

(1990) 03 GAU CK 0011

In the Gauhati High Court

Case No : Civil Rule Nos. 1537, 1538, 1820 and 1821 of 1989

Pu Dosanga

APPELLANT

Vs

State of Mizoram and Ors.

RESPONDENT

Date of Decision : 09-03-1990

Acts Referred:

Lushai Hills District (Village Councils) Act, 1953 — Section 25(1), 25(1)

Citation : (1990) 2 GLJ 97

Hon'ble Judges : J.M.Srivastava, J and J.Sangma, J

Bench : Division Bench

Advocate : B.Choudhary, B.N.Sharma, A.K.Bhattacharyya, K.Agarwal, Advocates appearing for Parties

Judgement

J.M. Srivastava, J.—These four petitions raise the same question of law and facts, have been heard together and are being decided by this common judgment.

2 The petitioner in Civil Rule No. 1537/89 was President of Durtlang Village Council which had been constituted in November, 1987 with 7 elected and 3 nominated members. The term of the Village Council was 3 years from the date of its constitution. By Notification No. LAD/VCA41/89 dated 13th June, 1989 the Governor of Mizoram in exercise of powers under section 25(1) of the Lusai Hills District (Village Council) Act, 1953 (hereafter referred as the Act) however dissolved the Village Council. The petitioner is aggrieved with the dissolution of the Village Council mainly on the grounds that even though the Village Council was duly constituted and comprised of elected and nominated members it has been dissolved without any opportunity to show cause against the action taken.

3. In Civil Rule No. 1538/89 nine Village Councils, namely, Tanhril Village Council, Zawlsai Village Council, Tumpui Village Council, Hriphaud Village Council, Melthum Village Council, Khawbung "S" Village Council. Serchhip West Village Council, Damvcng Village Council and Lungdar "?" Village Council were similarly dissolved by Notifications No. LAD/VCA115/88 dated 8th May, 1989 ; No. LAD/VCA242/89 dated 26th May, 1989 ; No. LAD/VCA334/89 dated 16th June, 1989;

No. LAD/VCA266/89 dated 27th June, 1989; No. LAD/VCA25/89/19 dated 19th July, 1989 ; No. LAD/VCA89/88/8 dated 20th July, 1989; No. LAD/VCA93/89/21 dated 27th July, 1989 ; No. LAD/VCA336/89 dated 10th August, 1989 and No. LAD/VCA86/89/7 dated 21st August, 1989 respectively.

4. In Civil Rule No. 1820/89 by Notification No. LAD/VCA217/89 dated 5th October, 1989 the Tualte Village Council was similarly dissolved.

5. In Civil Rule No. 1821/89 by Notification No. LAD/VCA281/ 89/10 dated 17th October, 1989 the Village Council of Venghnuai was similarly dissolved.

6. We have heard Shri A. K. Bhattacharyya, learned counsel for the petitioner and Shri B, Choudhury, learned Government Advocate for the State of Mizoram, respondent.

7. The question which requires consideration is that whether the impugned action was in accordance with law.

8. Section 25(1) of the Act reads as under:

"25(1) The Executive Committee may, by public notification order the dissolution of a Village Council if in its opinion, the Village Council is too inefficient or is not able to carry on the Village Administration or is acting in the manner prejudicial to the interest of the State or for any other reasons considers sufficient for such dissolution, and issue orders for holding a fresh election of the Village Council. Copies of all such orders shall also be sent to the Deputy Commissioner of the District."

While the power to dissolve the Village Council has been conferred on the competent authority, we think that when an elected body like the Village Council which obviously is a grassroot level democratic institution is proposed to be dissolved, i.e. its life as stipulated in law is to be cut short by exercise of drastic power, in the absence of anything to the contrary in the law, i.e. the Act, the principles of natural justice shall come into operation and infringement thereof shall vitiate the action taken. We do not find any provision in the Act like that the decision to dissolve a Village Council is final and cannot be called in question. While it is also true that there is no provision for giving an opportunity to be heard before dissolution, yet for reasons stated earlier, we think that in the circumstances the least that can and should be done is to give a show cause notice with a view to extend an opportunity to be heard, against the proposed action.

9. Shri B. Choudhury, learned counsel for the respondent has referred to the averment in the impugned notification that investigation had been done and some ground had been found for taking the impugned action. While it may be so, the fact remains that the inquiries were made behind the back of the Village Councils, in that they were not informed about the inquiry, when it was made, and admittedly no opportunity at all was extended to the Village Councils before action by the impugned notifications was taken. In our opinion the impugned

action being in flagrant violation of the principles of natural justice cannot be sustained and should be quashed.

10. We accordingly allow these petitions and quash the impugned notifications No. LAN/VCA41/89 dated 13.6.89 by which the Durtlang Village Council in Civil Rule No. 153 7/89; No. LAD/VCA115/88 dated 8.5.89 ; No. LAD/VCA 242/89 dated 26.5.89 ; No. LAD/VCA334/89 dated 16.6.89 ; No. LAD/VCA266/39 dated 27 6.89 ; No. LAD/ VCA25/89/19 dated 19.7.89; No. LAD/VCA89/88/8 dated 20.7.89; No. LAD/VCA93/89/21 dated 27.7.89; No. LAD/VCA36/89 dated 10.8.89 and No. LAD/VCA^6/89/7 dated 21.8.89 by which the Village Councils, namely, Tanhril, Zawlse, Tumpui, Hriphaud, Melthum, Khawbung "S", Searchip West, Damveng and Lungdra "E" respectively in Civil Rule No. 1538/89; No. LAD/VCA217/89/10 dated 5.10.89 by which the Tualte Village Council in Civil Rule No. 1820/89 and No LAD/ VCA281/89/10 dated 17.10.89 by which the Village Council of Venghnuai in Civil Rule No. 1821/89 were dissolved.

11. Petitions allowed. Costs on parties.