another purpose of a continuing mandamus is to ensure that the Investigating Officer or the Investigating Team does not deviate from the natural course of investigations for whatever reason, either due to pressure or due to a misdirection or some other extraneous reason – This is the limited role of a Constitutional Court in monitoring investigations in a continuing mandamus – Consequently, the apprehension that the observations said to have been made on 30th July, 2018 would influence the SIT is erroneous – Observations made by any court cannot impact on the investigations as long as they are conducted by professionals – The SIT consist of professionals who will not be swayed by any observations made by any court during the continuing mandamus process – Mandamus.* C D E F G H

A **Dismissing the applications, the Court**

HELD: 1. It is undeniable that the *EEVFAM* case pertains to allegations of serious violations of the human rights of persons described as insurgents. A large number of such persons were killed in operations carried out by the Army, the paramilitary B **forces and the Manipur Police. Whether the death/killing of such persons was justified or not is a matter of investigation by the SIT. It was nobody's case that the CBI or the SIT was not conducting fair investigations into the allegations. During the hearing of *EEVFAM* and even after the decision was rendered on substantive legal and factual issues, no allegation of any bias of** C **any sort or any apprehension that justice will not be done or that anybody would be treated unfairly was made. It is only at the continuing mandamus stage that the controversy is raised and that too on the basis of certain observations said to have been made by this Court. [Paras 20-21][312-C-F]**

D **2. Once the judicial process has begun with the filing of the final report or charge sheet as the case may be, the concerned court is in complete charge and full control of the proceedings. No one can interfere in the course of judicial proceedings otherwise it would amount to interference in the due course of** E **justice or the administration of justice. It is for this reason that when investigations are complete and a final report or charge sheet is filed, the Constitutional Court keeps its hands off any further progress in the matter. As far as the *EEVFAM* case was concerned, there was no allegation of any kind that any Trial Judge dealing with the case has shown a lack of independence.** F **Interference in the due course of justice or the administration of justice would lead to adverse consequences. Therefore, it is inappropriate for the applicants/petitioners to harbour any apprehension that the Trial Judge(s) would be influenced by the observations said to have been made by this Court on 30th July,** G **2018. The applicants/petitioners are indirectly, perhaps unwittingly, questioning the fairness and independence of the judiciary. [Para 26][313-E-H]**

3. There can be no interference in investigations and the courts cannot brook any interference in the judicial process. An

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exception may occur, when there is an unjustified deviation from the natural course of investigations or illegal interference in the judicial process. There is no basis for apprehension that the observations said to have been made by this Court can impact on the decisions to be taken by the SIT. The SIT is independent and so far, no allegation of unfairness has been made against the functioning of the SIT. Observations made by this Court or any court for that matter cannot impact on the investigations as long as they are conducted by professionals. The SIT consist of professionals who will not be swayed by any observations made by this Court during the continuing mandamus process. [Paras 27, 29][314-A-C; D-E]

4. The Indian Army, paramilitary forces and the Manipur Police are made of sterner stuff and are disciplined forces strong enough to take everything in their stride. There is no material to support the theory of the Indian Army, paramilitary forces and the Manipur Police being demoralised. It is only a submission made for some unfathomable reason. The continuing mandamus must go on and the independence and integrity of the SIT and the judges dealing with the final reports/charge-sheets must be maintained. Therefore, even though there is no reason for the applicants/petitioners to entertain any doubt that the SIT or the judiciary would be influenced by the observations said to have been made by this Court, to remove any vestige of doubt, any observations made or said to have been made on 30th July, 2018 during the implementation of the orders of this Court through a continuing mandamus are not intended to and should not in any manner be construed as compromising the independence, integrity and fairness of the SIT and the concerned judges. Institutional integrity of the CBI and the judiciary is positively required to be maintained. [Paras 30, 31, 32][314-G-H; 315-B-D]

Manoj Narula v. Union of India **(2014) 9 SCC 1 : [2014] 9 SCR 965 ;** *Usmangani Adambhai Vahora v. State of Gujarat* **(2016) 3 SCC 370 : [2016] 1 SCR 56 ;** *Captain Amarinder Singh v. Prakash Singh Badal* **(2009) 6 SCC 260 : [2009] 9 SCR 194 ;** *Supreme Court Advocates-on-Record Association v. Union of India (Recusal Matter)* **(2016) 5 SCC 808 ;** *R.K. Anand v.*

