

GAHC010202632023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WA/353/2023

M ISAAC
S/O LATE M WUNGNAOSHING OF SORBUNG VILLAGE PO AND PS
PHUNGYAR, UKHRUL, KAMJONG, DISTRICT MANIPUR, 795145

VERSUS

THE STATE OF MANIPUR AND 3 ORS.
THROUGH THE ADDITIONAL CHIEF SECRETARY/PRINCIPAL
SECRETARY/COMMISSIONER (TA AND HILLS) GOVT. OF MANIPUR, OLD
SECRETARIATE, BABUPARA, PO AND PS IMPHAL, DIST WEST IMPHAL,
MANIPUR, 795001

2:THE DEPUTY SECRETARY
(TA AND HILLS) GOVT. OF MANIPUR
OLD SECRETARIATE
BABUPARA, PO AND PS IMPHAL
DIST WEST IMPHAL
MANIPUR- 795001

3:THE UKHRUL AUTONOMOUS DISTRICT COUNCIL
UKHRUL
THROUGH ITS CHIEF EXECUTIVE OFFICER
PHUNGREITANG UKHRUL
PO AND PS UKHRUL
DIST UKHRUL, MANIPUR- 795142

4:SHRI MARK LUTHING
MEMBER
UKHRUL AUTONOMOUS DISTRICT COUNCIL
NOW ALLOWING TO HOLD THE CHARGE OF CARETAKER CHAIRMAN OF
UKHRUL AUTONOMOUS DISTRICT COUNCIL
C/O CHIEF EXECUTIVE OFFICER
UKHRUL AUTONOMOUS DISTRICT COUNCIL
MANIPUR

Advocate appearing for the parties:

For the Appellant(s) : Mr. H.S. Paonam, Sr. Advocate
Mr. S. Saikia, Advocate
Mr. N. Bepin Singh, Advocate
For the respondent(s) : Mr. Debanand, Addl. AG, Manipur
Kh. Tarun Kumar, Sr. Advocate
Mr. Bipradeep Deb, Advocate
Ms. K. Bhattacharyya, Advocate

**BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

Date of Hearing : 21.02.2024
Date of Judgment : 15.03.2024

JUDGMENT & ORDER

(CAV)

(Vijay Bishnoi, CJ)

1. Heard Mr. H.S. Paonam, learned senior counsel appearing for the appellant. Also heard Mr. Debanand, learned Additional Advocate General, Manipur; Mr. Kh. Tarun Kumar, senior counsel and Mr. B. Deb, learned counsel appearing for the respondents.
2. This intra-court writ appeal is filed by the appellant being aggrieved with the judgment and order dated 08.08.2023, passed by the learned Single Judge in the High Court of Manipur, at Imphal, in WP(C) No. 288/2023, whereby the writ petition filed by the writ appellant has been dismissed and the interim order passed in the writ petition has been vacated.
3. The appellant has filed this writ appeal pursuant to the leave granted by

the Hon'ble Supreme Court vide order dated 29.08.2023, passed in Special Leave to Appeal (C) No. (S) 18591/2023.

4. The brief facts of the case are that the elections for the Ukhrul Autonomous District Council (hereinafter referred to as "ADC, Ukhrul") were held in the year 2015 and the notification of the members elected to the Council was issued on 17.06.2015. Subsequently, one Dr. Yaronsho Ngalung was elected as the Chairman of the ADC, Ukhrul, whereas the appellant was elected as the Vice-Chairman of the said Council. The term of office of the members of the Council was to be expired on completion of five years from the date of issuance of the notification of their election. However, prior to that, the term of the Council was extended for a period of six months w.e.f. from 01.06.2020 by the Hon'ble Governor of Manipur vide order dated 19.03.2020. As such, the term of the Council was extended up to 30.11.2020. However, the Government of Manipur, vide order dated 30.11.2020, decided to supersede the Autonomous District Councils of the State of Manipur by the orders of the Hon'ble Governor of Manipur and appointed the respective Deputy Commissioners to exercise the powers and duties conferred and imposed upon the Autonomous District Councils under the Manipur Hill Areas District Council Act, 1971 (hereinafter referred to as "the Act of 1971"). The order dated 30.11.2020 passed by the Government of Manipur is reproduced hereunder:

"ORDER BY THE GOVERNOR OF MANIPUR

30th November, 2020

No. 7/1/2019-HILLS(ADC/ELEC): In exercise of the Manipur (Hill Areas) District Council Act, 1971, Section 47(1)(d) read with Section 47 (2)(b), the Governor of Manipur is pleased to supersede the 6 (six) Autonomous District Councils as the present term of the Autonomous District Councils expires on 30th November, 2020 and the administration of the District Councils cannot be carried out in accordance with the provisions of the Manipur (Hill Areas) District Council Act, 1971. Further, the Governor of Manipur is pleased to appoint the

respective Deputy Commissioners to exercise all powers and duties conferred and imposed upon the Council under the Manipur (Hill Areas) District Council Act, 1971 or any other law for the time being enforced.

