

June 26, 2023

The Chief Labour Administrator  
Department of Labour  
Ministry of Industry, Commerce and Employment  
Thimphu

**Re: RICBL's clarification to the complaint filed by Mr. Jigme Namgyal.**

Dear Sir,

This is in reference to Letter No. RICB/CO/HRD(09)/2023/9103 dated 22nd June 2023 regarding the arbitrary and unjust suspension and its revocation. Interestingly, I would like to highlight that the management of RICBL has misinformed the officials of the Department of Labour (DOL). RICBL informed the officials of the DOL that the Management Committee Meeting couldn't be conducted until 21st June 2023 as confirmed by Mr. Ugyen Dorji via email, although the meeting had already taken place on 8th June 2023. I fail to understand whether the management of RICBL understands the importance of the Dispute Resolution as enshrined in the Labour and Employment Act 2007

The sole reason for me approaching the Department of Labour for justice is to address the wrongdoings of the management of RICB regarding my suspension and its revocation, which are not in line with sections 1.8(l), 12.5(a), 12.9, 12.11(a), 12.12.1, 12.12.1(e), and 12.13(1) of RICBL's SRR 2019. Specifically, I am referring to the 173 days of active service from October 31, 2022, to April 21, 2023, for promotion and post-service benefits.

However, the clarification from the management of the RICBL mentions as follows with my comment inline under the RICBL's clarification specific pointers as:

**1. On suspension of Mr. Jigme Namgyal from service.**

*"...pursuant to the High Court's Judgment No. High Court-2021/767 dated 26th October 2021 in the civil matter of RICBL vs. Ugyen Wangchuk and others wherein it was established that Mr. Jigme Namgyal and three other employees were involved in debiting and crediting of Mr. Ugyen Wangchuk's loan account without the client's consent, and because of such lapses, RICBL and the relevant employees were held liable to pay two-third of Mr. Ugyen Wangchuk's loan liability"*

I would like to draw the attention of the Chief Labour Administrator to the clarification provided under point no. 2. In that clarification, it states that I specifically mentioned that there are 'impending issues to be resolved,' with an indication that the enforcement of the High Court's judgment is still pending. Therefore, discussing this matter would be sub-judice. I have not challenged the suspension under sections 12.9 and 12.11(b) of RICBL's SRR 2019 since the court proceedings are still ongoing. However, I have challenged the arbitrary revocation of the suspension by a committee, which is not in accordance with RICBL's SRR 2019.

*"A comprehensive report on this case was submitted to the Royal Monetary Authority (RMA) on 29 September 2022 in response to RMA's directives received vide letter No. RMA/DERS/15/2022/1413 dated 26 September 2022. Mr. Jigme Namgyal was served a show cause notice on 3 October 2022 providing him the opportunity to submit his explanation on the charge in accordance with section 12.11 (d) of the SRR 2019. Since Mr. Jigme Namgyal denied the allegation in his explanation vide his letter dated 22 October 2022"*

The response to the Show Cause Notice was submitted on 22nd October 2022 (Annexure). On the evening of Saturday, 29<sup>th</sup> October 2022, I received a call from the CEO informing me that there would be a meeting in the morning regarding the Show Cause Notice and the judgment of the High Court on RICBL Vs. Ugyen Wangchuk. During the meeting, I was informed that both my colleague, Ugyen Lhamo, and I would be placed under suspension. We did not appeal this decision since the matters related to this case were still pending in the Court of Law. However, it is important to note that the meeting was held on a Sunday for reasons unknown to me.

*"Following the constitution of an Investigation Committee, Mr. Jigme Namgyal was placed under suspension with effect from 30<sup>th</sup> October 2022 in accordance with section 12.12.1 of the SRR 2019. Therefore, his suspension from the service of RICBL is in compliance with our SRR 2019"*

I would like to clarify that the Investigation Committee was constituted on 2<sup>nd</sup> November 2022. I was verbally placed under suspension by the Management Committee on 30<sup>th</sup> October 2022, and a suspension notice was served on 31<sup>st</sup> October 2022. The statement in question appears to be falsified, but I agree that the suspension was indeed in compliance with section 12.12.1 of RICBL's SRR 2019. However, I would like to argue that the suspension decision was made by the Management Committee and not the Disciplinary Committee, and the violations of the SRR 2019 will be presented in relation to point no. 4.