A *Registrar, Delhi High Court* **(2009) 8 SCC 106 : [2009] 11 SCR 1026 – distinguished**

Extra-Judicial Execution Victim Families Association v. Union of India **(2016) 14 SCC 536;** *Naga People's Movement of Human Rights v. Union of India* **(1998) 2**
B **SCC 109 : [1997] 5 Suppl. SCR 469 – referred to**

Case Law Reference

(2016) 14 SCC 536	**referred to**	**Para 1**
C **[1997] 5 Suppl. SCR 469**	**referred to**	**Para 8**
[2014] 9 SCR 965	**distinguished**	**Para 13**
[2016] 1 SCR 56	**distinguished**	**Para 13**
[2009] 9 SCR 194	**distinguished**	**Para 13**
D **(2016) 5 SCC 808**	**distinguished**	**Para 13**
[2009] 11 SCR 1026	**distinguished**	**Para 13**

CRIMINAL ORIGINAL JURISDICTION : CRL.M. P. No. 125554 of 2018 in Writ Petition (Criminal) No. 205 of 2018
E

Under Article 32 of the Constitution of India

With

Crl.M.P. No. 125550 of 2018 in Writ Petition (Criminal) No. 206 of 2018 and Writ Petition (Criminal) Nos. 205 & 206 of 2018.
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Sachin Sharma, Satya Mitra, Advs. for the appearing parties.

The Judgment of the Court was delivered by

MADAN B. LOKUR, J.
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1. These writ petitions have been filed by some police personnel of Manipur Police under Article 32 of the Constitution of India. We have been given to understand that these petitions have the support of a few hundred officers from the Indian Army, the paramilitary forces and Manipur Police. These petitions are a fall-out of the decision rendered
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by us in ***Extra-Judicial Execution Victim Families Association v. Union of India***[1] and subsequent orders passed therein by way of a continuing mandamus. The prayer in the writ petitions is for an appropriate writ, order or direction for quashing certain oral observations said to have been made by us which, according to the petitioners, violate their rights guaranteed by Article 21 of the Constitution. Pending a decision in the writ petitions, it is prayed that we should not proceed with the continuing mandamus in the case.

2. Interlocutory applications have also been moved in these writ petitions specifically for a direction that we should recuse from hearing these writ petitions which should be placed for consideration before another Bench of this Court.

3. Submissions were made before us in the interlocutory applications for recusal but we find no merit in these applications and therefore dismiss them.

The background

4. On 8th July, 2016 we delivered judgement in ***Extra-Judicial Execution Victim Families Association. v. Union of India***. We noted the allegations made in the writ petition in the following words:

> "The allegations made in the writ petition concern what are described as fake encounters or extra-judicial executions said to have been carried out by Manipur Police and the Armed Forces of the Union, including the Army. According to the police and security forces, the encounters are genuine and the victims were militants or terrorists or insurgents killed in counter-insurgency or anti-terrorist operations. Whether the allegations are completely or partially true or are entirely rubbish and whether the encounter is genuine or not is yet to be determined, but in any case there is a need to know the truth.
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> The right to know the truth has gained increasing importance over the years. This right was articulated by the United Nations High Commissioner for Human Rights in the Sixty-second Session of the Human Rights Commission. In a study on the right to the truth, it was stated in Para 8 that though the right had its origins in enforced disappearances, it has gradually extended to include extra-judicial executions. This paragraph reads as follows:

[1](2016) 14 SCC 536

A "With the emergence of the practice of enforced disappearances in the 1970s, the concept of the right to the truth became the object of increasing attention from international and regional human rights bodies and special procedures mandate-holders. In particular, the ad hoc working group on human rights in Chile, the Working Group on Enforced or Involuntary Disappearances (WGEID) and the Inter-American Commission on Human Rights (IACHR) developed an important doctrine on this right with regard to the crime of enforced disappearances. These mechanisms initially based the legal source for this right upon Articles 32 and 33 of the Additional Protocol to the Geneva Conventions of 12-8-1949. Commentators have taken the same approach. However, although this right was initially referred to solely within the context of enforced disappearances, it has been gradually extended to other serious human rights violations, such as extra-judicial executions and torture. The Human Rights Committee has urged a State party to the International Covenant on Civil and Political Rights to guarantee that the victims of human rights violations know the truth with respect to the acts committed and know who the perpetrators of such acts were." [Promotion and Protection of Human Rights: Study on the right to the truth. Report of the Office of the United Nations High Commissioner for Human Rights; 8-2-2006. Commission on Human Rights, Sixty-second Session, Item 17 of the provisional agenda.]