This order shall come into immediate effect for the smooth functioning of the administration of the Autonomous District Councils.

This is issued with the approval of the competent authority.

By orders in the name of the Governor”

5. The order dated 30.11.2020 was challenged by way of several writ petitions before the learned Single Judge of High Court of Manipur and the learned Single Judge, while issuing notices to the respondents vide order dated 27.11.2020, passed in WP(C) 613/2020, passed an interim order “*directing the State respondents that the term of the District Councils in respect of the hill areas be extended till 04.12.2020 for which the State Government should issue necessary orders*”.

6. It appears that no order of extending the term of the District Councils has been passed by the State Government pursuant to the interim order dated 27.11.2020, passed by the learned Single Judge in WP(C) No. 613/2020. However, WP(C) No. 613/2020 and other connected writ petitions came to be allowed by the Single Bench in the High Court of Manipur vide judgment and order dated 02.03.2021, whereby the order dated 30.11.2020 issued by the Government of Manipur was quashed and set aside and certain directions were issued to the State Government. The operative portion of the judgment dated 02.03.2021 is reproduced hereunder:

“17. For the reasons stated hereinabove, the writ petition being WP(C) No. 613 of 2020 stands disposed of with the observation made hereinabove while WP(C) No. 645 of 2020 and WP(C) 647 of 2020 are allowed and consequently, the impugned order dated 30.11.2020 is quashed and set aside with the following directions:

(a) The State Government and in particular the Additional Chief Secretary (TA & Hills), Government of Manipur shall write a letter to the Hill Areas

Committee, Manipur Legislative Assembly seeking its opinion as to whether the term of the District Councils shall be extended or not till the completion of the election and the said letter shall be written within a week from the date of receipt of a copy of this judgment and order.

- (b) On receipt of such a letter from the Additional Chief Secretary (TA & Hills), Government of Manipur, the Hill Areas Committee, Manipur Legislative Assembly shall furnish its opinion within a week from the date of receipt of the letter.*
- (c) After the opinion of the Hill Areas Committee, Manipur Legislative Assembly being duly received, the State Government shall take a decision and issue an appropriate order immediately in terms thereof.*
- (d) Till such an order is issued by the State Government as mentioned in the direction (c) above, the interim order dated 27.11.2020 passed by this Court in WP(C) 613 of 2020 shall continue.*
- (e) The State Election Commission, Lamphelpat, Manipur is directed to announce the date on which the election of the District Councils shall be held within a week from the date of receipt of a copy of this judgment and order.*

There shall be no order as to costs.”

7. After passing of the order dated 02.03.2021 in WP(C) 321/2020 and other connected writ petitions, the Government of Manipur issued an order dated 17.05.2021, whereby it appointed all the then existing Chairmen of the Autonomous Councils as Caretaker Chairmen. The order dated 17.05.2021 is reproduced hereunder:

“ORDERS BY THE GOVERNOR OF MANIPUR

Imphal, the 17th May, 2021

No. 7/1/2019-HILLS(ADC/ELEC) Pt: In supersession of the previous Government order No. 7/1/2019-HILLS(ADC/ELEC) dated 30/11/2020 and in consideration of the recommendation of the State Executive Committee, Relief and Disaster Management Department, the Governor of Manipur is pleased to appoint all the existing Chairmen of the Autonomous District Councils as Caretaker Chairmen. This is an interim measure till the elections of the Autonomous District Councils are held.

