

REPORTABLE

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WA No. 75 of 2016
Ref:- WP(C) No. 369 of 2009

Mrs. Jubilee Moi, aged about 55 years, D/o (Late)
Tongjapao Zou, Acting Chief of Behiang village of
Singhat Division, District-Churachandpur, Manipur.

...Appellant

-Versus-

1. The State of Manipur represented by the Principal Secretary (Hills), Government of Manipur.
2. The Deputy Commissioner, Churachandpur District, Government of Manipur.
3. Shri Paodamang Ngaihte, aged about 60 years, S/o (Late) Chingkam, Self Style Chief of Behiang (Tuanthong) village, P.O. & P.S. Singhat, Churachandpur District, Manipur (at present New Lamka, P.O. & P.S. Churachandpur, Manipur.

.... Respondents

**HON'BLE THE CHIEF JUSTICE MR. D. KRISHNAKUMAR
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA**

For the Appellant	::	Mr. Ng. Jagatchandra, Advocate.
For the Respondents	::	Mr. S. Nepolean, Sr. GA Mr. Robert, Dy. GA Mr. D. Julius Riamei, Advocate
Date of Hearing and reserving Judgment & Order ::		11.02.2025
Date of Judgment & Order	::	02.04.2025.

JUDGMENT AND ORDER

(CAV)

(D. Krishnakumar, C.J) :

Heard Mr. Ng. Jagatchandra, learned counsel for the appellant; Mr. D. Julius Riamei, learned counsel and Mr. S. Nepolean, learned senior Government Advocate assisted by Mr. Robert, learned Deputy Government Advocate, appearing for the respondents.

2. The appellant herein has filed the *intra court* appeal before this Court as against the dismissal order passed in the writ petition.

3. The brief facts of the case is as follows.

4. The appellant submits that the appellant and the private respondents had their disputes over the Chiefship or ownership of a place called Behiang in Churachandpur district, Manipur. According to the appellant, Shri Langjachin established the Behiang village as its founder and Chief and allowed Shri Tuanthong who hailed from erstwhile Burma (now Myanmar) to stay and live in the Behiang village as permissive possessor and licensee along with some of his followers and he also agrees that the Government had recognized 2 (two) villages namely, Behiang Langjachin under the Chiefship of Jamkhongin who was the ancestor of the appellant and another Behiang (Tuanthong) who was the ancestor of the private respondent in the area of Behiang range, by including both villages in the schedule

of Manipur State Hill Peoples (Administration) Regulation, 1947. Therefore, both the parties have been recognized as Chief of their respective Behiang villages in the Behiang Range.

5. In course of time, the government officials and the private respondents had started to claim to be the Chief of Behiang village without using the suffixed name after their ancestor. By taking advantage of using the name by the private respondents, there arose a confusion that he is claiming the Chief of Behiang village instead of Chief of Behiang (Tuanthong) village for administrative purpose.

6. According to the appellant, Behiang Range is a vast area where no concrete boundary between the two parties is humanly possible and that often leads to confusion of village boundary between the two parties. Therefore, the private respondents cannot have the legal right to claim as a Chief of Behiang village. Further, the appellant has submitted that the Deputy Commissioner, Manipur South District/Churachandpur had passed five different orders thereby allowing to bifurcate five villages namely a) Suangphu, b) Maukot, c) Mualzin, d) Tuimanjang and e) Sialish from the Behiang village (Langjachin) after duly informing and recognizing the father of the appellant namely Shri Tongzapao as the main Village Chief of those four bifurcating sub/machet villages. From the perusal of the order, it can also be seen that appellant's father namely Shri Tongzapao was

the one who even objected the bifurcation and the same is also reflected in the order of then DC, Churachandpur. It is also further submitted that the aforesaid orders nowhere mention the name of the respondent or ancestors. That being the position, after a period of 20 years, a representation was made by the private respondents to the respondent authority to cancel the abovementioned bifurcation orders of the then DC, Churachandpur by claiming him to be the owner of abovementioned machet villages. Based on the representation of the aforesaid private respondents, the Government has passed the order on 12.02.2004 by recognizing the private respondent as a Chief of Behiang village and at the same time restoring the abovementioned villages to main village, Behiang, instead of Behiang village (Langjachin). The said order was passed without verifying the documents and the said order is illegal and the same is unsustainable without considering the factual position as well as the relevant documents.