It is necessary to know the truth so that the law is tempered with justice. The exercise for knowing the truth mandates ascertaining whether fake encounters or extra-judicial executions have taken place and if so, who are the perpetrators of the human rights violations and how can the next of kin be commiserated with and what further steps ought to be taken, if any."

5. While concluding the decision, we observed that accurate and complete information had not been made available in respect of each of the cases that the Extra-Judicial Execution Victim Families Association or EEVFAM had complained about. Accordingly, we observed and directed as follows:

"Unfortunately, we have not been given accurate and complete information about each of the 1528 cases that the petitioners have complained about. Therefore, there is a need to obtain and collate this information before any final directions can be given. The learned amicus has told us that there are 15 cases out of 62 in which it has been held by the Justice Hegde Commission or by the judicial inquiries conducted at the instance of the Gauhati High Court that the encounters were faked. On the other hand, NHRC has informed us that there are 31 cases out of 62 in which it has been concluded that the encounters were not genuine and compensation awarded to the next of kin of the victims or the award of compensation is pending.

Therefore, as a first step, we direct:

Of the 62 cases that the petitioners have documented, their representative and the learned amicus will prepare a simple tabular statement indicating whether in each case a judicial enquiry or an inquiry by NHRC or an inquiry under the Commissions of Inquiry Act, 1952 has been held and the result of the inquiry and whether any first information report or complaint or petition has been filed by the next of kin of the deceased. We request NHRC to render assistance to the learned amicus in this regard. We make it clear that since a magisterial enquiry is not a judicial inquiry and, as mentioned above, it is not possible to attach any importance to the magisterial enquiries, the tabular statement will not include magisterial enquiries.

The representative of the petitioners and the learned amicus will revisit the remaining cases (1528 minus 62) and carry out an identical exercise as above. This exercise is required to be conducted for eliminating those cases in which there is no information about the identity of the victim or the place of occurrence or any other relevant detail and then present an accurate and faithful chart of cases in a simple tabular form."

6. Subsequently, on 14th July, 2017[2] we took up the matter again, *inter alia*, for ascertaining whether the first step that we had directed in our judgement and order of 8th July, 2016 had been acted upon. While considering this, we recorded what could be described as the background of the case in the following words:

[2]Extra Judicial Execution Victim Families Assn. v. Union of India, (2017) 8 SCC 417

A "In the present petitions, the allegation was that 1528 persons had been killed in fake encounters by police personnel and personnel in uniform of the armed forces of the Union. By our judgment and order dated 8-7-2016 [*Extra Judicial Execution Victim Families Assn.* v. *Union of India*, (2016) 14 SCC 536: (2016) 14 SCC 578 (2)] we respectfully followed the view laid down by a Constitution
B Bench of this Court in *Naga People's Movement of Human Rights* v. *Union of India* [*Naga People's Movement of Human Rights* v. *Union of India*, (1998) 2 SCC 109]. **The Constitution Bench held that an allegation of use of excessive force or retaliatory force by uniformed personnel resulting in the**
C **death of any person necessitates a thorough enquiry into the incident. We were of the opinion that even the "Dos and Don'ts" and the "Ten Commandments" of the Chief of Army Staff believe in this ethos and accept this principle.** However, after considering the submissions at law, we found that
D the documentation was inadequate to immediately order any inquiry into the allegations made by the petitioners and therefore directed them to complete the documentation indicating whether the allegations were based on any judicial enquiry or an enquiry conducted by the National Human Rights Commission or an enquiry conducted under the Commissions of Inquiry Act, 1952.

E A tabular statement has since been filed by the learned counsel for the petitioners and this statement has been accepted by the learned Amicus Curiae and no objection was raised by the Union of India or by the State of Manipur. We therefore proceed on the basis of the tabular statement before us.