- 2. The Caretaker Chairmen shall not exercise any financial powers and shall look after the normal routine duties of the Councils. Further, the Deputy Commissioner and the Chief Executive Officer concerned of the District shall be joint signatories for all financial transactions of the Councils.*

3. *This is issued with the approval of the State Cabinet.*

By orders in the name of the Governor”

8. In the meantime, the Chairman of the ADC, Ukhrul, who was appointed as Caretaker Chairman, tendered his resignation on 06.06.2022 and the Government of Manipur accepted his resignation and passed the following order:

“ORDERS BY THE GOVERNOR OF MANIPUR

Imphal, the 27th June, 2022

No. TA-101(1)/5/2022-e-TA & H:- Consequent upon the resignation of Dr. Yaransho Ngalung from the post of Caretaker Chairman, Autonomous District Council, Ukhrul, as conveyed by Raj Bhavan, Imphal vide letter No. GMS/LA-38/2022 dated 16th June 2022 and in exercise of powers conferred under Rule 6(b) of the Manipur (Hill Areas) District Council Rules, 1972, the Governor of Manipur is pleased to order that Dr. Yaransho Ngalung has demitted office with effect from 16th June, 2022, the date of acceptance of the resignation.

By orders in the name of the Governor”

9. Thereafter, on 04.08.2022 the Government of Manipur, pursuant to the Cabinet decision discontinued the system of Caretaker Chairman in all the Autonomous District Councils in Manipur with immediate effect. The order dated 04.08.2022 is reproduced hereunder:

“GOVERNMENT OF MANIPUR

SECRETARIAT: TRIBAL AFFAIRS & HILLS DEPARTMENT

ORDERS BY THE GOVERNOR OF MANIPUR

Imphal, the 4th August, 2022

No. 501(1)/21/2022-e TA & H: In pursuance of the Cabinet decision dated 21/07/2022, the Government Order No. 7/1/2019-Hills (ADC/ELEC) dated 17th May, 2021 is cancelled and Caretaker Chairmen system under Autonomous District Councils, Manipur is discontinued with immediate effect.

By orders in the name of the Governor”

10. Immediately after passing of the order dated 04.08.2022, it was challenged by way of writ petitions. Several writ petitions were filed by the aggrieved parties challenging the order dated 04.08.2022 whereby the State Government had discontinued the system of appointing Caretaker Chairman in Autonomous District Councils and Municipalities. The said writ petitions came to be disposed of by the learned Single Judge vide order dated 19.01.2023. The operative portion of the judgment dated 19.01.2023 is reproduced hereunder:

“13. Therefore, I am inclined to grant the interim order already granted in WP(C) No. 935 of 2022, WP(C) No. 704 of 2022 and WP(C) No. 880 of 2020 and accordingly, the impugned order dated 04.08.2022 in WP(C) No. 632 of 2022 & in WP(C) No. 633 of 2022 are stayed.

14. Therefore, I am inclined to pass the following orders:

a) The present writ petitions are disposed of.

b) The interim order granted by this Court on 04.11.2022 in writ petitions i.e., WP(C) No. 935 of 2022 and subsequently in other writ petitions in WP(C) No. 704 of 2022, WP(C) No. 880 of 2022 and today in WP(C) No. 632 of 2022, WP(C) No. 633 of 2022, should continue till the issuance of the notification for the Elections of ULBs and Autonomous District Councils.

15. With the above observations, these writ petitions are disposed of.”

11. After passing of the order by the learned Single Judge on 19.01.2023, the Government of Manipur issued an order dated 14.03.2023, which is quoted hereunder:

“GOVERNMENT OF MANIPUR

SECRETARIAT: TRIBAL AFFAIRS & HILLS DEPARTMENT

ORDERS BY THE GOVERNOR OF MANIPUR

Imphal, the 14th March, 2023

No. TA-501/1/2022-e-TA & H:- Whereas, the Hon’ble High Court of Manipur in its order dated 19.01.2023 passed in WP(C) No. 935 of 2022, WP(C) 632 of 2022, WP(C) No. 633 of 2022, WP(C) No. 704 of 2022 and WP(C) No. 880 of 2022 passed the following orders/directions:

a) The present writ petitions are disposed of.

b) The interim order granted by this Court on 04.11.2022 in writ petitions i.e., WP(C) No. 935 of 2022 and subsequently in other writ petitions in WP(C) No. 704 of 2022, WP(C) No. 880 of 2022 and today in WP(C) No. 632 of 2022, WP(C) No. 633 of 2022, should continue till the issuance of the notification for the Elections of ULBs and Autonomous District Councils.

