
(2017) 03 MEG CK 0032
In the Meghalaya High Court
Case No : 2 of 2017

Shri Solomon Soh

APPELLANT

Vs

Khasi Hills Autonomous District Council and others

RESPONDENT

Date of Decision : 21-03-2017

Acts Referred:

Citation : (2017) 03 MEG CK 0032

Hon'ble Judges : Dinesh Maheshwari, Ved Prakash Vaish

Bench : Division Bench

Advocate : HR Nath, K Paul

Final Decision : Dismissed

Judgement

1. The petitioner, said to be a member of Khasi Tribe of Meghalaya, has filed this petition as a Public Interest Litigation ("PIL") seeking directions

for investigation into the affairs of the Khasi Hills Autonomous District Council ["KHADC"/"the District Council"] for the alleged misappropriation of funds and irregularities.

2. In this petition, while asserting that KHADC, constituted under the Sixth Schedule to the Constitution of India, is accountable for all its collection

from levies and taxes, the petitioner has stated that the respondents related with KHADC have failed to maintain and protect the reserved forest;

have allowed the river cleaning schemes to be misused; have not implemented the developmental schemes properly; and have not maintained

proper account of utilization of funds. The petitioner has also stated that the funds earlier provided from the Central Government and the State

Government to KHADC have been curtailed for failure to provide utilization certificate. The petitioner has, thereafter, averred that the enquiry

report made by the Judge and another Magistrate was submitted to the respondents with the findings that there had been misappropriation of funds; and that deposits were made in the private accounts of the staff. The petitioner has also referred to certain newspapers reports, allegedly indicating various anomalies and misappropriation of funds in KHADC and has, thereafter, referred to an undated certificate issued by the Secretary of KHADC (Annexure-III) to the effect that certain amount from the KHADC's fund was transferred into the private accounts. The petitioner has also averred that the matter relating to the irregularities and misappropriation of funds was raised and discussed in the KHADC sessions but the respondents failed to furnish proper explanations.

3. With the averments aforesaid, the petitioner has alleged that all the affairs of KHADC are required to be enquired into and investigated by an independent agency, preferably the Central Bureau of Investigation. The substance of this petition has been summarized by the petitioner as follows:-

That the petitioner is belonging to the indigenous Khasi Tribe of the State of Meghalaya.

That the Khasi Hills Autonomous District Council was constituted under the provision the Sixth Schedule of the Constitution of India

with the purpose of administration of the people of the Tribal Areas of the Khasi Hills, West Khasi Hills and Ri-Bhoi Districts

entrusting with a power to make laws with respect to the allotment, occupation or use or setting aside apart of land other than the

reserved forests for the purpose of Agriculture or grazing or for residential or other non agricultural purpose or any other purposes

which promotes the interest of the inhabitants of any village or town within the schedule area.

That the irregularities, misappropriations of funds of the council were also raised, objected and discussed in the KHADC sessions

held recently, but the Respondents failed to place proper explanations of all the irregularities, misappropriations of funds which are the

public fund meant for utilization of public utility and development of the administered area. The Council miserably failed to take

appropriate action to nail the culprit for the reasons of involvement of the high

officials. Hence this writ petition.

4. Learned counsel appearing for the respondents has, however, pointed out that on the issues relating to the alleged misappropriation of the funds

of KHADC, an Independent Inquiry was set up under the notification dated 20.10.2016; and the Inquiry Report now received has been referred

to the House Committee under the notification dated 23.02.2017. While placing before us copies of the said notifications and the Inquiry Report,

learned counsel for the respondents has contended that the matter being in the seisin of the House Committee, this petition does not merit any

consideration.

5. Learned counsel for the respondents has also referred to the decision of the Hon"ble Supreme Court in the case of State of Uttaranchal v.

Balwant Singh Chaufal and others: (2010) 3 SCC 402 and to the High Court of Meghalaya (Public Interest Litigation) Rules, 2013 ["the Rules of

2013"] to submit that this petition is not a genuine one and various relevant averments, as required by Rule 10 of the Rules of 2013, are

conspicuously missing in this petition.

