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Manipur High Court reaffirms stay on all developments in and around Loktak Lake in Manipur

Directs Authorities to Address Deficiencies in the Integrated Management Plan for Wise Use of Loktak Lake, particularly in the Absence of a “Brief Document” as required per the Wetland Rules, 2017

The [All Loktak Lake Areas Fishers Union - Manipur](#) (ALLAFUM), Indigenous Perspectives (Imphal), and [Environment Support Group](#) (Bangalore) welcome the [25th February 2022 order](#) of a Special Bench of the Hon'ble High Court of Manipur, which reaffirms that no development in the Loktak Wetland Complex region can proceed without permission of the Court. The Court issued this order taking note of deficiencies in the preparation of the [Integrated Management Plan for Wise Use of Loktak Lake 2020-25](#)¹ prepared by the [Loktak Development Authority](#) (LDA) and [Wetlands International South Asia](#).

The order was passed by a Special Bench of the Hon'ble High Court while hearing PIL No. 24 of 2017 and connected applications, comprising the Hon'ble Chief Justice Mr. Sanjay Kumar and Hon'ble Mr. Justice Ahanthem Bimol Singh. This PIL, ***Court on its Own Motion v. State of Manipur & Ors.*** (Loktak PIL), was initiated by the Manipur High Court in 2017, following the 3rd April 2017 order of the Supreme Court of India in WP (C) No. 230 of 2001. In that order, the Supreme Court had directed that jurisdictional High Courts must supervise the management of wetlands designated as wetlands of international importance under the Ramsar Wetlands Convention 1971.

Loktak Lake is one such [Ramsar site](#) and is located on the far eastern corner of India bordering Myanmar. This lake is the largest natural freshwater lake of India, and is formed with the meandering drainage of Manipur, Imphal and Nambul Rivers in the gentle valleys south of Imphal. On the lake, over 1500 fishers live in houses built on the floating *phumdis* (heterogeneous mass of vegetation, soil and organic matter at various stages of decomposition), sustaining their livelihoods with wooden canoes (no polluting motorboats are allowed by the community) and traditional fishing. On such *phumdis*, which can be as large as 40 sq. kms, is the Keibul Lamjao National Park, the world's only floating protected area, a unique habitat hosting the critically endangered *Sangai* (Eld's deer), Manipur's State animal, and several other rare species.

¹ Also see: <https://www.loktaklake.org/projects.html>



Background to the Litigation

On 25th February, the Court was hearing the applications MC (Review) Nos. 1 and 2 of 2022 filed by ALLAFUM and two of its members: Smt Oinom Akashini Devi and Smt Khoirom Kiranbala. These petitions sought permission of the High Court, with a delay condonation application, to file [Review Petition No. 6 of 2021](#) against the Court's [12th October 2020 order](#) in PIL No. 24 of 2017 and connected matters.

By that order, the Court had disposed of two applications: one filed by the LDA and the other by the Tourism Department, Manipur, (MC(PIL) No. 16 of 2019 and MC (PIL (No.) 47 of 2020 respectively). The order allowed these agencies to proceed with the process of Notice Inviting Tender (NIT) for an Inland Waterways Project and an eco-tourism project on Loktak Lake. The Petitioners were gravely concerned that the NIT would result in promoting these projects and that they had been conceived without any public involvement as required per law. By their very nature, the projects would sound the death knell for the livelihoods of hundreds of thousands of fisher, pastoral, artisanal and farming families depending directly and indirectly on this immensely productive wetland. Besides, such projects are against the concept of wise use demanded for the wetland per the [Ramsar Convention](#) and would irreversibly destroy the Loktak Wetland region.

The agencies had filed the applications seeking permission for the NIT in light of the [17th July 2019 order](#) of the Manipur High Court, which prohibited all development/construction works in and around Loktak Lake without permission of the Court. In the 12th October 2020 order, the High Court had observed that the applicant agencies could proceed with the NIT subject to obtaining necessary clearances.

Rationale for the Review Petition:

Two key reasons are involved in filing the review petition:

Firstly, the fundamental requirement of notifying the wetland based on public consultation has not been complied with.

While hearing the Loktak PIL, the Manipur High Court had on many occasions observed the need to comply with the requirements of the Wetland (Conservation and Management) Rules, 2017 with respect to Loktak Lake. The Court emphasised the need to comply with Rule 7, which requires several key aspects of a wetland to be identified, such as its boundaries, the pre-existing rights and privileges associated with the wetland, and the activities to be permitted and regulated on the wetland.

Such information needs to be compiled in a “Brief Document”, based on which a draft notification needs to be issued for the wetland. After inviting and considering public comments on the draft notification, with a minimum 60 days public commenting period as per the [2020 Guidelines](#) for implementing the [2017 Wetland Rules](#), the final notification for the wetland can be issued. Following this due process when the wetland is Notified, the authorities involved may create an “integrated management plan” for the wetland.