7. According to the appellant, the documents which are relied upon by the appellant clearly shows that they ought to have restored the said villages to Behiang (Langjachin) and not “Behiang” so as avoid any confusion between the two parties. But, by order dated 12.02.2004 it is mentioned that only Behiang Langjachin under the Chiefship of Jamkhojin and Behiang Village under the Chiefship of

Tuanthong were given statutory recognition and all the machet villages in the area and within the Behiang range should be a part of the “Behiang Village”. Further, the said order dated 12.02.2004 was passed for restoration of the two villages namely, Behiang and Behiang Langjachin in the area of Behiang range and cancellation of those Machet Village as Hill Revenue Villages independent from main village, Behiang. Therefore, according to them, he made the representation on 10.05.2004 to the Commissioner (Hills), Government of Manipur, alleging *inter alia* that the order dated 12.02.2004 is illegal on the ground amongst others that the said machet/sub villages belongs to the appellant’s father. The writ petitioner also filed WP(C) No. 391 of 2005 and same was disposed of on 24.07.2006 with a direction to the respondent to consider the representation dated 10.05.2004.

8. The appellant Jubilee Moi approached the respondent authority for the cancellation of the Government orders dated 12.02.2004 and 05.12.2006. Considering the representation of the appellant, the Principal Secretary (Hills), Government of Manipur passed an order to cancel the order dated 12.02.2004 and 05.12.2006 and ordered to maintain status quo of the order passed under Title Suit No. 26 of 1965 passed on 21.07.1969 with immediate effect.

9. Subsequently, the Government passed the order on 05.10.2006 without considering the contention raised by the appellant. Again, Shri Paodomang Ngaihte, Chief of Behiang Tuanthong village, being aggrieved by the Government's order dated 25.09.2008, filed a representation dated 06.10.2008 requesting to restore the earlier orders dated 12.02.2004 and 05.12.2006.

10. Thereafter, the Governor of Manipur was pleased to restore the orders dated 12.02.2004 and 05.12.2006 and the order dated 25.09.2008 was also revoked in the interest of the hill people under law of the hills including the customs and practices. The impugned order dated 25.09.2008 was challenged by filing the writ petition in WP(C) No. 369 of 2009 and the same writ petition came to be dismissed by this Court and impugned order under challenge in the intra court Appeal by raising the submissions that without considering submission made by the appellant, by addressing the history of the aforesaid villages, by contending that the suit in Suit Title No. 26 of 1965 before the Second Sub-Judge Manipur and judgment was delivered by the Sub-Judge which was decided in favour of the appellant's father namely Tongzapao, though other documents also relied by the appellant by claiming the right over the aforesaid villages and seek to interfere the order under impugned in challenge as well as the order of the writ court. Further, learned counsel appearing for

the appellant has contended that already the Civil Court rendered judgment in favour of the appellant's father regarding the title suit and the respondent authority has not recognized Tongzapao Zou as the son of ex-chief of Behiang (Langjachin) and the reasons as stated in the order for bifurcation of two villages and recognizing the two villages namely, Behiang (Langjachin) and Behiang (Tuanthong). But the present case has been filed by only as a brother of late Jamkhongin and not as a son in T.S. No. 26 of 1965. Further, learned counsel appearing for the petitioner contended that the respondent Government has not providing an opportunity to the petitioner, before passing order on 29th May, 2009.

11. The learned Single Judge has not appreciated the factum of case in proper perspective and wrongly appreciated the contention of the private respondents, that judgment passed in the Title Suit No. 26 of 1965 which is not binding on the official respondents. Therefore, the judgment and order passed by the Single Judge that the aforesaid judgment dated 21st July, 1969 in T.S. No. 26 of 1965 in favour of Shri Tongzapao, the writ petitioner's father (is nothing to do with the subject matter in issuing a government order) is totally unsustainable and further stated that under Section 3 of the Manipur (Village Authorities in Hill Areas) Act, 1956 the said provision will not consider recognizing of the village and therefore, on the aforesaid grounds, the learned

counsel appearing for the appellant has argued that the order of the writ court is liable to be set aside.