*"The Investigation Committee submitted its report on 2 November 2022 confirming that Mr. Jigme Namgyal had received a cheque for Nu. 440,000.00 (Four hundred forty thousand) from the loan account of Mr. Ugyen Wangchuk of which Nu. 423,963.00 (Four hundred twenty-three thousand nine hundred sixty-three) was deposited into Mr. Jigme Namgyal's loan account number CDL/2008/ 73 without the consent of the client."*

We must note that RICBL mentioned the withdrawal of Nu. 440,000/- from Ugyen Wangchuk's Account *"without the consent."* However, the internal investigation report states that *"...we would like to report that there were several procedural lapses with regard to the fund transactions as the client's consent was not obtained. Such practices were embedded in the credit operations during the previous management."* (I am uncertain if we can present this evidence currently).

Furthermore, in my response to the show cause notice (Annexure), I mentioned that *"I would like to submit that the withdrawal of Nu. 440,000.00 from Mr. Ugyen Wangchuk's loan account no. CRCS/2010/84 was done with his verbal consent through a telephonic conversation since he was away from Thimphu. The same statement was made as rebuttal submissions to Dasho Drangpon, Commercial Bench, Dzongkhag Court,*

*Thimphu, on 12 September 2019, and Mrs. Tshering Dema personally testified for the sale of land."*

Additionally, I requested that *"I am ready to face any administrative actions if the judgment finds lapses in the transactions of Nu. 440,000.00, or if this transaction qualifies as a criminal offense, I am prepared to face the consequences, which were not mentioned in the judgment, as per my understanding."* citing section 7 of the Order of the Supreme Court dated 30th June 2022, which states, *"During the process of adjudication, if the court finds lapses on the part of the bank officials, the court shall direct the authority of the concerned financial institution to take administrative actions. However, if the lapses relate to a criminal offense, it shall be referred to RBP or ACC for investigation and prosecution."*

## **2. Deferral of administrative action against Mr. Jigme Namgyal and revocation of his suspension**

*"Since Mr. Jigme Namgyal had refused to pay his share of the loan liability of Mr. Ugyen Wangchuk due to "impending issues to be resolved" as stated in his letter dated 18 November 2022 to the RICBL, the Management deferred the administrative action to be taken against Mr. Jigme Namgyal to be based on the outcome of his appeal against the High Court's verdict and its enforcement pending before the Enforcement Unit, Dzongkhag Court, Thimphu."*

The statement made by the management of RICBL, *"since Mr. Jigme Namgyal had refused to pay his share of the loan liability of Mr. Ugyen Wangchuk"* is currently sub-judice, and it is the interpretation of the Judgment of the High Court by the management of RICBL that holds four specific employees solely responsible for the 12 Loans and 7 Bank Guarantees, which is untrue. The enforcement of the Judgment of the High Court for RICBL Vs. Ugyen Wangchuk is pending due to separate litigation filed by four implicated employees against the management of RICBL. As the case is still ongoing, the legality of the suspension will be contested based on the judgments of the Courts of Law passed in the same case.

Furthermore, as I mentioned earlier, on the issue of consent, whether with or without, is yet to be established (Annexure – DC Court Submission and Tshering Dema's statement submissions). However, it is crucial to recognize the violations committed by the management of RICBL's SRR 2019, and accountability should be ascertained or penalized in accordance with the provisions of the Laws of the Kingdom of Bhutan.

