



Serial No. 01
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 452 of 2024

Date of Decision: 24.06.2025

Shri Wanphrang Syiem Nongshai
S/o Kliderwell Syiem Nongshai
R/o Mawdiangum,
Ri-Bhoi District, Meghalaya

... Petitioner(s)

- Versus -

1. Khasi Hills Autonomous District Council, Shillong through its Secretary to the Executive Committee, Khasi Hills Autonomous District Council, Shillong
2. The Under Secretary to the Executive Committee, Khasi Hills Autonomous District Council, Shillong
3. Shri A. Basaiawmoit, Administrative Officer cum Deputy Secretary to the Executive Committee Khasi Hills Autonomous District Council, Shillong
4. The Executive Member i/c Elaka Administration, Khasi Hills Autonomous District Council, Shillong
5. Synjuk Ki Nongsynshar Raid Nongpoh, Sirdarship, Ri-Bhoi District, represented by its Secretary, Shri S. Maring.
6. Shri S. Lyngdoh, Lyngdoh Raid Nonglyngdoh, Nongpoh Sirdarship, Ri-Bhoi District
7. Lyngdoh Raid Nongkhrah, Shri La Lyngdoh, Ri-Bhoi District, Meghalaya



8. Lyngdoh Raid Nongkharai
Shri Moses Syngkli
Ri-Bhoi District, Meghalaya

9. Lyngdoh Raid Sohkhwai
Shri Speshon Sylliang
Ri-Bhoi District, Meghalaya

10. Lyngdoh Raid Nongkyrla
Shri Phrangsngi Syngkli
Ri-Bhoi District, Meghalaya

11. Lyngdoh Raid Nongpoh,
Shri Linus Lyngdoh
Ri-Bhoi District, Meghalaya

.... Respondent(s)

Coram:

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

Appearance:

For the Petitioner(s) : Mr. M.L. Nongpiur, Adv.

For the Respondent(s) : Mr. S. Marpan, Adv. (For 1-4)
Mr. S. Sen, Adv. with
Ms. E. Blah, (For R 5, 7-11)

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

1. The petitioner being aggrieved with a notification dated 03.12.2024, whereby he has been suspended from the office of Sirdar of Nongpoh Sirdarship, is before this Court assailing the same.

2. The brief facts necessary for disposing of this matter are that the petitioner was elected as Sirdar of Nongpoh Sirdarship in 2011, and has been in office since his election except for a period when vide order dated 11.04.2023, he was suspended pending enquiry, by the respondent District Council on account of multiple complaints which had been lodged against him. In the enquiry that ensued, 6 charges had been framed, to which the petitioner had submitted his show cause reply. The respondent No. 5, who was the complainant initially appeared, but thereafter did not appear or contest the matter, whereas the petitioner submitted a list of witnesses and depositions to substantiate his defense before the Inquiry Officer. In the report that followed, the petitioner was absolved of all charges and was reinstated vide order dated 04.03.2024.



3. Thereafter, the respondent No. 5, then submitted representations dated 13.03.2024, 30.04.2024 and 22.05.2024 for re-initiation of the enquiry, which the respondent District Council took cognizance of, and issued a show cause to the petitioner 27.05.2024, to which the petitioner submitted his reply dated 03.10.2024. The petitioner then vide the impugned notification dated 03.12.2024, was placed under suspension and an administrator was appointed to temporarily look after the affairs of Nongpoh Sirdarship, until further orders. The impugned notification amongst other grounds, has been challenged as having been passed in violation of the principles of natural justice, and Section 6 and 19 of the *United Khasi Jaintia Hills Autonomous District (Appointment and Succession of Chiefs and Headmen) Act, 1959*, (hereinafter referred to as the Act of 1959) and also that the issuance of the impugned notification, amounts to reviewing the earlier enquiry report and reinstatement order dated 04.03.2024, which is not permissible in law.