F The petitioners have been able to gather information with regard to 655 deaths out of 1528 alleged in the writ petitions. The break-up is as follows:

Sl. No.	*Particulars*	*No. of cases*
1.	Commissions of Inquiry cases	35
2.	Judicial inquiry and High Court cases	37
3.	NHRC cases	23
4.	Cases with written complaint	170
5.	Cases with oral complaint	78
6.	Cases with eyewitnesses	134
7.	Family claimed cases	178
	Total number	*655*

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We have perused the tabular statement given with regard to cases with written complaints, oral complaints and eyewitness accounts as well as family claimed cases but find that apart from a simple allegation being made, no substantive steps appear to have been taken by either lodging a first information report (FIR) or by filing a writ petition in the High Court concerned or making a complaint to the National Human Rights Commission (NHRC). The allegations being very general in nature, we do not think it appropriate to pass any direction for the time being in regard to the cases concerning these written complaints, oral complaints, cases with eyewitness accounts and family claimed cases. It is not that every single allegation must necessarily be inquired into. It must be remembered that we are not dealing with individual cases but a systemic or institutional response relating to constitutional criminal law." (Emphasis supplied by us)

7. Thereafter, having considered the case law and submissions made by the learned *Amicus* and learned counsel for the parties including the learned Attorney General, we held as follows:

"Having considered the issues in their entirety, we are of the opinion that it would be appropriate if the Central Bureau of Investigation (or CBI) is required to look into these fake encounters or use of excessive or retaliatory force. Accordingly, the Director of CBI is directed to nominate a group of five officers to go through the records of the cases mentioned in the three tables given above, lodge necessary FIRs and to complete the investigations into the same by 31-12-2017 and prepare charge-sheets, wherever necessary. The entire groundwork has already been done either by the Commissions of Inquiry or by a Judicial Inquiry or by the Gauhati or Manipur High Court or by NHRC. We leave it to the Special Investigation Team to utilise the material already gathered, in accordance with law. We expect the State of Manipur to extend full cooperation and assistance to the Special Investigation Team. We also expect the Union of India to render full assistance to the Special Investigation Team to complete the investigation at the earliest without any unnecessary hindrances or obstacles. The Director of CBI will nominate the team and inform us of its composition within two weeks."

A 8. Notwithstanding the law laid down by a Constitution Bench of this Court in ***Naga People's Movement of Human Rights v. Union of India*** and the explicit directions given by this Court in ***Extra-Judicial Execution Victim Families Association v. Union of India*** [EEVFAM] the CBI was seemingly following up rather casually and taking its own time to complete investigations, which were required to be completed by 31st December, 2017 and prepare charge-sheets/final reports, wherever necessary.

9. In our order of 8th January, 2018, we noted that on 23rd November, 2017 the CBI had asked for increasing the strength of the Special Investigation Team (SIT) and we acceded to that request. We noted that it appeared to us that the matter was not being taken up by the CBI and the SIT with the seriousness that it deserves.

10. Thereafter the ***EEVFAM*** case was adjourned a couple of times and on 27th July 2018 we observed that no final report had been filed but approval was granted in respect of one of them on 24th July, 2018 and in respect of another, approval was granted on 26th July, 2018. Two other cases were pending for approval. We also observed that the investigations were taking an unduly long time and that we were not satisfied with the progress made by the CBI so far. Consequently, we required the Director of the CBI to let us know the steps that must be taken to ensure that the investigations are completed early and final reports are filed as expeditiously as possible. For this purpose, we required the personal appearance of the Director of the CBI on 30th July, 2018.

11. On 30th July, 2018 the Director of the CBI appeared in Court. He informed us that two charge-sheets had been filed in which there were 14 accused persons and all of them had been charged with an offence punishable under Section 302 of the Indian Penal Code read with Section 120-B of the Indian Penal Code (murder and criminal conspiracy). It was also pointed out that these accused have also been charged with an offence punishable under Section 201 of the Indian Penal Code (causing disappearance of evidence of offence, or giving false information to screen offender). He also informed us that some more final reports/charge-sheets would be filed making a total of seven final reports/charge-sheets. On 30th July, 2018 we also recorded the submission of learned counsel for EEVFAM that since the accused persons have been charged with offences punishable as above, they would normally be arrested and that where investigations are going on in

respect of similar offences, custodial interrogation would be necessary. We recorded the submission but left it entirely to the discretion of the Director of the CBI and the SIT to take a call on whether arrests should be made and whether custodial interrogation should be carried out. We may mention that we have not been informed whether and if, as of now, any arrests have been made and whether and if any custodial interrogation has been carried out.