2. Whereas, Administrative Department of Tribal Affairs and Hills sought comments of Law Department and Ld. Advocate General, Manipur. Therein the Ld. Advocate General advised that;

“The orders dated 04.01.2022 and 19.01.2023 of the Hon’ble High Court passed in WP(C) No. 935 of 2022 and WP(C) 632 of 2022 have not been stayed or modified by the higher forum of the Hon’ble High Court or Supreme Court, and as such Administrative Department will have to honour the said Hon’ble High Court orders to avoid legal complications including contempt of Court etc.”

3. In view of the above, the Hon’ble Governor of Manipur is pleased to allow the last constituted Caretaker Chairmen of Autonomous District Councils concerned to function as Caretaker Chairmen till the issuance of the Notifications for the election of Autonomous District Councils, Manipur.

4. This is issued in compliance of the Hon’ble Court of Manipur order dated 19.01.2023 passed in WP(C) No. 935 of 2022, WP(C) No. 632 of 2022, WP(C) No. 633 of 2022, WP(C) No. 704 of 2022 and WP(C) No. 880 of 2022.

By orders and in the name of the Governor”

12. Thereafter, on 27.03.2023 the State Government issued another order, whereby the respondent No. 4 herein was appointed as the Caretaker Chairman of the ADC, Ukhrul. The order dated 27.03.2023 is reproduced hereunder:

“GOVERNMENT OF MANIPUR

SECRETARIAT: TRIBAL AFFAIRS & HILLS DEPARTMENT

ORDERS BY THE GOVERNOR OF MANIPUR

Imphal, the 27th March, 2023

No. TA-501/1/2022-e-TA & H:- Whereas, the Tribal Affairs and Hills Department Order No. TA-501/1/2022-e-TA & H dated 14th March, 2023 stated that “the Hon’ble Governor of Manipur is pleased to allow the last constituted Caretaker Chairmen of Autonomous District Councils concerned to function as Caretaker Chairmen till the issuance of the Notifications for the election of Autonomous District Councils, Manipur”.

2. This was issued in compliance of the Hon’ble Court of Manipur order dated

19.01.2023 passed in WP(C) No. 935 of 2022, WP(C) No. 632 of 2022, WP(C) No. 633 of 2022, WP(C) No. 704 of 2022 and WP(C) No. 880 of 2022.

3. Whereas, Dr. Yaronsho Ngalung had tendered resignation from the office of the Caretaker Chairman, Autonomous District Council (ADC), Ukhrul.

4. Whereas, the Government had accepted his resignation vide Order No. TA-101(1)/5/2022-e-TA & H dated 27th June, 2022.

5. And whereas, in continuation of the Government order of Even Number dated 14th March, 2023, the Governor of Manipur is pleased to allow Shri Mark Luithing, Member of the last constituted ADC, Ukhrul to function as Caretaker Chairman, ADC, Ukhrul till the issuance of the Notification for the election of Autonomous District Councils, Manipur.

By orders and in the name of the Governor

(Dr. R.A. Ransing)

Deputy Secretary (TA & Hills)

Government of Manipur”

13. The writ appellant challenged the order dated 27.03.2023 issued by the Government of Manipur by filing WP(C) No. 288/2023, in which he prayed that the order dated 27.03.2023 appointing the respondent No. 4 herein as Caretaker Chairman of the Ukhrul Autonomous Council be quashed and set aside and directions be issued to the respondents to appoint him as the Caretaker Chairman of the ADC, Ukhrul. However, the said writ petition came to be dismissed by the learned Single Judge by the impugned judgment. Hence this appeal.

14. The learned Single Judge has non-suited the writ appellant citing mainly the following reasons:

(i) As the term of the ADC, Ukhrul has already expired and the writ petitioner/appellant is no longer holding the post of Vice-Chairman, therefore, he cannot seek aid of Rule 9 of the Rules of 1972.

(ii) The writ appellant was never appointed as Vice-Chairman of the ADC,

Ukhrul and, therefore, he has no right to claim for appointment as Caretaker Chairman of the ADC, Ukhrul.

(iii) The respondent No. 4 herein was appointed as Caretaker Chairman of ADC, Ukhrul as a matter of policy decision of the State Government and therefore the same cannot be interfered with.

15. Assailing the impugned order, the learned counsel appearing for the appellant has vehemently argued that the said finding of the learned Single Judge to the effect that the writ appellant was never elected as Vice-Chairman of the ADC, Ukhrul is perverse and cannot be sustained.