*"Accordingly, his suspension was revoked on April 19, 2023, that is within 6 months from the date of suspension, which is in compliance with section 12.12.1 (b) of the SRR 2019. Therefore, the revocation of his suspension in compliance with our SRR 2019."*

The revocation of the suspension indeed complied with section 12.12.1(b) of the RICBL's SRR 2019, which states that it must occur within 6 months from the date of suspension. However, the conditions attached to the suspension revocation, namely, *"your period of suspension i.e. from 31st of October 2022 to 21st of April 2023 shall not be considered as active service for the purpose of promotion and payment of post service benefits upon separation from the Corporation,"* seem to contradict the management of RICBL's own statement in point no. 1: *"The Investigation Committee submitted its report*

on 2 November 2022 confirming that Mr. Jigme Namgyal had received a cheque for Nu. 440,000.00 (Four hundred forty thousand) from the loan account of Mr Ugyen Wangchuk" Furthermore, it appears to be in violation of section 12.13(a) of the RICBL's SRR 2019, which states that "The Disciplinary Committee or the Disciplinary Authority shall render its reasoned decision in writing within 30 days from the receipt of the investigation report" Additionally, the management of RICBL disregards the second part of section 12.12.1(b) of the RICBL's SRR 2019, which states, "The Disciplinary Committee or the Disciplinary Authority must complete its deliberations and take appropriate action in the matter within this time". As stated by the management of RICBL, the investigation was completed on 2nd November 2023, yet they failed to make a decision "on my involvement in connection to the Ugyen Wangchuk Loan Default case" As mentioned in the Suspension Order No. RICB/CO/GAD(01)/2022/1550 dated 31<sup>st</sup> October 2022.

### **3. On the payment of 50% salary and other benefits**

*"We would like to submit that since our Disciplinary Committee deferred taking administrative action against Mr. Jigme Namgyal, the payment of his 50% salary not paid to him during the suspension period and other benefits will be considered based on the administrative action that will be taken after the enforcement of the High Court's judgement."*

A separate complaint letter was submitted to the Chief Labour Officer specifically regarding the non-payment of the subsistence allowance. Additionally, I would like to bring to the attention of the Chief Labour Administrator that:

- a. The promotions have been put on hold since the beginning of the case.
- b. I have been transferred three times, initially to the Project on [date](Annexure), then to the General Administration Department (Annexure), and most recently to the CSSD/Marketing Department (Annexure).
- c. The increment is currently on hold (Annexure).
- d. The pay benefits and allowances are also on hold.
- e. Furthermore, I have been denied 173 days of active service.

I am perplexed by the continuous violations of provisions in the RICBL's SRR 2019 by the management of RICBL. It is disheartening to witness such disregard for the established regulations.

*"The administrative action was deferred till the completion of enforcement of the High Court's judgment to enable the Management to make a reasonable decision taking into consideration the nature of his misconduct, circumstances leading to the commission of the misconduct, and to ensure that the employee is not jeopardized twice for the same misconduct."*

The management of RICBL's claim of making a "reasonable decision taking into consideration the nature of his misconduct" is bewildering, as it contradicts the facts. As previously mentioned in my response to the show cause letter, I have expressed my acknowledgement and willingness to face the consequences if found guilty of any unlawful acts, but only after the due process of the Courts of Law determines my culpability. It is important to emphasize that the internal investigation report itself

acknowledges the presence of procedural lapses in fund transactions, attributing them to practices embedded during the previous management (I am unsure if we can present this evidence at present).

It is alarming that the management of RICBL has already presumed my guilt of a crime under Misconduct under 12.2 of the RICBL's SRR 2019.

Furthermore, the management's statement of ensuring that I am not jeopardized twice for the same misconduct is absurd, considering the numerous punishments I have already endured, as outlined earlier. I fail to comprehend how many more times I will be subjected to punishment. In defence of my claims, I would like to provide the following evidence on my innocence for the reference of the Chief Labour Administrator:

- a. Presentation Screenshot by the Legal Department to the management after the Judgement of the High Court on our involved Loan account CRCS/2010/84.
- b. The Decision of the Management Committee.
- c. The Draft Investigation Report.
- d. Show cause Notice.
- e. Show cause Response.