4. Mr. M.L. Nongpiur, learned counsel for the petitioner has at outset submitted that the appointment of the administrator under Section 19 is only resorted to in cases where there is a deadlock in the



administration, which is not the case in the present matter, inasmuch as, out of 12 electors, the petitioner still enjoys the confidence of 7 electors. It is further submitted that Section 19 of the Act of 1959, does not contemplate suspension during enquiry, and that, had it been a case of loss of confidence, warranting suspension pending enquiry under the second proviso to Section 6 of the Act, the correct course of action was to appoint an Acting Chief under Section 11 and not appointment of an Administrative Officer, as Section 6 cannot be read conjointly with Section 19. It is further argued that though Section 19 has not been specifically mentioned, the order dated 02.12.2024 at para 3(b) and 5 thereof, is sufficient to show that it is an order under Section 19 which however, does not contain a provision for conducting an inquiry. It is further submitted that a fresh enquiry on the same ground i.e. the loss of confidence amounts to re-initiation of the first enquiry proceedings, and that the suspension order and the second enquiry amounts to double jeopardy.

5. It is then contended by the learned counsel that the ground of loss of confidence, is not a fresh allegation, inasmuch as, it was one of the charges framed in the first enquiry, which is also sought to be



enquired again as a charge framed in the second proceedings. The allegation of loss of confidence it is also contended, is not one of the allegations in the fresh representations but has been introduced in the written arguments filed by the respondent No. 5. It is submitted that the District Council respondents, cannot re-open this aspect and the fresh suspension order, amounts to re-opening or review of the enquiry report dated 14.12.2023 and order dated 04.03.2024, which the learned counsel maintains are final in nature and binding upon the respondents, as the same has never been put to challenge. In conclusion, it is submitted that the petitioner still enjoys the confidence of the majority of the members of the Executive Dorbar and Dorbor Kur Syiem, Nongshai. In support of his submissions, the learned counsel has relied upon the following judgments: -

- i) **(1975) 2 SCC 721** in the case of ***The Income-Tax Officer 'A' Ward, Indore vs. Gwalior Rayon Sild Manufacturing (Weaving) Co. Ltd., Birlagram, Nagda***
- ii) **1963 SCC OnLine SC 19** in the case of ***South India Corporation (P) Ltd., vs. Secretary, Board of Revenue Trivandrum & Anr.***
- iii) **(2006) 3 SCC 251** in the case of ***Canara Bank & Ors. vs. Swapan Kumar Pani & Anr.***
- iv) **(2004) 13 SCC 342** in the case of ***Lt. Governor, Delhi & Ors. vs. HC Narinder Singh***



- v) *(1976) 1 SCC 234* in the case of *State of Assam & Anr. vs. J.N. Roy Biswas*
- vi) *(2019) 9 SCC 416* in the case of *Naresh Kumar & Ors. vs. Government (NCT of Delhi)*
- vii) *Order dated 18.02.2021* passed in *WP(C) No. 60 of 2017 (Thwingland Lyngkhai vs. KHADC)*

6. Mr. S. Marpan, learned counsel for the respondents Nos. 1 to 4, in reply has submitted that the action of the District Council respondent, was on the basis of a renewed demand for enquiry by the different Raids under the umbrella of Synjuk Ki Nongsynshar Raid Elaka, Nongpoh and that a formal objection against the reinstatement was also filed before the Deputy CEM, Elaka in-charge, which the learned counsel has shown by reference to the records. The grounds for suspension he submits, was due to the fact that there was a loss of confidence in the writ petitioner by the Lyngdoh Raid (Electors) and Longsan Mansan (Traditional Authorities) who withdrew support alleging arbitrary actions by the Sirdar and that this is charge No. 1. The Sirdar's actions, he further submits, has caused widespread dysfunction in the Raids under the Nongpoh Sirdarship necessitating intervention by the District Council respondent in exercise of powers under Section 6 and 19 of the Act of 1959. The allegations he submits,



are subsequent to the first enquiry and they range from autocratic decisions with regard to land, unilateral appointments of new Lyngdoh, issuance of NOCs without the Raid's consent, dis-respect to the customs prevailing and also of financial misconduct.

