

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C). No. 377 of 2023

Date of Decision :05.03.2024

1. Shri. Babul Ryntathiang,
Son of Smti. B. RYntathiang,
Resident of Umsning Patarim,
Myllem Syiemship,
Ri-Bhoi District, Meghalaya

::: Petitioner

-Vs-

1. The Khasi Hills Autonomous District Council,
Represented by the Secretary, Executive Committee,
East Khasi Hills District, Shillong.
2. The Dy. Chief Executive Member,
In-charge Elaka,
Khasi Hills Autonomous District Council.
3. Syiem of Myllem,
Hima Myllem Syiemship
Represented by Chief Having its office
in Mawkhar Shillong-1, East Khasi Hills District,
Meghalaya.
4. Syiem Raid Mawbuh,
Myllem Syiemship,
Ri-Bhoi District, Meghalaya.
5. Myntri of Myllem Syiemship having its
Office at Mawkhar.
6. Shri. Vicky Myllemngap,
Acting Headman of Umsning

Dorbar Shnong Umsning Patarim,
Ri-Bhoi District, Meghalaya.

::: Respondents

7. Umsning Town Durbar,
Umsning, Ri-Bhoi District,
Meghalaya.

::: Proforma Respondent.

Coram:

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

Appearance:

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

For the Respondent(s) : Ms. C.Nongkhlaw, Adv. vice
Mr. V.G.K.Kynta, Sr. Adv. for R 1 & 2.
Mr. W.Jyrwa, Adv. for R 3.

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

JUDGMENT AND ORDER (ORAL)

1. The grievance of the writ petitioner which has been brought before this Court is that the Sanad of appointment as Headman of Umsning Patarim, was not renewed after a period of one year as was the convention, and the non-extension, while extending the term of other similar Headmen, has infringed upon, and violated the rights of the writ petitioner.

2. The facts in a small compass are that the petitioner was appointed as Headman of Umsning Patarim on 19-01-2022, which was for a term of one year. However, by the impugned order dated 19-09-2023, the respondent No. 3 did not renew the Sanad after its expiry, and at the same time appointed the village Secretary to take over the functions as the Acting Headman of the said village.

3. Mr. H.L.Shangreiso, learned Sr. counsel assisted by Ms. E.Wanniang, learned counsel appearing for the petitioner submits that the action of the respondent No. 3, in issuing the impugned order dated 19-09-2023, is illegal and not in consonance with the practices that had been followed in the said village. Attention of the Court is also drawn to the Constitution of the Umsning Town Durbar Raid Mawbuh, Myllem Syiemship, Ri-Bhoi District, where he submits that as a norm, the Headman is to function for five years and renewal is accorded routinely. It is further submitted that it is known to the petitioner that there were some complaints against him, but the complaints were not the grounds on which the Sanad was not renewed. A political appeal, he submits was also preferred before the Executive Committee of the respondent Nos. 1 & 2 by the writ petitioner, but the same came to be dismissed by an order dated 17-11-2023, on the same ground that the appointment as per the Sanad, was only for a period of one year.

4. Learned Sr. counsel therefore submits that the entire action of the respondents is arbitrary and illegal, inasmuch as, the complaints neither proceeded as per law, and the convention as is recorded in the Constitution was not followed as he was not given an extension. He therefore prays that appropriate directions be issued from this Court that the complaints be taken to its logical conclusion on examination by the respondents.

5. Ms. C.Nongkhlaw, learned counsel on behalf of the respondent Nos. 1 & 2 has submitted that the matter has since been rendered infructuous, in view of the fact, that a new Headman has since been elected, and the petitioner did not offer his candidature at the time when fresh elections were held. She therefore, submits that nothing survives for consideration and as such, the writ petition should be dismissed.

6. Mr. W.Jyrwa, learned counsel for the respondent No. 3 has relied upon the affidavit filed on 22-02-2024, wherein the Sanad of appointment to the newly elected Headman of Umsning Patarim dated 17-01-2024, has been annexed. He also supports the submission of Ms. C.Nongkhlaw, learned counsel for the respondent Nos. 1 & 2, to the extent that the matter has been rendered infructuous as the writ petitioner did not bother to contest in the fresh elections, and as such, the writ petitioner will not be in a position to challenge the same.

7. I have heard the learned counsel for the parties and examined the materials on record. It is noted from the Sanad/Appointment, that the same

has been issued as per Section 16 (2) of the Khasi Hills Autonomous District (Appointment and Succession of Syiem, Deputy Syiem, Electors and Rangbah Shnong of Myllem Syiemship) Act, 2007, and the Administration of Myllem Syiemship Rules, 2015. A perusal of Section 16 (2) shows that no term of office is prescribed for the office of Headman, but only speaks about the fact that the result of any elections were to be placed before the Syiem respondent No. 3 herein, and the Executive Durbar for confirmation, and upon which appointment letter or Sanad is issued under such terms and conditions as the Executive Durbar may prescribe. The appointment of the petitioner therefore being as per Section 16 (2) and the conditions duly prescribed therein, no clause or no condition exists in the terms of appointment for automatic renewal of the term of office, of Headman.

8. The only material that is available with regard to the term of office is contained in the Constitution of the Umsning Town Durbar, which is published by the Durbar itself, wherein at Article-X (C) (3), it has been provided, that the term of office of the Headman and other Executive Members of the Durbar, was to be for five years, but the same was subject to termination in case of complaints by the majority of the members present at the particular meeting. The claim of the petitioner to office being based on this document, this Court is not inclined to accept the same, inasmuch as, the Constitution has no statutory force, and if at all, it only

records a convention, and as is well known, a convention is not enforceable in law in India. The appointment of the writ petitioner initially for a period of one year as evidenced by the Appointment letter/Sanad, was clearly in terms of the statute which has been referred above. As such, the non-renewal of the said appointment cannot be said in anyway, to be illegal or an arbitrary exercise of power by respondent No. 3, which was also confirmed by the order of the respondent Nos. 1 & 2.

9. Further, it is noted that during the pendency of the writ petition, fresh elections have been held to the post of Headman of Umsning Patarim, and a new incumbent has since assumed office. In this view of the matter, therefore, no relief is warranted or can be afforded to the writ petitioner, and the writ petition on the grounds as set forth, is accordingly dismissed.

10. However, before parting with the records, as there is an allegation of the removal being based on the complaints of a certain section of the villagers, the petitioner is at liberty to avail appropriate remedy in that regard.

11. Writ petition is accordingly disposed of.

Judge

Meghalaya
05.03.2024
"Samantha PS"