12. On the other hand, learned senior Government Advocate appearing for the respondents has objected that the writ court had considered the submissions of the appellant and after elaborate discussion, the contention of the appellant was considered in detail. Further, he also submits that the Manipur State Hill Peoples (Administration) Regulations, 1947. Under the provisions of the said Act, the list of villages in new Churachandpur Circle was published. The said copy of the list of villages also enclosed in the paperbooks where it is recorded that at Sl. No. 109 – Beheng Langjachin with Jamkhojin as Headman or Khulakpa and Sl. No. 110- Beheng with Tenthong as Headman or Khulakpa. Therefore, the said village was already been included in list of Schedules under the Act.

13. Mr. S. Nepolean, the learned senior GA appearing for the State submitted that the order has been passed on 12th February, 2004 based on the representation of one Paudoumang Ngaihte, Chief of Behiang (Tuanthong) village sought for cancellation of various orders of the Deputy Commissioner, Churachandpur and the Sub-Divisional Officer, Singhat Sub-Division recognizing the following Machet Villages belonging to Behiang (T) Village :

1. Behiang (V)
2. Suangphu
3. Maukot
4. Mualzin
5. Tuimanjang
6. Sialsih

14. Considering the said representation of Paudoumang Ngaihte, Chief of Behiang (Tuanthong) village, the Commissioner (Hills), Government of Manipur has observed that the earlier order passed by the Deputy Commissioner, Churachandpur and the S.D.O., Singhat Sub-Division recognizing the above Machet Villages shall be deemed cancelled as no approval of the Govt. was obtained to the recognition of those Machet Villages during the relevant time under Section 3 of the Manipur (Village Authorities in Hill Areas) Act, 1956 and further in the said order says that State should restore the two villages, namely, Behiang and Behiang Langjachin in the area of Behiang range and cancellation of those Machet Villages as Hill Revenue Villages independent from main Village, Behiang.

15. Thereafter, again the representation filed by the appellant on 10th May 2004 to the Commissioner (Hills), Government of Manipur was considered and detail order was passed by the Principal Secretary (Hills), Government of Manipur and review application submitted by the appellant was rejected and subsequently, another order is passed on 25.09.2008 thereby cancelling the order

dated 12.02.2004 and 05.12.2006 and further according to the learned senior Government Advocate the said order has not been challenged. The only order dated 29.05.2008 was challenged before this Court in the instant writ petition. Hence, according to them, seeks dismissal of the writ petition.

16. He further states that the learned Single Judge has considered the entire history of the said lands, under the village and rejected the claim of the appellant and therefore, seeks for dismissal of the writ petition.

17. The counsel appearing for the private respondent would submit that he made a representation to the respondents government and by order dated 12.02.2009 stating that no approval of the Government was obtained to the recognition of other machet villages during the relevant time under Section 3 of the Manipur (Village Authorities in Hill Areas) Act, 1956.

18. In view of above, the earlier order passed by the Deputy Commissioner and the Sub-Divisional Officer was cancelled and therefore, the appellant cannot have any right to rely upon the order and claiming the right in the aforesaid villages. Further, also reiterated that the submission made by learned senior Government Advocate that the respondent has not challenged the Notification of bifurcation of the villages under the list of schedules which is annexed along with

the Manipur (Village Authorities in Hill Areas) Act, 1956 and therefore, he seeks for dismissal of the said appeal.

19. Heard the parties and perused the materials on the record.

20. The points for consideration in the instant writ appeal are as follows :

- 1) Whether the appellant is claiming the right as per judgment and decree passed in Title Suit No. 6/1965 dated 21.07.1969?
- 2) Whether in the absence of any approval for the earlier proceedings passed by the Deputy Commissioner/ SDO of Churachandpur is valid in law?
- 3) Whether the writ petition filed by the appellant for the prayer is maintainable without challenging the Notification as well as all the Government orders?