7. The learned counsel while referring to the records, has placed the complaints from the Lyngdoh of 5 Raids and shown that majority of electors (5 out of 10) opposed the Sirdar, with the remaining 4, neutral. Section 6, he submits allows the suspension of the Sirdar and Section 19 addresses administrative deadlocks and is a provision that enables the District Council to intervene. The instant case he submits, involves a breakdown of governance and is not a case of a simple vacancy, and as such to restore functionality, not merely to fill up the post, Section 19 has been resorted to and therefore, it cannot be held that there has been any procedural flaw, as due process has been followed. It is categorically denied by the learned counsel that the current charges are the same as the past charges, but that the same is based on new evidence and in consideration of the misconduct indulged in by the writ petitioner post reinstatement, coupled with the petitioner's claim of enjoying the majority support of the electors not



being borne out by the records, which show that 5 electors are opposed, and 4 neutral. The learned counsel has then emphasized on the fact that there is an institutional breakdown in the governance of Nongpoh Sirdarship and with the threat of non-cooperation by the Longsan Mansan as long as the petitioner is in office, there is a risk of a total administrative collapse. The order of suspension he submits, reflects the factual, legal and the objective basis on which the order of suspension was made, and had only Section 6 been invoked, the situation would remain unresolved due to the vacuum and institutional paralyses prevailing, and invoking only Section 11, would have been inadequate, as the crisis is not limited to vacancy, but concerns loss of institutional legitimacy and functionality. In concluding his submissions, the learned counsel has also demonstrated before this Court, the distinction in the use of Section 6 and 11 together of the Act of 1959, which he submits is to address a routine vacancy with no instability, and Section 6 and 19 together, when the governance is disrupted or contested. In passing the suspension order he contends, the KHADC had acted within the legal bounds in strict compliance with the law and as there is no illegality or procedural impropriety, no interference is called for by this Court.



8. Mr. S. Sen, learned counsel on behalf of the respondent No. 5 and newly impleaded respondents Nos. 7 to 11, has submitted that it is correct that in the earlier enquiry, the charges included loss of confidence but the respondent No. 5 could not continue to participate in the enquiry or to take any effective steps as copies of the charges framed was never furnished in spite of several requests. The issue of loss of confidence, he submits was never decided in the earlier enquiry and the allegation that he had not lost the confidence of the Kur Syiem Nongshai Pyllun, could not be true. It is then submitted that it is apparent from the impugned order dated 02.12.2024, that the District Council on being satisfied that there was a deadlock in the administration had issued the notification dated 03.12.2024 taking into consideration the written arguments filed by the Lyngdoh respondents Nos. 7 to 11, wherein fresh allegations were brought, and it is not a case of only seeking the re-opening of the enquiry. He submits that there being a clear loss of confidence of electors on the writ petitioner, and the issue of loss of confidence, though framed but not decided in the earlier enquiry, the impugned order dated 02.12.2024 and the impugned notification 03.12.2024, was passed in exercise of powers



conferred under Section 6 and 19 of the Act of 1959. He lastly submits that as an enquiry has been proposed, the petitioner would be entitled to ample opportunity to participate in the same in defense of his case, and for the sake of Nongpoh Sirdarship and its inhabitants, the administrator appointed by the notification dated 03.12.2024, be allowed to take over the administration.

9. From the submissions and materials that have been placed before this Court, it appears that there is a disconnect and discord in Nongpoh Sirdarship amongst the Lyngdoh and Secretary of different Raids of Nongpoh Elaka as well as the Longsan(s) and Mansan(s) to the continuance in office of the writ petitioner. From a perusal of the records which have been produced before this Court, this fact is clearly apparent and it can be seen that on earlier complaints made against petitioner, an enquiry had been instituted, wherein the charges were not proved and the petitioner was reinstated into office. In the earlier enquiry a fact that is undisputed is that the complainant therein i.e. the respondent No. 5, as reflected in the copy of the enquiry report 14.12.2023, apart from making initial appearances, did not contest the matter and failed to appear before the Inquiry Officer to substantiate



the complaint. It is relevant to record herein that 6 charges were framed in the earlier enquiry, which are as follows: -

- i) Complaint against the writ petitioner that he intended to restore Elaka Nongpoh Sirdarship to Syiemship without the consent or approval of the Longsan Mansan of the Elaka
- ii) For not convening a meeting of the Ex-Dorbar of Nongpoh and not working together with the Lyngdoh Raid
- iii) Financial irregularities and no audit report on the fund of the Hima
- iv) Appointing Lyngdoh Raid who does not belong to the Elaka, which is against the customs and traditions
- v) Appointing Headmen at Villages within Raid Nongkyrla, Raid Nonglyngdoh without the knowledge of the Lyngdoh Raid and
- vi) Loss the confidence of Synjuk Ki Nongsynshar Raid of Nongpoh Sirdarship as well as Kur Syiem Nongshai Pyllun.