The present applications

12. It is in the above background that during the continuing mandamus hearing of the petition filed by ***EEVFAM*** on 30th July, 2018 certain oral observations were made and attributed to us. We need not go into the correctness of the text or otherwise of the observations made or into the context in which they were made. The fact of the matter is that the observations said to have been made were widely reported in the press with varying degrees of accuracy and completeness. The observations led to the filing of the present two writ petitions. The prayer made in both the writ petitions is identical. We are not, for the present, concerned with the maintainability or otherwise of the writ petitions or the grant of final relief to the petitioners herein. What we are concerned with are the applications for directions moved in both the writ petitions. The prayer made in these applications reads as follows:

> "direct that the Hon'ble Bench comprising Hon'ble Mr. Justice Madan B. Lokur and Hon'ble Mr Justice Uday Umesh Lalit hearing of the present writ petition recuse itself and that the writ petition be placed for hearing by another Bench of this Hon'ble Court in accordance with law."

13. In the applications, the petitioners make a reference to various newspaper reports and it is submitted that the reported observations coming from the highest court of the country have created a real apprehension in the mind of the petitioners about the impartial manner in which ***EEVFAM*** is being heard by this Court. It is further submitted that hearing that case by another Bench of this Court is essential to subserve the cause of justice but the prayer should not be construed as casting aspersions on the Bench. It is further submitted and reiterated that there is a real apprehension in the mind of the applicants about the manner in which the Bench is proceeding with the case and it is submitted that the apprehension is not based on any *ipse dixit* but is based on reports of the proceedings held on 30th July, 2018 widely reported in the print and

A electronic media, which clearly shows that the 'guilt' of each and every one of the applicants/petitioners has been prejudged, though only a police report under Section 173(2) of the Criminal Procedure Code, 1973 has been filed. The applicants/petitioners have referred to a few decisions/ case laws in the application and their learned counsel, during the course of hearing of the application, referred to a few other decisions. All this was supplemented by written submissions. The principal decisions relied on were: (i) ***Manoj Narula v. Union of India***[3], (ii) ***Usmangani Adambhai Vahora v. State of Gujarat***[4], (iii) ***Captain Amarinder Singh v. Prakash Singh Badal***[5] ***and*** (iv) ***Supreme Court Advocates-on-Record Association v. Union of India (Recusal Matter).***[6] Some C decisions of foreign jurisdictions have also been referred to and relied on.

Submissions

14. The learned Attorney General appearing on behalf of the Union of India supported the prayer made in the applications but did not file D any written submissions. It was orally submitted by the learned Attorney General that the observations made by this Court had a demoralising effect on the Indian Army, the paramilitary forces and the Manipur Police or in any event, it had affected the morale of these forces in their fight against insurgency.

E 15. In response to these submissions, it was contended by learned counsel appearing on behalf of EEVFAM that the allegations made by the petitioners were reckless and without reading the articles in the newspapers. It was also submitted that the allegations hurled at the Court were of a serious nature and ought to have been made after a careful F study and cross-checking the facts from those who were present in court, but nothing of that sort seems to have been done in the present case. The learned counsel then placed reliance upon a few decisions of this Court on the subject of recusal of judges from a case. Apart from giving his interpretation to the decisions cited by learned counsel for the applicants/petitioners, it was submitted by learned counsel for EEVFAM G that the attempt of the applicants/petitioners was to put pressure on this Court to keep its hands off the case.