Issue No. 1

The contention of the appellant is that the appellant has filed a Title Suit No. 26 of 1965 before the Second Subordinate Judge, Manipur which was decided ex-parte vide its judgment 21.07.1969 granted the declaration in favour of Mrs. Jubilee Moi's deceased father late Tongzapao Zou and 34 others. The aforesaid appeal went to the Supreme Court in CA No. 54 of 1969 and the same was dismissed

and become final. So according to the appellant, the judgment and decree passed by the Civil Court is binding on the authority and therefore, the claim of the petitioner/appellant that the aforesaid five villages as mentioned in the earlier paragraph belongs to the appellant village. According to the appellant, the Civil Court decided the disputed facts in the matter of suit land between the two villages which has been decided in favour of the appellant Tongzapao Zou and therefore, the respondent authority has no jurisdiction in passing impugned order by restoring the orders dated 12.02.2004 and 05.12.2006 and revocation of the order passed on 25.09.2008 is illegal and discriminatory and therefore, the impugned order is liable to be set aside. The writ court has not appreciated the case of the appellant. The official respondents has contended that the decision rendered in the civil suit is not binding on the authority concerned for the reasons that the respondent department Government is not a party in the aforesaid suit. They are also relying upon the Manipur Hills People (Administration) Regulation, 1947. In the aforesaid Regulation, villages were given recognition by including in the Schedule in the Act, unless and until the said Regulation is amended by another Statute to alter the identity of the extent of the said village. Therefore, the said suit filed by the appellant is not binding on the official respondent which is clearly stated in the order passed by the respondent.

It is useful to rely upon the decision of the Hon'ble Supreme Court reported in **(2010) 4 SCC 393** in the case of **Manish Goel -Versus- Rohini Goel** wherein the Hon'ble Supreme Court held as follows :-

"14. Generally, no Court has competence to issue a direction contrary to law nor the Court can direct an authority to act in contravention of the statutory provisions. The courts are meant to enforce the rule of law and not to pass the orders or directions which are contrary to what has been injected by law. (Vide State of Punjab & Ors. v. Renuka Singla & Ors (1994) 1 SCC 175; State of U.P. & Ors. v. Harish Chandra & Ors. AIR 1996 SC 2173; Union of India & Anr. v. Kirloskar Pneumatic Co. Ltd. AIR 1996 SC 3285; Vice Chancellor, University of Allahabad & Ors. v. Dr. Anand Prakash Mishra & Ors. (1997) 10 SCC 264; and Karnataka State Road Transport Corporation v. Ashrafulla Khan & Ors. AIR 2002 SC 629).

15. A Constitution Bench of this Court in Prem Chand Garg & Anr. v. Excise Commissioner, U.P. & Ors. AIR 1963 SC 996 held as under:

"12. ... An order which this Court can make in order to do complete justice between the parties, must not only be consistent with the fundamental rights guaranteed by the Constitution, but it cannot even be inconsistent with the substantive provisions of the relevant statutory laws."

(emphasis supplied)

The Constitution Benches of this Court in *Supreme Court Bar Association v. Union of India & Anr. AIR 1998 SC 1895*; and *E.S.P. Rajaram & Ors. v. Union of India & Ors. AIR 2001 SC 581* held that under Article 142 of the Constitution, this Court cannot altogether ignore the substantive provisions of a statute and pass orders concerning an issue which can be settled only through a mechanism prescribed in another statute. It is not to be

exercised in a case where there is no basis in law which can form an edifice for building up a superstructure.

16. Similar view has been reiterated in *A.R. Antulay v. R.S. Nayak & Anr.* (1988) 2 SCC 602; *Bonkya alias Bharat Shivaji Mane & Ors. v. State of Maharashtra* (1995) 6 SCC 447; *Common Cause, a Registered Society v. Union of India & Ors.* AIR 1999 SC 2979; *M.S. Ahlawat v. State of Haryana* AIR 2000 SC 168; *M.C. Mehta v. Kamal Nath & Ors.* AIR 2000 SC 1997; *State of Punjab & Anr. v. Rajesh Syal* (2002) 8 SCC 158; *Government of West Bengal v. Tarun K. Roy & Ors.* (2004) 1 SCC 347; *Textile Labour Association v. Official Liquidator* AIR 2004 SC 2336; *State of Karnataka & Ors. v. Ameerbi & Ors.* (2007) 11 SCC 681; *Union of India & Anr. v. Shardindu* AIR 2007 SC 2204; and *Bharat Sewa Sansthan v. U.P. Electronic Corporation Ltd.* AIR 2007 SC 2961.

