

(1997) 12 GAU CK 0018

In the Gauhati High Court

Case No : Civil Rule No's. 301 and 1047 of 1996

Konsaba Ibchou and Lainingba Mangi

APPELLANT

Vs

The State of Manipur and Others

RESPONDENT

Date of Decision : 05-12-1997

Acts Referred:

Constitution of India, 1950 — Article 226, 344

Citation : (1998) 1 GLT 1

Hon'ble Judges : V.D. Gyani, J;N.G. Das, J

Bench : Division Bench

Advocate : N. Kerari Singh, in C.R. 1047/96 and M. Charugopal Singh, in C.R. 301/97, for the Appellant; Ashok Potsangbam and H.N.K. Singh, for the Respondent

Judgement

V.D. Gyani, J.—The Petitioner is the President of a voluntary organisation engaged in propagation of "Meeteinism" in the Manipur Valley, claims to have explored the real Meetei script which according to him is authentic and was in use until 17th Century A.D. when it came to be eclipsed by emergence and influence of Vaishnavism in Manipur. By this petition under Article 226 of the Constitution, the Petitioner prays for both a Writ of Certiorari as well as Mandamus seeking to quash Annexure-10 and 11 dated 20.9.96 issued by the State Govt. cancelling the appointment of expert committee, constituted on 19.4.94, and order dated 2.12.96, re-affirming the 27 scripts based on recommendations of the Expert Committee meeting held on 10.10.96 Annexure-15. A direction is also prayed for, directing the Respondents to hold a fresh meeting to consider and examine the correct Meetei script by associating two experts on the subject from outside Manipur allowing the earlier committee as constituted on 19.4.96 vide Annexure-1/6. This in short is the Petitioner's case and it empty reveals the nature of the Petitioner itself. This petition was filed on 18.12.96. A learned single Judge of this Court by order dated 27.1.97 called upon the State Govt. to file a statement. The subsequent order sheets show that in the mean time Miscellaneous cases 2/97, 41/97 were also filed by

parties seeking intervention, which were allowed.

2. Significantly enough it is not only this petition but also Civil Rule No. 301/97 which by order dated 30.4.97 passed by another learned Single Judge Ghosh, J. were directed to be listed before Division Bench for the following reasons.

Having heard the learned Counsel for both the parties, I am of the opinion that since the matter involves change/revival of old Manipuri Script the question of tradition, custom and further development of literary atmosphere of the State have to be thoroughly considered. Under the circumstances this matter should be dealt with by a Division Bench or larger Bench.

3. This is how it has come to be listed before Division Bench. Apart from being a matter of policy, too evidently the matter is highly technical, calling for a high degree of expertise in a particular language and its script and the Court does not possess such an expertise and specialised in-depth knowledge of Manipuri history, its language and script, and even if someone were to claim such a specialised knowledge, the question that still looms large is, whether such a matter falls within the purview of Writ jurisdiction of this Court ?

4. It is not for the Writ Court to go into the movement and explorations which, the Petitioner claims to have been launched by the organisation for preservation and development of meetei Script. To sustain a petition particularly for a Writ of Mandamus, the Petitioner has to show that he has a subsisting legally enforceable right.

5. However passionately one may be associated with a particular cause say for language, culture, religion etc. such sentimental or emotional attachment is no substitute for an existing legally enforceable right in his favour. The crux of the controversy lies in the fact whether the Meetei script as propounded by the Petitioner's organisation is the authentic script ? It is not something relating to Official Language Act, 1963 nor a matter touching Article 344 of the Constitution. It is pure and simple academic question that too of a highly pedantic nature.

6. learned Counsel appearing for the Petitioners however found fault with the Constitution of the Committee appointed by the State Govt., pursuant to orders issued by this Court in earlier petitions and interference by the State Govt. an action denounced as arbitrary and mala fide. Before we proceed to examine this submission, it needs to be noted that the constitution of the Committee is not governed by any statutory provision or Rules and the submission can be disposed of on this short ground alone.

