

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

PIL No. 19 of 2024

Shri Ningtinglung Kamei, aged about 43 years, S/o Kameidun Kamei, a permanent resident of Nungba village P.O & P.S. Nungba, District Noney, Manipur- 795147.

...Petitioner

-Versus-

1. The State of Manipur represented by the Chief Secretary, Govt. of Manipur, Old Secretariat, Babupara, P.O., P.S. & District Imphal West, Manipur- 795001.
2. The Special Chief Secretary (TA & Hills) Government of Manipur, Secretariat, Babupara, P.O., P.S. & District, Imphal West, Manipur – 795001.
3. The Hill Areas Committee, Manipur Legislative Assembly, represented by its Chairman (HAC), at Manipur State Assembly Complex, Thangmeiband, P.O., P.S. & District Imphal, Manipur- 795001.
4. The Chairman, Hill Areas Committee, Manipur Legislative Assembly, at Manipur State Assembly Complex, Thangmeiband, P.O., P.S. & District Imphal, Manipur – 795001.
5. The Autonomous District Council, Kangpokpi, represented by its Chief Executive Officer at Kangpokpi, P.O., P.S. & District Kangpokpi Manipur – 795107.

6. The Autonomous Dist. Council, Senapati, represented by its Chief Executive Officer, at Senapati, P.O., P.S. & District Senapati, Manipur – 795105.
7. The Autonomous District Council, Tamenglong represented by its Chief Executive Officer, at Tamenglong, P.O., P.S. & District Tamenglong, Manipur – 795125.
8. The Autonomous District Council, Chandel, represented by its Chief Executive Officer, at Chandel, P.O., P.S. & District Chandel, Manipur – 795135.
9. The Autonomous District Council, Ukhrul, represented by its Chief Executive Officer, at Ukhrul, P.O., P.S. & District Ukhrul, Manipur – 795145.
10. The Autonomous District Council, Churachandpur, represented by its Chief Executive Officer, at Churachandpur, P.O., P.S. & District Churachandpur, Manipur – 795128.

.... Respondents

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

For the Petitioner	::	Mr. Serto T. Kom, Advocate (V.C.); Mr. Ahel Kom, Advocate
For the Respondents	::	Mr. M. Devananda, Addl. AG; Ms. N. Jyotsana, Advocate; Mr. Kh. Tarunkumar, Sr. Advocate; Mr. W. Jamon, Advocate.
Date of Hearing and Judgment & Order	::	03.03.2025

JUDGMENT AND ORDER

(ORAL)

(D. Krishnakumar, C.J) :

Mr. Serto T. Kom, learned counsel assisted by Ahel Kom, learned counsel, appears for the petitioner through Video Conferencing; Mr. M. Devananda, learned Addl. AG assisted by Ms. N. Jyotsana, learned counsel, appears for the State respondents and Mr. Kh. Tarunkumar assisted by Mr. W. Jamon, learned counsel, appears for the respondents No. 3 and 4.

2. The present petition, in the guise of Public Interest Litigation (PIL), has been filed the petitioner challenging the impugned the Resolution No. 59/2024-(HAC) dated 14.10.2024 passed by the Chairman (HAC), Manipur Legislative Assembly.

3. The petitioner namely, Mr. Ningtinglung Kamei who has filed the PIL before this Court, is a voter in the hill area and he is also eligible to contest the elections for the District Councils and therefore, he is being representing for the villages of Noney district, and he is representing for the entire State in the instant writ petition.

4. The learned counsel appearing for the petitioner contends that the present PIL has been filed challenging the Resolution dated 14.10.2024 which is maintainable. According to him, the aforesaid Resolution and recommendation made by the Chairman (HAC), Manipur Legislative Assembly is without jurisdiction and

therefore, violates Sections 4, 9 and 11 of the Manipur (Hill Areas) District Councils Act, 1971 (hereinafter the Act of 1971). He also draws the attention of this Court to the aforesaid provisions of Sections 4, 9 and 11 of the Act of 1971 which are defined as follows :-

“Section 4. Constitution of District Councils and their composition-

- (1) For each autonomous district there shall be a District Council as from such date as the Administrator may, by notification in the Official Gazette, appoint in this behalf.*
- (2) The total number of seats in the District Council to be filled by persons chosen by direct election on the basis of adult suffrage from territorial constituencies shall be not more than eighteen.*
- (3) The Administrator may nominate not more than two persons, not being persons in the service of Government, to be members of any District Council.”*

“Section 9. Electors on electoral rolls.-

- (1) The persons entitled to vote at elections of members of a District Council shall be the persons entitled, by virtue of the provisions of the Constitution and the Representation of the People Act, 1950 (43 of 1950), to be registered as voters at elections to the House of the People.*
- (2) So much of the electoral roll for any parliamentary constituency for the time being in force as relates to the areas comprised within a constituency formed under section 5 shall be deemed to be the electoral roll for that constituency for the purposes of this Act.”*

“Section 11. Election of members.-

Election of members of a District Council shall be held in accordance with the rules made under section 21 on such date or dates as the Administrator may, by notification in the Official Gazette, direct:

Provided that a casual vacancy shall be filled as soon as may be after the occurrence of the vacancy:

Provided further that no election shall be held to fill up a casual vacancy occurring within four months prior to the holding of a general election under this section.”

