
(2015) 04 MAN CK 0004
In the Manipur High Court
Case No : PIL No. 16 of 2011 (Imphal)

Vareiyio Shatsang

APPELLANT

Vs

State of Manipur and Others

RESPONDENT

Date of Decision : 07-04-2015

Acts Referred:

Manipur (Hill Areas) District Councils Act, 1971 — Section 29, 3, 32

Citation : (2015) 04 MAN CK 0004

Hon'ble Judges : Laxmi Kanta Mohapatra, C.J.; Kh. Nobin Singh, J.

Bench : Division Bench

Advocate : H.L. Shangreiso, for the Appellant; Th. Ibohal, A.G. assisted by Viscount, Advocates for the Respondent

Judgement

Laxmi Kanta Mohapatra, C.J.—The petitioner, a resident of Tusom Village in the district of Ukhrul, has filed this PIL praying for quashing (Annexure-K), the order dated 25.11.2010 issued by the Under Secretary (Hills), Govt. Of Manipur permitting the Chief Executive Officer, Ukhrul Autonomous District Council to open its office and function at Khuman Lampak, Imphal and also for a direction to the Ukhrul Autonomous District Council and its elected Members as well as the Chief Executive Officer to have the office at the HQs in the district of Ukhrul and function from the HQs.

2. Before entering into the allegations made in the writ petition and the stand taken by the State authorities in the counter affidavit as well as Addl. Counter affidavit, it is necessary to refer to the relevant Act and Rules. The Manipur (Hill Areas) District Councils Act, 1971 came into effect from 26.12.1971. Under the said Act, the Administrator shall cause all the hill areas to be divided into not more than 6(six) Autonomous Districts. For each Autonomous District, there shall be a District Council and the total number of seats in the District Council shall be filled up by persons chosen by direct election from the territorial constituencies and the total number of seats shall not be more than eighteen. The Administrator may also nominate two persons not being the persons serving in the Government

office to be Members of the District Council. The term of the office shall be for a period of five years. Under Section 29 of the Act, the District Council shall be responsible for maintenance and management of such property, moveable and immoveable and institutions as may be transferred to that Council by the Administrator. It shall also be responsible for construction, repair and maintenance of such roads, bridges, channels and buildings as may be transferred to the Council by the Administrator. It shall also be responsible for establishment, maintenance and management of Primary Schools and construction and repair of the buildings connected to the Institutions apart from establishing maintaining and managing dispensaries. Section 29 also prescribes several other duties to be performed by the District Council. Under Section 32 of the Act, every District Council shall have a Chief Executive Officer, who shall be appointed by the Administrator.

3. In exercise of the powers conferred under the Act, the Manipur (Hill Areas) District Council Rules, 1972 have been framed. Under Rule 100 of the aforesaid Rules, the Headquarter of a Council shall be at a place to be decided by the Governor.

Under the Notification dated 14.2.1972 at Annexure-A/2, the Governor of Manipur fixed the HQs of all the Revenue Districts and Sub Divisions. So far as Manipur East District is concerned, the District HQs of Ukhrul is to be located at Ukhrul. Under the Notification dt. 14.2.1972 the Governor of Manipur, in exercise of powers vested u/s 3 of the 1971 Act, constituted Hill areas Autonomous Districts and under this Notification, Manipur East Autonomous District was constituted and was to operate within the area covered by Manipur East District.

4. According to the petitioner, the HQs of Manipur Autonomous District having been fixed at Ukhrul, the Autonomous District Council should have the Head Office at Ukhrul. However, the Governor of Manipur, on 25.11.2010, allowed the Chief Executive Officer of Ukhrul Autonomous District Council to open its temporary camp office for convenience at Imphal in order to attend to any urgent official work of the District Council and also to function on roster basis both at the HQs and Imphal camp office. In the said order dt. 25.11.2010, District councils of three other Districts such as Chandel, Senapati and Tamenglong were also allowed to have their respective camp offices at Imphal. In view of the above order of the Governor of Manipur, the Ukhrul Autonomous District Council established its camp office at Imphal and has been functioning from the said office.

5. Mr. H.L. Shangreiso, learned counsel appearing for the petitioner drew attention of the Court to the functions of the District Council as provided in the 1971 Act and submitted that the purpose of the Act shall not be met by the District Council if it is allowed to continue from a camp office at Imphal. According to the learned counsel, permitting the District Autonomous Council of Ukhrul to have a camp office at Imphal and operate therefrom has defeated the purpose of the Act and therefore such permission granted by the Governor of

Manipur should be quashed.

6. Mr. Ibohal, learned Advocate General submitted that because of the law and order situation, prior to election of Members of the Autonomous District Council, at the time of election and also after election, a conscious decision was taken by the Governor of Manipur to permit the District Autonomous District Council to have a camp office at Imphal for convenience but it is not a direction. According to learned Advocate General, the impugned order of the Governor of Manipur in Annexure-K also provides that the District Council can function on roster basis both at HQs and in the camp office. Therefore, it is for the Chief Executive Officer and other Members of the Council to decide as to whether they should operate from the HQs or from Camp office at Imphal.

Though notice was issued to the respondents - 6 to 28, i.e. Ukhrul Autonomous District Council and its Members, they have not entered into appearance in the writ petition.

