



Serial No. 01
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 323 of 2023

Date of Decision: 05.08.2025

The Council of Nokmas, Tura,
P.O & P.S Tura, West Garo Hills
District, represented by its President

:::Petitioner

-Vs-

1.The State of Meghalaya represented
by the Commissioner and Secretary,
District Council Affairs, Shillong

2.Garo Hills Autonomous District
Council, represented by its Secretary,
Tura, West Garo Hills District, Meghalaya

3.Chief Executive Member, Garo Hills
Autonomous District Council, Tura,
West Garo Hills, Meghalaya

4.Executive Member, In-charge Market,
Garo Hills Autonomous District Council,
Tura, West Garo Hills, Meghalaya

:::Respondents

Coram:

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

Hon'ble Mr. Justice B. Bhattacharjee, Judge



Appearance:

For the Petitioner/Appellant(s) : Mr. A.S. Siddiqui, Sr. Adv. with
Mr. A.G. Momin, Adv.
Ms. A. Kharmyndai, Adv.

For the Respondent(s) : Mr. N.D. Chullai, AAG with
Ms. R. Colney, GA (For R 1)
Mr. S. Dey, Adv. with
Mr. S. Deb, Adv. (For R 2-4).

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

JUDGMENT AND ORDER

Per H.S. Thangkhiew, Judge:

1. The petitioner who is stated to be the President of the Council of Nokmas, a registered body, working for the development, preservation and protection of the interest of the Nokmas and A'khings, is before this Court challenging a Tender Notice dated 01.09.2023, issued by the Respondent District Council, for settlement of markets and is also questioning the vires of the Garo Hills District Regulation No. 1 of 1954 i.e. 'The Garo Hills Autonomous District (Market Tax) Regulation, 1970'.



2. The case of the writ petitioner is founded on the assertion that the Garo Hills Autonomous District Council, which has been established under Sub-paragraph – 6 of Paragraph – 2 of the Sixth Schedule to the Constitution of India, though established for the purpose of preservation and protection of the distinct cultural identity of the tribes of Meghalaya, and vested with the power to make laws under Paragraph – 3, 6 and 8, and to administer justice in terms of Paragraph – 4, does not possess the legislative competence to have enacted ‘The Garo Hills Autonomous District (Market Tax) Regulation, 1970’.

3. The assertion of the petitioner is that the said Regulation has without any authority, usurped and encroached upon the customary rights of the Nokmas over the traditional markets that have been established all over the Garo Hills.

4. Mr. A.S. Siddiqui, learned Senior counsel assisted by Mr. A.G. Momin, learned counsel for the petitioner has submitted that in the Garo Hills District, the land is divided spatially into areas which are known as the A’khings, and as per custom, the custodian or Chief is called the Nokma. This social custom, he submits is present universally among the Garos, and is recognized under the Garo Hills Autonomous District (Social Customs and Usages) Validating Act, 1958. The records of the A’khings and register of Nokmas in the districts of Garo Hills, he submits is maintained in the offices



of the Respondent No. 2, and any dispute to Nokmaship, will come under the purview of the Garo Hills Autonomous District (Social Customs and Usages) Validating Act of 1958. The institution of A'khing and Nokma, he submits, being well entrenched from time immemorial, is therefore intrinsic and fundamental to the Garos, and it is in this vein that the same was recognized by the British and by the Constitution of India in the Sixth Schedule. It is further submitted that these A'khings would have their own haat (market), which cater to the requirements of the community, and were established by the community themselves.

5. The learned Senior counsel submits that Para – 6 of the Sixth Schedule empowers the District Council among others to establish, construct or manage markets within the jurisdiction of that particular District Council, and with the previous approval of the Government, make Regulations for the regulation and control thereof. Para – 8(3)(c), he submits, empowers the District Council to levy and collect taxes within such districts on entry of goods into a market for sale therein, and tolls on passengers and goods carried in ferries. It is submitted that this power is to be read conjointly with the provisions of Paragraph – 6, and as such, by reading the two paragraphs together would mean that the collection of levy and taxes by the District Council is subject to the establishment, construction or management of the market by the District Council itself. The learned Senior counsel submits that



in this context, The Garo Hills Autonomous District (Market Tax) Regulation, 1970 is incompetent, inasmuch as, it does not distinguish, or differentiate between the markets established and constructed by the District Council and the markets established by the Nokmas in their respective A'khings. In Section 2(10) of the said Market Regulation, he submits, the definition of market given therein, is general in nature bringing under its purview any place where persons are allowed to assemble daily, bi-weekly or weekly for sale or purchase of food stock, livestock or merchandise, and notified as such, by the Executive Committee and it includes haats and bazaars, without distinguishing the type of market.