17. In *Teri Oat Estates (P) Ltd. v. UT. Chandigarh* (2004) 2 SCC 130, this Court held as under: (SCC p. 144, para 36)

"36. sympathy or sentiment by itself cannot be a ground for passing an order in relation where to the appellants miserably fail to establish a legal right. ... despite an extraordinary constitutional jurisdiction contained in Article 142 of the Constitution of India, this Court ordinarily would not pass an order which would be in contravention of a statutory provision."

18. In *Laxmidas Morarji v. Behrose Darab Madan* (2009) 10 SCC 425, while dealing with the provisions of Article 142 of the Constitution, this Court has held as under:

" 25. The power under Article 142 of the Constitution is a constitutional power and hence, not restricted by statutory enactments. Though the Supreme Court would not pass any order under Article 142 of the Constitution which would amount to supplanting substantive law applicable or ignoring express statutory provisions dealing with the subject, at the same time these constitutional powers cannot in any way, be controlled by any statutory

provisions. However, it is to be made clear that this power cannot be used to supplant the law applicable to the case. This means that *acting under Article 142, the Supreme Court cannot pass an order or grant relief which is totally inconsistent or goes against the substantive or statutory enactments pertaining to the case*. The power is to be used sparingly in cases which cannot be effectively and appropriately tackled by the existing provisions of law or when the existing provisions of law cannot bring about complete justice between the parties."

(Emphasis added)

19. Therefore, the law in this regard can be summarised to the effect that in exercise of the power under Article 142 of the Constitution, this Court generally does not pass an order in contravention of or ignoring the statutory provisions nor the power is exercised merely on sympathy."

The Hon'ble Supreme Court in the case of **Sneha Lata Goel Vs. Pushplata and Others reported in (2019) 3 SCC 594 : MANU/SC/0048/2019** mentioned as follows :-

"13. In **Harshad Chiman Lal Modi v DLF Universal Ltd.** MANU/SC/0710/2005: (2005) 7 SCC 791, this Court held that an objection to territorial and pecuniary jurisdiction has to be taken at the earliest possible opportunity. If it is not raised at the earliest, it cannot be allowed to be taken at a subsequent stage. This Court held thus:

"30. The jurisdiction of a court may be classified into several categories. The important categories are (i) territorial or local jurisdiction; (ii) pecuniary jurisdiction; and (iii) jurisdiction over the subject-matter. So far as territorial and pecuniary jurisdictions are concerned, objection to such

jurisdiction has to be taken at the earliest possible opportunity and in any case at or before settlement of issues. The law is well settled on the point that if such objection is not taken at the earliest, it cannot be allowed to be taken at a subsequent stage. Jurisdiction as to subject-matter, however, is totally distinct and stands on a different footing. Where a court has no jurisdiction over the subject-matter of the suit by reason of any limitation imposed by statute, charter or commission, it cannot take up the cause or matter. An order passed by a court having no jurisdiction is a nullity.”

In **Hasham Abbas Sayyad v Usman Abbas Sayyad** MANU/SC/5541/2006: (2007) 2 SCC 355, a two judge Bench of this Court held thus:

“**24.** We may, however, hasten to add that a distinction must be made between a decree passed by a court which has no territorial or pecuniary jurisdiction in the light of Section 21 of the Code of Civil Procedure, and a decree passed by a court having no jurisdiction in regard to the subject-matter of the suit. Whereas in the former case, the appellate court may not interfere with the decree unless prejudice is shown, ordinarily the second category of the cases would be interfered with.”