5. The learned counsel for the petitioner contended that the impugned Resolution No. 59/2024-(HAC) dated 14.10.2024 passed by the Chairman (HAC), Manipur Legislative Assembly in so far to conduct the long pending election to the Autonomous District Councils. The writ petitioner has no objection for implementation of the said Resolution passed by the Chairman (HAC), Manipur Legislative Assembly.

6. But the petitioner is aggrieved by the second limb of the said Resolution of the Committee for constituting a Committee consisting a total of 20 members for each ADCs to make temporary arrangement till the ADC election is conducted in terms of the Division Bench's judgment and order dated 15.03.2024 passed in WA No. 353 of 2023. Therefore, the learned counsel, appearing for the petitioner vehemently made an objection that the aforesaid Resolution passed by the Hill Area Committee, Manipur Legislative Assembly is contrary to the provisions of the Act of 1971 and therefore, the said Resolution passed by the Committee is without jurisdiction.

7. Therefore, the petitioner has contended that the writ petitioner is being aggrieved by the second limb of the said Resolution dated 14.10.2024 passed by the Hill Area Committee(HAC) as the HAC has no power and jurisdiction to recommend for constituting a Committee consisting of 20 members for each ADCs, to be selected amongst the former ADC members/experts on local self Govt./eminent persons/intellectuals and 2 (two) Govt. nominees of the District as a temporary arrangement till the ADC election is conducted, as the same is in contravention of the scheme of the “The Manipur (Hill Areas) District Councils Act, 1971.

8. Learned counsel appearing for the petitioner also draws the attention of this Court by relying upon the decision of the Hon’ble Supreme Court in **Chief of Army Staff and Ors. –Vs- Major Dharam Pal Kukrety** reported in **(1985) 2 SCC 412** wherein the Hon’ble Supreme Court held that when the authority passed an order without jurisdiction, the same is open to be challenged under Article 226 of the Constitution of India. Learned counsel appearing for the petitioner submits that, in the present case on hand, when the Resolution is passed by the HAC without having any jurisdiction, the said writ petition/PIL is maintainable.

9. Mr. M. Devananda, learned Additional Advocate General appearing for the State respondents strongly made an objection to the contention of learned counsel appearing for the petitioner by relying

upon Section 47 of the Manipur (Hill Areas) District Councils Act, 1971
(hereinafter refers to as the Act of 1971) which read as follows :-

“Section 47. Supersession of District Council.

- (1)
- (a)
- (b)
- (c)
- (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 therefor, 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)
- (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)
- (d)”

10. Mr. M. Devananda, learned Additional Advocate General appearing for the State respondents also relies upon para 49 of the judgment and order dated 15.03.2024 of the Gauhati High Court passed in WA No. 353 of 2023 wherein it was discussed with the

powers of the authority under Section 47(2)(b) of the Act of 1971 and any other law. Therefore, according to them, the Committee has passed a Resolution having the power under such provision of the Act of 1971.

11. The learned counsel appearing for the third and fourth respondents representing the Hill Areas Committee would also reiterate the stand taken by the learned Additional Advocate General by contending that the contention of the writ petitioner is totally incorrect and baseless and further states that the said Resolution is passed by the Committee in accordance with Section 47 of the Act of 1971. Therefore, he seeks dismissal of the writ petition/PIL.

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

13. The petitioner, being the voter in the hill areas which comes under the jurisdiction of Noney District and being aggrieved by the said Resolution dated 14.10.2024 passed by the respondent Hill Areas Committee, in the interest of the public, has filed the instant writ petition/PIL before this Court on the ground that the Committee has no power to pass such Resolution under the provisions of the Act of 1971. According to the petitioner, the tenure to the District Council is for the period of 5 years under the provisions of the Act and can be extended further for a period of 1 year.