6. It is then contended that in this scenario, instead of the levy being limited to the markets established by the District Council, the settlement for collection of tolls of the markets as evidenced by the impugned Tender Notice, has been usurped by the respondents, inasmuch as, these markets have been established by the Nokmas themselves and not by the District Council. The learned Senior counsel has then referred to the Tender Notice dated 01.09.2023, wherein bids have been called for a total of 182 markets for the period 01.04.2024 to 31.03.2025, which he submits is illegal and unconstitutional as the power of the District Council under Paragraph – 8(3)(c) is only for levy and collection of taxes within such district on entry of goods into a market and not for settlement of the haats or markets. He



therefore submits the Regulation is ultra vires, the Constitution and is a law that has been enacted without there being any source of power, and the same has resulted in the violation of the rights of the Nokmas.

7. Mr. S. Dey, learned counsel on behalf of the Respondents No. 2-4 has submitted that the District Council is vested with power under Paragraph – 8 of the Sixth Schedule to the Constitution of India to make regulations for levy and collection of taxes within the Garo Hills Autonomous District and that the Garo Hills Autonomous District (Market Tax) Regulation 1970, was enacted with due approval of the Governor. The Regulation, he submits, is therefore well within the legislative competence of the District Council, to enact a law for the levy and collection of tolls on entry of goods into markets, and has been made to ensure effective administration and transparency in the collection of taxes under the Regulation. Section 2(15) of the Regulation, he submits has defined ‘Tax’ to mean a tax levied on the entry of goods into a market for sale therein, and Section 4, prescribes the manner of settlement on lease of the right to collect taxes by sale in public auction, or by tender system. The District Council as per the Regulation and the said procedure prescribed therein, he further submits, has thus notified the markets through public notification and accordingly, tax is levied and collected by settling the collection of taxes or tolls by way of public tender, such as the impugned Tender Notice dated 01.09.2023.



8. On a next limb of submission, the learned counsel submits that as per Garo customary law, the Nokma is merely a custodian of the A'khing and there are no materials to show that the Maharis of the respective A'khings have authorised the writ petitioner to challenge the regulation. Further, it is submitted that the assertion that the markets belong to the A'khings Nokmas and that the District Council has no jurisdiction over the same is untenable, inasmuch as, no details have been given as to any market being established by the Nokmas, whereas in fact, the markets are all notified by the GHADC. The challenge to the vires of the Regulation, he submits, is vague and devoid of any merit, inasmuch as, the only prerequisite for applicability of the Regulation, for collection and levy of taxes for entry of goods into the markets for sale, is that such markets are located within the Autonomous District, and not whether such market was established by the District Council. The Regulation being as per the powers conferred by the Sixth Schedule, he therefore contends, there is therefore no question of the same being ultra vires to the Constitution of India.

9. On the challenge to the Tender Notice dated 01.09.2023, the learned counsel submits that the same has lost its relevance, inasmuch as, even the term for collection has since expired. He concludes his arguments, by submitting that apart from the writ petition being bereft of any details or



merit, the same has been filed after 54 years, since the Regulation has come into force, and as such, on this ground alone, deserves no consideration.

10. Mr. N.D. Chullai, learned AAG for the Respondent No. 1 apart from submitting that the Regulation is as per the power vested under the Sixth Schedule, has supported the submissions made by the learned counsel for the District Council respondents.

11. Heard the learned counsel for the parties. The prayer in the writ petition it is noted is for setting aside and quashing the Garo Hills Autonomous District (Market Tax) Regulation, 1970, and a Tender Notice issued by the respondent No. 2 for settlement of leases dated 01.09.2023. The second part of the prayer by the lapse of time has since been rendered redundant, and therefore, this Court will only examine the challenge made to the Garo Hills Autonomous District (Market Tax) Regulation, 1970. The District Council under the Sixth Schedule Constitution of India, has been vested with legislative powers under Paragraph – 3 to make laws, and under Paragraph – 8, the power to levy and collect all or any of the taxes within such district, as enumerated in Paragraph – 8(2) and (3). The District Council does not possess plenary powers of legislation, but the same are confined and limited to the subjects given in Paragraphs – 3(1) and 8. Paragraph – 8(3)(c) which is relevant for the purposes of this case, provides for “*taxes on the entry of goods into a market for sale therein, and tolls on passengers and*



goods carried in ferries” which can be collected by the District Council, and Paragraph – 8(4) has cloaked the District Council with the power to make regulations to provide for levy and collection of any of the taxes specified in sub-paragraph – 3. The Regulation in question that is the Garo Hills Autonomous District (Market Tax) Regulation, 1970, therefore, has thus been enacted as per the powers conferred upon the District Council by the Sixth Schedule.