16. He has contended that the appellant was elected as Vice-Chairman unopposed and the Chief Executive Officer of the ADC, Ukhrul, had duly sent the information to the Principal Secretary (TA & Hills), Government of Manipur, vide letter dated 21.12.2017 informing that the writ appellant was elected unopposed as Vice-Chairman of the ADC, Ukhrul on 20.12.2017. It is submitted that the learned Single Judge has erred in observing that the letter dated 21.12.2017 is a mere communication between the Chief Executive Officer, ADC, Ukhrul and the Principal Secretary (TA & Hills), Government of Manipur, and the same cannot be taken as a proof of appointment of the writ appellant as Vice-Chairman of ADC, Ukhrul. It is argued that there is no question of discarding the said communication, particularly when neither the respondent State nor the respondent No. 4 herein has disputed the claim of the writ appellant that he was appointed as Vice-Chairman of the ADC, Ukhrul.

17. Learned senior counsel appearing for the appellant has also invited our attention towards the Election Certificate issued by the Presiding Officer declaring that the appellant was duly elected as the Vice-Chairman of the ADC,

Ukhrul. It is submitted that though the Election Certificate was not produced before the learned Single Judge, but the issuance of the said certificate is not in dispute and therefore, in such circumstances, the said finding of the learned Single Judge cannot be sustained and is liable to be set aside.

18. It is further argued by the learned senior counsel appearing for the appellant that the learned Single Judge has failed to appreciate that the term of the ADC, Ukhrul has never expired because by virtue of the said order dated 27.11.2020 passed in WP(C) 613/2020, the term of the Autonomous District Councils was extended and, later on, vide judgment dated 02.03.2021, passed in WP(C) 613/2020 and other connected writ petitions, the term of the Autonomous District Councils was extended till issuance of election notification. It is submitted that as the term of ADC, Ukhrul has never expired, the claim of the appellant for appointing him as Caretaker Chairman of the ADC, Ukhrul cannot be discarded, particularly when the post of Chairman of the ADC, Ukhrul is vacant.

19. Learned senior counsel has placed reliance on the decision of the Hon'ble Supreme Court rendered in ***Ravi S. Naik vs. Union of India and Others***, reported in ***1994 Supp (2) SCC 641***, and ***Commissioner of Central Excise, Nagpur vs. Gurukripa Resins Private Limited***, reported in ***(2011) 13 SCC 180***, and has argued that the orders passed by the High Courts and the Hon'ble Supreme Court are binding and, therefore, the said orders passed by the Manipur High Court are binding till they are set aside. It is argued that in terms of the order dated 27.11.2020 and the final order dated 02.03.2021 passed in WP(C) 613/2020 and other connected writ petitions, the term of the ADC, Ukhrul is deemed to have been extended till the issuance of election notification and also in view of the fact that the post of the Chairman, ADC, Ukhrul is lying vacant, the appellant

has the right to be appointed as Caretaker Chairman of the ADC, Ukhul by virtue of Rule 9 of the Rules of 1972.

20. It is further argued that the learned Single Judge has also erred in not interfering with the impugned order dated 27.03.2022, whereby the respondent No. 4 herein was appointed as Caretaker Chairman of the ADC, Ukhul. It is submitted that the said decision of the State Government of appointing the respondent No. 4 herein as Caretaker Chairman of the ADC, Ukhul is in clear violation of Rule 9 of the Rules of 1972 and cannot sustain the scrutiny of law as the said policy decision is violative of the statutory provisions.

21. Learned senior counsel appearing for the appellant has therefore prayed that the impugned order be set aside and the writ petition filed by the appellant may be ordered to be allowed and the relief prayed for in the writ petition be granted.

22. Per contra, Mr. Debanand, learned Additional Advocate General, Manipur, has supported the impugned judgment and has argued that the learned Single Judge has not committed any illegality in dismissing the writ petition filed by the appellant.

23. It is submitted that, admittedly, the term of the ADC, Ukhul has expired and in such circumstances the appellant cannot claim himself as Vice-Chairman of the ADC, Ukhul and also cannot claim for his appointment as Caretaker Chairman of the ADC, Ukhul by virtue of Rule 9 of the Rules of 1972.

24. It is submitted that the State Government of Manipur has taken a decision to appoint the respondent No. 4 herein as Caretaker Chairman of ADC, Ukhul vide order dated 27.03.2022 and the said decision of the State Government cannot be called into question in ordinary course as the Hon'ble Supreme Court,

from time to time, has clearly held that any policy decision taken by the Government is not liable to be interfered with lightly.

