
(2014) 03 MEG CK 0007
In the Meghalaya High Court
Case No : W.P.(C) No. 263 of 2011

Shri Speshon Lyngdoh Sylliang	Vs	APPELLANT
The Khasi Hills Autonomous District Council and Others		RESPONDENT

Date of Decision : 05-03-2014

Acts Referred:

United Khasi Jaintia Hills Autonomous District Autonomous District (Appointment and Succession of Chiefs and Headmen) Act, 1959 — Section 8

Citation : (2014) 03 MEG CK 0007

Hon'ble Judges : Sudip Ranjan Sen, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Sudip Ranjan Sen, J.—The instant writ petition is directed against the impugned order dated 17.12.2010 at Annexure-11 of the writ petition.

2. The petitioner's case in a nutshell is that:

The Petitioner herein is the Lyngdoh of Raid Sohkhwai and has been holding the post since 22nd Sept. 1987. Only a person from Sylliang Clan is illegible to hold the post of Lyngdoh as per custom and practice prevailing in Raid Sohkhwai since time immemorial. That the Respondent No. 4 in total violation of the custom and practice has appointed the Respondent No. 5 as Lyngdoh of Raid Sohkhwai in spite that he is not from the Lyngdoh Clan. The Petitioner being aggrieved by the said illegal act of the Respondent No. 4 has filed an appeal before the Executive Committee, KHADC, Shillong being Misc. Pol No. 2 of 2010 against the Respondent No. 4. The Executive Committee after hearing the parties has passed order dated 17.12.2010 directing the Respondent No. 4 to conduct a referendum for the post of Lyngdoh Raid Sohkhwai at Sohkhwai. That in compliance of the said order dated 17.12.2010 the Respondent No. 3 has issued notification dated 21.10.2011 fixing 9th Nov. 2011 for holding the said referendum.

Hence being aggrieved by the said impugned order dated 17.12.2010 and

Notification dated 21.10.2010 the Petitioner begs to file this instant writ petition to set aside and quashed the said impugned orders.

3. The learned counsel, Mr. H. Kharmih appearing for and on behalf of the petitioner submitted that the petitioner was removed from the post of Lyngdoh Raid Sohkhwai without any reason by the Acting Sirdar of Nongpoh and confirmed the respondent No. 5 as the Lyngdoh of Raid Sohkhwai within the Nongpoh Sirdarship.

4. Being aggrieved by the said order, an appeal was moved before the respondents' No. 1, 2 and 3 who remand the matter to the Acting Sirdar for re-consideration by conducting a fresh referendum to the post of Lyngdoh Raid Sohkhwai at the Sohkhwai village in conformity with the prevailing customary practice within the Raid.

5. The learned counsel for the petitioner further contended that the removal of the petitioner was arbitrary without any reason. Besides that, as per section 8 of the United Khasi-Jaintia Hills Autonomous District (Appointment and Succession of Chiefs and Headmen) Act, 1959 made it clear that the headman must be elected from a Clan and respondent No. 5 is not from the said village nor belong to the said Clan. So, prays that necessary direction may be passed.

6. On the other hand, the learned Sr. counsel, Mr. V.G.K. Kynta appearing for and on behalf of the respondents' No. 1, 2 and 3 submitted that as per the direction of the Executive Committee of the District Council, KHADC a referendum was conducted by the Acting Sirdar where the respondent No. 5 was selected, so there is nothing wrong and the petition may be dismissed.

7. Similarly, on the other hand, the learned counsel for the respondent No. 5 Mr. B. Bhattacharjee submitted that the petitioner is very much belonging to the Clan of the village and he has been selected by way of a referendum. As such, his selection was not illegal, so no interference is required with the impugned order dated 17.12.2010.

The learned counsel further contended that the writ court has certain limitation and cannot review on the matter as a writ court.

8. After hearing the submissions as advanced by the learned counsel for the parties, and after perusal of the impugned order dated 17.12.2010, it appears that the District Council has not given a specific reason in the order for what reason the petitioner was removed from the post of Lyngdoh Raid Sohkhwai. It is also found mentioned in the order that the Acting Sirdar had passed the order dated 25.03.2010 confirming the respondent No. 5 as the Lyngdoh of Raid Sohkhwai in haste. It is true writ jurisdiction to be invoked only as and when it is necessary for the purpose of to meet the ends of justice. It is the primary duty of the court to render substantial justice and not to shut the door of justice on mere technicalities. Therefore, I do not agree with the submission advanced by the learned counsel for the respondent. I am of the prima facie view that the

impugned order dated 17.12.2010 need to be set aside. Accordingly, the impugned order is hereby set aside and the matter is remanded back to the District Council with a direction to hear the parties afresh, keeping in mind and taking into consideration why and for what reason the petitioner was removed from the post of Lyngdoh Raid Sohkhwai and secondly, whether it is the petitioner or the respondent No. 5 who is actually a Clan member and to pass a fresh order.

9. With these observations and directions, this instant writ petition is allowed and the matter stands disposed of.