Learned counsel for the petitioner, however, submits that the allegation made by the petitioner had been the subject-matter of inquiry but nothing

has been stated in the Inquiry Report about the culprits and action to be taken against them nor any such action falls within the tasks assigned to the

House Committee of the District Council.

6. Having given thoughtful consideration to the entire matter, we are clearly of the view that the present one, being a wholly unnecessary petition

with vague and uncertain averments, deserves to be dismissed at its threshold with costs.

7. We are constrained to reiterate that for maintaining a genuine PIL, the petitioner is supposed to carry out basic research in the matter and has to

state a specific cause worth consideration by the Court. Moreover, a PIL petitioner is required to state his own qualification; and has also to take

the averments that he is possessed of the means to pay the costs, if imposed by the Court.

8. It is apparent on the face of record that the present petition has not been drawn up in accord with the requirements of the Rules of 2013; and

then, the petitioner has neither stated his qualification nor his occupation and

has not taken any averment that he is possessed of the means to pay the costs, if imposed by the Court. It is only in response to our query that the learned counsel for the petitioner states that the petitioner is cultivating a small piece of land assigned to him by the village council.

9. Apart that the petition is wanting in necessary averments, in fact, whatever has been averred is also bereft of the requisite particulars; and, out of the incomplete and vague averments, it is difficult to cull out a specific cause for taking up the matter in PIL jurisdiction of this Court. The petition carries only certain vague and haphazard averments alleging irregularities and misappropriation of funds but nothing specific is forthcoming as to how any particular spending of funds is alleged to be that of misappropriation. It is also quite strange that an undated certificate has been placed on record as Annexure-III while leaving it to anyone's guess as to what had been the occasion and purpose for issuance of this nature certificate by the erstwhile Secretary of KHADC.

10. The fact of the matter remains that on the allegation of misappropriation of KHADC funds, an Independent Inquiry was set up, consisting of the Judge, District Council Court and the First Class Magistrate under the notification dated 20.10.2016; and upon receipt of the Inquiry Report dated 27.01.2017, the same has been referred to the House Committee while seeking findings for consideration of the District Council in session.

From the averments as taken in the petition, it appears that the petitioner was also aware of such a report having been made but has not stated, while filing this petition on 15.03.2017, that the matter had already been referred to the House Committee.

11. The position obtaining at present, from the facts above noticed, is that the matter is under consideration of the House Committee and thereafter, the matter would be considered by the District Council in session in accordance with law. This being the position, there appears no reason whatsoever for this Court to intervene at this juncture in the functioning of the District Council at the instance of the petitioner.

12. In an overall comprehension of the matter, we are unable to find any reason to entertain this petition; rather, this absolutely vague and unnecessary petition appears to be wanting in bona fide intent and purpose. For such a frivolous and unnecessary petition, we would have

considered imposing heavier amount of costs on the petitioner but the present one appears to be the first attempt of the petitioner and he is said to

be cultivating a small piece of land in a village. Hence, having regard to the circumstances, we impose only a token amount of cost of Rs. 5,000/-

(rupees five thousand only) but with the warning that any further attempt on the part of the petitioner at unnecessary filing may be visited with

severe penalty.

13. In the interest of justice, it is, however, made clear that we have not pronounced either way on merits of the issues involved in the referred

Inquiry Report as also in the referred proceedings with the House Committee of KHADC; and all the relevant aspects shall otherwise remain open

for consideration in the appropriate forum and at the appropriate stage in accordance with law.

14. Accordingly, this petition stands dismissed with costs quantified at Rs. 5,000/- (rupees five thousand) and with the observations foregoing. The

petitioner shall deposit this amount of costs in the account of the Meghalaya State Legal Services Authority within 60 days from today and submit

the receipt thereof before the Registry of this Court. If the petitioner fails to deposit the said amount within 60 days, the KHADC shall ensure that

the amount is recovered and deposited in the account of the Meghalaya State Legal Services Authority.