7. So far as mala fide is concerned except for a bald insinuation, no facts constituting mala fide have been averred by the Petitioners.

8. It is a common ground that opinion of experts from National Archives of India was considered proper to be obtained on the matter. As the letter dated 9.5.59, Annexure-A/1 an Advisory Committee under the Chairmanship of the Education Minister was formed and its meeting was held on 22.12.72, and the persons

interested were requested to attend the meeting vide notice dated 14.12.72, Annexure-A/2. On consideration of the matter as a whole an Expert Committee was appointed by the Governor as per order dated 16.11.78, Annexure-A/3. It provided for co-opting two experts from outside the State of Manipur. The allegation is that the Govt. was interested in inducting its own men in the Committee, therefore, the then Chief Minister was approached with a petition but to no avail, which led to filing of writ petitions 100/82 and 106/83, decided by a common judgment and order dated 6.11.95 and in pursuance thereto the Government of Manipur vide Order No. 5/12/89-S/SE (HC) dated 19.4.1996 (Annexure-6) constituted a fresh Committee of Experts on Meetei Mayek (Meetei Script) by associating the Petitioner as well as Shri N. Mangi, the writ Petitioner in other Civil Rule No. 106/83 and one representative each from the National Archives of India and Director General of Archaeological Survey of India as members of the Committee to find out the correct accepted Meetei Mayek and to develop the same in the interest of the public. Although its meeting were called vide notices dated 11.6.96. and 19.6.96 (Annexures-7 and 8 respectively) but the meeting scheduled to be held on 19.6.96 was postponed sine-die vide notice dated 19.6.96 (Annexure-9). It is the Petitioner's case that some clandestine and secret plots were hatched out to change and alter the accepted constitution of the Expert Committee so that demands of certain sections of influential and interested persons and some other organisations may be given undue consideration. It was with this aim and object in view, the meeting of the Expert Committee was unnecessarily postponed only with view to enable the Governor to issue orders dated 20.9.96 (Annexures-10 and 11) cancelling all previous orders relating to constitution of Expert Committee and constituting another committee. It was followed by a notice dated 7.10.96 (Annexure-12) challenging the change and constitution of the Expert Committee, dubbing the State action as mala fide. In the meantime, the Governor of Manipur issued an order cancelling all relevant orders relating to Order No. 5/12/89-S/SE(HC) dated 19.4.96 in respect of the constitution of Expert Committee on Meetei Mayek. The first meeting of the reconstituted Expert Committee was held on 10.10.96 in the office Chamber of the Chief Minister, Manipur but the Chairman has to postpone the meeting until a decision was given by the Court on a contempt petition filed by one of the participants for violation of the Court's order. Once again a legal notice dated 5.11.96 (Annexure-A/14) was given to the Secretary (Education), Govt. of Manipur demanding him for withdrawal of the cancellation as well as reconstitution of orders relating to the second Expert Committee on 20.9.96.

9. On 2.12.96 vide Order No. 5/12/89-S/SE(HC)-I dated 2.12.96 the Govt. of Manipur issued order published in the Manipur Gazette Extraordinary No. 382 dated 4.12.96 (Annexure-A/15) to the effect that the Expert Committee having re-examined and recommended the existing 27 scripts in its meeting of 10.10.96, accordingly it was ordered that the Govt. of Manipur had been pleased to reaffirm the 27 scripts and its supplements issued vide Government Order No. 1/2/78/-SE/E dated 16.4.80.

10. learned Counsel for the Petitioner contended that the acceptance of 27 scripts was mala fide. In constitution the Expert Committee two experts from outside was a "must" and any recommendation made by a committee without such experts in the subject from outside the State is wholly in acceptable. They urged that the order dated 2.12.96 by which the Government has accepted the so called recommendation submitted by the Expert Committee is unconstitutional, violative of the Court's order and mala fide being not founded on any materials on record. A leaflet dated 9.12.96 challenging the correctness of the recommendations issued by five members of the committee was also referred to us.

