

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

WP(C) No. 818 of 2019

1. Shri Jonah Chawang aged about 49 years, S/o Huriangbou Chawang, R/o Tapon Naga Village, Irang Part –II, P.O T. Waichong, PS Kangpokpi, Kangpokpi District, Manipur - 795112.
2. Shri Charenamai Wisobou @ Ch. Tithobou aged about 50 years, S/o Ch. Apingbou, R/o Chawangking Village, Irang Part –I, P.O & PS Kangpokpi, Kangpokpi District, Manipur – 795129.

...Petitioners

-Versus-

1. State of Manipur, Rep. by Additional Chief Secretary (TA & Hills), Government of Manipur, Secretariat Building, Babupara PO & PS Imphal, Imphal West District, Manipur - 795001.
2. Secretary (Law), Government of Manipur, Secretariat Building, Babupara PO & PS Imphal, Imphal West District, Manipur – 795001.
3. Manipur State Election Commission, Rep. by its Chief Electoral Officer, Government of

Manipur, PO & PS Lamphel, Imphal West District, Manipur – 795004.

4. Shri Sagar Gewali Member of Irang Part – I District Council Constituency, Sardar Hills (Kangpokpi) Autonomous District Council, R/o 9-Miles Paodel Basti, P.O & PS Kangpokpi, Kangpokpi District, Manipur – 795129.
5. Shri Bhumi Prasad Basnet Member of Irang Part – II District Council Constituency, Sardar Hills (Kangpokpi) Autonomous District Council, R/o Toribari, P.O & PS Kangpokpi, Kangpokpi District, Manipur – 795129.

....Respondents

BEFORE
HON'BLE THE ACTING CHIEF JUSTICE MR. M.V. MURALIDARAN
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

For the Petitioner	::	Mr. D. Julius Riamei, Advocate
For the Respondents	::	Mr. Lenin Hijam, AG Mr. Anjan Prasad Sahu, Advocate
Date of Hearing and reserving Judgment & Order	::	30.03.2023
Date of Judgment & Order	::	17.04.2023

JUDGMENT AND ORDER

(CAV)

(M.V. Muralidaran, Acting CJ)

This writ petition has been filed by the petitioners for issuance of a writ of declaration declaring the word “an elector” in Section 7 of the Manipur (Hill Areas) District Council Act, 1971

shall mean “an elector belonging to a Scheduled Tribe” and/or to issue a writ of certiorari quashing Section 7 of the Manipur (Hill Areas) District Council Act, 1971 only to the extent that the word “a Scheduled Tribe and” is not inserted between the words “... unless he is ...” and “... an elector ...”.

2. Brief facts are as follows:

The petitioners are residents and electors of Tapon Naga Village and Chawangkinig Village respectively and belong to Scheduled Tribes and both the petitioners falls under the Outer Manipur Lok Sabha Constituency. The petitioners rights and privileges are affected, infringed and violated by the ambiguity in the meaning and language of Section 7 of the Manipur (Hill Areas) District Council Act, 1971 (for short, “*the Act of 1971*”). Due to the ambiguity in the meaning and language of Section 7 of the Act of 1971 in 3-Irang Part-I and 5-Irang Part-II District Council Constituency under Kangpokpi (Sardar Hills) Autonomous District Council, the constituencies to which the petitioners belong, the respondents 4 and 5, who are not Scheduled Tribes electors contested and were elected as members of the District Council in the last election held in the year 2015.

2.1. The Act of 1971 is meant only for the “Hill Areas” of Manipur. The entire scheme and object and purpose of the Act is for the protection, welfare, benefits and administration of the Scheduled Tribes in the Hill Districts of Manipur. The Act of 1971 was enacted by the Parliament with a sole objective that tribals in Hill Districts of Manipur can participate in the development of the area as local autonomous Government. Allowing a person who does not belong to a Scheduled Tribe to be Member of a District Council under the Act of 1971 defeats the purpose of the Act and in contrary to the objective sought to be achieved by the enactment of the Parliament.

2.2. The respondents 4 and 5 who belong to Nepalese (Gurkhas) community are never a Scheduled Tribe nor an indigenous inhabitants of the State of Manipur let alone the Hill District of Manipur. The Nepalese community never wanted to part of the administration or local governing of Hill Districts. Thus, the ambiguity created by the language of Section 7 of the Act of 1971 is arbitrary, violative of the doctrine of equality or level playing field envisaged under Article 14 of the Constitution of India.

2.3. The election of a non-Scheduled Tribe as members of Sardar Hills (Kangpokpi) Autonomous District Councils from

Irang Part-I where the second petitioner is an elector and illegible to be elected as member of the District Council and Irang Part-II to which the first petitioner is an elector and illegible to be elected as member of District Council infringe the rights and privileges of the petitioners. Hence, the petitioners have filed this writ petition with the relief stated supra.

3. The first respondent filed affidavit-in-opposition stating that Section 7 of the Act of 1971 provides that a person shall not be qualified to be chosen as a Member of a District Council of any Autonomous District unless he is an elector for any District Council Constituency in that Autonomous District Council. Therefore, Section 7 of the Act of 1971 allows a person who is registered in the electoral roll of the Constituency to be qualified to be chosen as Member of a District Council Constituency in that Autonomous District Council. Section 9(1) of the Act of 1971 provides that persons entitled to vote at elections of Members of a District Council shall be the persons entitled, by virtue of the provisions of the Constitution of India and the Representation of People Act, 1950 to be registered as voters at elections to the House of the People. Therefore, the rights and privileges of the petitioners is not affected, infringed and violated as the petitioners are eligible to be chosen as Member in the

Autonomous District Council Constituency in that Autonomous District Council. Hence, prayed for dismissal of the writ petition.

4. The petitioners filed a rejoinder stating that the Statement of Objects and Reasons of the Act of 1971 would clearly meant that the special legislation is exclusively for the welfare of the tribal people. The Nepalis (Gorkhas) or any other non-tribal community though may be living in any parts of the Hill Areas of Manipur not an indigenous of the State of Manipur let alone the hill areas of Manipur. The Fifth Amendment provides for nomination of the Members to the Autonomous District Councils from amongst the unrepresented Tribes or Tribal Community as some Tribal Community has very less in number to have its representatives through democratic process.

5. Mr. D. Julius Riamei, the learned counsel for the petitioners submitted that due to the ambiguity in the meaning and language of Section 7 of the Act of 1971, the constituencies to which the petitioners belong, the respondents 4 and 5 who are not Scheduled Tribe electors contested and were elected as members of the District Council in the last election held in the year 2015.