Similarly, in **Mantoo Sarkar v. Oriental Insurance Co. Ltd.** MANU/SC/8464/2008: (2009) 2 SCC 244, a two judge Bench of this Court held thus:

“20. A distinction, however, must be made between a jurisdiction with regard to the subject-matter of the suit and that of territorial and pecuniary jurisdiction. Whereas in the case falling within the former category the judgment would be a nullity, in the latter it would not be. It is not a case where the Tribunal had no jurisdiction in relation to the subject-matter of claim...in our opinion, the court should not have, in the absence of any finding of sufferance of any prejudice on the part of the first respondent, entertained the appeal.”

On carefully analyzing the aforesaid decision of the judgments cited (supra), the contention of the appellant that the judgment passed by the Civil Court in the suit is binding on the respondent cannot be accepted and the said contention is liable to be rejected.

21. On perusal of the impugned order passed by the respondent authority, it clearly states that provision of the Manipur Hills People (Administration) Regulation, 1947 which is come into force and the villages were given recognition by including the schedule of the Act, in the list of villages which were seen in Sl. No. 109 which says that Behiang Langching is the name of the village and Jamkhojin is the headman or khullakpa of that village and Sl. No. 110 is the village name Behiang and Tenthong is the headman and khulakpa. Both villages have a separate identity in the aforesaid list of schedules. Considering the decisions cited above, the said finding in the judgment and decree passed by the civil court will not be binding on the respondent authority. Therefore, accepting the said submission of the respondent, the said contention of the appellant is liable to be rejected and issue No. 1 is answered against the appellant.

Issue No. 2

22. Learned counsel appearing for the appellant relying upon the various orders of the Deputy Commissioner dated 23.03.1983, 01.05.1985 and 25.11.1982 and also submitted that the various orders passed by the D.C., Churachandpur and SDO recognized the above machet villages which belong to the appellant village under the chiefship of Jamkhongin.

23. Heavily relying upon the documents in support of his contention by stating that the subsequent orders passed by the respondent Government is without any authority, and he relied upon the earlier order of the Deputy Commissioner, Churachandpur and the other documents in support of his submission. Therefore, the said impugned order dated 29.05.2009 is liable to be set aside and also the order of the writ court is liable to be set aside.

24. The Respondent has contended that aforesaid documents which has been considered by the respondent Government, at the time of considering the representations, submitted by the private respondents Shri Paodomang Ngaihte, Chief of Behiang Tuanthong village where it is called Behiang (T) village. Based on his representation and considering the records they have stated that the two villages namely, Behiang Langjachin under the Chiefship of Jamkhojin and Behiang Village under the Chiefship of Tuanthong

were given such recognition and all the machet villages in the area and within the Behiang range should be a part of the Behiang village. There is no separate identity and they cannot be given status of village for any purpose. They are only two legal recognition village in the areas namely, 1) Behiang and 2) Behiang (Lianching). Further, stated the earlier orders passed by the Deputy Commissioner, Churachandpur and SDO recognizing the above said machet villages shall be deemed cancelled and reason that there is no approval of the Government was obtained to the recognition of these machet villages during the relevant time under Section 3 of the Manipur (Village Authorities in Hill Areas) Act, 1956 and therefore, restoring the two villages namely, Behiang and Behiang (Lianching) in the area of Behiang range and cancellation of those machet village independent from main village Behiang.

25. We have gone through the said orders passed by the respondent Government. The petitioner has made a specific ground that the earlier order passed by the DC and SDO has not been considered by the respondent at the time of passing the impugned order. These orders are also considered by the respondents in the order dated 12.02.2004 where it was stated that the above said orders passed by the Deputy Commissioner, Churachandpur and SDO, no approval granted by the Government under Section 3 of the Manipur

(Village Authorities in Hill Areas) Act, 1956. Therefore, considering the said provisions under Section 3 of the Act, the said orders passed by the DC, Churachandpur and consequently, passed by the SDO cannot be given any weightage for accepting the contention of the appellant for interfering the order passed by the Government. Therefore, there is no valid ground to interfere with the contention raised by the appellant on this issue. On this second issue, there is no valid ground to interfere with the impugned order under challenge in the writ appeal.