14. The respondents, relying upon the provisions of Section 47(1) and (2), submits that Section 47(1) and (2) of the Act of 1971 will apply for the appointment of the Administrator in consultation with Hill Areas Committee when the District Council is superseded by an order under Section 47 of the Act. According to petitioner, on the facts of this case, they have not superseded the District Council. Hence, the said provision is not applicable, as contended by the respondent herein.

15. According to the petitioner, the said Resolution passed by the respondents No. 3 and 4 is not mandatory on the Government to pass appropriate orders for administering the District Council in the hill areas. On the ground, he has filed the writ petition challenging the Resolution passed by the respondent No. 4. He also relies upon the decision of the Hon'ble Supreme Court in the case of **Chief of Army Staff and Ors. –Vs- Major Dharam Pal Kukrety** reported in **(1985) 2 SCC 412** in support of his contention that when the authority passed an order without jurisdiction, the same is open to be challenged under Article 226 of the Constitution of India. Therefore, on the aforesaid ground, the third and fourth respondent do not have the jurisdiction to pass the Resolution and therefore, filed the instant writ petition to challenge the said Resolution.

16. The learned Additional Advocate General has relied upon Section 47(1) and (2) of the Act of 1971 by stating that in the

light of the said provision of the Act of 1971, the Committee has power to pass the Resolution for appointment of the Administrator.

17. The said provisions of the Act of 1971 will apply only for the supersession of District Councils by the Government. The said provisions of the Act i.e. Section 47(1) will apply for appointment of Administrator or officer in consultation with the Hill Areas Committee. On the facts on hand is concerned, the tenure of the District Council expires. After the said period expires, whether the consultation of the Hill Areas Committee for appointment of an officer or interim Administrator is contrary to the provision of the Act?

18. The learned Additional Advocate General mainly relies upon the aforesaid provisions of Section 47 of the Act of 1971 and also the decision rendered by the Division Bench in WA No. 353 of 2023 dated 15.03.2024.

19. We have anxiously considered the provisions of Section 47 (2)(b) of the said Act of 1971 which deals with the appointment of an officer or Administrator. Section 47 of the Act defines as follows :

“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.”

20. The decision of the Division Bench of the Gauhati High Court passed in WA No. 353 of 2023 dated 15.03.2024 in paragraphs No. 49 and 50 are extracted as follows :

“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”

21. In the aforesaid judgment and order dated 15.03.2024, the Division Bench observed that 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. And that order has become final and the petitioner is mainly agitating on the Resolution passed by the Hill Areas Committee and considering the period expired, the consultation is not mandatory. We are also of the view that when such provision is not available, the consideration of passing the Resolution by the Committee is not mandatory. But, in the decision of the Division Bench rendered in WA No. 353 of 2023 dated 15.03.2024 the Hon'ble High Court had observed that the Government can appoint the officer or the Administrator in such circumstances. Therefore, we are of the view that exercise of power of the Government to appoint the officer or administrator cannot be taken away to appoint officer or Administrator.

22. At this juncture, the learned counsel appearing for the petitioner submits that he is being aggrieved by the second limb of the Resolution dated 14.10.2024 passed by the Hill Area Committee consisting of 20 members for each ADCs, to be selected amongst the former ADC members/experts on local self Govt./eminent persons/intellectuals and 2 (two) Govt. nominees of the District as a temporary arrangement till the ADC election is conducted, as the same is in contravention of the scheme of the "The Manipur (Hill Areas) District Councils Act, 1971. Therefore, we are of the view that in the absence of the provision of the Act, such Resolution passed by

the Hill Areas Committee, being statutory authority, may be considered by the State Government as representation of the Hill Areas Committee. In that circumstance, the petitioner also made a request before this Court that the first limb of the Resolution passed by the Committee to conduct the long pending election is concerned, he states that Government may be directed to take appropriate decision to conduct the election within the time frame.

23. Therefore, we are of the view that said Resolution of the Hill Area Committee may be treated as a representation made by the Committee to the State Government for the appointment of officer or Administrator till election is conducted as per law. We make it clear that it is for the State Government to consider the representation of the Committee and to pass appropriate order in accordance with law. It is needless to say that if there is any objection, it is open to the petitioner to make their grievances before the respondents.

24. The petitioner insisted upon this Court to conduct the election of the ADC within the stipulated period and therefore, considering the said request, this Court directs the second respondent to consider the said request of the petitioner to conduct the election of the ADC within a period of 6 (six) months from the date of receipt of a copy of the order. In the meantime, the Government is directed to consider and take decision for appointment of an Administrator or any officer in accordance with law within a period of 6 (six) weeks from the

date of receipt of a copy of this order. Till such time, there shall be an order of status quo.

25. With the above directions and observations, the writ petition is disposed.

JUDGE

CHIEF JUSTICE

Sushil