

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 57 of 2021

Date of order: 27.09.2023

Donbok Nongkhlaw Rngi & anr vs State of Meghalaya & ors

Coram:

Hon'ble Mr. Justice Sanjib Banerjee, Chief Justice

Appearance:

For the Petitioners : Dr N. Mozika, Sr Adv with
Ms K. Gurung, Adv.

For the Respondents : Mr S. Sengupta, Addl Sr GA
Mr V.G.K. Kynta, Sr Adv. with
Ms C. Nongkhlaw, Adv. [For R 2-4]
Mr L. Khyriem, Adv. [For R 5]
Mr K. Paul, Sr Adv. with
Mr S. Thapa, Adv. [For R 6]
Mr B. Khyriem, Adv.

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| i) | Whether approved for reporting in Law journals etc.: | Yes/No |
| ii) | Whether approved for publication in press: | Yes/No |

JUDGMENT: (per the Hon'ble, the Chief Justice) (Oral)

The matter pertains to an Act by the name of the Khasi Hills Autonomous District (Appointment and Sucession of Syiem, Deputy Syiem, Electors and Rangbah Shnong of Myllem Syiemship) Act, 2007 which was published in the official gazette on April 9, 2008. There is no dispute that the Act that was published was somewhat at variance with the proposed Bill that had been forwarded by the District Council to the

State government. As a consequence, by a letter dated May 12, 2017, the legislative secretariat of the Khasi Hills Autonomous District Council drew the attention of the State government to the perceived mistakes in the statute and required such mistakes to be corrected.

2. The relevant letter referred to two perceived mistakes: that in Schedule II of the Act by which “Nongkhlaw” had been included instead of “Nongkhlaw Rngi”; and that in the same schedule “Sankur, Raid Myllem” was appearing twice.

3. The present matter is confined to the “Nongkhlaw” and “Nongkhlaw Rngi” aspect and nothing herein will affect any other matter referred to in the relevant letter.

4. Following the receipt of such letter from the legislative secretariat of the Khasi Hills Autonomous District Council, the State government caused a set of corrigenda to be published in the official gazette on July 13, 2017. The corrigenda has 14 items and the present matter pertains to the first part of the 14th item.

5. The 14th item in the corrigenda published on July 13, 2017 provides as follows:

“14. In Schedule-II Sl.No.5 insert the word “Rngi” after the word “Nongkhlaw” and delete the words “San Kur, Raid Myllem” appearing below the words “Arphewlai jait, Raid San Shnong”.

6. Again, the present matter is confined only to the aspect of “Rngi” and “Nongkhlaw” and has nothing to do with the repetition or otherwise of “San Kur Raid, Myllem”.

7. After the publication of the aforesaid corrigenda, the executive committee of the District Council, at its meeting of December 20, 2017 resolved, inter alia, that the corrigenda published in the official gazette of July 13, 2017 ought to be recalled. The executive committee of the relevant District Council, accordingly, forwarded its recommendation to the State government along with a further resolution of January 9, 2018 by which it was resolved to denotify the entirety of the corrigenda published on July 13, 2017.

8. Upon receipt of copies of such resolutions, the State caused a further publication to be made in the official gazette on February 13, 2018 by which the entirety of the corrigenda to the Act of 2007 that had been published on July 13, 2017 was withdrawn.

9. The grievance of the petitioners is that the original Bill that was submitted by the legislative wing of the relevant District Council, which was the appropriate authority to look into the matter, clearly indicated “Nongkhlaw Rngi” and, upon the word “Rngi” being mistakenly left out in statute in Schedule II, it was the legislative wing of the District Council that required the correction to be made so that the statute

adhered to the suggestion that was forwarded in such regard by the District Council.

10. According to the petitioners, since this was a matter of enacting a law, it was the legislative wing of the District Council which was the appropriate authority and the executive committee could not have overridden the legislative wing to require the State to withdraw the corrigenda that had been published at the suggestion of the legislative wing.

11. The District Council has produced its records. It is submitted on behalf of the District Council that the original Bill that was forwarded to the State indicated “Nongkhlaw Rngi” in Schedule II and it was, upon realising the mistake in the Act that was passed, that the corrigendum in such regard was requested. The District Council, however, makes no submission as to how the executive committee of the Council came to advise or instruct or recommend to the State government contrary to what had been indicated by its legislative wing.

12. There appears to be some substance in the petitioners’ submission in such regard that when the matter pertained to the enactment of a statute and a proposed Bill had been forwarded by the legislative wing of the District Council, as to whether the resultant Act was in accordance with the proposed Bill or not was a matter which,

ordinarily, would be within the exclusive domain of the legislative wing of the District Council. However, it cannot also be said that the executive committee of the District Council would have no authority to rectify a mistake; though, ideally, there ought to have been some communication between the executive committee of the District Council and the legislative wing of the same District Council before the executive committee's decisions were forwarded to the State.