Issue No. 3

26. The writ petitioner has challenged the impugned order dated 29th May, 2009 on the ground that the respondent authority has not chosen to consider the earlier orders has been passed by the authorities and also judgment and decree passed by the Civil Court. The order under challenge in the impugned is the order dated 29.05.2009. According to the appellant that the private respondents herein made the representation to Paudoumang Ngaihte, Chief of Behiang (Tuanthong) village to the Government to cancel the DC, Churachandpur's order and to seek further recognition of these two villages, namely, Behiang Langjachin under the Chiefship of Jamkhojin and Behiang Village under the Chiefship of Tuanthong were already given statutory recognition. The representation was considered by the respondent Commissioner (Hills), Government of

Manipur and by accepting the private respondents representation by stating that in the earlier orders passed by the Deputy C and SDO which has not been approved by the State Government and further it states that under the provisions of the Schedule of the Act, to the Manipur State Hill Peoples (Administration) Regulations, 1947 restored the two villages namely Behiang and Behiang village in the area of Behiang range and cancellation of those machet villages independent from main village Behiang. The said decision was taken in the year 2004 and subsequently, the review application also filed by the appellant and in the said review application a detail order has been passed by the respondent Government and said review application came to be rejected and subsequently, at the instance of the appellant the respondent relying upon the judgment and decree passed in the said suit and Government by order dated 25.09.2008 passed an order to maintain status quo order, cancellation of the earlier order and pass the status quo order. Subsequent to that the impugned judgment and order has been passed by passing the detail discussions in the said order it has been clearly stated that the aforesaid two villages being found in the schedule of the Manipur State Hill Peoples (Administration) Regulations, 1947 and Sl. No. 109 – Beheng Langjachin with Jamkhojin as Chief and Sl. No. 110- Beheng with Chief Tenthong as Chief in the said schedule. The said villages have been statutorily recognition have been come to the aforesaid village

and therefore, it is also clearly rendered in its finding that unless and until the aforesaid regulation is amended to another statute or alter the identity of the extent of said villages, but on the aforesaid legal submissions, the respondent has not been in a position to answer that challenging villages in the aforesaid list of schedules in the Act. Though it has been relying on the documents of Deputy Commissioner and SDO, it has been stated by the Government's order that the aforesaid orders were not obtained any approval from the Government. Therefore, these orders cannot be relied upon to substantiate the claim of the appellant that the said villages come under the appellant village, and hence it is clear that the appellant has filed the writ petition challenging the aforesaid impugned order dated 25.09.2008 without questioning the various orders passed by the Government by recognizing the said villages as Beheng Langjachin with Jamkhojin as Chief and Sl. No. 110- Beheng with Tenthong as Chief and also recognizing the aforesaid village in the schedule of the said provisions of the Act. In these grounds, according to us, the aforesaid prayer as made by the petitioner is not maintainable, without challenging the aforesaid villages, included in the Schedule of the Act. Therefore, the prayer as sought by the petitioner cannot be accepted and same is liable to be rejected.

27. In the present context of the case, when there is provision under the Act which clearly states that these two villages were recognized under the schedule of the Act unless the same is amended, it cannot be modified or altered, under the judicial review. Further, the judgment and decree passed by the Civil Court is not binding upon the respondent authority, since they are not party in the aforesaid proceeding and the said judgment passed by the civil court is nullity. Therefore, the said contention is liable to be rejected.

28. By way of executive order, the respondent cannot pass an order by including the said village in favour of the appellant. Therefore, the impugned order clearly states that unless and until the said Regulation is amended.

29. The appellant is not entitled for inclusion of the villages under Behiang appellant village. Therefore, the contention of the appellant cannot be accepted and the same is liable to be rejected.

30. The learned Single Judge has considered elaborately on the facts of the case and rejecting the claim of the appellant, therefore, considering at any angle there is no merit in the appeal and the same deserves to be dismissed.

31. However, learned counsel appearing for the appellant states that the boundaries of the villages has not been demarcated. If

that being the case, it is for the appellant to approach the authority concerned seeking for demarcating boundary in accordance with law.

32. With the above observation, the writ appeal stands dismissed with no cost.

JUDGE

CHIEF JUSTICE

Sushil