



**Serial No.07**  
**Daily List**

**HIGH COURT OF MEGHALAYA**  
**AT SHILLONG**

WP (C) No.408/2025

Date of order: 19.11.2025

Shri Philip Khrawbok Shati

..... Petitioner

Vs.

1. State of Meghalaya represented by its Chief Secretary, Shillong.
2. The Secretary to the Government of Meghalaya, Law Department, Shillong.
3. The Commissioner and Secretary to the Government of Meghalaya, Law Department, Shillong.
4. The Secretary to the Government of Meghalaya, District Council Affairs Department, Shillong.
5. Khasi Hills Autonomous District Council represented by its Secretary, East Khasi Hills District, Shillong.

..... Respondents

**Coram:**

**Hon'ble Mr. Justice Soumen Sen, Chief Justice**  
**Hon'ble Mr. Justice H.S. Thangkhiew, Judge**

**Appearance:**

For the Petitioner : Mr. H.L. Shangreiso, Sr.Adv with  
Mr. T. Dkhar, Adv

For the Respondents : Mr. N.D. Chullai, AAG with  
Ms. R. Colney, GA  
Mr. J.N. Rynjah, GA for R/1-4  
Mr. T.T. Diengdoh, Sr.Adv with  
Mr. J.K. Pariat, Adv for R/5

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



**JUDGMENT: (per the Hon'ble, the Chief Justice) (Oral)**

The three notifications issued by His Excellency, the Governor of Meghalaya, have been challenged in this writ petition.

2. The first notification dated 20.09.2022 is set out herein below for convenience and brevity:

“Dated Shillong, the 20<sup>th</sup> September, 2022

**NOTIFICATION**

No.LJ(B).67/88/397 - In pursuance to full separation of Judiciary from the Executive and in exercise of the power conferred in proviso to sub-section (2) of Section 1 of the Code of Criminal Procedure 1973, (Act 2 of 1974) the Governor of Meghalaya is pleased to apply the provisions of the Code of Criminal Procedure, 1973 to the Courts in the State of Meghalaya. The District Council Courts shall continue to derive powers under paragraphs 4 and 5 of the Sixth Schedule to the Constitution of India.

The Governor of Meghalaya further directs that, notwithstanding such application, all actions taken by the Courts throughout Meghalaya, under the Rules for the Administration of Justice and Police in the Khasi and Jaintia Hills, 1937 and the Rules of Administration of Justice and Police in Garo Hills, 1937 shall be deemed to have been taken under the relevant provisions of the Code of Criminal Procedure, 1973.

Sd/-

Secretary to the Govt. of Meghalaya,  
Law Department”



3. The second notification dated 16.04.2021, for the sake of convenience, is set out herein below:

“ORDERS BY THE GOVERNOR  
NOTIFICATION

Dated Shillong, the 16<sup>th</sup> April, 2021

No.DCA.46/2005/56 :- In exercise of the powers conferred by sub-rule (1) of rule 7 of the Khasi Hills Autonomous District Council (Administration of Justice) Rules, 1953 (as amended) the Governor of Meghalaya is pleased to approve the appointment of (1) Shri Alan Edmund Gatphoh, (2) Shri Dominic Sunny Marbaniang and (3) Smti. Iarisa Phawa as Magistrate 1st Class, Subordinate District Council Court, Shillong.

Further, the Governor of Meghalaya in exercise of the powers conferred by sub-paragraph (1) of paragraph 5 of the Sixth Schedule to the Constitution of India is also pleased to confer on (1) Shri Alan Edmund Gatphoh, (2) Shri Dominic Sunny Marbaniang and (3) Smti, Iarisa Phawa Magistrate 1st Class, Subordinate District Council Court, Shillong, with the powers of Judicial Magistrate of the first Class as provided under the Cr.P.C, for the trial of offences under the Indian Penal Code or under any other law for the time being applicable in the Khasi Hills Autonomous District.

Sd/- A. Mawlong, IAS  
Commissioner & Secretary to the Govt. of Meghalaya,  
District Council Affairs Department”

4. The third notification dated 20.09.2022 is also set out hereinbelow for the sake of convenience:



“ORDERS BY THE GOVERNOR  
NOTIFICATION”

Dated Shillong, the 31<sup>st</sup> August 2020

No. LJ(A) 77/2000/Pt.1/66 - In exercise of the powers conferred under Rule 1-A of the Rules for the Administration of Justice and Police in the Khasi and Jaintia Hills, 1937 and further under sub-section (1) of Section 2 of the Meghalaya Autonomous Districts Administration of Justice Act (Assam Act XIV of 1960 as adapted and amended by Meghalaya), read with paragraph 5 of the Sixth Schedule to the Constitution of India, the Governor of Meghalaya is pleased to appoint Additional District & Sessions Judge, Shillong as the Additional Deputy Commissioner, East Khasi Hills District for the trial of all offences punishable with death, imprisonment for life or imprisonment for a term of not less than five years under the Indian Penal Code or under any other law for the time being applicable to the District and also to hear all civil and criminal revisions, appeals, etc. from the decision of the Assistants to the Deputy Commissioner within the said District. The Governor is further pleased to direct that such Additional District & Sessions Judge as Additional Deputy Commissioner shall for the purpose of the aforesaid, exercise all the Judicial powers of the Deputy Commissioner within the East Khasi Hills District with effect from the date of taking over charge.

