

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 217 of 2023

Date of Decision: 19.09.2023

Shri. Khan Bahadur Sheikh Vs. Garo Hills Autonomous District
Council & 4 Ors.

Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Petitioner/Appellant(s) : Ms. A.P. Kharsahnoh, Adv.

For the Respondent(s) : Mr. S. Dey, SC GHADC(For R 1-4)
None for R 5.

i) Whether approved for reporting in Yes/No
Law journals etc.:

ii) Whether approved for publication Yes/No
in press:

Oral:

1. The brief facts necessary for this case are that the petitioner seeks to base his claim on an order dated 16.03.2015, whereby he was appointed as Goanbura of Jugirjhar area, as there was complaints against the then Goanbura, one Shri. Jahanur Mollah. The said

appointment order however, came to be stayed by an order of this Court dated 01.04.2015 in WP(C) No. 55 of 2015, and on the death of the petitioner therein (Shri. Jahanur Mollah), the matter was closed by this Court vide order dated 03.06.2022. It is in view of this development, that the writ petitioner has come by way of this application to seek renewal of his appointment to be the Goanbura of the said Jugirjhar area. In the writ petition, the writ petitioner is also aggrieved with an order dated 15.06.2023, whereby the respondent No. 5 has been appointed as Goanbura. It has therefore been contended that with the death of the earlier Goanbura, the appointment order dated 16.03.2015, stands revived and that the writ petitioner should be the rightful Goanbura of Jugirjhar area.

2. Ms. A.P. Kharsahnoh, learned counsel for the petitioner has submitted that the appointment of the respondent No. 5, is illegal, inasmuch as, the prior appointment of the writ petitioner was not taken into consideration, when the said impugned order was issued. She further submits that, the writ petitioner having acquired a valuable vested right to the post, the deprivation of the same, has resulted in grave injustice being caused. She therefore prays that, the impugned order be set aside and quashed, and that the earlier order dated

16.03.2015, be revived and the writ petitioner be allowed to assume the office of Goanbura of Jugirjhar area.

3. Mr. S. Dey, learned counsel appearing for the respondents No. 1-4 has referred to the affidavit filed on their behalf and submits that it is not a fact that the respondent No. 5, was elected without due process. The learned counsel has drawn the attention of this Court to Annexure – 1 of the affidavit, which he submits are the minutes of a public meeting held on 29.05.2022, with regard to the selection or election of the new Goanbura for the said area namely the respondent No. 5. He further submits that, the earlier order appointing the writ petitioner, after the same has been suspended by the Court, and not re-agitated, has since lost its force and the public of Jugirjhar area having elected the respondent No. 5 in the public meeting, any right that the writ petitioner possesses has since been extinguished. He therefore submits that there being no merit in the writ petition, the same does not deserve any further consideration.

4. It is noted that though the respondent No. 5 has been served, there is no appearance on his behalf and as such, the matter is being decided in his absence.

5. Having heard the learned counsels for the parties, firstly, it is noted that, it is a fact that the writ petitioner had been appointed as the

Goanbura of Jugirjhar area on 16.03.2015, which however, was suspended by order of this Court. It is also noted that no materials has been brought on record to show as to whether the writ petitioner had actively contested the writ petition or not, and the only order annexed is of a closure of the same by order dated 29.05.2022.

6. In the considered view of this Court, the writ petitioner having slept over his rights for over 7(seven) years, he cannot take recourse to, and seek to take the aid of the earlier appointment order, to renew his claim for the post of Goanbura. However, it is also noted that, in the minutes of the public meeting, his presence cannot be discerned, as to whether he has offered himself as a candidate for the said office. This fact is disputed by the learned counsel for the respondents, who has submitted that the writ petitioner was very much present.

7. This Court sitting in writ jurisdiction as earlier noted, is not in a position to ascertain, as to whether the writ petitioner was present or whether he had taken part in the proceedings, which was held as far back as on 29.05.2022. Coupled with this, is the fact that the appointment order is dated 15.06.2023, which is after a period of over a year after the said meeting.

8. The facts as they pertain having raised questions, which needs some consideration, it is therefore necessary for the ends of justice that,

the respondents have a relook at the matter concerning the election to the office of the Goanbura of Jugirjhar area, and if on a review of the matter, it is deemed necessary that they conduct a fresh election, the same shall be done by giving all the concerned parties adequate opportunity to take part.

9. With the above noted directions, matter accordingly stands closed and disposed of.

Meghalaya
19.09.2023
“D.Thabab-PS”



Judge