10. On the above noted charges, the enquiry proceeded but however, apart from the findings with regard to the charge No. 1 and No. 2, which were arrived at based on available materials, the rest of the charges it is noted, even with regard to charge No. 6, i.e ,the loss of



confidence, the complainants as recorded in the enquiry report, did not contest or file any materials or documents in support of their complaints. As such, on the recommendation of the Inquiry Officer, the writ petitioner was reinstated. It is noteworthy to mention herein that the main thrust of the writ petitioner in this petition, is on the ground that the complainants are seeking to revive an enquiry where by their own choice, they had abstained from, and that too on a charge that had already been gone into i.e. loss of confidence. In this context, this Court has to examine first as to whether the cognizance of the second set of complaints by the respondent District Council and the framing of the charge of 'loss of confidence' is justifiable, or whether it will amount to double jeopardy, as alleged by the writ petitioner.

11. Though allegations have been raised from the side of the writ petitioner that the foundation for the fresh charges in fact, were from the written arguments filed by the complainants when the complaints were centered around the demand for reinitiation of the enquiry, it is noted that the complaint against the reinstatement and re-opening of the enquiry was on the ground that the non-participation of the complainants in the concluded enquiry was due to non-supply of



charges. Added to this is the ground taken by the respondent District Council that the charges framed in the proposed enquiry were fresh charges, which were not gone into in the first enquiry. To the mind of this Court, this perhaps amounted to a relevant consideration for taking cognizance of the complaints, moreover, as the findings in the enquiry report were without the participation of the complainants.

12. A perusal of the fresh charges as reflected in the records is as follows: -

- i) That the Sirdar has lost the confidence of the Lyngdoh Raid, (electors) and Longsan Mansan of Nongpoh Sirdarship
- ii) Acted arbitrarily under the different Raids within Nongpoh Sirdarship.

The above charges when compared against the charges in the earlier enquiry, specially charge No. 1 on the loss of confidence, there is a change, inasmuch as, earlier the charge was that “he has lost the confidence of the Synjuk Ki Nongsynshar Raid of Nongpoh Sirdarship as well as the Kur Syiem Nongshai Pyllun”, whereas the fresh charge is that “the Sirdar has lost the confidence of the Lyngdoh Raid, (electors) and Longsan Mansan of Nongpoh Sirdarship”. Though the



difference is subtle, the same is however discernable, and centers around the basic grievance of the electors, Lyngdohs, Longsans Mansans, apart from the Synjuk Ki Nongsynshar Raid of Nongpoh Sirdarship, in the earlier complaint as to the continuance in office of the writ petitioner on the face of multiple allegations.

13. The District Council which is tasked with the responsibility to regulate and oversee traditional institutions, such as the instant Sirdarship in this scenario, perhaps to ameliorate the situation had resorted to suspending the writ petitioner by invoking Section 19 of the Act of 1959 and appointing an administrator to look after the administration. Though Section 19 has not been specifically mentioned in the impugned order and notification, a plain reading of the same will surely reveal the ingredients of Section 19. However, Section 19, does not envisage the suspension and conduct of proceedings against a chief, but is an emergency provision to deal with cases of administrative deadlock. For the sake of convenience Section 19 of the Act of 1959 is reproduced hereinbelow: -

“19. Emergency provisions in case of Administrative Deadlock:

(1) Notwithstanding anything contained in this Act, if at any time it is found that a Chief of any Elaka cannot carry on



with his duties and functions due to the absence of his Durbar either on account of vacancies in the posts of Myntries or of recognized members of such Durbar or on account of lack of co-operation or confidence as between the Chief and his Durbar thereby creating a deadlock in the administration of the Elaka the Executive Committee of the District Council, after due consideration and declaration made of the deadlock in the administration may temporarily take over the administration of such an Elaka, and appoint, for the purpose of running the administration of such an Elaka, an Administrative Officer and further constitute a Committee consisting of four to six members to assist the Administrative Officer in running the affairs of the Elaka, and such Administrative Officer and the Committee shall function and exercise all the powers and functions of the "Chief and his Durbar" as provided in this Act or any other Act or Regulation or Rule both administratively and judicially.