7. With reference to submissions of learned counsel appearing for the parties, we need to refer to the counter affidavit filed on behalf of the State respondents. Reference to the counter affidavit of the State respondents is necessary to know the reasons for which Governor of Manipur permitted the District Council of Ukhrul to have a camp office at Imphal. It is stated in the counter affidavit of the respondents- 1 to 4 that after the gap of two decades the election for Autonomous District Councils was conducted in the year, 2010 under an environment of threat and opposition from some civil societies which objected to such election. The said civil societies took help of different underground groups to motivate people to boycott the election and also kidnap candidates and their family members/supporters. Some incidents also took place at the instance of such civil societies for which Criminal cases were registered. However, with the help of armed police the elections were held and results were declared. The elected Members were also threatened for which it became impossible to operate from the Hqs at Ukhrul. Several incidents had taken place to stop the election of Members of the District council and instances of several incidents after election have been reflected in the counter affidavit. From the Annexures attached to the counter affidavit, we also find that the averments made in the counter affidavit with regard to the conduct of such civil bodies, is established.

8. In the additional counter affidavit filed by the State, several paper publications have also been annexed indicating the conduct of the civil bodies post election of the District Council Members. Referring to all these documents, it was contended by the learned A.G. that because of law and order situation prevailing in the District of Ukhrul at the time of election and post election, the Governor of Manipur was pleased to permit the District Council of Ukhrul to have the camp office at Imphal.

9. The learned counsel for the petitioner, in order to substantiate his submission that functioning of the District Council at camp office at Imphal has frustrated

the purpose of the Act, placed reliance on several decisions. The first decision relied upon by the learned counsel is the case of Lt. Col. Khajoor Singh Vs. The Union of India and Another, . The question involved in the said decision was determination of territorial jurisdiction. It was held that concept of functioning of the Govt. cannot be introduced for the purpose of determining territorial jurisdiction. The learned counsel also relied upon a decision of the Apex Court in the case of Suresh Chandra Sharma Vs. Chairman, UPSEB and Others, . In the said reported case, there was large scale interference in the autonomous functioning of the Electricity Board and considering the fact of the said case the Court observed that interference of the State in the matter of transfer and posting under political patronage is affecting the autonomous nature of the Electricity Board. In the present case, there is no interference so far as functioning of the district councils are concerned. By the impugned order the Governor of Manipur has only permitted for opening a camp office at Imphal. Reference was also made to a decision of the Government of A.P. and Ors vs T. Anjeneyulu reported in (2005)9 SCC 312. In the said case a people's council was set up by some police officials for making society a better place to live in and function of the said people's council was infringing the jurisdiction of competence of various statutory authorities and designated functionaries of the State. The Court, therefore, held that though some of the objectives of the people's council appear to be laudable yet they cannot be permitted to be achieved by crossing the limit prescribed by law. The Court further observed that there are definite and defined areas earmarked for functionaries of the State and there should not be encroachment to such areas. No such allegation has been made in the present case that the State Govt. has either interfered or encroached in to the functioning of the District Council.

Reliance was placed by the learned counsel for the petitioner in the case of Punjab Water Supply and Sewerage Board, Hoshiarpur Vs. Ranjodh Singh and Others, . The question raised in the said case was what control the State Govt. can have in the matter of recruitment, regularisation of employees in a local authority. The court held that a statutory power is on Autonomous Body. State may have some control with regard to the recruitment of employees of the local authorities but such control must be exercised by the State strictly in terms of the provisions of the Act. This decision has no application to the facts of the present case. Next decision relied upon by the learned counsel for the petitioner is the case of Padma Vs. Hiralal Motilal Desarda and Others, . The issue in the reported case relates to allotment of plots and filing of a Public Interest Litigation in relation to the same. On perusal of the judgment, we find that it has no bearing with the facts of the present case. The learned counsel for the petitioner placed much reliance on the decision of the Apex Court in the case Yakub Abdul Razak Memon Vs. State of Maharashtra, which was decided along with a batch of criminal appeals. This decision relates to Bombay blast case. The learned counsel referred to some paragraphs of the judgment which have no relevance with the present dispute. Some other judgments, relied upon by the learned

counsel for the petitioner, do not have any of relevance for deciding the present issue which is based on facts.

10. Considering the law and order situation in the district of Ukhul since the day of election in 2010, as narrated in the counter and additional counter affidavits of the State respondents, it cannot be said that there shall be no difficulty in running the office of the District Council at the HQs at Ukhul. Moreover, under Annexure-K, the Governor of Manipur has only permitted the Ukhul Autonomous District Council to have a camp office at Imphal so as to attend to any urgent official work of the District Council. This is only a permission not a direction. Therefore, it is open for the District Council Members to operate from the HQs in Ukhul District if they so desire. In the impugned order also the Governor of Manipur while allowing the District Autonomous Council to have a camp office at Imphal has further observed that the Council may perform its duties on roster basis both at the HQs and at the camp office at Imphal. Therefore, it is the choice of the Members of the District Council to either operate from the HQs at Ukhul or from camp office at Imphal or from both the places, i.e. at the HQs at Ukhul and camp office at Imphal.

11. We, therefore, do not find any illegality or infirmity in such permission being granted by the Governor of Manipur in Annexure-K. It is still open for the Members of the District Council at Ukhul to decide as to whether they would operate from the District HQs or from the camp office or from both.

This PIL is accordingly dismissed.