6. Drawing the attention of this Court to the Parliamentary debates in Rajya Sabha at the introduction of the Bill; Presidential order proclaimed under Article 371-C of the Constitution of India and the List of Scheduled Tribes in Manipur, Mr. Julius Riamei, the learned counsel for the petitioners would submit that the Act of 1971 is meant only for the Hill Areas of Manipur and the entire schemes, object and purpose of the Act is for the protection, welfare, benefits and administration of the Scheduled Tribes in the Hill Districts of Manipur.

7. The learned counsel further submitted that the Act of 1971 was enacted by the Parliament with a sole objective that tribals in Hill Districts of Manipur can participate in the development of the area as local autonomous Government and allowing a person who does not belong to a Scheduled Tribe to be a member of the District Council under the Act of 1971 defeats the purpose of the Act and it is contrary to the objective sought to be achieved by the enactment of the Parliament.

8. The learned counsel for the petitioners added that the respondents 4 and 5 who belong to Nepalese community are never Scheduled Tribes nor an indigenous inhabitants of the State of Manipur. Therefore, the ambiguity created by the language of Section 7 of the Act of 1971 is arbitrary and violative

of the doctrine of equality or level playing field envisaged under Article 14 of the Constitution of India.

9. The learned counsel for the petitioners then submitted that the election of a non-Scheduled Tribe as members of Sardar Hills (Kangpokpi) Autonomous District Councils from Irang Part-I where the second respondent is an elector and illegible to be elected as member of the District Council and Irang Part-II to which the first petitioner is an elector and illegible to be elected as member of the District Council infringe the rights and privileges of the petitioners.

10. Adding further, the learned counsel for the petitioners submitted that any candidate whose name is on the roll should be understood / interpreted as tribal candidate. Otherwise the clause will be ultra vires the constitutional provisions providing for preservation and protection of the interest of tribal people in the hill areas of Manipur and the objects and intent of the special enactment gets defeated. If the meaning of the statute is ambiguous, the intent of the legislature must be gathered from the constitutional objective it seeks to achieve. If it is meant to be read as any candidate including the general candidate, then the object of the constitution sought to be achieved will be nullified. It will also attract the mischief of the

colourable legislation meaning thereby what cannot be done directly cannot be done indirectly. If by virtue of being a resident of the schedule area/hill area, a general candidate can contest general election then he is doing indirectly which cannot be done directly. If at all it is deemed necessary to have them represented for want of adequate representation, it can be done by way of nomination, but not by entitling them to contest ADC election.

11. Arguing further, the learned counsel submitted that the doctrine of equality will not mean treating unequal as equal. Therefore, the word “an elector” appeared in Section 7 of the Act of 1971 shall mean “an elector belonging to a Scheduled Tribes” and prayed for a declaration as sought in the writ petition. In support, the learned counsel relied upon the following decisions:

- (i) Apex Laboratories Private Limited v. Deputy Commissioner of Income Tax, Large Tax Payer Unit-II, (2022) 7 SCC 98.**
- (ii) Bhag Mal v. Ch. Prabhu Ram and others, (1985) 1 SCC 61.**
- (iii) Sri SriK.C.Gajapati Narayan Deo and others v. State of Orissa, AIR 1953 SC 375.**
- (iv) State of Kerala v. Haji K. Haji K. Kutty Naha and others etc., AIR 1969 SC 378.**

(v) *State of Andhra Pradesh and another v. Nalla Raja Reddy and others, AIR 1967 SC 1458.*

(vi) *Venkateshwara Theatre v. State of Andhra Pradesh and others, (1993) 3 SCC 677.*

(vii) *Tuntanbou Guangta and another v. The State of Manipur and others, 2017 SCC OnLine Mani 112.*

12. Per contra, Mr. Lenin Hijam, the learned Advocate General appearing for the official respondents submitted that Section 7 of the Act of 1971 provides that a person shall not be qualified to be chosen as a Member of a District Council of any Autonomous District unless he is an elector for any District Council Constituency in that Autonomous District Council. Therefore, Section 7 of the Act of 1971 allows a person who is registered in the electoral roll of the constituency to be qualified to be chosen as member of a District Council Constituency in that Autonomous District Council.

13. The learned Advocate General further submitted that Section 9(1) of the Act of 1971 provides that persons entitled to vote at elections of Members of a District shall be the persons entitled, by virtue of the provisions of the Constitution of India and

the Representation of People Act, 1950 to be registered as voters at elections to the House of the People. The learned counsel added that any elector of the District Council constituency in the Autonomous District can be chosen as Member irrespective of Scheduled Tribe as per the Act of 1971.

14. The learned Advocate General urged that the rights and privileges of the petitioners is not affected, infringed and violated as the petitioners are eligible to be chosen as Member in the Autonomous District Council constituency in that Autonomous District Council. Thus, a prayer has been made to dismiss the writ petition. In support, the learned Advocate General placed reliance upon the following decisions:

(i) Public Services Tribunal Bar Association v. State of U.P. and another, (2003) 4 SCC 104.

(ii) State of Himachal Pradesh and others v. Satpal Saini, (2017) 11 SCC 42.

(iii) J.P.Bansal v. State of Rajasthan and another, (2003) 5 SCC 134.

15. This Court considered the rival submissions and also perused the materials available on record.

16. The petitioners seek declaration to declare the word “an elector” in Section 7 of the Act of 1971 to mean “an elector belonging to a Scheduled Tribe” or to quash Section 7 of the Act of 1971 only to the extent that the word “a Scheduled Tribe and” is not inserted between the word “... unless he is ...” and “... an elector ...”.

17. Section 7 of the Act of 1971 provides:

“7. Qualifications for membership.

A person shall not be qualified to be chosen as a member of a District Council of any autonomous district unless he is an elector for any District Council constituency in that autonomous district.”

18. Highlighting the above provision, particularly the word “elector”, the petitioners contended that their rights and privileges have been affected by the ambiguity in the meaning and language of Section 7 of the Act of 1971 and due to the ambiguity, the constituencies to which the petitioners belong, the respondents 4 and 5 who are not even Scheduled Tribe electors contested and were elected as members of the District Council in the last election held in the year 2015. The petitioners further contended that the Act of 1971 is meant only for the Hill Areas of

Manipur and the entire object and purpose of the Act of 1971 is for the protection and welfare of the Scheduled Tribes in the Hill Districts of Manipur. Therefore, the word 'elector' appearing in the Section 7 shall be 'an elector belonging to a Scheduled Tribe'.