Provided that such an Administrative Officer may also be appointed from amongst persons who are Headmen or elders of the Elaka.

Provided further that members of such Committee who will assist an Administrative Officer, shall be appointed from amongst persons who are Headmen or any other persons who is a native of the Elaka.

- (2) During the period of such taking over all the powers and functions of the Chief shall, with effect from the date of the notification under section 19 (1), be deemed to have suspended till the Executive Committee of the District Council vacates the order of taking over or issue further order.*
- (3) The period of taking over of the Elaka by the Executive Committee of the District Council shall terminate at the expiry of a period of one year from the date of taking over extenable (sic) every six months at a time or as soon*



as the Executive Committee is satisfied that the cause of the taking over has either been removed or disappeared which the Executive Committee shall, by another notification, vacate the earlier notification of taking over.

(4) Any action taken under this section, shall be reported by executive committee for information to the Council at its following session.”

14. A perusal of the impugned order dated 02.12.2024, leaving aside the aspect of the same being made prior to a second enquiry, maybe on a charge that had earlier been framed, though in the charge in the second enquiry, the same is based on the grievances of complainants who are not part of the first enquiry, what has been deemed necessary by the respondent District Council it appears, is for the institution of a fresh and thorough enquiry to bring about a quietus to the entire matter and to address the grievances of the electors. The notification dated 03.12.2024, issued pursuant to the order dated 02.12.2024, while notifying the suspension of the writ petitioner however, is silent as to the provisions that have been applied, but only mentions that the action taken by the respondent District Council is as per the Act of 1959. The argument of the learned counsel for the petitioner therefore, that section 19 could not have been applied to cause the suspension pending enquiry of the writ petitioner, thus



making the impugned order defective is very attractive, but the contrary argument of the counsel for the District Council that the same is by application of Section 6 together with Section 19 of the Act of 1959, also cannot be simply disregarded.

15. Section 6 (i) of the Act of 1959 provides for the removal or suspension of a Chief if he has lost the confidence of the majority of his electors or of the people of the Elaka and clause (ii) to the second proviso of Section 6, has provided for a situation as to when the order of suspension is pending enquiry. However, the Act of 1959 at Section-11 provides for the appointment of an Acting Chief, if the post of a Chief becomes vacant as a result of death, resignation, expiry of term, removal or suspension. Section 6 therefore, in the event a Chief was suspended pending enquiry, would have sufficed to be applied together with Section 11, and an Acting Chief appointed, but in the instant case, an emergency provision i.e. Section 19 has been resorted to, as an Administrator has been appointed and not an Acting Sirdar or Chief. The suspension order therefore, contains the ingredients of both Section 6 and Section 19 of the Act of 1959, which however, has nowhere been spelt out in the impugned order by the respondent



District Council. The impugned order therefore, shall have to be taken to be an order that has been passed under Section 6 read with Section 19 of the Act of 1959 and not confined to one under Section 19 only.

16. As observed in the earlier paragraphs of the judgment, the ground taken by the petitioner that the charge of loss of confidence is being sought to be agitated again, the same has been resisted by the respondents who have maintained that the presence of the charge in the contemplated second enquiry is based on fresh complaints and also the expression of the loss of confidence has emerged from different quarters that is the Lyngdohs, Longsans Mansans, apart from the Synjuk Ki Nongsynshar Raid of Nongpoh Sirdarship. In this context, an important aspect to be noted, is with regard to the question as to whether the writ petitioner had lost the confidence of the electors. The same, though framed as a charge in the earlier enquiry, was never conclusively deliberated in view of the fact that the complainant did not participate in the said enquiry. Rightfully as submitted by the learned counsel for the petitioner, if the complainant wanted this charge to be re-examined, the proper recourse would have been to challenge the findings and the reinstatement in office of the petitioner,



which was not done. However, notwithstanding the technical lapses in the conduct of the matter or proceedings, what is apparent, in fact, glaring is the discontent and conflict that is present with regard to the continuance in office of the writ petitioner.