The Manipur High Court stressed compliance with this provision, which is significant because this procedure is the only mechanism in the Rules that allows for public involvement in decision making relating to wetland governance. However, while hearing the applications filed by the LDA and the Tourism Department, the Court took note of an Integrated Management Plan prepared for Loktak Lake and allowed the NIT process to be undertaken, stating that the authorities had fulfilled the “basic requirement” of submitting the management plan. This when the basic requirement of notifying the wetland under Rule 7 had not been complied with.

The Review Petitioners realised this grave error after Manthan Research, a Pune based voluntary organisation, obtained information under the Right to Information Act, 2005 from the Union Ministry of Environment, Forests and Climate Change (MOEF&CC) that the Integrated Management Plan for Loktak had been submitted for approval without the statutorily mandated “brief document” for the wetland.²

When a wetland is not notified, the nature of activities that may be permitted on the lake remains uncertain. In the case of Loktak, allowing the tender process to be initiated for any construction project on the lake attacks various fundamental rights associated with these extraordinary commons, and potentially poses the risk of destroying the wetland and the multiple intricate traditional dependencies. The review petition thereby argues that the Court considering the Integrated Management Plan as a “basic requirement” and as the basis for allowing the NIT, *without* the Brief Document having been prepared and the wetland notified, is an error justifying review of the 12th October order.

² The RTI application and the response of the MOEF&CC is available at Annexure A10 to the Review Petition No. 6 of 2021.

Secondly, the Manipur Government misled the Court about the status of funding.

In the 12th October order, the Court noted submissions of Mr. Tushar Mehta, learned Solicitor General of India appearing for the State of Manipur, that funds sanctioned for both the inland waterways and eco-tourism projects were likely to lapse if the NIT process was not allowed. However, when the review petitioners wrote to the Asian Development Bank, who supposedly sanctioned funds for the eco-tourism project, they learnt no such funds had been sanctioned even as late as February 2021.³ The [NIT for the project](#) had been issued in November 2020, close on the heels of obtaining the permission of the Court.



The Hearing

When the High Court took up the review petition in December, it asked the petitioners to specifically seek the court's permission to condone delay and for filing the petition without being parties to the case. This was achieved in the 25th February hearing in which the review petitioners, represented by Ms. Malvika Kaushik of Environment Support Group and other lawyers from Manipur including Human Rights Law Network (HRLN), sought condonation of delay citing the Supreme Court's decision in ***In Re Cognizance of Limitation*** (2022 SCC OnLine SC 27), which has greatly relaxed the time limits for filing all kinds of legal and quasi-legal proceedings in India as a consequence of the Covid pandemic.

It was also submitted that the petitioners should be allowed to file the review petition since they are directly, traditionally and intricately dependent on the Loktak Lake for their lives and

³ The email communication with the ADB is available at Annexure A11 to Review Petition No. 6 of 2021.

livelihood, and that they are directly aggrieved and would be adversely affected if the NIT process is undertaken. It was further submitted that since the authorities have not conducted due, prior and informed consultation with them and others in a similar position, regarding determination of activities permitted on the wetland as required under Rule 7 of the Wetland Rules, their rights on the commons they depend on and protect are fundamentally and adversely affected. It was also brought to the attention of the Court that the MOEF&CC is on record stating that the Brief Document for Loktak Lake has not, as yet, been furnished.

The state authorities and central government sought time to file written responses to the applications filed by the review petitioners, as well as to the review petition itself. The Court, while accepting this request, directed the state to “*specifically address the steps taken by the State Government in response to the issues raised by the Ministry of Environment, Government of India, vis-à-vis the shortcomings in the ‘Wise Use Plan’*”, and “*more particularly, the absence of a ‘Brief Document’*”. The Court then emphasised that “*Pending further orders, the authorities shall abide by the earlier order dated 17/07/2019 passed by this Court in PIL Case No. 24 of 2017 and ensure that no development/construction works are initiated in and around the Loktak Lake without the leave of this Court.*”

Wetlands International must work to protect this Ramsar site

[This direction of the Hon’ble High Court of Manipur](#) upholds the rule of law and provides the communities dependent on Loktak Wetland area - who live in the most ecologically sensible manner conscious of the ecological fragility of the region - hope that the voice of reason will be heard in the din of promoting ‘development’ without conscience and concern. This is especially in the context of the elections underway for the Manipur State Assembly, where most major parties have proposed projects that will ensure the rapid deterioration and eventual death of the biologically diverse, highly productive, amazingly beautiful, Loktak, a habitat where human settlement co-dwells with diverse wildlife.

Given that there is patent violation of the Wetland Rules 2017 in this preparation of the Integrated Management Plan⁴, the undersigned on behalf of all the affected communities of Loktak urge Wetlands International to direct its South Asia office to withdraw the report. This will help create space essential to initiate the process for formulation of the Brief Document in right earnest and in keeping with the principles of the Ramsar Convention, Convention on Biological Diversity, Rio Declaration and Agenda 21, amongst others.

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⁴ Also see Mukta Joshi, *Manipur’s BJP-Led Government Evaded the Law, Mised Court for Two Mega-Projects*, The Wire, 21st February 2022, accessible at: <https://science.thewire.in/environment/manipur-bjp-government-loktake-lake-mised-high-court-broke-the-law-ecotourism-inland-waterways/>