

Serial No.33
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C). No.233 of 2023

Date of Decision :23.04.2024

Shri. Taseng S. Sangma,
S/O Late Janga M. Marak,
R/O Modynagar PO & PS , Tura
West Garo Hills District, Meghalaya.

...Writ Petitioner

-Vs-

1. Garo Hills Autonomous District Council,
represented by its Secretary,
Tura, West Garo Hills, Meghalaya.
2. Chief Executive Member,
Garo Hills District Council,
Tura, West Garo Hills, Meghalaya.
3. Deputy Chief Executive Member,
Garo Hills District Council,
Tura, West Garo Hills, Meghalaya.
4. Executive Member, Land and Revenue,
Garo Hills Autonomous District Council,
Tura, West Garo Hills, Meghalaya.
5. Shri. Tawe S. Sangma,
S/O Late Kanjing Ch Marak,
R/O Okkapara Songgitcham
PO Mellim, PS Damalgre South West
Garo Hills.

6. Smti. Noballin S. Sangma,
W/o Shri. Ellingstone Marak,
R/O Okkapara Songgitcham
PO Mellim, PS Damalgre South West
Garo Hills.
7. Shri. Ellingstone Ch Marak,
R/O Okkapara Songgitcham
PO Mellim, PS Damalgre South West
Garo Hills.

...Respondents.

Coram:

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

Appearance:

For the Petitioner/Appellant(s) : Mr. H.L.Shangreiso, Sr. Adv. with
Ms. E.Wanniang, Adv.

For the Respondent(s) : Mr. S.Deb, Adv. for R 1-4.
Mr. Philemon Nongbri, Adv. for R 5-7.

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| i) | Whether approved for reporting in
Law journals etc: | Yes/No |
| ii) | Whether approved for publication
in press: | Yes/No |
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JUDGMENT AND ORDER (ORAL)

1. Heard Mr. H.L.Shangreiso, learned Sr. counsel assisted by Ms.
E.Wanniang, learned counsel for the petitioner, Mr. S.Deb, learned counsel

for the respondent Nos. 1-4, as also Mr. Philemon Nongbri, learned counsel for the respondent Nos. 5-7.

2. The writ petitioner has sought to invoke the writ jurisdiction of this Court to question the appointment of respondent Nos. 6 and 7 as Nokmas of Okkapara Songgitcham A'khing, Damalgre, South West Garo Hills, only on one ground that the complaint filed by him against the said appointment was not dealt with by the respondent Nos. 2 & 3 in a correct manner, and that the same was disposed of without adhering to the principles as enunciated in the judgment of *Smti. Dore Sangma & Ors. vs. Chief Executive Member, Garo Hills Autonomous District Council and other connected matters, which is reported in 1988 (2 GLR) 120*.

3. A perusal of the impugned orders dated 21-04-2022, passed by the Deputy Chief Executive Member, I/C Land and Revenue, GHADC, Tura, and the Appellate order therefrom dated 28-06-2023, passed by the Chief Executive Member, GHADC, Tura, it is seen that the writ petitioner had objected to the appointment of respondent Nos. 6 and 7, after some initial objectors had withdrawn their objections and complaints, and also after an enquiry had been gone into by the Revenue authorities with regard to the application for appointment to the office of Nokmas of the respondent Nos. 6 and 7. The order dated 21-04-2022, is reproduced herein below:

*“IN THE COURT OF DEPUTY CHIEF EXECUTIVE
MEMBER*

I/C LAND REVENUE, GHADC, TURA.

No. GHADC-Rev/3 A.C. of 2020/

Dated: Tura, the 21st April, 2022

Tawe S. Sangma ...Petitioner

Vs.

Shri. Taseng S. Sangma ...Objector

ORDER

C.R. Put up today

Seen the application filed by Shri. Tawe. S. Sangma to register Nokmaship of the Okkapara Songgitcham 11-19 (30) A'king, and also perused the spot inquiry report dated 23-03-2020 submitted by the Mouzadar Mouza No. 111 and Hill Mondol, Mouza No. IV.

On perusal of the spot enquiry it is found that the Mouzadar of Mouza No. III along with Hill Mondal of Mouza No. IV has visited the spot after observing all necessary formalities with the help of Shri. C.R.Marak Mouzadar of Mouza No. IV and accordingly they have recorded the statement from both sides.

It is learnt from the report that the objectors Shri. Sengnam S. Marak and Shri. Witjing S. Sangma has withdrawn their objection and complaint on 07-02-2020 and 12-02-2020 respectively. Further, it is seen from the report that after the enquiry Shri. Taseng S. Sangma has filed a complaint/objection dated 19.03.2020.

This Court is of the opinion that the petition of Shri. Tawe S. Sangma deserves to be allowed because in the spot inquiry report it is clearly stated that Smti. Ningme S. Sangma who is the present female Nokma of the Okkapara Songgitcham 11-19 (30) A'king being

without any issue/children has adopted Smt. Nobalin S. Sangma by way of deragata (adoption) following the customs and practices of Garos and they rightfully deserves to be registered as Nokma, and this application being placed after observing all the necessary formalities and has placed a petition through Shri. Tawe S. Sangma, one of the chra to register Smt. Noballin S. Sangma and her husband Shri. Ellingston Ch. Marak as Nokma of the Okkapara Songgitcham 11-19 (30) has fulfilled all the customs and practices of Garo in regards to the registration of Nokma, and as far as the complaint/objection filed by Shri. Taseng S. Sangma is concern he has submitted only after the enquiry and after the withdrawal by the original complainants/objector and therefore, I do not find any merit, and on further perusal of the record it is found that Shri. Taseng S. Sangma was present in a meeting place in regards to register Smt. Noballin S. Sangma and her husband Shri. Ellingston Ch. Marak as Nokma along with the applicant and other clan's people, and for the same I do not find any weight in the complaint filed by Shri. Taseng S. Sangma after the enquiry and not to the satisfaction of this Court to entertain the same.