This supercedes the notification No. LJ (A) 77/2000/Pt./264 dt. 02.07.2019.

Sd/-

(W. Khylllep)

Commissioner & Secretary to the Govt. of Meghalaya,  
Law Department”

5. The learned counsel for the writ petitioner has submitted that the said notifications are illegal, invalid and issued in violation of Paragraph 5, sub-paragraph 3 of the Sixth Schedule to the Constitution of India. It is submitted that the Governor by reason of clear prohibition, could not



have conferred power under the Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023 (BNSS) and Bharatiya Nyaya Sanhita (BNS), 2023. It is also submitted that from the Rules of the Administration and Police in the Khasi and Jaintia Hills, 1937, as amended on 19.02.1972, read with the Khasi Hills Autonomous District Council (Administration of Justice) Rules, 1953, it would appear that specific provisions have been made with regard to the procedure to be applied in criminal cases. In all these Rules, it has been clearly stated that the courts deciding such criminal cases would be required to follow the spirit of the Code of Criminal Procedure, 1973, so far as it is applicable to the circumstances of the district and not inconsistent with the Rules with few exceptions mentioned in the respective Rules.

6. The learned counsel appearing on behalf of the Khasi Hills Autonomous District Council has submitted in the affidavit that the stand of the District Council has been made clear. The learned counsel has referred to the judgment of the coordinate bench in ***Komerchand Singh Wanrieh v. State of Meghalaya & ors***<sup>1</sup> and the order of the Hon'ble Supreme Court in Special Leave to Petition (Criminal) Diary No(s).43178 of 2024-***Khasi Hills Autonomous District Council v. State***

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<sup>1</sup> 2023 SCC OnLine Meg 51



*of Meghalaya* passed while admitting the appeal on 02.12.2024, and in referring to the said decisions it is submitted that in view of specific provisions contained in the Sixth Schedule to the Constitution of India, which exclude the applicability of the CPC and the CrPC in the autonomous district, the Government of Meghalaya cannot circumvent the said provision by taking recourse to Section 1 of the Code of Criminal Procedure (Section 1 of the BNSS).

7. The learned counsel for the State has submitted that by reason of Section 1 (2)(b) of the BNSS, 2023, the State Government is entitled to issue a notification extending the provisions of BNSS, 2023 to the tribal areas of the State of Meghalaya.

8. On a plain reading of the three notifications, it does not appear to us that the Governor has exceeded his jurisdiction in extending the provisions of the said Code as Section 1 (2)(b) of BNSS, 2023, the State Government is entitled to extend the provisions of the said Code to the tribal areas. The only conflict that arises is whether, by reason of Paragraph 5, sub-paragraph 3 of the Sixth Schedule, the provisions of BNSS and BNS would apply to the State. The notifications are carefully drafted as it would appear from the said notifications that Paragraph 5, sub-paragraph 3 of the Sixth Schedule has not been



touched and the constitutional rights enjoyed by the District Councils have not been impaired by the said notifications. Moreover, by reason of the judgment of the Hon'ble Supreme Court in *State of Meghalaya v. Melvin Sohlangpiaw*<sup>2</sup>, in the absence of a notification by the State Government extending CrPC to tribal areas, the provisions of the CrPC are not applicable to the tribal areas, except chapters 8, 10 and 11 thereof. The State government has now since issued notifications extending the benefit of the said section to the tribal areas. However, the State was careful in not imposing upon the District Council courts to mandatorily apply the provisions of BNSS and BNS.

9. The right of making appointment of Judicial Officers by the Governor is undoubted and cannot be questioned. It is only the procedure to be followed by the District Council Courts in accordance with the mandate of Paragraph 5, sub-paragraph (1) of the Sixth Schedule. It is argued by the learned counsel for the writ petitioner that the notification dated 16.04.2021, is a usurpation of power by the Hon'ble Governor, as without the recommendation of the Executive Committee of the District Council as mentioned in Rule 17 of the Khasi Hills Autonomous District Council (Administration of Justice) Rules,

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<sup>2</sup> (2020) 3 SCC 711



1953, the Hon'ble Governor could not have taken such a decision. For the sake of brevity, Rule 17 of the Khasi Hills Autonomous District Council (Administration of Justice) Rules, 1953 is set out herein below:

**“17. Investment of Courts with powers.** Save as otherwise provided in the Constitution and in these Rules, a Subordinate District Council Court or Additional Subordinate District Council Court shall exercise such powers as defined in Chapter III of the Code of Criminal Procedure, 1898, as it may be invested with by the Executive Committee of the District Council with the approval of the Governor.”

10. It clearly shows that power is invested with the Executive Committee and while framing the rules, the word “may” is used instead of “shall”, as it is obvious that the ultimate decision is with the Governor. The Governor is the ultimate authority to approve the decision of the Executive Committee. We do not find that there is any serious breach of any procedure in giving appointment to the judicial officers in the District Council courts for deciding criminal matters. It was thought expedient to appoint such officers to facilitate the early disposal of criminal matters.

11. On such consideration, we do not find any reason to interfere with the notifications. Accordingly, the writ petition is disposed of.



12. However, there shall be no order as to costs.

**(H.S. Thangkhiew)**  
**Judge**

**(Soumen Sen)**  
**Chief Justice**

Meghalaya  
19.11.2025  
"*Lam* DR-PS"

