

Serial No.19
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C). No. 503 of 2019

Date of Order :17.05.2023

Shri. Carlos D. Sangma

Vs.

State of Meghalaya & Ors.

Coram:

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

Appearance:

For the Petitioner/Appellant(s) : Mr. P.K.Borah, Adv.

For the Respondent(s) : Mr. N.D.Chullai, AAG with
Mr. A.H.Kharwanlang, Addl.Sr.GA
for R 1 & 2.
Mr. V.G.K.Kynta, Sr. Adv. with
Ms. C.Nongkhlaw, Adv. for R 3.

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

(ORAL)

1. The writ petitioner who is stated to be a 'Mulor' Headman of a Garo Village is before this Court seeking a similar prayer that has been sought in the earlier rounds of litigation wherein this Court in the last order passed in

WP(C). No. 341 of 2017, by order dated 11-02-2019, had disposed of the writ petition by directing as follows:

“HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 341 of 2017

Date of order: 11.02.2019

Shri Carlos D. Sangma Vs.

State of Meghalaya & Ors.

Coram:

Hon’ble Mr. Justice Mohammad Yaqoob Mir, Chief Justice

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

Appearance:

For the Petitioner/Appellant(s): Mr. P.K. Borah, Adv.

For the Respondent(s) : Mrs. S. Bhattacharjee, GA (For R 1)

Mr. B. Khyriem, Adv. (For R 2)

Mr. T.T. Diengdoh, Sr. Adv with

Mr. K. Baruah, Adv. (For R 3)

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

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

Per Mohammad Yaqoob Mir, C.J.

1. Petitioner by instant petition as prayed for issue of writ of mandamus so as to command the respondents to define the term ‘Mulor’ used in the proviso of Rule 5 of the Rules of 2015 and to publish such definition within time as the Court may deem appropriate.

2. Learned counsel for respondent No. 3 pointed out that earlier by medium of WP(C) No. 297 of 2015, similar position was projected, same was disposed of vide order dated 03.05.2017 wherein, it has been observed that petition may not be worth to be entertained. Confronted with that position, the petitioner had withdrawn the petition. Subsequently, he

has moved a representation addressed to the Secretary, Khasi Hills Autonomous District Council Magistrate Branch with a prayer that the word 'Mulor' as used in the proviso of Rule 5 may be defined, the representation appear not to have been considered.

3. Now, according to the learned counsel for respondent No. 3 this petition due to later developments is rendered infructuous because the publication of the Khasi Autonomous District Council (Appointment and Succession of Chiefs and Headman) Rules of 2015 published in Part IV of the Gazette of Meghalaya, Extraordinary Published by Authority dated 21.08.2015 has been declared as unauthorised vide Notification dated 20.12.2015 published in the Gazette of Meghalaya, Extraordinary Published by Authority. Once publication of the rules has been declared unauthorised, rules as such are not into force.

4. Suffice it to say that the representation of the petitioner which he had submitted to the Secretary as stated above as a result of the earlier disposed of writ petition, [WP(C) No. 297 of 2015] shall be open to be considered by the respondent authorities.

5. Petition for the aforesaid reasons does not survive, therefore, dismissed. Dismissal of this petition will not preclude the petitioner to re-agitate, if need arises i.e., if rules by publication afresh in the Government Gazette, are brought into force.

6. Disposed of as above.

(H. S. Thangkhiew)
Judge

(Mohammad Yaqoob Mir)
Chief Justice"

2. From the above quoted order, the same issue that had been canvassed in the earlier petition has been brought again for consideration before this Court. Looking into the totality of the circumstances, and also

consequent on the submission of learned Special counsel for the respondent KHADC, that on the earlier Rules being declared as unauthorized, the respondent KHADC is working on framing a fresh set of Rules, it is therefore, only fair that the writ petitioner be allowed to make a representation before the Executive Committee, KHADC, which is seized with framing the fresh Rules for inclusion and definition of the term of 'Mulor' as headman of the Garo Village.

3. The said representation shall be preferred within a period of two weeks from today, which shall then be considered by the District Council when the Rules are finalized.

4. Writ petition accordingly stands closed and disposed of.



Judge

Meghalaya
17.05.2023
"Samantha PS"