19. Section 2(m) defines "Scheduled Tribes" has the same meaning assigned to it in Clause (25) of Article 366 of the Constitution.

20. The Act of 1971 is to provide for the establishment of District Councils in the Hill Areas in the Union Territory of Manipur. Section 2(f) of the Act of 1971 defines "Hill Areas" to mean the Hill Areas determined by the President by any notification issued under sub-section (2) of section 52 of the Government of Union Territories Act, 1963 (20 of 1963), and in force immediately before the commencement of this Act. The Act of 1971 is applicable to the State of Manipur even after it ceased to be a Union Territory.

21. According to the petitioners, the respondents 4 and 5 belong to Nepalese community and they neither belong to Scheduled Tribe community nor are indigenous inhabitants of the State of Manipur, let alone the Hill District of Manipur. Therefore, the Nepalese community can never be a part of the

administration or local governing of Hill Districts. It is also contended that any candidate whose name is on the roll should be understood as tribal candidate. Here, the respondents 4 and 5 are Gurkhas (Nepalese) community and they can never be treated as Scheduled Tribes. However, because of the ambiguity created by the language employed in Section 7 of the Act of 1971, they were elected as members of the District Council by virtue of their residing in the Hills Areas. Therefore, the language of Section 7 of the Act of 1971 is violative of the doctrine of equality under Article 14 of the Constitution of India.

22. On the other hand, it is the say of the learned Advocate General that the constitutional validity can be challenged only on two grounds, namely (i) lack of legislative competence; and (ii) violation of any of the fundamental rights guaranteed in Part III of the Constitution of India or of any other constitutional provisions. Moreover, the rights and privileges of the petitioners is not affected, infringed and violated as the petitioners are eligible to be chosen as member in the Autonomous District Council constituency in that Autonomous District Council.

23. Before dealing with the factual aspects of the issue involved, let us deal with the decisions relied upon by learned counsel for the petitioners:

(1) In Apex laboratories Private Limited, supra, the Hon'ble Supreme Court held:

“40. Interpretation of law has two essential purposes: one is to clarify to the people governed by it, the meaning of the letter of the law; the other is to shed light and give shape to the intent of the lawmaker. And, in this process the courts' responsibility lies in discerning the social purpose which the specific provision subserves. Thus, the cold letter of the law is not an abstract exercise in semantics which practitioners are wont to indulge in. So viewed the law has birthed various ideas such as implied conditions, unspelt but entirely logical and reasonable obligations, implied limitations, etc. The process of continuing evolution, refinement and assimilation of these concepts into binding norms (within the body of law as is understood and enforced) injects vitality and dynamism to statutory provisions. Without this dynamism

and contextualisation, laws become irrelevant and stale.”

(2) In Bhag Mal, supra, the Hon’ble Supreme

Court held:

“30. With this background in mind and keeping in view the other facts as observed in the judgment of my learned brother, the question which we have to consider, is, whether in view of the decision of this Court in the case of Jabar Singh v. Genda Lal [AIR 1964 SC 1200 : (1964) 6 SCR 54 : 25 ELR 323] the appellant was disentitled from asking this Court to take into account in his favour the ballot papers in respect of the votes cast in his favour which were rejected initially, but which have now been found as a result of recounting directed by the High Court and done under the supervision of the High Court to have been improper. That decision has been the subject-matter of consideration in several subsequent decisions of this Court. It is, therefore, not necessary for me to re-examine the decisions again. I would, however, express my respectful agreement with the view

and the observations of Ayyangar, J. in that decision. It seems to me that the conclusion and the views expressed by Justice Ayyangar are in consonance with the purpose of the Act and would further the cause of democratic process, which the Constitution aims. It is true that in spite of that decision of this Court rendered as early as December 1963, the Legislature has not amended the relevant provisions to make the Act more responsive on this aspect to the wishes of the people. The entire purpose of the constitutional provisions as well as other provisions of law is to ensure that true democracy functions in this country and the will of the people prevails. The purpose of the Act is to safeguard that one who obtains majority of valid votes by proper and due process of law alone should represent the constituency and will of the people. All the legal provisions and the procedures of the enactment should be so construed as to ensure that purpose. It would really be a mockery to the procedure of law if a situation where it is demonstrated duly in the court that a person who

obtained four votes less than the other next candidate should be declared elected in preference to the others and allowed to represent the constituency. It is not an appeal to any abstract justice nor it is an appeal to equity but it is to emphasise that procedure should be so construed that these rules of procedure such as Section 97 of the Act subserve the wishes of the voters. For this reason the view expressed by Ayyangar, J. appeals to me to be more reasonable though it may strain the literal provisions of the section a bit. Even if the Legislature has not amended the relevant provisions after the said decision, I am of the opinion that in a matter of this nature, this Court has a responsibility to construe the procedural provisions of the law in such manner that the procedure does not defeat the purpose or object of the Act. This Court has done that on appropriate occasions. Reference may be made to the observations of Lord Denning as quoted by Krishna Iyer, J. in the case of C.I.T. v. B.N.Bhattacharjee [(1979) 4 SCC 121, 136 : 1979 SCC (Tax) 297, 312 : (1979) 118 ITR 461, 480] :

“Whenever a statute comes up for consideration it must be remembered that it is not within human powers to foresee the manifold sets of facts which may arise, and, even if it were, it is not possible to provide for them in terms free from all ambiguity. The English language is not an instrument of mathematical precision. Our literature would be much the poorer if it were. This is where the draftsmen of Acts of Parliament have often been unfairly criticised. A Judge, believing himself to be fettered by the supposed rule that he must look to the language and nothing else, laments that the draftsmen have not provided for this or that, or have been guilty of some or other ambiguity. It would certainly save the Judges trouble if Acts of Parliament were drafted with divine prescience and perfect clarity. In the absence of it, when a defect appears a Judge cannot simply fold his hands and blame the draftsman. He must set to work on the constructive task of finding the intention of Parliament, and he must do this not only from the language of the statute, but also from a consideration of the social conditions which gave rise to it, and of the mischief which it was passed to remedy, and then he must supplement the written word so as to give ‘force and life’ to the intention of the Legislature. That was clearly laid down by the resolution of the Judges. . . in Heydon case [(1584) 3 Co Rep 7a : 76 ER 637] and it is the safest guide today. Good practical advice

on the subject was given about the same time by Plowden. . . . Put into homely metaphor it is this: A Judge should ask himself the question: If the makers of the Act had themselves come across this ruck in the texture of it, how would they have straightened it out? He must then do as they would have done. A judge must not alter the material of which it is woven, but he can and should iron out the creases.”