This Court finds it fit to dismiss the objection/complaint filed by Shri. Sengnam S. Sangma and Shri. Witjeng S. Sangma on being withdrawn and the complaint/objection of Shri. Taseng Sangma for want of merit without abusing process of the Court and without causing injustice to the petitioner and invoking the power vested upon me. I hereby allow Smt. Noballin S. Sangma and Shri. Ellingston Ch. Marak to register as the Nokma of the Okkapara Songgitcham 11-19 (30) A'king.

This petition of Shri. Tawe S. Sangma is allowed by this order.

The parties are to bear their own cost, no order as to cost.

*Sd/-
Dy. Chief Executive Member
I/C Land and Revenue
Garo Hills Autonomous
District Council, Tura.”*

4. Similarly, the order dated 28-06-2023 is reproduced herein below:

“GHADC REV.APPEAL CASE NO 21 A.C. OF 2022

Shri. Taseng S. Sangma Appellant

-Versus-

Shri Tawe S. Sangma & Ors.....Respondents.

ORDER

28.6.23

1. *This appeal case is against the Order dated 21.4.22 and 27.5.22. By this order EM has finalized the appointment of the respondents No. 2 & 3 as Nokmas of II-19 (30) Okkapara Songgitcham.*

2. *I have also heard the submissions of the respective counsels for the parties. From the submissions and from record it is also evident that before appointing the respondents No. 2 & 3 the clan people had series of meetings and discussions finally concluded by applying before the EM for registration of Respondents No. 2 & 3 viz., Smti. Noballin S Sangma and Shri Ellingstone Ch Marak as Nokmas of II-19 (30) Okkapara Songgitcham.*

3. *From the record it is also clear that Smti. Noballin S Sangma is an adoptive daughter of Smti Ningme S Sangma Nokma, she has no female issues of her own hence adopted Smti. Noballin S Sangma from her close relatives. Appointment of respondent 2 & 3 was initially objected by Shri. Singan S Sangma and Witjing S Sangma but later on they had withdrawn their respective objection petitions. However, immediately after their withdrawal present appellants Shri Taseng S*

Sangma had filed his objection in his individual capacity but EM did not consider his objection hence passed the impugned order.

4. Against the majority decision the above two individuals have objected which was subsequently withdrawn after this withdrawal only the present appellant had attempted to revive this objection by filing his separate objection petition but no resolution or support from the clan members had been submitted in his objection petition which indicate that this objection is in his individual capacity only as against the wishes and desires of the clan people to register the respondent 2 & 3 as Nokmas of II-19 (30) Okkapara Songgitcham. All these suggest that the appeal has no merit therefore the same is dismissed as devoid of merit and done with a vested interest only. Accordingly I uphold the impugned order passed by the Ld. EM in this case.

5. This appeal case is disposed of accordingly, parties are to bear their own costs.

*Sd/-
The Chief Executive Member
Garohills Autonomous
District Council, Tura.”*

5. The findings in short, as can be seen from the orders above is that the writ petitioner has nowhere established his locus or on whose authority the complaint was filed after the entire proceedings had been concluded i.e., the process of the application of respondent Nos. 6 & 7, the withdrawal of objections by the initial two objectors, and also the furnishing of the enquiry report by the Revenue Officer of the District Council.

6. From the side of the respondents, materials have been annexed to show that the claim for the appointment of the respondent Nos. 6 & 7 is based on the application of Garo customary law, and further the application for consideration of appointment as submitted before the District Council which is annexed as Annexure- 1 to the writ petition, has been with the support of the Chras and Maharis, pursuant to a meeting held on 04-01-2020 and 196 signatures have been appended thereto. It has been brought to the notice of the Court that the petitioner himself was present in the meeting held on 04-01-2020, and had signed the document at Sl. 143. It is to be noted that to this document, there has been no rebuttal by the petitioner, nor any rejoinder affidavit filed to the same.

7. From the side of the official respondents, it has been submitted that due process taking into account the customary law had been followed, and that there is no illegality or irregularity whatsoever on the appointment of respondent Nos. 6 & 7.

8. This Court on the basis of the submissions and materials as placed, has firstly noted that the writ petitioner himself in the writ petition has not disclosed as to who he is, what is his interest and what relief he is entitled to in assailing the impugned orders. Nowhere has it been reflected in the writ petition that he has received authorization to file the complaint, after the matter had been already concluded by the respondents, and as observed

earlier, the only ground is that there should have been more detailed enquiry into the complaint.

9. In the backdrop of these facts, and due to the fact that the writ petitioner had never disclosed his locus, nor the relief he is entitled to, nor filed any rejoinder affidavit to the affidavits filed by the respondents, there is no merit in the writ petition and the impugned orders suffers from no illegality.

10. Accordingly, the writ petition stands dismissed.

Judge

Meghalaya
23.04.2024
"Samantha PS"