
(2021) 03 MAN CK 0079
In the Manipur High Court
Case No : Writ Petition (c) No. 127 Of 2020

Hari Prasad Nepal

APPELLANT

Vs

State Of Manipur

RESPONDENT

Date of Decision : 15-03-2021

Acts Referred:

Indian Penal Code, 1860 — Section 447
Constitution Of India, 1950 — Article 40

Citation : (2021) 03 MAN CK 0079

Hon'ble Judges : Kh. Nobin Singh, J

Bench : Single Bench

Advocate : Serto T Kom, Leivon Sainem Komms, B R Sharma

Final Decision : Disposed Of

Judgement

[1] Heard Shri Serto. T. Kom, learned counsel appearing for the petitioners and Shri M. Rarry learned Addl. Advocate General for the respondents.

[2] By the instant writ petition, the petitioners have prayed for issuing a writ of mandamus or any other appropriate writ to direct the respondents to

create/ provide a statutory Village Administrative Authority for Irang Part-I and Irang Part-II villages, in lieu of a Gram Panchayat/ Village Authority

within a specific time period and to allow the present GB system to continue till a statutory Village Administrative Authority for Irang Part-I and Irang

Part-II villages is constituted as per law.

[3.1] According to the petitioners, the petitioner Nos.1 & 12 are the GB (Gaun Bura)/ Chairman of Irang Part-I and Part-II villages respectively, while

the petitioner Nos. 2 to 11 are the members of the GB, Irang Part-I village and the petitioner Nos.13 to 26 are the members of GB, Irang Part-II

village.

[3.2] The above mentioned Irang villages are the composition of total 25 villages, out of which 10 villages in Irang Part-I and 15 villages in Irang Part-II, are a part of and located within the Irang Nepali Grazing Reserve Area. These villages have been solely inhabited by Nepalis/ Gorkhas since their establishments and as per Census 2011, the total population of Irang Villages (Part-I and part-II) was recorded and reported as 9,635 individuals. The two Irang villages are Government recognised villages, as they are amongst the recognised villages listed in the Manipur State Hill Peoples (Administration), Regulation, 1947. In addition thereto, the names of these two villages are shown in the list of Nepalee Gwallas in the Northern Circle, West Sub-Division, 1946-47.

[3.3] Since the year, 1930, Irang village was governed and administered by Irang Panchayat. Out of 40(forty) Panchayats established in Manipur, 3

Panchayats were of Nepali/ Gorkha villages and Irang Panchayat was one of them. The administration of Irang village was under the Irang

Panchayat and various administrative decisions and policies of the then government were taken and executed by the said Panchayats. The

Government order dated 02.07.1938 issued by the Political Agent in Manipur, divided Irang village and recognized it as separate two villages i.e. Irang

Part-I and Irang Part-II villages. The GB (Gaun Bura) are Hindi word, of which गाँव Gaun means Village and बुरा Bura means Headman. The

Government of Manipur has been appointing GB/ Chairman for the said two villages since 1938 till date to govern their respective villages in the

absence of Gram Panchayat or Village Authority. By the Notice dated 29.02.1940 served upon the Headmen of Irang village Part-I and Irang village

part-II, the Political Agent informed him to pay/ contribute for the cost of Tamenglong Kangpokpi bridge within one month from the date of the

notice. The Irang village Part-I and Part-II have been recognised as villages to be administered under the Manipur State Hill Peoples (Administration)

Regulation, 1947 and the names of the said two villages are found in the list mentioned therein. Each Satellite village of the Irang Part-I and Irang

Part-II has MGNREGS implementing Committee headed by the members of the GB of the Satellite village for implementation of the scheme. The GB

and its members looked after the villages and settled issues/disputes as per the customary practice of the Nepalis/ Gorkhas. Thus, every development

& dispute is handled by the GB and its members. There is no other statutory body to run the villages of the Irang Part-I and Irang Part-II other than said GB.

[3.4] In a Hill Cril. Case No.46 of 1953 where Genthang Kuki and others complained against AM Gurkharli GB and others under Section 447 IPC on the allegations that the said accused persons had encroached upon a land on the bank of Irang river, the DC Manipur acquitted them on the ground that the land that they were occupying, were within the Irang Professional Grazing Reserve wherein each family members of the Nepali Professional Grazers were given settlement by the Government. The Chief Commissioner Manipur in C.A Case No.61 of 1953 wherein Teisabou Naga and others of Thonglang Atongba Christian Village are the Appellants, while Khemananda Upadhaya and others of Irang Part-I were the Respondents, held that the disputed land was within the Grazing Reserve of the Respondents and that since the Appellants were the encroachers, the appeal was dismissed.