A statutory provision must be so construed, if it is possible, that absurdity and mischief may be avoided. Where the plain and literal interpretation of a statutory provision produces a manifestly absurd and unjust result, the Court might modify the language used by the Legislature or even do some violence to it so as to achieve the obvious intention of the Legislature and produce a rational construction and just result. See in this connection the observations of Bhagwati, J. in the case of K.P.Varghese v. Income Tax Officer, Ernakulam [(1981) 131 ITR 597 : (1981) 4 SCC 173 : 1981 SCC (Tax) 293].”

(3) In Sri SriK.C.Gajapati Narayanan Deo, supra, the Hon’ble Supreme Court held:

“9. It may be made clear at the outset that the doctrine of colourable legislation does not involve any question of bona fides or mala fides on the part of the legislature. The whole doctrine resolves itself into the question of competency of a particular legislature to enact a particular law. If the legislature is competent to pass a particular law, the motives which impelled it to act are really irrelevant. On the other hand, if the legislature lacks competency, the question of motive does not arise at all. Whether a statute is constitutional or not is thus always a question of power [Vide Cooley's Constitutional Limitations, Vol 1 p 379]. A distinction, however, exists between a legislature which is legally omnipotent like the British Parliament and the laws promulgated by it which could not be challenged on the ground of incompetence, and a legislature which enjoys only a limited or a qualified jurisdiction. If the Constitution of a State distributes the legislative powers amongst different bodies, which have to act within their respective spheres marked out by specific legislative

entries, or if there are limitations on the legislative authority in the shape of fundamental rights, questions do arise as to whether the legislature in a particular case has or has not, in respect to the subject-matter of the statute or in the method of enacting it, transgressed the limits of its constitutional powers. Such transgression may be patent, manifest or direct, but it may also be disguised, covert and indirect and it is to this latter class of cases that the expression “colourable legislation” has been applied in certain judicial pronouncements. The idea conveyed by the expression is that although apparently a legislature in passing a statute purported to act within the limits of its powers, yet in substance and in reality it transgressed these powers, the transgression being veiled by what appears, on proper examination, to be a mere pretence or disguise. As was said by Duff, J. in Attorney-General for Ontario v. Reciprocal Insurers [1924 AC 328 at 337] :

“Where the law making authority is of a limited or qualified character it may be necessary to examine with some

strictness the substance of the legislation for the purpose of determining what is that the legislature is really doing.”

In other words, it is the substance of the Act that is material and not merely the form or outward appearance, and if the subject-matter in substance is something which is beyond the powers of that legislature to legislate upon, the form in which the law is clothed would not save it from condemnation. The legislature cannot violate the constitutional prohibitions by employing an indirect method. In cases like these, the enquiry must always be as to the true nature and character of the challenged legislation and it is the result of such investigation and not the form alone that will determine as to whether or not it relates to a subject which is within the power of the legislative authority [Vide Attorney-General for Ontario v. Reciprocal Insurers, 1924 AC 328 at 337] . For the purpose of this investigation the court could certainly examine the effect of the legislation and take into consideration its object, purpose or design

[Vide Attorney-General for Alberta v. Attorney-General for Canada, 1939 AC 117 at 130] . But these are only relevant for the purpose of ascertaining the true character and substance of the enactment and the class of subjects of legislation to which it really belongs and not for finding out the motives which induced the legislature to exercise its powers. It is said by Lefroy in his well known work on Canadian Constitution that even if the legislature avows on the face of an Act that it intends thereby to legislate in reference to a subject over which it has no jurisdiction; yet if the enacting clauses of the Act bring the legislation within its powers, the Act cannot be considered ultra vires [See Lefroy on Canadian Constitution, page 75].”

(4) In Haji K. Haji K. Kutty Naha, supra, the Hon’ble Supreme Court held:

“5. But in enacting the Kerala Buildings Tax Act no attempt at any rational classification is made by the Legislature. As already observed, the Legislature has not taken into consideration in imposing tax the class to which a building belongs, the nature

of construction, the purpose for which it is used, its situation, its capacity for profitable user and other relevant circumstances which have a bearing on matters of taxation. They have adopted merely the floor area of the building as the basis of tax irrespective of all other considerations. Where objects, persons or transactions essentially dissimilar are treated by the imposition of a uniform tax, discrimination may result, for, in our view, refusal to make a rational classification may itself in some cases operate as denial of equality. This Court in a recent judgment has decided that the levy of tax in exercise of the power under Entry 49 List II of the Seventh Schedule in respect of factory buildings in a municipal area based on floor area was illegal : New ManekChowk Spinning and Weaving Mills Co. Ltd. v. Municipal Corporation of the City of Ahmedabad [(1967) 2 SCR 679]. The Court held in that case that the method of adopting a flat rate for a floor area for determining the annual value adopted by the Corporation of Ahmedabad in exercise of the powers conferred upon

it by the Bombay Provincial Municipal Corporation Act 49 of 1949 was against the provisions of the Act and the Rules made thereunder as well as all recognised principles of valuation for the purpose of taxation. If levy of tax in a municipal district based on floor area in respect of a factory building violates Article 14 of the Constitution when the tax is sought to be levied by the Municipal Corporation, we see no reason to uphold the tax imposed under the impugned Act when the State, in exercise of legislative authority conferred by Entry 49 List II Schedule VII, imposes liability to tax buildings solely on floor area. The vice of the Act in the present case is more pronounced than it was in New Manek Chowk Spinning & Weaving Mills case [(1967) 2 SCR 679]. In that case the Rules under which the tax was sought to be levied on the basis of floor area were restricted in their operation to factory buildings within the Corporation limits of Ahmedabad, whereas Act 19 of 1961 which is challenged in the present case applies to the whole State of Kerala in respect

of buildings completed on or after March 2, 1961, whatever may be the nature or class of the building, the use to which it is put, materials used in its construction and the extent of profitable user to which the building may be put, its cost and its economic rental. It is unnecessary in the circumstances to consider whether imposition of a tax only on buildings constructed after March 2, 1961, and exempting buildings completed before that date may not violate Article 14 of the Constitution.”

