
(2014) 09 MEG CK 0028
In the Meghalaya High Court
Case No : WP(C) No. 221 of 2013

Hareni Marak

APPELLANT

Vs

The Garo Hills Autonomous

RESPONDENT

Date of Decision : 24-09-2014

Acts Referred:

Citation : (2014) 09 MEG CK 0028

Hon'ble Judges : T. Nandakumar Singh, J

Bench : Single Bench

Final Decision : Partly Allowed

Judgement

T. Nandakumar Singh, J.—Heard Mr. A.S. Siddique, learned counsel appearing for the petitioners and Mr. S. Dey, learned counsel appearing for the respondents No. 1, 2 and 3 as well as Ms. Q.B. Lamare, learned counsel appearing for the respondents No. 4, 5 and 6.

2. By this writ petition, the petitioner is assailing the order of the Chief Executive Member, Garo Hills Autonomous District Council, Tura (In Short GHADC) dated 18.04.2011 passed in GDC-Rev/Appeal No. 11 A/C of 2008 only on the ground that the Chief Executive Member, GHADC did not give the opportunity of hearing before passing the impugned order in an appeal i.e. GDC-Rev/Appeal No. 11 A/C of 2008 filed against the petitioners.

3. The fact leading to the filing of the present writ petition is briefly noted. The present petitioners had approached the Executive Member I/C Revenue, GHADC, Tura by filing a case i.e. GDC-Rev. No. 33 A/C of 1990-1991 for recording their names as Nokmas of Rongma Kakija Akhing. The case was ultimately decided on compromise between the present petitioner and the private respondents that the present petitioners shall be recorded in the G.T. as Nokmas of Rongma Kakija Akhing vide order dated 22.03.1995 passed by the Executive Member I/C Revenue, GHADC, Tura which is annexed at Annexure-II A to the writ petition and is reproduced hereunder:-

"No. G.D.C.-REV/33 A/C/90-91 Nokmaship dispute Rongma Kakija 1-6.

22.03.95

Both the parties present along with the close relatives. Perused the Petition dated 22.03.95 file by Jangban Sangma in connection with the compromise of the existing case. Heard the parties both the parties have are argued on the body compromise Ded today in support of their Compromise of the case and the Parties had committed not to repeat the case in near future this case was related in respect of appointment of Sempul Sangma and his wife Hareni marak as the Successor Nokmas of Rongma Kakija Akhing land 1-6 to which the Objectors/ complainant has no further objection.

So, the Compromise of the case is allowed and Sempul Sangma and his wife Hareni Marak be entered in G.T. and the case is finally dispose off.

Sd/- A.A. Sangma Dated 23.03.95, Executive Member I/C Revenue Garo Hills District Council, Tura".

4. After passing of the said order dated 22.03.1995 by the Executive Member I/C Revenue, GHADC, Tura on compromise, the private respondents again approached the Executive Member, GHADC for assailing the order dated 22.03.1995 on the ground that the compromise between the parties cannot be treated as a compromise and also for declaring the private respondents as the Nokmas of Rongma Kakija Akhing. The Executive Member, GHADC passed an order dated 18.11.2004 in GDC-Rev. No. 39 A/C of 2004-2005 that the earlier order dated 22.03.1995 shall remain intact and a copy of the order dated 18.11.2004 is annexed at Annexure-III A to the writ petition and reads as follows:

"G.D.C.-REV No. 39 A/C of 2004-2005, Dated 6.07.2004

Nokma Appointment of Rongma Kakija 1-6.

18.11.04

Both the parties are present and represented and the Documents filed by the Respondents perused and on ascertaining of the Documents it is found that my predecessor Shri A.A. Sangma Honourable E.M.I./C. Land Revenue has allowed withdrawal Petition of Shri Rakjing Ch. Marak and his wife Compromising Cases will not be repeated and declaring Shri Sempul Sangma and Smt. Hereni Marak as Nokma of Rongma Kakija Akhing m/No. 1-6 and Ordered to enter the name of the respondent in the G.T. of the Akhing.

It's also found that on the record Order passed by Shri. A.A. Sangma, Honourable E.M.I./C. Land and Revenue was not appeal by the present Petitioner Shri Rakjing Ch. Marak within 60(sixty) days and in accordance with Compromise Deed of Shri Rakjing Ch. Marak dated 22.03.95 that Case will not be repeated is not related with the present Petition.

As such, the Order remains intact as Passed by predecessor Learned Honourable E.M.I./C Land and Revenue.

Hence the Petition of Shri Rakjing Ch. Marak is rejected.

