

2. The writ petitioner is aggrieved with the impugned order dated 25-03-2022, whereby the respondent No. 2 i.e., the Executive Committee, KHADC, in accordance with the orders passed by the erstwhile Gauhati High Court, has held that the Malai clan and the Sohmat clan possess the same right to contest for the office of the Syiem of Hima Malai Sohmat.

3. Mr. Philemon Nongbri, learned counsel for the petitioner submits that by the impugned order, the District Council respondents are seeking to forcefully distort the customs, in order to deprive the writ petitioner of its legitimate rights as per prevailing customary practice and law. He further submits that the District Council respondents have codified the prevailing customs by way of the Khasi Hills Autonomous District (Nomination and Election of Syiem, Deputy Syiem, Myntri and Rangbah Shnong of Malai Sohmat Syiemship) Bill, 2016, and that the same is awaiting the assent of the Governor. It is also submitted that while the matter is still under consideration, and has been referred back to the concerned District Council Affairs on 2 queries, the respondent No. 4, had made a complaint before the respondent No. 3, with regard to clarification as to the existence of the Iawmuin clan, and further whether the Malai clan itself was original to the Malai Sohmat Syiemship. The complaint was then taken up for consideration by the respondents, he submits, and the writ petitioner was also afforded an opportunity of hearing. However, he submits, the

impugned order passed by the respondent No. 2 has deviated from the matter in issue and the respondent No. 2 has mechanically generated the impugned order by relying on the orders of the Gauhati High Court passed in Civil Rule No. 13 (SH) 1980, MC. No. 346 (SH) 2007, WA. No. 32 (SH) 2007 and WA. No. 34 (SH) 2007. It has been urged that the subject matter of the complaint was never decided at any point of time before any forum, and that the rightful course of action for the respondents was to address the matter, or to await the outcome of the Bill.

4. He finally contends that the impugned order having been passed out of context, the same is liable to be set aside.

5. Mr. V.G.K.Kynta, learned Special counsel assisted by Ms. G.Kynta, learned counsel appearing on behalf of the respondent Nos. 1-3 submits that the matter has a long and twisted history, whereby repeated orders had been passed and as on today, the orders that had been passed in the proceedings that have been concluded before the erstwhile Gauhati High Court and this Court hold the field. He therefore, submits that in consonance with the same, the respondent No. 2 perhaps without entering into the details of the complaint dated 05-04-2021, filed by respondent No. 4, had passed the impugned order.

6. Mr. B.Khyriem, learned counsel for respondent No. 4 has at the outset very fairly submitted that the complaint as made by respondent No.

4 was to strike at the root of the matter i.e., as to the origin of the clan Malai in Hima Malai Sohmat, and also the existence of a clan known as Iawmuin, which he submits has no relation to the clan Malai. He submits that the complaint was made, to seek directions from the District Council respondents to bring about uniformity and certainty in the manner of the custom prevailing, before the election to the office of the Syiem was held.

7. He however, also concurs that the impugned order has not addressed the complaint in any manner, but that however, the respondent No. 4 in view of the existence of a Bill, have taken a decision to assail the same in the event it is passed.

8. Heard learned counsel for the parties.

9. Without adverting to the earlier orders i.e., of the Election Tribunal which had rendered findings vide its order dated 23-05-1980, or the subsequent orders dated 22-09-1988, passed in Civil Rule No. 13 (SH) 1980, and the order passed in WP(C). No. 205 (SH) 2007 on 02-12-2010, and the later pronouncements, the question that these orders hold the field are not in dispute, and the only consideration that this Court at this stage is to engage in, is as to whether any effective order had been passed on the complaint of respondent No. 4.

10. From the submissions of the learned counsels for the parties, and from the materials placed on record, it is correct, as submitted, that the

order dated 25-03-2022 has not addressed the complaint, nor has any finding been rendered therein that has altered the existing position.

11. In this view of the matter, there being no points in issue for effective consideration, this writ petition is closed and disposed of. Parties are at liberty to take recourse to any alternative remedy in accordance with law.

12. However, before parting with the records, it is expected that the District Council authorities pursue the matter of the Bill before the Governor, for assent of the Bill that has been presented.

Meghalaya
11.07.2023
"Samantha PS"



Judge