25. On the question of election of the appellant as Vice-Chairman of the ADC, Ukhrul, learned Additional Advocate General has frankly admitted that the election of the appellant as Vice Chairman of the ADC, Ukhrul has not been questioned by the State.

26. Mr. B. Deb, learned counsel appearing on behalf of the respondent No. 4 herein has also supported the impugned judgment.

27. He has argued that State of Manipur has taken a policy decision to appoint the respondent No. 4 herein as the Caretaker Chairman of the ADC, Ukhrul, and the said policy decision of the State Government is not liable to be interfered with until and unless the appellant demonstrates infringement of any fundamental right of his own. Learned senior counsel appearing for the respondent No. 4 herein has placed reliance on the decision of the Hon'ble Supreme Court rendered in ***State of Uttar Pradesh and Others vs. Chaudhari Ran Beer Singh and Another***, reported in ***(2008) 5 SCC 550***.

28. It is also argued by the learned counsel for the respondent No. 4 herein that the then Caretaker Chairman of the ADC, Ukhrul had resigned from the post on 16.06.2022, however, after resignation of the Chairman, the appellant did not make any claim to allow him to function as Caretaker Chairman of the ADC, Ukhrul and filed this writ petition only after one year when the State Government allowed the respondent No. 4 herein to function as the Caretaker Chairman of the ADC, Ukhrul. It is contended that the conduct of the appellant disentitles him from any relief and, therefore, the judgment passed by the learned Single Judge dismissing the writ petition filed by the appellant is not

liable to be interfered with.

29. Heard the learned counsel appearing for the parties and perused the material available on record.

30. First of all, we deal with the issue whether the appellant was elected as Vice-Chairman of the ADC, Ukhul or not.

31. The learned Single Judge has discarded the communication dated 21.12.2017 sent by the Executive Officer, ADC, Ukhul, to the Chief Secretary (TA & Hills), Government of Manipur, informing that the appellant had been elected unopposed as Vice-Chairman of the ADC, Ukhul. The respondent State as well as the respondent No. 4 herein has never raised any objection regarding the appointment of the appellant as Vice-Chairman of the ADC, Ukhul, nor the State respondents have raised any doubt about the genuineness of the communication dated 21.12.2017. Apart from that, the appellant has annexed an Election Certificate to this writ appeal as Annexure-W/3, wherein the Presiding Officer has certified the election of the appellant as Vice-Chairman of the ADC, Ukhul. The said Election Certificate has also not been disputed by the respondent State as well as by the respondent No. 4 herein. In such circumstances, we are of the view that the finding recorded by the learned Single Judge to the effect that the appellant was never appointed as Vice-Chairman of the ADC, Ukhul cannot be sustained and is hereby reversed.

32. Now the question that arises for our consideration is whether the writ appellant can claim, as a matter of right, for his appointment as Caretaker Chairman of the ADC, Ukhul in his capacity as the Vice-Chairman of the said Council.

33. As noticed earlier, the then Chairman of the ADC, Ukhul, who was later

appointed as Caretaker Chairman, submitted his resignation and the same was accepted by the Government of Manipur on 27.06.2022.

34. As per Section 13 of the Act of 1971, the term of the office of the members of the District Councils is five years and the same can be extended up to a period of one year. As per Section 23 of the Act of 1971, a District Council is required to choose two members to be respectively the Chairman and Vice-Chairman of the District Council. It is not in dispute that one Dr. Yaronsho Ngalung and the appellant were elected as Chairman and Vice-Chairman, respectively, of the ADC, Ukhrul and they functioned as the Chairman and Vice-Chairman till expiry of the term of the ADC, Ukhrul.

35. After careful scrutiny of the scheme of the Act of 1971 and the Rules of 1972, it can be gathered that there is no provision for extension of the term of the members of the Autonomous District Councils beyond the period of one year after expiry of five years. In such circumstances, it cannot be said that the Autonomous District Councils remain in existence after the expiry of the said extended period.