(5) In Nalla Raja Reddy, supra, the Hon’ble Supreme court held:

“24. On the said facts the question is whether Sections 3 and 4 of the Act offend Article 14 of the Constitution. The scope of Article 14 has been so well settled that it does not require further elucidation. While the article prohibits discrimination, it permits classification. A statute may expressly make a discrimination between persons or things or may confer power on an authority who would be in a position to do so. Official arbitrariness is more subversive of the doctrine of

equality than statutory discrimination. In respect of a statutory discrimination one knows where he stands, but the wand of official arbitrariness can be waved in all directions indiscriminately. A statutory provision may offend Article 14 of the Constitution both by finding differences where there are none and by making no difference where there is one. Decided cases laid down two tests to ascertain whether a classification is permissible or not viz. (i) the classification must be founded on an intelligible differentia in which distinguishes persons or things that are grouped together from others left out of the group; and (ii) that the differential must have a rational relation to the object sought to be achieved by the statute in question. The said principles have been applied by this Court to taxing statutes. This Court in Kunnathat Thathunni Moopil Nair v. State of Kerala [(1961) 3 SCR 77] held that the Travancore-Cochin Land Tax Act, 1955, infringed Article 14 of the Constitution, as it obliged every person who held land to pay the tax at the flat rate prescribed, whether

or not he made any income out of the property, or whether or not the property was capable of yielding any income. It was pointed out that that was one of the cases where the lack of classification created inequality. In East India Tobacco Co. v. State of Andhra Pradesh [(1963) 1 SCR 404] though this Court again held that taxation laws also should pass the test of Article 14 of the Constitution gave the caution that in deciding whether such a law was discriminatory or not it was necessary to bear in mind that the State had a wide discretion in selecting the persons or things it would tax. The applicability of Article 14 to taxation statute again arose for consideration in Khandige Sham Bhat v. Agricultural Income Tax Officer [(1963) 3 SCR 809, 817] and this Court affirmed the correctness of the decision in K.T. Moopil Nair case [(1961) 3 SCR 77] . In the context of a taxation law this Court held:

“Though a law ex facie appears to treat all that fall within a class alike, if in effect it operates unevenly on persons or property similarly situated, it may be said that the law offends the equality clause. It will then be the duty

of the court to scrutinize the effect of the law carefully to ascertain its real impact on the persons or property similarly situated. Conversely, a law may treat persons who appear to be similarly situated differently, but on investigation they may be found not to be similarly situated. To state it differently, it is not the phraseology of a statute that governs the situation but the effect of the law that is decisive. If there is equality and uniformity within each group, the law will not be condemned as discriminative, though due to some fortuitous circumstances arising out of a peculiar situation some included in a class get an advantage over others, so long as they are not singled out for special treatment. Taxation law is not an exception to this doctrine.... But in the application of the principles, the courts, in view of the inherent complexity of fiscal adjustment of diverse elements, permit a larger discretion to the Legislature in the matter of classification, so long it adheres to the fundamental principles underlying the said doctrine. The power of the Legislature to classify is of 'wide range and flexibility' so that it can adjust its system of taxation in all proper and reasonable ways."

It is, therefore, manifest that this Court while conceding a larger discretion to the Legislature in the matter of fiscal adjustment will insist that a fiscal statute just like any other statute cannot infringe Article 14 of the Constitution by introducing

unreasonable discrimination between persons or property either by classification or lack of classification. Two decisions relied upon by the learned counsel for the appellant may now be noticed. In C.V. Rajagopalachariar v. State of Madras [AIR 1960 Mad 543] the facts were : two Acts, namely, Madras Land Revenue Surcharge Act (19 of 1954) and Madras Land Revenue (Additional Surcharge) Act (30 of 1955), were passed by the Madras Legislature increasing the land revenue payable by landlords to the extent of the surcharge levied. Those two Acts were questioned, inter alia, on the ground that the offended Article 14 of the Constitution; but the ground of attack was that the Acts fixed a slab system under which the rate of surcharge progressively increased from As. -/2 to As. -/8 on each rupee of the land revenue paid and that the relevant provision was discriminatory in its operation as a distinction had been made between rich and poor people and as the levy of the tax was different for different classes of owners. That contention, for the

reasons given therein, was negatived. In the said Madras Acts a surcharge was imposed in addition to the previous rates and the previous rates had been made on the basis of ryotwari settlements which did not offend Article 14 of the Constitution and, therefore, a small addition to the said rates could not likewise infringe the said article. The present question did not arise in that case. Nor is the decision of the Mysore High Court in H.H. Vishwasha Thirtha Swamiar of Shri Pejavar Mutt v. State of Mysore [(1955) 1 Mys LJ 351, 359] in regard to the Mysore Land Revenue Surcharge Act (13 of 1961) has any bearing on the present question. There, as in the Madras Acts, the revenue surcharge levied was an additional imposition of land tax and, therefore, the Mysore High Court held that it did not offend Article 14 of the Constitution. In holding that Article 14 was not infringed, the Court said:

“We have before us a temporary measure. That is an extremely important circumstance. The State, not unreasonably, proceeded on the basis that a temporary levy could be made on the basis of existing rates.

We can think of no other reasonable basis on which the levy could have been made. It may be that in the result some areas were taxed more than others. But yet it cannot be said with any justification that there was any hostile discrimination between one area and another”.

It will be seen that in that case on existing rates based upon scientific data a surcharge was imposed as a temporary measure till a uniform land revenue law was enacted for the whole State. That decision, therefore, does not touch the present case. But in the instant case, as we have pointed out earlier, the whole scheme of ryotwari settlement was given up so far as the minimum rate was concerned and a flat minimum rate was fixed in the case of dry lands without any reference to the quality or fertility of the soil and in the case of wet lands a minimum wet rate was fixed and it was sought to be justified by correlating it to the ayacut. Further, the whole imposition of assessment was left to the arbitrary discretion of the officers not named in the Act without giving any remedy to the assesseees for questioning the correctness of any of the important

stages in the matter of assessment, such as ayacut, taram, rate or classification or even in regard to the calculation of the figures. Not only the scheme of classification, as pointed out by us earlier, has no reasonable relation to the objects sought to be achieved viz. fixation and rationalisation of rates but the arbitrary power of assessment conferred under the Act enables the appropriate officers to make unreasonable discrimination between different persons and lands. The Act, therefore, clearly offends Article 14 of the Constitution.”

