

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C). No. 336 of 2022

Date of Decision :10.05.2024

1. Shri. Willot Marak,
S/o. (Lt) Maljeng Sangma,
R/o. Sawilgiri Gonggnagiri,
P.O. & P.S. Rongsak,
East Garo Hills,
Meghalaya.
2. Smti. Koini M Sangma,
Wife of Shri Willot Marak,
R/o. Sawilgiri Gonggnagiri,
P.O. & P.S. Rongsak,
East Garo Hills,
Meghalaya.

...Petitioners

-Versus-

1. The Garo Hills Autonomous District Council
represented by its Secretary,
Executive Committee,
West Garo Hills, Tura.
2. The Chief Executive Member,
Garo Hills Autonomous District Council,
Tura.
3. The Executive Member, I/C Revenue & Land,
Garo Hills Autonomous District Council,
Tura.
4. Shri. Walning M. Sangma
R/o. Gonggnagiri,
P.O. & P.S. Rongsak,

East Garo Hills,
Meghalaya.

5. Shri. Balnang Ch. Marak,
H/o Polsoni M. Sangma,
R/o. Gonggnagiri,
P.O. & P.S. Rongsak,
East Garo Hills,
Meghalaya.

6. Smti. Polsoni M. Sangma,
W/o Balnang Ch. Marak,
R/o. Gonggnagiri,
P.O. & P.S. Rongsak,
East Garo Hills,
Meghalaya.

....Respondents

Coram:

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

Appearance:

For the Petitioner/Appellant(s) : Mr. P.T. Sangma, Adv.

For the Respondent(s) : Mr. S.Dey, Adv. with
Ms. N.Rajee, Adv. for R 1-3.
Mr. A.G.Momin, Adv. for R 4-6.

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

JUDGMENT AND ORDER (ORDER)

1. The instant writ petition has been filed assailing the order dated 01-07-2022, whereby the private respondent Nos. 5 & 6 have been registered as Nokmas of Sawilgiri Gonggnagiri A'khing.

2. The grievance of the writ petitioners as portrayed, is that they had earlier been appointed as Nokmas in the year 2005, but on a challenge to the same by the predecessors in interest of respondent Nos. 5 & 6, the Nokmaship was set aside by the Executive Member, I/c Revenue by an order dated 31-01-2017, which was thereafter upheld on appeal by the Chief Executive Member by an order dated 12-10-2018.

3. It has been submitted that against these orders, a writ petition had been preferred being WP(C). No. 518 of 2019, but as the then private respondents in the intervening period had expired, the writ petitioners had withdrawn the said petition with liberty to file afresh if a fresh cause of action arose.

4. Today, Mr. P.T.Sangma, learned counsel for the petitioner while pressing the writ petition has submitted that the Executive Member, I/c Revenue, on an application of the respondent Nos. 5 & 6, only in consideration that there were no proceedings pending either in the High Court or any other forum, had granted the prayer of the respondent Nos. 5 & 6 to be appointed as Nokmas. He submits that the same was without the

knowledge of the petitioners who he claims should be the rightful Nokmas.

As such, he prays for interference and for appropriate orders to issue.

5. Mr. S.Dey, learned counsel on behalf of the respondent Nos. 1, 2 & 3 has at the outset raised objections and submits that the writ petition is premature, inasmuch as, an alternate remedy by way of an appeal is available to the writ petitioners to challenge the said orders as given in the Garo Hills Autonomous District (Social Customs and Usages) Validating Act, 1958. He further submits that the application annexed to the writ petition at Annexure-7, dated 09-06-2022 is also not to the knowledge of the respondents. He finally submits that if the writ petitioners harbor any grievance against the impugned order, they should first approach the Chief Executive Member by way of an appeal.

6. Mr. A.G.Momin, learned counsel on behalf of the respondent Nos. 4, 5 & 6 has endorsed the submission made by the learned counsel for the respondent Nos. 1, 2 & 3.

7. I have heard learned counsel for the parties and examined the materials on record.

8. As submitted, it is seen that the writ petitioners had earlier approached this Court against the orders mentioned above and also that the writ petition was subsequently withdrawn due to the demise of the then private respondents who were the Nokmas of the A'khing. As such, with

the appointment of the new Nokmas, the present respondent Nos. 5 & 6, a new cause of action has arisen to which the writ petitioners, if aggrieved by any order are to assail the same in the manner provided in the Act and in accordance with law.

9. The said Act i.e., The Garo Hills Autonomous District (Social Customs and Usages) Validating Act, 1958, at Section 8 dealing with vacancy in the office of the Nokmas and disputes therein, had provided at Section 8(2) that any person aggrieved at the order of the Revenue Member under sub-section (1) above may prefer an appeal to the Chief Executive Member within 60 days from the date of order. The writ petitioners, it appears, on coming to learn about the impugned order dated 01-07-2022, passed by the Executive Member I/c Revenue, had immediately approached this Court by way of this instant writ petition, without first approaching the Appellate Forum of the Chief Executive Member.

10. In this view of the matter, therefore, there being a regular statutory appeal provision available before approaching this court, the instant writ petition is not entertained at this stage.

11. Therefore, the writ petitioners are at liberty to approach the Chief Executive Member with an appropriate appeal application against the order dated 01-07-2022. As the question of delay may arise, it is further provided

that the same is to be condoned and the appeal taken up for consideration in view of the fact that within the period of 60 days itself, the writ petitioners had approached this Court and as such, the time spent in pursuing the remedy before this Court should not be taken into account.

12. The writ petition accordingly stands closed and disposed of.

Judge

Meghalaya
10.05.2024
"Samantha PS"