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[3](2014) 9 SCC 1
[4](2016) 3 SCC 370
[5](2009) 6 SCC 260
H [6](2016) 5 SCC 808

16. Learned *Amicus* submitted that the applications filed by the applicants/petitioners were *mala fide* and amounted to gross forum shopping. It was submitted that the applications as well as the writ petitions be dismissed with exemplary costs. It was submitted that even though the learned Attorney General supported the prayer for recusal, he clarified that none of the parties were questioning the integrity or fairness in the investigations carried out by the SIT appointed by the Director of the CBI on the directions of this Court. She further submitted that the contentions urged on behalf of the petitioners were based on a selective reading of the news reports and even assuming what was attributed to this Court was correct, the observations could not hamper or influence the trial of the officers who are charge-sheeted. She pointed out that on the issue of arrest of the accused persons, this Court had explicitly left the matter to the discretion of the Director of the CBI and the SIT. She submitted that learned counsel for the petitioners had a duty as an officer of the court to refrain from making allegations of bias on flimsy grounds particularly in view of the order passed on 30th July, 2018. Learned *Amicus* referred to certain decisions on the subject of recusal and submitted that given the peculiar circumstances of the case, monitoring the investigation by the CBI or the SIT was necessary. Finally, it was submitted that if the present applications are allowed, then in all cases where judges of this Court make enquiries which are probing or even inconvenient to one of the parties in the matter, they could be compelled to recuse themselves. Learned *Amicus* drew attention to ***R.K. Anand v. Registrar, Delhi High Court***.[7]

17. The effective prayer of the applicants/petitioners is that in view of the observations said to have been made by this Court on 30th July, 2018 the investigations should be monitored by another set of judges of this Court. Our recusal is sought on the ground that as a result of the observations said to have been made, the applicants/petitioners have a real apprehension that either the investigations or the trial (if any) would be tainted to their prejudice.

18. Having heard the learned Attorney General, learned counsel and learned *Amicus* and having gone through the written submissions filed, we are of the view that the apprehension of the applicants/petitioners that justice will not be done to them is misplaced if not unfounded.

[7](2009) 8 SCC 106

Decision

19. The decisions referred to and relied upon have been fully considered by us. The discussion on recusal has been exhaustively dealt with in the cited decisions and there is nothing to add to it. But we find a crucial distinguishing feature in the case of ***EEVFAM*** and the cited cases.

20. It is undeniable that the ***EEVFAM*** case pertains to allegations of serious violations of the human rights of persons described as insurgents. A large number of such persons were killed in operations carried out by the Army, the paramilitary forces and the Manipur Police. Whether the death/killing of such persons was justified or not is a matter of investigation by the SIT. It is nobody's case that the CBI or the SIT was not conducting fair investigations into the allegations. On the contrary, the learned Attorney General submitted that the integrity or fairness of the investigations were not in question. As mentioned above, no one disputed this.

21. The distinguishing feature is this: The substantive legal and factual issues raised in ***EEVFAM*** have already been decided by us and what remains is the continuing mandamus requiring implementation of the orders of the Court. During the hearing of ***EEVFAM*** and even after the decision was rendered on substantive legal and factual issues, no allegation of any bias of any sort or any apprehension that justice will not be done or that anybody would be treated unfairly was made. It is only at the continuing mandamus stage that the controversy is raised and that too on the basis of certain observations said to have been made by this Court.

22. What is pending at the continuing mandamus stage is the implementation of the orders of the court which necessitate a fair investigation by the CBI and the SIT constituted by the Director of the CBI. There is no allegation of any nature with respect to the impartiality and integrity of the SIT. Indeed, the learned Attorney General made it clear that no one was disputing the capability, expertise and fairness of the CBI and the investigations carried out by the SIT.

23. Even during the hearing of the applications and in the written submissions, no doubt has been cast on the integrity and fairness of the investigations. In any event, we make it clear that the law of the land is

quite explicit that no one, and that means no one, can interfere in the investigations being carried out by the Investigating Officer or an Investigating Team. This law is well settled and does not need any re-consideration. The purpose of a continuing mandamus is only to ensure that there is no interference during the course of investigations from anybody, whether due to political pressure or executive pressure or any other pressure (including, as it seems, 'judicial pressure') that could compromise the investigations. It is only when the Investigating Officer or the Investigating Team is given a free hand that the investigations will be meaningful, fair and with integrity.

24. Yet another purpose of a continuing mandamus is to ensure that the Investigating Officer or the Investigating Team (as the case may be) does not deviate from the natural course of investigations for whatever reason, either due to pressure or due to a misdirection or some other extraneous reason. This is the limited role of a Constitutional Court in monitoring investigations in a continuing mandamus.