(6) Venkateshwara Theatre, supra, the

Hon’ble Supreme Court held:

“23. Just as a difference in the treatment of persons similarly situate leads to discrimination, so also discrimination can arise if persons who are unequals, i.e. differently placed, are treated similarly. In such a case failure on the part of the legislature to classify the persons who are dissimilar in separate categories and applying the same law, irrespective of the differences, brings

about the same consequence as in a case where the law makes a distinction between persons who are similarly placed. A law providing for equal treatment of unequal objects, transactions or persons would be condemned as discriminatory if there is absence of rational relation to the object intended to be achieved by the law.”

(7) In Tuntanbou Guangta, supra, this Court held as under:

“34. The Manipur (Hill Areas) District Councils Act, 1971 provides for division of hill areas into not more than six Autonomous Districts whose boundaries are to be notified under the official gazette. Under Section 4 of the District Councils Act for each autonomous district, there shall be a District Council as the State Government may notify in the Official Gazette. It has been provided under Section 4 of the Act that the total number of seats in the District Councils to be filled by persons chosen by direct election on the basis of adult suffrage from territorial

constituencies shall be not more than 24.”

24. Now let us deal with the decisions relied upon by the learned Advocate General:

(1) In Public Services Tribunal Bar Association, supra, the Hon’ble Supreme Court held:

“26. The constitutional validity of an Act can be challenged only on two grounds viz. (i) lack of legislative competence; and (ii) violation of any of the fundamental rights guaranteed in Part III of the Constitution or of any other constitutional provisions. In State of A.P. v. McDowell &Co. [(1996) 3 SCC 709] this Court has opined that except the above two grounds there is no third ground on the basis of which the law made by the competent legislature can be invalidated and that the ground of invalidation must necessarily fall within the four corners of the aforementioned two grounds.

27. Power to enact a law is derived by the State Assembly from List II of the

Seventh Schedule of the Constitution. Entry 41 confers upon a State Legislature the power to make State Public Services; State Public Services Commission. Under this entry, a State Legislature has the power to constitute State Public Services and to regulate their service conditions, emoluments and provide for disciplinary matters etc. The State Legislature had enacted the U.P. Public Services Tribunals Act, 1976 in exercise of the power vested in it by Entry 41 of List II of the Seventh Schedule. Power to enact would include the power to re-enact or validate any provision of law in the State Legislature provided the same falls in an entry of List II of the Seventh Schedule of the Constitution with the restriction that such enactment should not nullify a judgment of the competent court of law. The legislative competence of the State to enact the U.P. Public Services Tribunal has not been questioned in these appeals. The challenge put forth to various amendments made is that the same are violative of Articles 14 and 16 of the Constitution being arbitrary as they

are onerous and work inequitably. In the present appeals legislative action of the State is under challenge. Judicial system has an important role to play in our body politic and has a solemn obligation to fulfil. In such circumstances it is imperative upon the courts while examining the scope of legislative action to be conscious to start with the presumption regarding the constitutional validity of the legislation. The burden of proof is upon the shoulders of the incumbent who challenges it. It is true that it is the duty of the constitutional courts under our Constitution to declare a law enacted by Parliament or the State Legislature as unconstitutional when Parliament or the State Legislature had assumed to enact a law which is void, either from want of constitutional power to enact it or because the constitutional forms or conditions have not been observed or where the law infringes the fundamental rights enshrined and guaranteed in Part III of the Constitution.

28. In State of Bihar v. Bihar Distillery Ltd. [(1997) 2 SCC 453] this Court

indicated the approach which the Court should adopt while examining the validity/constitutionality of a legislation. It would be useful to remind ourselves of the principles laid down which read: (SCC p. 466, para 17)

“The approach of the court, while examining the challenge to the constitutionality of an enactment, is to start with the presumption of constitutionality. The court should try to sustain its validity to the extent possible. It should strike down the enactment only when it is not possible to sustain it. The court should not approach the enactment with a view to pick holes or to search for defects of drafting, much less inexactitude of language employed. Indeed, any such defects of drafting should be ironed out as part of the attempt to sustain the validity/constitutionality of the enactment. After all, an Act made by the legislature represents the will of the people and that cannot be lightly interfered with. The unconstitutionality must be plainly and clearly established before an enactment is declared as void. The same approach holds good while ascertaining the intent and purpose of an enactment or its scope and application.”

In the same para the Court further observed as follows:

“The court must recognize the fundamental nature and importance of legislative process and accord due regard and deference to it, just as the legislature and the executive are expected to show due regard and deference to the judiciary. It cannot also be forgotten that our Constitution recognizes and gives effect to the concept of equality between the three wings of the State and the concept of ‘checks and balances’ inherent in such scheme.”

(2) In Satpal Saini, supra, the Hon’ble Supreme Court held:

“5. The State Government is aggrieved by the mandamus which has been issued by the High Court to amend the provisions of law. The submission of the State is that the above directions trench upon the sovereign legislative power of the State Legislature.

6. The grievance, in our view, has a sound constitutional foundation. The High Court has while issuing the above directions acted in a manner contrary to settled limitations on the power of judicial review under Article 226 of the Constitution. A direction, it is well settled, cannot be issued to the

legislature to enact a law. The power to enact legislation is a plenary constitutional power which is vested in Parliament and the State Legislatures under Articles 245 and 246 of the Constitution. The legislature as the repository of the sovereign legislative power is vested with the authority to determine whether a law should be enacted. The doctrine of separation of powers entrusts to the court the constitutional function of deciding upon the validity of a law enacted by the legislature, where a challenge is brought before the High Court under Article 226 (or this Court under Article 32) on the ground that the law lacks in legislative competence or has been enacted in violation of a constitutional provision. But judicial review cannot encroach upon the basic constitutional function which is entrusted to the legislature to determine whether a law should be enacted. Whether a provision of law as enacted subserves the object of the law or should be amended is a matter of legislative policy. The court cannot direct the legislature either to enact a law or to amend a law which it has enacted for

the simple reason that this constitutional function lies in the exclusive domain of the legislature. For the Court to mandate an amendment of a law — as did the Himachal Pradesh High Court — is a plain usurpation of a power entrusted to another arm of the State. There can be no manner of doubt that the High Court has transgressed the limitations imposed upon the power of judicial review under Article 226 by issuing the above directions to the State Legislature to amend the law. The Government owes a collective responsibility to the State Legislature. The State Legislature is comprised of elected representatives. The law enacting body is entrusted with the power to enact such legislation as it considers necessary to deal with the problems faced by society and to resolve issues of concern. The courts do not sit in judgment over legislative expediency or upon legislative policy. This position is well settled. Since the High Court has failed to notice it, we will briefly recapitulate the principles which emerge from the precedent on the subject.