12. The Garo Hills Autonomous District (Market Tax) Regulation 1970, which was passed by the Garo Hills District Council on 24.06.1970, received the assent of the Governor on 21.03.1971, and the statement and object of the Regulation itself, is to provide for the levy and collection of taxes on the entry of goods into a market for sale therein, within the Autonomous District of Garo Hills. The Regulation therefore, was specifically enacted to regulate the levy and collection of such taxes. With regard to “Market” Regulation 2(10) defines it as follows;

“(10) “Market” means a place where persons are allowed to assemble either daily, bi-weekly or weekly for sale or purchase of food stuff, livestock (sic) and other merchandise and notified as such by the Executive Committee and it includes haats and bazaars.”



13. The power therefore, to levy and collect taxes on entry of goods for sale into a market flow from the Regulation and in exercise of such power, the Garo Hills Autonomous District Council leases the rights to collect such tolls by way of public auction for the markets in Garo Hills. The definition as quoted above, is general in nature and has not classified the markets into any classes or groups such as whether the same is a public, private or a market established by the District Council itself. The definition being wide thus allows the District Council to appoint lessees to collect tolls specific to the markets itself. The manner of such exercise of this power is the main grievance of the petitioner who has argued that the power to collect or levy tolls does not extend to the control of market itself, but should be limited only to the collection of tolls on entry of goods for sale into the district, except in respect of markets established under Paragraph-6, the provision that allows the District Council amongst others to establish markets. As noted earlier, the stand taken by the petitioner is that the markets in question, have been established by the Nokmas themselves, and as such, the District Council has no power vested in it by law to collect taxes and tolls on the goods sold in market.

14. A perusal of the pleadings and the materials that have been placed for consideration however, do not contain any details historical or otherwise, to establish irrefutably the contention that the markets in question were



established by the Nokmas themselves. The list of markets appended to the writ petition, is also not a document that has been generated by the petitioner, to show the markets established by the Nokmas of the respective A'khings, but is only a list of names of markets which has been issued by the respondents themselves, and appended to the Tender Notice dated 01.09.2023, inviting bids for collection of tolls for the period 01.04.2024 – 31.03.2025. In the absence of any cogent material, where even the locus to maintain the writ petition has not been substantiated, especially in a matter where challenge has been made to the vires of a regulation, it is indeed difficult for this Court to ascertain any infirmity as alleged, moreso, with the source of power and legislative competence of the District Council clearly defined in the Sixth Schedule itself.

15. It is important to note that when a challenge is made as to the constitutionality of an Act or Regulation as in the instant case, wherein the powers vested on a Constitutional Authority, such as the District Council are clearly delineated in the Sixth Schedule to the Constitution of India, the same should raise questions that strike at the root of legislative competency of the District Council, especially taking into account the fact that the District Council does not possess plenary powers of legislation, but as observed earlier, is confined to the subjects mentioned in the Sixth Schedule itself. In the instant petition, what has been projected is but a general grievance,



without any materials on the specific harm that is being caused. Further, there are no assertions or pleadings, as to the violation or restriction of any fundamental right, the unreasonableness of the legislation, or has there been any clear articulation of the grounds of challenge, or the presentation of any relevant evidence in support of the claims of the Petitioner Society.

16. The writ petitioner Association no doubt, may be an Association of traditional heads of recognized Nokmas holding office, however in the presentation of the matter before this Court, in questioning the authority of the District Council to collect tax or toll, have miserably failed in fact to address the issue before them, which in the opinion of this Court is more of an issue that concerns the manner of implementation, rather than the constitutional validity of the Garo Hills Autonomous District (Market Tax) Regulation, 1970.

17. Accordingly, the writ petition in the facts and circumstances as discussed above, being bereft of any sustainable material is untenable, and accordingly stands dismissed.

(B. Bhattacharjee)
Judge

(H.S. Thangkhiew)
Judge

Meghalaya
05.08.2025
"D. Thabab-PS"