11. It is significant to note that in all the orders notifications relating to constitution and appointment of members of the expert committee on the subject, Annexures-3 and 6 as filed and relied upon by the Petitioners, and Annexure-A/11 order dated 20.9.96 challenged by the Petitioners it is uniformly made clear that the Committee is purely voluntary in nature. It has absolutely no statutory legal basis.

12. It is contended by Respondent No. 3 in his counter affidavit filed on 28.2.97 that the Committee constituted by order dated 20.9.96, cancelling the previous committee constituted on 19.4.96, was surreptitiously done. The reason being the answering Respondent No. 3, was not there in the, newly constituted Committee. Apart from specific denial of all such allegations by the State, the question is what is the legal entitlement or right to membership of such "purely voluntary committee" ? Even the Courts directive as contained in the common order dated 6.11.96 passed in Civil Rule No. 100 of 1982 and 106/83, (Annexure-A/5) as filed by the Petitioner, howsoever liberally construed does not confer any such right on any person or body. Para 8 and 9 of the order may be seen in this context they are reproduced below for ready reference.

8. After hearing the counsel of both sides we are of the view that it would meet the ends of justice if the recommendation and order of the Governor dated 17.4.1980 should be allowed to continue, but if a direction is issued to the Respondent Government to re-examine the matter by allowing the Petitioners organisations to associate themselves as a member in the Committee to be constituted by the Government to re-examine the matter.

9. Accordingly these two writ petitions are disposed of with the direction to the Respondent Government to re-examine the matter by associating the two organisation in this writ proceedings. It is made clear that the recommendation and acceptance of the Government by its order dated 16.4.1980 shall continue as it is till any order that may be passed by the Competent Authority. We further made it clear that the Competent Authority after re-examining the matter as observed above, may pass any order as deemed fit and proper in the facts and circumstances of the case. Considering the facts that the Petitioners have been pursuing the matter since 1982, it is expected that the competent authority would constitute the Committee within a reasonable time and in any event not

later than 5 months from the date of receipt of this order.

13. So far as allegation of malafide and bias is concerned as already noted above except for a bold insinuation, no facts constituting mala fide are placed on record, and who was the person who was biased ? Nothing of the sort is indicated in these petitions.

14. As regards Petitioners insistence is for two experts on the subject from outside the State, it is not as if no attempts were made by the State Government to obtain the services by such experts from outside the State, reputed institutions in the field, such as Royal Asiatic Society of Bombay, Linguistic Society of India Deccan College, Poona, The National Archives of India (See Annexures-R/1 and R/2) now, the State Government cannot be blamed if such experts are not available. There may be self styled and self-proclaimed experts, but how can they claim as matter of right, the membership of a "purely voluntary committee" appointed by the Government. Even the Courts order does not confer any such right.

15. It is no body's case that the constitution of the committee is governed by any Statutory Rules nor there is allegation about breach or violation of any such Rule in the matter of constitution of the Experts Committee which was purely voluntary in nature and more or less subjective in any case no objective approach was necessary. The orders enacted from the administrative side of the State Government and are purely administrative in nature not even governed by guidelines much less any statutory Rules. It is not to suggest that they could be discriminatory or arbitrary. The order passed by this Court as reproduced above has all along been followed in its spirit and letter.

16. Above all what is nature and content of the subject matter- a language and its script, calling for a very high level of learning and scholarship, the history of the language and its script a purely expertised specialised branch of academic learning, the question that looms large whether such a subject matter justiciable at all ? So as to invoke the writ jurisdiction of the High Court ? The Supreme Court in Tata Iron and Steel Co. Ltd. etc. Vs. Union of India and others and Industrial Development Corporation of Orissa Ltd., has clearly pointed out that in such matters the writ jurisdiction of the High Court should not be allowed to be invoked. Sec Kanhaiya Lal Sethia and Another Vs. Union of India (UOI) and Another,

17. In view of the foregoing discussion, both these two petitions are liable to dismissed and accordingly dismissed with no order as to cost.