7. In *Mallikarjuna Rao v. State of A.P.* [*Mallikarjuna Rao v. State of A.P.*, (1990) 2 SCC 707 : 1990 SCC (L&S) 387] and in *V.K. Sood v. Deptt. of Civil Aviation* [*V.K. Sood v. Deptt. of Civil Aviation*, 1993 Supp (3) SCC 9 : 1993 SCC (L&S) 907] this Court held that the court under Article 226 has no power to direct the executive to exercise its law-making power.

8. In *State of H.P. v. Parent of a Student of Medical College* [*State of H.P. v. Parent of a Student of Medical College*, (1985) 3 SCC 169 : AIR 1985 SC 910] this Court deprecated the practice of issuing directions to the legislature to enact a law : (SCC p. 174, para 4)

“4. ... The direction given by the Division Bench was really nothing short of an indirect attempt to compel the State Government to initiate legislation with a view to curbing the evil of ragging....”

The same principle was followed in *Asif Hameed v. State of J&K* [*Asif Hameed v. State of J&K*, 1989 Supp (2) SCC 364: 1 SCEC 358] where this

Court observed that : (SCC p. 374, para 19)

“19. ... The Constitution does not permit the court to direct or advise the executive in matter of policy or to sermonise qua any matter which under the Constitution lies within the sphere of the legislature or executive....”

In Union of India v. Assn. for Democratic Reforms [Union of India v. Assn. for Democratic Reforms, (2002) 5 SCC 294 : AIR 2002 SC 2112] this Court observed that : (SCC p. 309, para 19)

“19. ... it is not possible for this Court to give any directions for amending the Act or the statutory Rules. It is for Parliament to amend the Act and the Rules.”

.....

12. The judiciary is one amongst the three branches of the State; the other two being the executive and the legislature. Each of the three branches is co-equal. Each has specified and enumerated constitutional powers. The judiciary is assigned with the function of ensuring that executive actions accord with the law and that laws and executive decisions accord with the Constitution. The courts do

not frame policy or mandate that a particular policy should be followed. The duty to formulate policies is entrusted to the executive whose accountability is to the legislature and, through it, to the people. The peril of adopting an incorrect policy lies in democratic accountability to the people. This is the basis and rationale for holding that the court does not have the power or function to direct the executive to adopt a particular policy or the legislature to convert it into enacted law. It is wise to remind us of these limits and wiser still to enforce them without exception.”

(3) In J.P.Bansal, supra, the Hon’ble

Supreme Court held:

“14. Where, however, the words were clear, there is no obscurity, there is no ambiguity and the intention of the legislature is clearly conveyed, there is no scope for the court to innovate or take upon itself the task of amending or altering the statutory provisions. In that situation the Judges should not proclaim that they are playing the role of a law-maker merely for an exhibition of judicial valour. They have to

remember that there is a line, though thin, which separates adjudication from legislation. That line should not be crossed or erased. This can be vouchsafed by “an alert recognition of the necessity not to cross it and instinctive, as well as trained reluctance to do so”. (See : Frankfurter : Some Reflections on the Reading of Statutes in “Essays on Jurisprudence”, Columbia Law Review, p. 51.)

.....

16. Where, therefore, the “language” is clear, the intention of the legislature is to be gathered from the language used. What is to be borne in mind is as to what has been said in the statute as also what has not been said. A construction which requires, for its support, addition or substitution of words or which results in rejection of words, has to be avoided, unless it is covered by the rule of exception, including that of necessity, which is not the case here. [See : Gwalior Rayons Silk Mfg. (Wvg.) Co. Ltd. v. Custodian of Vested

Forests [1990 Supp SCC 785 : AIR 1990 SC 1747] (AIR at p. 1752), ShyamKishori Devi v. Patna Municipal Corpn. [AIR 1966 SC 1678] (AIR at p. 1682) and A.R. Antulay v. Ramdas Srinivas Nayak [(1984) 2 SCC 500 : 1984 SCC (Cri) 277] (SCC at pp. 518, 519).] Indeed, the Court cannot reframe the legislation as it has no power to legislate. [See : State of Kerala v. Mathai Verghese [(1986) 4 SCC 746 : 1987 SCC (Cri) 3] (SCC at p. 749) and Union of India v. Deoki Nandan Aggarwal [1992 Supp (1) SCC 323 : 1992 SCC (L&S) 248 : (1992) 19 ATC 219 : AIR 1992 SC 96] (AIR at p. 101).J”

25. From the narration of facts and in the light of the decisions relied upon by learned counsel appearing on either side, when this Court considered the relief of declaration sought by the petitioners, prima facie, there appears to be no ambiguity in Section 7 of the Act of 1971. The reason for arriving at such a conclusion is on the following reasons:

- Hill areas of Manipur is inhabited not only by Scheduled Tribes, but also others.
- There is no valid ground mentioned in the writ petition for challenging the provision and/or the language employed in Section 7 of the Act of 1971.
- It is settled law that a legislation can be challenged only on the ground of incompetency or violation of the fundamental rights of the citizens or on the ground of manifest arbitrariness, etc.

26. Section 9(1) of the Act of 1971 provides that the persons entitled to vote at elections of members of a District Council shall be the persons entitled by virtue of the provisions of the Constitution and the Representation of the People Act, 1950 (43 of 1950) to be registered as voters at elections to the House of the People. The petitioners themselves admitted that persons other than Scheduled Tribes are also residing in Hills Areas of Manipur and their names find place in the electoral roll

of the respective constituencies. In view of the above, the contention of the petitioners that if by virtue of being a resident of the Schedule Area/Hill Area, a general candidate can not contest the general election, but permitted in the District Council, cannot be countenanced for the simple reason that persons entitled to vote at elections of the members of a District Council shall be the persons entitled by virtue of the provisions of the Constitution of India and the Representation of People Act, 1950.

27. At this juncture, it is worth to mention Section 19 of the Representation of People Act, 1950, which reads thus:

“19. Conditions of Registration – Subject to the foregoing provisions of this part, every person who -

- (a) Is not less than eighteen years of age on the qualifying date, and
- (b) Is ordinarily resident in the constituency, shall be entitled to be registered in the electoral roll for that constituency.”

