
(2018) 11 MAN CK 0004
In the Manipur High Court
Case No : Writ Appeal (WA) No. 50 Of 2018

K.C. Chonseï And Others

APPELLANT

Vs

Langkhanpau Guite And Others

RESPONDENT

Date of Decision : 19-11-2018

Acts Referred:

Citation : (2018) 11 MAN CK 0004

Hon'ble Judges : Ramalingam Sudhakar, CJ; Lanusungkum Jamir, J

Bench : Division Bench

Advocate : HS Paonam, N. Bipin, N. Ibotombi, A. Rommel, S. Rupachandra, Rajkishore Th

Final Decision : Disposed Off

Judgement

R.S., CJ

[1] Heard Mr. HS Paonam, learned Sr. Counsel assisted by Mr. N. Bipin, learned counsel appearing for the appellants. Heard also Mr. N. Ibotombi, learned Sr. Counsel assisted by Mr. A. Rommel, learned counsel; Mr. S. Rupachandra, learned Addl. AG as well as Mr. Rajkishore Th., learned counsel for the respondents.

[2] The cause of action for filing the writ appeal is to quash the order dated 01.09.2018 and the Notification dated 01.09.2018 issued by the respondents no. 1 and 4 of the writ petition and consequential relief for mandamus to direct the official respondents to fix the date of holding the election to the post of Chairman of the Autonomous District Council, Churachandpur.

[3] It is to be noticed that the writ petitioner was an elected member of the Council in terms of the Manipur (Hill Areas) District Councils Act, 1971. In the last election held in 2015, twenty-four persons including the writ petitioner were declared elected as members of the Council vide Notification dated 17.06.2015 issued by the Principal Secretary (Hills), Government of Manipur. It appears that Shri Langkhanpau Guite was elected as Chairman of the Council and continued

till 22.04.2017 and thereafter, Shri Khaipao Haokip was elected as Chairman of the Council. A resolution was moved to remove Shri Khaipao Haokip from the post of Chairman which resulted in filing of cases and ultimately, the matter was taken to the Supreme Court and based on certain directions, a meeting was called for and before the meeting could take place, it appears that Shri Khaipao Haokip submitted his resignation on 27.07.2018 which was accepted by the Governor.

[4] Respondent no. 1, State of Manipur issued an order dated 18.08.2018 fixing the date of election to the post of Chairman on 24.08.2018 and 3 (three) persons submitted their nomination. This action resulted in some litigation by way of writ petition and finally, the present petition has been filed challenging the impugned proceeding whereby the election was postponed.

[5] The learned Single Judge while considering the nature of the grievances of the petitioner for holding of the election and the objection made by Shri HS Paonam, learned Sr. Counsel and after considering the stand of the State Government, was of the view that the election to the post of Chairman amongst 24 (twenty-four) members is a mandate of law and should not be postponed merely on law and order problem.

[6] The Learned Single Judge was of the view that the State Government has not placed the necessary or proper materials as to the cause for postponement. The learned Single observed in para 7 of the judgment reads as follows :

"[7] It may be noted that the issue involved herein does not, in any case, relate to the election of the members of the Council where a large number of citizens are involved but to electing one of the members as the Chairman of the Council from amongst the 24 (twenty four) members. It is hard to believe the stand of the State Government that on account of the law and order problem, the election of the Chairman of the Council cannot be held indefinitely. The post of the Chairman is lying vacant since 27-07-2018 and therefore, in any case, the election of the Chairman is to be held in terms of the provisions of the Act, 1971. Keeping in mind the fact that the democratic process cannot be stopped for a long time, the election of the Chairman at any cost is to be held for which the State Government is duty bound to take all precautionary measures, if necessary, by taking the aid of the Army or the paramilitary forces. From the facts as narrated hereinabove, the problem of law and order does not seem to be the only ground for not holding the election but there appear to be some other reason for it which the State Government has failed to disclose and share with this court and it is also evident therefrom that even after the receipt of notices of intention to move the resolution for removal of the Chairman, the respondent No.2 did never take appropriate action in time for the reasons best known to it. It is the prime concern of the State Government to hold the election in time and in other words, it is the bounden duty of the State Government to enforce the provisions of the Act, 1971 but the State Government appears to be lacking sincerity in its approach towards holding the election. If timely action is not taken

by the State Government, the provisions of the Act, 1971 will become and will be rendered redundant and will be of no use. The State Government appears to have failed to discharge its statutory obligations, for extraneous reasons, towards holding the election of the Chairman in the name of law and order problem. As is seen from the local newspapers, the people of the district of Churachandpur has raised hue and cry against the inaction on the part of the State Government to hold the election. Moreover, in response to a representation dated nil submitted by the President, All Tribal Rights' Protection Forum, Manipur, the Secretary to the Governor had addressed a letter dated 01-10-2018 to the Secretary (TA & Hills), Government of Manipur expressing the desire of the Governor that the election of the Chairman of the Council be held at an early date as per rules. All requests from all concerned appear to have fallen on deaf ears of the State Government."

[7] Be that as it may, after hearing the writ petitioner and Shri HS Paonam, learned Sr. Counsel for the private respondents and Shri S. Rupachandra, learned Addl. AG for the State, the following order was passed by way of consent. Para 8 reads as follows :

"[8] When the matter was listed for consideration and during the course of hearing, the learned counsels appearing for the petitioner and the private respondent fairly agreed that the election of the Chairman of the Council be held at Imphal and the only thing to be done by the State Government was to fix the date on which the election can be held for which the learned Addl. Advocate General was granted a days' time to seek instruction in view of the urgency involved herein and since the State Government has failed to indicate or suggest any date on which the election of the Chairman can be held, this Court has no option but to fix the date of election."

Further direction was issued in para 9 of the judgment as follows :

"[9] In view of the above and for the reasons stated hereinabove, the instant writ petition is disposed of with the following directions:

(a) The election of the Chairman of the Council shall be held on 05-11-2018, without fail, for which adequate security shall be provided by the State Government to all the members of the Council;

(b) The election of the Chairman of the Council shall be held at Imphal and the exact venue and time of the election shall be fixed by the State Government, well in advance, keeping in mind the prevailing circumstances including the law and order problems."

[8] The State as well as the private respondents are in appeal pleading that holding an election for the post of Chairman even at Imphal would be a futile exercise because of the tense situation. Shri HS Paonam, learned Sr. Counsel for the appellants pointed out that writ petitions were filed by some members seeking dissolution of the Council which was also disposed of by the learned

Single Judge with a direction to give representation to the Government. Therefore, the only issue that arises for consideration is how the election to the post of Chairman should be conducted.

[9] Keeping in mind the stand taken by the parties before the learned Single Judge as indicated above it is to be noticed that holding of election is mandate of law. This will ensure that elected representatives can discharge their duties and the election process becomes meaningful. The present case does not deserve any modification for the reasons recorded by the learned Single Judge. except observing that the State Government should provide all necessary infrastructure like police, paramilitary force support etc. as may be required for smooth conduct of the election as indicated by the learned Single Judge.

If any of the individual members seeks police protection, he may make request to the Director General of Police which request shall be duly considered promptly. The date fixed by the learned Single Judge for election to the post of the Chairman of the Council i.e. 05.11.2018 has already expired. We are therefore inclined to modify the order to the extent that the election to the post of Chairman shall be held on or before 14.12.2018, as suggested and agreed to by Mr. S. Rupachandra, learned Addl. AG Shri HS Paonam appellant counsel and respondents. All other directions of the learned Single Judge shall remain the same.

[10] Observing as above, writ appeal stands disposed of.