25. Consequently, the apprehension that the observations said to have been made by this Court on 30th July, 2018 would influence the SIT is erroneous.

26. It is equally clear that once the judicial process has begun with the filing of the final report or charge sheet as the case may be, the concerned court is in complete charge and full control of the proceedings. No one, and that again means no one, can interfere in the course of judicial proceedings otherwise it would amount to interference in the due course of justice or the administration of justice. It is for this reason that when investigations are complete and a final report or charge sheet is filed, the Constitutional Court keeps its hands off any further progress in the matter. We are fortunate to have an independent judiciary and as far as the ***EEVFAM*** case is concerned there has been no allegation of any kind that any Trial Judge dealing with the case has shown a lack of independence. Interference in the due course of justice or the administration of justice would lead to adverse consequences. Therefore, it is inappropriate for the applicants/petitioners to harbour any apprehension that the Trial Judge(s) would be influenced by the observations said to have been made by this Court on 30th July, 2018. The applicants/petitioners are indirectly, perhaps unwittingly, questioning the fairness and independence of the judiciary.

A 27. The upshot of this discussion is that there can be no interference in investigations and the courts cannot brook any interference in the judicial process. An exception may occur as we have noticed above, when there is an unjustified deviation from the natural course of investigations or illegal interference in the judicial process. Such a situation would be rare and would have to be dealt with on a case by case basis and it is to pre-empt this that the Constitutional Courts monitor investigations on extraordinary occasions. Consequently, the apprehension expressed by the applicants/petitioners that due to the observations said to have been made by this Court there would be interference in the investigations by the SIT all interference in the due judicial process by the courses not real or justified.

28. The decisions cited before us by learned counsel and learned *Amicus* do not deal with or concern the situation confronting us.

29. A few other contentions have been urged before us by learned counsel for the applicants/petitioners. It is submitted that the observations said to have been made by this Court can impact on the decisions to be taken by the SIT. We do not find any basis for any such apprehension. The SIT is independent and so far, no allegation of unfairness has been made against the functioning of the SIT. Observations made by this Court or any court for that matter cannot impact on the investigations as long as they are conducted by professionals and we have no doubt that the SIT does consist of professionals who will not be swayed by any observations made by this Court during the continuing mandamus process.

30. It was also submitted and this submission was supported by the learned Attorney General that the Indian Army, the paramilitary forces and the Manipur Police have been demoralised by the observations made by this Court. This is a rather overbroad submission. In any event, in our opinion, it should be clear to everyone that officers and personnel of the Indian Army, paramilitary forces and the State Police are made of much sterner stuff than is sought to be projected and they can hardly be demoralised by observations said to have been made by anybody. It is unfortunate that a bogey of demoralization of the Indian Army, paramilitary forces and the State Police is being raised. We are unable to comprehend the reason for this. As mentioned earlier, the Indian Army, paramilitary forces and the Manipur Police are made of sterner stuff and are disciplined forces strong enough to take everything in their stride. To contend that some observations said to have been made by

this Court have demoralized the Indian Army, the paramilitary forces and the Manipur Police is suggestive of a weakness in them. Be that as it may, this is really stretching the argument to the vanishing point.

31. That apart, there is no material to support the theory of the Indian Army, paramilitary forces and the Manipur Police being demoralised. It is only a submission made for some unfathomable reason.

32. The continuing mandamus must go on and the independence and integrity of the SIT and the judges dealing with the final reports/charge-sheets must be maintained. Therefore, even though there is no reason for the applicants/petitioners to entertain any doubt that the SIT or the judiciary would be influenced by the observations said to have been made by this Court, to remove any vestige of doubt, we make it absolutely clear that any observations made or said to have been made on 30th July, 2018 during the implementation of the orders of this Court through a continuing mandamus are not intended to and should not in any manner be construed as compromising the independence, integrity and fairness of the SIT and the concerned judges. Institutional integrity of the CBI and the judiciary is positively required to be maintained.

33. We see no merit in these applications and they are accordingly dismissed. The writ petitions be listed for preliminary hearing on 26th November, 2018 at 2 PM.

Devika Gujral Applications dismissed.