[3.5] The Irang Part-I and Part-II villages are also made to be included within Sadar Hills West Sub-Division, Manipur North District, as they are found at Sl. No.113 and 115 of the order dated 14.02.1972 issued by the Chief Secretary, the Government of Manipur. These two villages are within the 50-Kangpokpi (Gen) Manipur Legislative Assembly Constituency and are within the Outer Manipur Parliamentary Constituency (ST).

[3.6] A Notification dated 07.03.1972 was issued by the Secretary to the Government of Manipur constituting constituencies of various Autonomous District Councils including Sadar Hills District Council wherein the villages of the petitioners are included at Sl. Nos.3 and 5. The Government of Manipur issued a Notification dated 11.09.2009 notifying the District Council Delimitation including Sadar Hills Autonomous District Council which included two villages of Irang Part-I and Irang Part-II.

[3.7] The other Gorkha/ Nepali villages within the erstwhile Senapati District, now Kangpokpi District were allowed to have village level/ Grass Root level Administrative Institutions under the nomenclature of Gram Panchayat under various Panchayati Raj Acts. Thereafter, vide notification dated 29.06.2012 issued by the (link) Addl. Chief Secretary (RD & PR) deleted the Gram Panchayats. The said notification dated 29.06.2012 came to be challenged before this Court in PIL No.11 of 2015 which was dismissed vide order

dated 19.02.2018 on the ground that the above mentioned villages fell within the area where the Manipur (Hill Areas) District Council Act, 1971 is in force. Thereafter, no Gram Panchayats under the Panchayati Raj Act applicable in Manipur are allowed to the Nepali/ Gorkha villages on the ground that Autonomous District Council Act is in force and implemented in the said areas but the Village Authority constituted under the Manipur (Village Authorities in Hill Areas) Act 1956 which is a grass root level administrative institution, is not extended to the said Nepali/ Gorkha villages including that of the Petitioners since the introduction of the said Acts, thereby depriving the villagers of justice for more than 70 years. The Government of Manipur vide Circular dated 07.01.2008 has notified that the National Rural Employment Guarantee Scheme shall be implemented only by the Panchayati Raj Institutions/ Village Authorities in the State of Manipur. Both the villages of the petitioners have been implementing MGNREG Scheme through a committee headed by a member of the GB in respect of each of the Satellite villages till date.

[3.8] All the Nepali/ Gurkha villages within the then Senapati District but presently, in the Kangpokpi District including the two villages of the petitioners, have not been allowed to have any Grass root level Administrative Institutions either under the Panchayati Raj Act of 19194 or under the Manipur (Village Authorities in Hill Areas) Act, 1956, in spite of having the duty to do so under Article 40 of the Constitution of India. Being aggrieved by the inaction on the part of the respondents, the petitioners submitted a representation dated 10.01.2020 to the Honâ??ble Chief Minister, Manipur requesting him either to reinstate Gram Panchayat with Zilla Parisads or to create a Gorkha village Development and Administrative Authority as an alternative arrangement to Manipur (Village Authorities in Hill Area) Act, 1956 in the Gorkha/ Nepali inhabited villages including the petitionerâ??s villages i.e. Irang Part-I and Part-II villages. The petitioners in particular and the Nepalis/ Gorkhas in general within the Kangpokpi District, have been discriminated to the extent that no statutory grass-root level village administrative institution has been extended to their villages. If the respondents feel that the Nepalis/ Gorkhas are not entitled to have the Gram Panchayat under the relevant Panchayati Raj Act or Village Authority under the Manipur

(Village Authorities in Hill Areas) Act, 1956, the respondents could have made the GB and its members as a statutory body by passing numerous enactments but that too, has not been done. Hence, this writ petition has been filed, as the petitioners are deprived of their rights to have a grass-root level village statutory administrative institution/ body which is very relevant for their community to attend official matters relating to customary laws, developmental schemes which are to be implemented by the Panchayats or the Village Authorities. The petitioner's villages are having a village level local self Government in the form of GB system and its members and the Respondents are duty bound to endow the required power and the authority under Article 40 of the constitution of India.

[4] When the above writ petition is taken up for consideration, it has been submitted by the counsel appearing for the petitioners that the instant writ petition can be disposed of by passing an innocuous order and accordingly, the instant writ petition stands disposed of with the direction that the petitioners shall submit a fresh representation to the respondents within two weeks from today and in the event of such a representation being submitted by the petitioners, the respondents shall consider and dispose of the same within two months from the date of receipt of a copy of this order by issuing a speaking order.

Copies of this order shall be sent to the learned counsels appearing for the parties through their WhatsApp/e-mail.