

(1993) 08 GAU CK 0030

In the Gauhati High Court

Case No : Civil Rule No. 60 (SH) of 1991

L.Laborious Manik Syiem

APPELLANT

Vs

Presiding Officer, Election Tribunal and Additional Judge,
Additional District Council Court, Khasi Hills, Shillong

RESPONDENT

Date of Decision : 20-08-1993

Acts Referred:

United Khasi and Jaintia Hills Autonomous District (Appointment and Succession of Chiefs and Headmen) Act, 1959 — Section 5A, 5A

Citation : (1993) 2 GLJ 406

Hon'ble Judges : D.N.Baruah, J

Bench : Single Bench

Advocate : M.Z.Ahmed, N.M.Lahiri, H.S.Thangkhiew, B.M.Mahanta, A.D.Massar, S.C.Das, Advocates appearing for Parties

Judgement

1. In this application under Article 226 of the Constitution the petitioner has prayed for issuance of appropriate Writ or direction. The petitioner's case is that the Returning Officer appointed by the Executive Committee of the District Council of Khasi Hills issued a notice dated 20.7.90 directing the electorates to assemble and nominate Syiem (Chief) of Myllem. In pursuance of the said notice, 43 persons assembled. Thereafter, voting by counting of heads took place and the Presiding Officer submitted a report dated 4.8.90 to the Returning Officer and the Returning Officer declared the petitioner elected on the date of election itself. One WR Nongneng informed the Presiding Officer that he was not allowed to cast his vote on the ground that he arrived little late. The second respondent filed an election petition before the Tribunal constituted by the Executive Committee. The election petition, is still pending. In the said election petition, the petitioner raised preliminary objection regarding maintainability of the election petition by the second respondent. However, the Tribunal rejected the prayer holding that the petitioner has got locusstandi to file this election petition and Issue No. 1 was accordingly disposed of. Hence, the present petition.

2. Heard Mr. BM Mahanta, learned counsel for the petitioner, Mr. NM Lahiri,

learned counsel for second respondent and Mr. SC Das, learned counsel for fourth respondent.

3. Mr. Mahanta, submits that the second respondent has no locusstandi to file an election petition as he is not party concerned within the meaning of section 5A of the United KhasiJaintia Hills Act No. 11 of 1959. Mr. Lahiri, on the other hand, submits that the second respondent was nominated by some of the electorates and he was defeated on the ground that two persons were not allowed to cast their vote unreasonably and therefore he is definitely a party concerned within the meaning of section 5A of the said Act. I quote the section 5A thus :

"If within 30 days of declaration of the result by the Returning Officer under section 4 any dispute arises regarding any matter relating to or connected with the election or nomination of a Chief, the dispute shall be referred by the party or parties concerned, by a petition to the Tribunal constituted by the Council for the purpose. The decision of the Tribunal shall be final."

4. The second respondent being nominated for election, in my opinion, he is a party concerned within the meaning of section 5A. In this connection, Mr. Das has drawn my attention to a judgment dated 15th June, 1964 passed by this Court in CR No. 130 of 1964, wherein this Court observed thus :

"...word "party" has not been defined in the Act. It, however, of wider import than the word "candidate" and the meaning of the word "party" can not be limited so as to confine it to a person who has been nominated."

5. As per the said decision, not only the persons who are nominated for the election, but others having interest in the election, are "the parties concerned" within the meaning of section 5A. Following the decision of this Court, I hold that the second respondent has definitely locusstandi to file an election petition. In view of the above. I do not find any merit in the petition and accordingly the petition is dismissed.

6. Mr. Lahiri, further submits that the election petition has been pending for the last three years though some evidence on behalf of the petitioner have been recorded, respondents evidence are yet to be recorded. In view of the above, the Tribunal may be directed to dispose of the election petition as early as possible. Accordingly, I direct the Tribunal to dispose of the election petition as expeditiously as possible at any rate within a period of 6 (six) months from today.