28. In view of the above and upon analyzing the provisions of the Constitution of India and the Representation of People Act, giving voting rights of the voters not only elections

relating to Parliamentary Constituency, State Legislative Assembly, but also in other elections like District Council, the qualification for membership has been fixed. Accordingly, the Legislators while enacting the Act in question, have rightly stated that *“a person shall not be qualified to be chosen as a member of a District council of any autonomous district unless he is an elector for any District Council constituency in that autonomous district”*, as Section 9 of the Act of 1971 stipulates the persons entitled to vote at elections of members of a District Council shall be the persons entitled by virtue of the provisions of the Constitution of India and the Representation of People Act, 1950.

29. In the light of the provision of Section 9, coupled with the provision of Section 7 of the Act of 1971, when this Court analyses the grievance expressed by the petitioners, being voters of the Hill Area in question, the respondents 4 and 5 are entitled to contest in District Council election and the objects and intent of the special enactment have not been defeated in any manner. Considering the issue involved herein and taking note of the ground reality of fact that in Hill Areas not only the Scheduled Tribe community but also other community people are living, the Legislators while enacting the Act in question has rightly said *“unless he is an elector for any District Council*

constituency” instead of particularly saying “*a Schedule Tribe*”. Thus, the argument of the learned counsel for the petitioners that the provision in question attracts the mischief of the colourable legislation meaning thereby what cannot be done directly cannot be done indirectly, cannot be appreciated. The further argument of the learned counsel for the petitioners that the other community like Gurkhas as in the instant case wants to have them represented for want of adequate representation in the District Council which can be done by way of nomination but not by entitling them to contest the Autonomous District Council election, cannot also be countenanced. Therefore, the next argument of the learned counsel for the petitioners that the ambiguity created by the language of Section 7 of the Act of 1971 is arbitrary and in violation of the doctrine of equality envisaged under Article 14 of the Constitution of India cannot stand in the eye of law.

30. In view of the above, the language employed in Section 7 of the Act of 1971 or the provision Section 7 of the Act of 1971 does not offend Article 14 of the Constitution of India. The scope of Article 14 of the Constitution of India has been well settled and it does not require further elucidation.

31. It is pertinent to note that as per Section 10(1) of the Act of 1971, coupled with the provision of Section 19 of the Representation of People Act, 1950, the petitioners are eligible to be chosen as members in the Autonomous District Council constituency and, therefore, the rights and privileges of the petitioners are not affected, infringed and violated because of the language employed in Section 7 of the Act of 1971, more particularly, the word "*elector*". Any "*elector*" of the District Council constituency in the Autonomous District can be chosen as member irrespective of Scheduled Tribe as per the Act of 1971. That apart, hill areas of Manipur is inhabited not only by Scheduled Tribes, but also others, which fact was not disputed by the petitioners.

32. While examining the challenge made by the petitioners to the constitutionality of the enactment of Section 7 of the Act of 1971, this Court finds that there is no arbitrariness or violation of fundamental rights of the citizens or incompetency. Admittedly, the petitioners have failed to prove the aforesaid three aspects alleged by them. When the petitioners have failed to establish the aforesaid three aspects, it is the duty of the Court to sustain the validity of the provision to the extent possible.

33. It is settled law that the Court should strike down the enactment only when it is not possible to sustain it. The Court should not approach the enactment with a view to pick holes or to search for defects of drafting, much less inexactitude of language employed. Indeed, any such defects of drafting should be ironed out as part of the attempt to sustain the validity/constitutionality of the enactment. After all, an Act made by the legislature represents the will of the people and that cannot be lightly interfered with. The unconstitutionality must be plainly and clearly established before an enactment is declared as void. The same approach holds good while ascertaining the intent and purpose of an enactment or its scope and application. In the case on hand, as stated *supra*, there is no valid ground to declare Section 7 of the Act of 1971 as unconstitutional or to hold that the language employed in the said Section affects the fundamental rights of the petitioners.

34. Time and again, the Hon'ble Supreme Court held that the Court has very limited role and in exercise of that, it is not open to have judicial legislation. Neither the Court can legislate, nor has it any competence to issue directions to the legislature to enact the law in a particular manner.

35. The judiciary is assigned with the function of ensuring that executive actions accord with the law and that laws and executive decisions accord with the Constitution. The Courts do not frame policy or mandate that a particular policy should be followed. The duty to formulate policies is entrusted to the executive whose accountability is to the legislature and, through it, to the people.

36. The Manipur (Hill Areas) District Council Act, 1971 came into effect way back on 26.12.1971 and from 1971, it is in operation and nobody questioned Section 7 of the Act or the language employed in the said Section. Now all of a sudden in the year 2019, the petitioners woke up from the slumber and state that because of the language employed in Section 7 of the Act of 1971 and the election of non-Scheduled Tribes, namely the respondents 4 and 5 as members of Sardar Hills (Kangpokpi) Autonomous District Councils from Irang Part-I where the second petitioner is an elector and illegible to be elected as Member of the District Council and Irang Part-II to which the first petitioner is an elector and illegible to be elected as Member of the District Council, their rights and privileges have been affected. There may not be any infringement of rights and privileges of the petitioners as alleged by them in the light of the discussions held

supra. There is also no question of treating the unequals as equal. Admittedly, the selection/election of respondents 4 and 5, who are non-Scheduled Tribes, as members of the District Council in the last election held in the year 2015 was in the wisdom of the people of the Hill Areas in question. That apart, the election held in the year 2015, cannot be cited in the year 2019 as the basis for the challenge made in the writ petition. No shred of material has been produced by the petitioners to show that since the enactment came into force, only Scheduled Tribe personnel were elected and, for the first time, respondents 4 and 5, who do not belong to the Scheduled Tribe community, have been elected.

37. In view of the above, this Court is of the considered view that the language employed in Section 7 of the Act of 1971 is clear, the intention of the legislature is to be gathered from the language used in the said Section. Addition or substitution of the words has to be avoided. As stated supra, the Court cannot reframe the legislation as it has no power to legislate.

38. At the end, it is to be pointed out that in the entire writ petition of the petitioner speaks "The Manipur (Hill Areas) District Council Act, 1972". The year of the Act is 1971.

However, the petitioners have not taken steps to amend the year of the Act in the writ petition.

39. For all the reasons stated above, this Court is of the view that there is no valid ground for challenging Section 7 of the Act of 1971 by the petitioners and, therefore, the writ petition fails. Accordingly, the writ petition is dismissed. No costs.

JUDGE

ACTING CHIEF JUSTICE

FR/NFR

Sushil