36. It is well settled that right to elect or to be elected are neither fundamental rights nor common law rights but are special rights created under the provisions of the Act and the Rules made thereunder. They are special rights created by the statutes and not a natural, absolute or vested rights. [See *Jyoti Basu and others vs. Debi Ghosal and others*: (1982) 1 SCC 691; *Michael B. Fernandes vs. C.K. Jaffer Sharief and Ors.*: (2002) 3 SCC 521; *Javed and Ors vs. State of Haryana & Ors.*: (2003) 8 SCC 369 *Pratap Chandra Mehta vs. State Bar Council of M.P. and Ors.*: (2011) 9 SCC 573].

37. Similarly, a democratically elected body is to be governed as per the

statutory provisions under which it is constituted. In the said statute, if the term of the elected body is prescribed, then the said elected body can only function till the expiry of the said term. The term of the said elected body cannot be said to be automatically extended if a new body is not elected or constituted.

38. In the present case, initially the term of the ADC, Ukhrul was to expire on 16/17.06.2020. However, vide notification dated 19.03.2020 the Government of Manipur extended the term of the members of the Autonomous District Councils up to 30.11.2020, but after that the term of the Autonomous District Councils has not been extended. When the term of the members of the District Councils was not extended, it cannot be said that the Autonomous District Councils remained in existence after expiry of their term. If the Autonomous District Councils are not in existence, there is no question of continuance of the writ appellant as Vice-Chairman of the ADC, Ukhrul after expiry of the its term.

39. Learned senior counsel appearing on behalf of the appellant has placed heavy reliance on the order dated 27.11.2020 passed by the learned Single Judge in WP(C) 613/2020, whereby the State Government was directed to extend the term of the Autonomous Councils up to 04.12.2020, but, in fact the said term has not been extended at any point of time. Interestingly, after the order dated 02.03.2021 passed by the learned Single Judge in WP(C) 613/2020 and other connected writ petitions, wherein the learned Single Judge has ordered that the said order dated 27.11.2020 passed in WP(C) 613/2010 shall continue, the State Government issued an order on 17.05.2021, whereby the then existing Chairmen of the Autonomous District Councils were appointed as Caretaker Chairmen, but the term of the Autonomous District Councils has not been extended by the Government. It is to be noticed that no one has challenged the order dated 17.05.2021.

40. In the above-mentioned circumstances, when the term of the Autonomous District Councils has not been extended by the Government despite the said interim order and the final order passed by the learned Single Judge in WP(C) 613/2020, the appellant cannot claim, as a matter of right, to issue direction to appoint him as Caretaker Chairman of the ADC, Ukhrul by virtue of Rule 9 of the Rules of 1972.

41. It is interesting to note herein that in the scheme of 1971 and the Rules of 1972 there is no provision for appointment of Caretaker Chairman of the Autonomous District Councils. However, the Government of Manipur, vide order dated 17.05.2021 appointed the then existing Chairmen of the Autonomous District Councils as Caretaker Chairmen, which is, in our view, clearly beyond the competence of the State Government and, rather, runs contrary to the scheme of the Act of 1971 and the Rules of 1972, wherein Section 47 of the Act of 1971 empowers the State Government only to appoint an officer or authority as the Administrator to exercise all the powers and to perform the duties conferred and imposed upon the Council by, or under the Act or any other law.

42. In view of the above discussions, we do not find any reason for interfering with the conclusion arrived at by the learned Single Judge in the impugned judgment that the appellant cannot be appointed as Caretaker Chairman of the ADC, Ukhrul.

43. Now the question comes whether the decision of the State Government in appointing the respondent No. 4 herein as Caretaker Chairman of the ADC, Ukhrul is justified and legally sustainable.

44. It is true that the appellant did not claim to be appointed as the Caretaker Chairman of the ADC, Ukhrul soon after acceptance of the resignation of the

then Caretaker Chairman of the ADC, Ukhurul, i.e. 27.06.2022. However, this fact itself is not sufficient to prohibit the appellant from filing writ petition to challenge the impugned order, whereby the respondent No. 4 herein was appointed as Caretaker Chairman of the ADC, Ukhurul.