Sd/- A.B. Marak Dated 18.11.04, Executive Member I/C Revenue Garo Hills District Council, Tura".

5. It is also stated in the writ petition that for the third time, the private respondents had approached the Executive Member, GHADC against the earlier order dated 22.03.1995 by filing a case being GDC-Rev. No. 39 A/C of 2004-2005 and that case was also rejected by the Executive Member, GHADC by passing an order dated 17.10.2008 which is annexed at Annexure-IV A to the writ petition. For easy reference, the said order dated 17.10.2008 is quoted as follows:-

"IN THE COURT OF E.M. I/C REV. G.H.A.D.C., TURA

GDC-Rev. No. 39 A/C of 2004-05

Smti Lisbina Ch. Marak and another..... Petitioners

1. Smti Hereni Ch. Marak

2. Shri Sempul N. Sangma..... Objectors

Dispute in respect of Nokmaship of Rongma Kakija Akhing 1-6.

ORDER

The case came up for the final Order before this Court after long delay since 23.03.95 I have gone through the records of the case and carefully examined all relevant papers available on Case record. It is found that the Case has been delayed because of unreasonable and distressing intervention made by the Petitioners Smti Lesbina Marak and her Husband Shri Julish N. Sangma who submitted petition asking to review the Order of the learned E.M. I/C Rev. G.D.C. dated 23.03.05 passed in G.D.C.-REV. No. 33 A/C of 1990-91 after settlement and compromised made by both the parties. There has been no formal Appeal made by the Petitioners according to Rule against the Order and Judgment aforesaid and that being so, the force of the Order of the learned E.M. I/C Rev. G.D.C. dated 23.03.95 remains undisturbed and still it is in full force. Therefore the Review Petition of the Petitioners is hereby rejected.

It is found that the Order of the Learned E.M. I/C Rev. G.D.C., Tura is yet to be completed by registering and entering the names of Smti Hareni Ch. Marak and her husband Shri Sempul N. Sangma in the G.T. of the Rongma Kakija Akhing.

Bench Assistant (Rev.) to fix date accordingly for the purpose within next two weeks.

Sd/- Shri M.D. Sangma Dated 17.10.08 Executive Member, I/C Land and

Revenue, Garo Hills District Council, Tura".

6. Ultimately, the private respondents filed an appeal being GDC-Rev/Appeal No. 11 A/C of 2008 against the said order dated 17.10.2008 passed in G.D.C. Rev. Case No. 20 A/C of 2008 and order dated 22.03.1995 passed in G.D.C. Rev. No. 33 A/C of 1990-91 before the Chief Executive Member, GHADC, Tura against the present petitioner.

7. As stated above, the said appeal had been disposed of without hearing the present petitioner by passing the impugned order dated 18.04.2011. It is also stated that the present petitioner had approached the Chief Executive Member, GHADC, Tura by filing a Review Petition which was registered as G.D.C. Rev/ Review Appl. No. 19 of 2011. The present incumbent of the office of the Chief Executive Member, GHADC, Tura was the member of the GHADC who had passed the earlier order in favour of the present petitioner. The present incumbent of the office of the Chief Executive Member, GHADC, Tura passed the impugned order dated 19.06.2013 that the petitioners may approach the High Court. Hence, the present writ petition assailing the said impugned orders of the Chief Executive Member, GHADC, Tura.

8. The private respondents had filed the affidavit-in-opposition wherein, the private respondents are not categorically denying that the said appeal filed against the present petitioner had been decided without giving any notice to the petitioner.

9. Mr. S. Dey, learned counsel appearing for the respondents No. 1, 2 and 3 also cannot produce any materials to show that the opportunity was available to the petitioner to put up their case before passing the impugned order dated 18.04.2011 in G.D.C. Rev/Appeal. No. 11 A/C of 2008.

10. In the above factual back drop, this court is of the considered view that there was complete violation of the principle of natural justice while passing the impugned order dated 18.04.2011 in G.D.C. Rev/Appeal. No. 11 A/C of 2008. Only in this score the impugned order is called for interference. Accordingly, the impugned order dated 18.04.2011 in G.D.C. Rev/Appeal. No. 11 A/C of 2008 is hereby set aside. However, in the peculiar nature of this case, a gazetted officer appointed by the Executive Committee of the District Council for this purpose is to hear the G.D.C. Rev/Appeal. No. 11 A/C of 2008 denovo. Regarding the Nokmaship of Rongma Kakija Akhing, status quo as on today be maintained.

11. With the above observations and directions, this present writ petition is allowed to the extent indicated above.