17. As per the records in the last election to the office of Sirdar of Nongpoh, the Executive Committee KHADC, had approved vide order dated 22.02.2012 the following to be electors in accordance with Section 2 (h) of the Act of 1959, and these are: -

1. Basan Myntri Saiden
2. Basan Myntri Saiden
3. Basan Myntri Nongkhrah
4. Lyngdoh Raid Nongkharai
5. Lyngdoh Raid Nonglyndoh
6. Lyngdoh Raid Nongkhrah
7. Lyngdoh Raid Nongpoh
8. Lyngdoh Raid Nongkhyllem
9. Lyngdoh Raid Nongkyrla
10. Lyngdoh Raid Sohkhwai

In the present proceedings the fact that has not been contested is that the Lyngdoh Raids of Nongkhrah, Nongkharai, Sohkhwai, Nongkyrla and Nongpoh, who are arrayed as respondents Nos. 7 to 11, and are electors have expressed their loss of confidence on



the writ petitioner apart from the respondent No. 5 and other connected entities who also have their grievances.

18. In the present circumstances what can be seen is that the petitioner is continuing in office due to the lack of clarity in the entire matter, though as stated there is discord, discontent and no consensus, on the ground, with admittedly half of the recognised electors apart from other bodies, opposing him which has led to a deadlock in the administration. This discord will naturally have an adverse and a negative impact on the administration of Nongpoh Sirdarship affecting the entire populace of the Sirdarship, until and unless the matter is resolved one way or the other. On this consideration and this Court being a Court of Equity, to balance the competing claims and in public interest; and taking into account the inherent democratic process ingrained in customary elections to such traditional posts, inasmuch as, it appears that no just solution can be arrived at otherwise, deems the instant case to be a fit case for the District Council respondent to resort to Section 6 (2) of the Act of 1959, which provides for Referendum as follows:-



“6. Removal and Suspension of Chiefs:-

(2) REFERENDUM:- If any dispute arises as to whether the Chief has or has not lost the confidence of the majority of the electors or of the people of the Elaka as provided in clause (i) of sub-section (1) above, the Executive Committee may, if deems necessary, hold and conduct a referendum consisting of the electors of the Elaka or of the people of the Elaka as the case may be and take appropriate action on the basis of a simple majority of the result of such a referendum.”

This direction to the mind of this Court will be efficacious and suitable, inasmuch as, it will settle the question once and for all shorn of all other legal technicalities, which if given minute consideration will bog down the possibility of a fair and clear decision. It may be added herein, that this provision had also been resorted to in the year 2004, in the case of the Syiem of Myllem vs. Khasi Hills Autonomous District Council.

19. In the result, the impugned order dated 02.12.2024, is modified and interfered with to the extent that Para-4 thereof is quashed and set aside and it is made clear that there shall not be a second enquiry presently, but however, Para-5 is upheld and the Administrative Officer designated therein who is to take charge, shall look after the administration of Nongpoh Sirdarship till the final outcome of the



Referendum is arrived at and appropriate orders passed thereon by the Executive Committee (Respondents Nos. 1 to 4).

20. The impugned notification dated 03.12.2024, notifying the order dated 02.12.2024, shall also be modified to the extent of the order dated 02.12.2024 as indicated in the previous paragraph of this judgment.

21. In consideration of the situation prevailing, it is further directed that the respondents Nos. 1 to 4, shall complete the exercise within a period of 3(three) months from the date of this order.

22. In view of the directions contained hereinabove, the judgments referred to by the petitioner need not be elaborated or discussed.

23. As ordered above, this writ petition is closed and is accordingly disposed of.

24. The records to be returned forthwith to the counsel of KHADC.

JUDGE

Meghalaya
24.06.2025
"V. Lyndem PS"