13. The private respondent is also represented and claims that it was an obvious mistake in the original suggested Bill to indicate “Nongkhlaw Rngi” in the relevant schedule and the reference should always have been to “Nongkhlaw” and not confined to “Nongkhlaw Rngi”. Such contention is seriously disputed by the petitioners.

14. What is evident is that a particular Bill was forwarded by the legislative wing of the relevant District Council to the State for enacting a law in terms thereof, but there were certain mistakes in the statute. The legislative wing of the relevant District Council endeavoured to correct such mistakes. In such a scenario, the executive committee of the District Council could not have jumped into the fray and undone what the legislative wing of the same District Council had caused to be done, unless rules in such regard gave the executive committee due authority thereupon.

15. However, without going into the merits of the matter and the propriety of either “Nongkhlaw” or “Nongkhlaw Rngi” figuring in Schedule II to the said Act of 2007, the resolutions of the executive committee of the Khasi Hills Autonomous District Council of December 20, 2017 and January 9, 2018 are set aside in so far as they relate to the reference in Schedule II to the Act of 2007 to “Nongkhlaw” or “Nongkhlaw Rngi”.

16. As a consequence, the withdrawal of the corrigenda by the publication made in the official gazette on February 13, 2018 is also set aside. That would result in the corrigenda published on July 13, 2017 to be revived. However, in view of the further directions issued hereafter, the petitioners herein will not be entitled to steal a march or obtain any irreversible benefit or adopt any irreversible measure that cannot be undone. Such direction is necessary in view of the order proposed to be made herein. Since it appears that the legislative and executive wings of the same Autonomous District Council may have been at loggerheads and may have not consulted each other, at least to the reference in the statute being “Nongkhlaw” or “Nongkhlaw Rngi”, the petitioners should not take any precipitous step that may be difficult to be undone.

17. WP (C) No. 57 of 2021 is disposed of by directing the Khasi Hills Autonomous District Council to take a reasoned decision in the

matter as to whether the reference in Schedule II to the relevant Act has to be “Nongkhlaw Rngi” or only “Nongkhlaw”. Such decision will be taken within four weeks from date upon first hearing both the petitioners herein and the respondent No. 6 or their authorised representatives. In case it is the legislative wing which is deemed to be the appropriate authority to take the call, a select committee of legislators as may be formed by the legislative council to hear both the petitioners and the respondent No. 6 or their authorised representatives before taking a final decision in the matter as to whether Schedule II to the said statute should refer only to “Nongkhlaw” or to “Nongkhlaw Rngi”.

18. The decision in such regard ought to be reasoned and such reasons should be furnished to both the petitioners and the respondent No. 6.

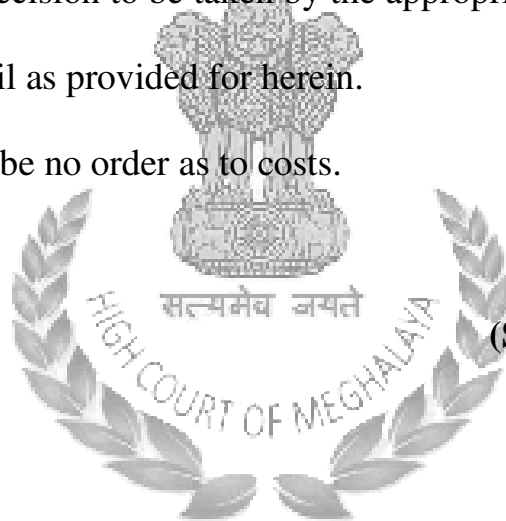
19. It is hoped that the decision is taken by the appropriate body of the Khasi Hills Autonomous District Council within a period of four weeks and such reasoned decision is communicated to both the petitioners and the respondent No. 6 within a fortnight of the decision being taken.

20. Nothing in this order will prevent either the petitioners or the respondent No. 6 from questioning the relevant order passed by the District Council on any ground available.

21. In course of the hearing to be afforded pursuance to the direction issued herein, the Syiem of Myllem or a duly authorised representative of such Syiem should also be heard.

22. The validity of the corrigenda published on July 13, 2017 will be subject to the decision to be taken by the appropriate authority within the District Council as provided for herein.

23. There will be no order as to costs.



(Sanjib Banerjee)
Chief Justice

Meghalaya
27.09.2023
"Sylvana PS"