#### **4. On the constitution of the Disciplinary Committee**

*"As per section 12.8 of our SRR 2019, the Disciplinary Committee constitutes the Chief Executive Officer as the Chairperson and other members comprising of General Managers, Head of the Legal Department and Head of the General Administration Department. Since the members of the Management Committee and the Disciplinary Committee are same chaired by the Chief Executive Officer, unless specifically instructed otherwise by the Management Committee, any decision of the Management Committee on disciplinary issues of the employee is considered as the decision of the Disciplinary Committee."*

It is astonishing to note the response from RICB, which is in complete violation of their own RICBL's SRR 2019. The statement provided by the management reveals their intent to misguide the Department of Labour.

It is evident from the response provided by the management of RICBL that they intentionally omitted the requirement stated in Section 12.8 of RICBL's SRR 2019, which states that *"There shall be a Disciplinary Committee constituted by the Board."* They justified this omission by claiming that the Management Committee and the Disciplinary Committee are the same committee since both are chaired by the CEO of RICBL. They further added an arbitrary statement mentioning *"unless specifically instructed otherwise by the Management Committee."*

However, it is important to note that while the Management Committee and the Disciplinary Committee can be the same, Section 12.8 clearly directs the constitution of the Disciplinary Committee by the Board. This distinction is supported by RICBL's practice in the recent *"phishing case involving one staff,"* where the Disciplinary

Committee Order was issued in writing and chaired by the Head of the General Insurance Department, as per RICBL's standard procedure (Annexure).

Therefore, it is evident that there is a clear separation of functions between the Disciplinary Committee and the Management Committee, as outlined in RICBL's SRR 2019. The Disciplinary Committee is specifically responsible for handling disciplinary matters, while the Management Committee focuses on strategic management and organizational governance. In light of this, I would like to emphasize that the Disciplinary Committee that suspended me was not constituted by the Board, rendering it unauthorized and in violation of RICBL's SRR 2019.

## Prayers

1. The clarification submissions made by the management of RICBL are still arbitrary and yet again misleading. The claim that "*no administrative action has been taken against Mr. Jigme Namgyal*" is untrue, as explained in point number 4.
2. On the statement by the management of RICBL, "*Mr. Jigme Namgyal will have an opportunity to appeal to our Board of Directors per section 12.14 of SRR 2019 if he is not satisfied with the decision of the Management. Further, he can then appeal to the Chief Labour Administrator against the decision of our Board.*" I fail to understand why I should appeal to the Board of RICBL when there were clear violations of RICBL's SRR 2019 by the management of RICBL.
3. On the statement "*Mr. Jigme Namgyal has already filed a civil suit against RICBL before the Commercial Bench-II, Dzongkhag Court, Thimphu without following and exhausting the above due processes laid down in our SRR 2019 and the Labour and Employment Act of Bhutan, the Management request that Mr. Jigme Namgyal's complaint filed with your esteemed authority be dismissed.*" The civil suit is against the management based on the Judgment of the High Court and their violations of the Court Procedure, as mentioned below, and not on the violations of RICBL's SRR and the Labour and Employment Act 2007:
  - a. Misrepresentation of some employees by the Legal Department of RICBL
  - b. Partial Judgment of the Order of the High Court
  - c. Addition of the loan BGE/2019/5
  - d. Interest lost to RICBL by the Legal Department
  - e. Wrong translation of the Judgment of the High Court submitted before His Majesty the King of Bhutan
  - f. Opportunity to be heard in the Court of Law
4. In conclusion, the management of RICBL's clarifications have failed to address the core issues and have raised further concerns regarding their adherence to RICBL's Service Rules and Regulations 2019 and the Labour & Employment Act of Bhutan 2007. The inconsistencies in their statements, the violation of established procedures, and the misrepresentation of facts only strengthen the need for a thorough investigation into the matter. I trust that the Chief Labour Administrator will carefully consider the evidence presented and take appropriate action to ensure justice and accountability in this case.

Thanking you,  
Yours faithfully,

(Jigme Namgyal)