45. After taking into consideration the facts and circumstances of the case and the scheme of the Act of 1971 as well as the Rules of 1972, we are of the considered opinion that the appointment of the respondent No. 4 herein as Caretaker Chairman of the ADC, Ukhurul is not sustainable in the eyes of law for the following reasons:

- (i) There is no provision in the scheme of the Act of 1971 and the Rules of 1972 for appointment of Caretaker Chairman.
- (ii) The State Government has appointed the respondent No. 4 herein as Caretaker Chairman of the ADC, Ukhurul treating him as a member of the ADC, Ukhurul. However, when the ADC, Ukhurul itself is not in existence after expiry of its term, the appointment of a member of the said Council as Caretaker Chairman is illegal.
- (iii) The justification given by the State Government in appointing the respondent No. 4 as Caretaker Chairman of the ADC, Ukhurul, being a policy decision, is without any basis. In the absence of any provision in the scheme of the Act of 1971 and the Rules of 1972 enabling the State Government to appoint Caretaker Chairmen of the Autonomous District Councils, the said policy decision of the State Government can very well be termed as violative of the statutory provisions.

46. In view of the above discussions, the impugned judgment passed by the learned Single Judge is hereby set aside. The appointment of the respondent

No. 4 herein as Caretaker Chairman of the ADC, Ukhrul, vide order dated 27.03.2023 is also set aside. However, the relief claimed by the appellant for issuing direction to the respondent State to appoint him as Caretaker Chairman of the ADC, Ukhrul is declined.

47. Before parting, we would like to observe that, as noted earlier, Section 47 of the Act of 1971 empowers the State Government to appoint any officer or authority as Administrator of the Administrative District Council for performing all powers and duties conferred upon the District Council.

48. Section 47 of the Act of 1971 is reproduced hereunder:

“Supersession of District Council. — (1) If, on receipt of a report from the Deputy Commissioner or otherwise, the Administrator is of opinion that—

(a) any District Council is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this Act or any other law; or

(b) any District Council exceeds or abuses its powers; or

(c) the financial position and credit position of any District Council is seriously threatened; or

(d) a situation has arisen in which the administration of any District Council cannot be carried on in accordance with the provisions of this Act, the Administrator may, by an order published, together with a statement of reasons therefore, in the Official Gazette, supersede such Council for such period, not exceeding one year, as may be specified in the order:

Provided that before making an order of supersession as aforesaid under clause (a) or clause (b) or clause (c), reasonable opportunity shall be given to such Council to show cause why such order of supersession should not be made:

Provided further that the period of supersession may be extended for any further period or periods not exceeding six months at a time in consultation with the Hill Areas Committee.

(2) When any District Council is superseded by an order under sub-section (1),—

(a) all the members of the Council (including the Chairman and Vice-Chairman thereof) shall, on such date as may be specified in the order, vacate their offices as such members without prejudice to their eligibility for election or nomination under clause (d);

(b) during the period of supersession of the Council, all powers and duties conferred and imposed upon the Council by or under this Act or any other law shall be exercised and performed by such officer or authority as the

Administrator may appoint in this behalf;

(c) all property vested in the Council shall, until it is reconstituted, vest in the Central Government;

(d) before the expiry of the period of supersession, election or nomination, as the case may be, of members to the Council shall be held or made for the purpose of reconstituting the Council.

49. The present case falls within the provision of Section 47(1)(d), because on account of expiry of the term of the ADC, Ukhrul, a situation has arisen in which the administration of the ADC, Ukhrul cannot be carried out in accordance with the provisions of this Act. As such, the State Government, in exercise of powers under Section 47(2)(b), can appoint an officer or authority as Administrator to function and exercise the powers and duties conferred and imposed upon the ADC, Ukhrul, under the Act of 1971 and any other law.

50. While making the above observations, we are conscious of the fact that the learned Single Judge of the Manipur High Court, vide judgment dated 02.03.2021 passed in WP(C) 613/2020 and other connected writ petitions, has quashed the order dated 30.11.2020 issued by the State Government appointing the Deputy Commissioners as Administrators of the Autonomous District Councils to exercise all the powers conferred and imposed upon the Councils, treating it as illegal. However, we have reservations about the said view of the learned Single Judge, but we refrain ourselves from commenting on it since it is informed that an intra-court appeal, against the judgment dated 02.03.2021, is pending consideration before the Division Bench of the High Court of Manipur, at Imphal.

51. We have also taken note of the fact that despite expiry of the term of the Autonomous District Councils in the State of Manipur on 30.11.2022, fresh elections of the District Councils have not been held till date. In such circumstances, we direct the State Government as well as the State Election

Commission of the State of Manipur to conduct the elections of the Autonomous District Councils by observing all the formalities, as expeditiously as possible.

52. This intra-court appeal is disposed of with the above observations and directions.

No order as to costs.

JUDGE

CHIEF JUSTICE

Comparing Assistant