

IN THE HIGH COURT OF MEGHALAYA

WP(C)(SH) No. 339 of 2008

Smti. Mirabel A Sangma,
D/o of Late Mohila A Sangma
Resident of Doldegre Village,
West Garo Hills District,
Meghalaya.

..... **Petitioner**

- versus -

1. Garo Hills Autonomous District Council, Tura
Meghalaya
2. The Chief Executive Member,
Garo Hills Autonomous District Council, Tura
Meghalaya.
3. Smti. Pushpa A Sangm,
W/o Shri. Barendro Sangma,
Doldegre Village,
West Garo Hills, Meghalaya.

..... **Respondents**

**BEFORE
THE HON'BLE MR JUSTICE SR SEN**

Advocate for the Petitioner	:	Mr. K Paul
Advocate for the Respondents	:	Mr. S Dey
	:	Ms. SG Momin
Date of Hearing	:	13.09.13
Date of Judgment and Order	:	13.09.13

JUDGMENT AND ORDER (ORAL)

Mr. K Paul, the learned counsel for the petitioner submitted that, in spite of the orders passed by this Court vide Order & Judgment dated 11.07.2001 passed in WP(C) No. 129 of 2000 as well as Order & Judgement dated 10.02.2006 passed in WP(C)(SH) No. 198 of 2003, the CEM, Garo Hills Autonomous District Council, Tura has failed to pass any reasonable order pertaining to the substitution of the Private Respondent No. 3 and also drawn to my attention to the order passed by the learned CEM, Garo Hills Autonomous District Council, Tura dated 26.09.08.

2. The learned counsel further contended that before passing the impugned order dated 26.09.08, the learned CEM, Garo Hills Autonomous District Council, Tura should have considered the provision of law and also should have passed a reasonable order. But from his order it appears that, he has just passed the order whimsically and without giving any reasons, so the said order may be set aside and to be remanded back to the Court of the learned CEM, Garo Hills Autonomous District Council, Tura.

3. Mr. S Dey, the learned counsel appearing for respondents No. 1 & 2 as well as Ms. SG Momin, the learned counsel appearing for respondent No. 3 submitted that, the learned CEM, Garo Hills Autonomous District Council, Tura has rightly passed the order.

4. I have perused the Judgement & Order dated 11.07.01 passed by this Court in WP(C) No. 129 2000 at Para-6 which is reproduced below :

“In that view of that matter, the impugned order dated 29.01.99 is set aside and quashed. The matter is remand back to the Chief Executive Member to consider all the points raised by the petitioner in this case as enumerated above. While considering the above points, the Chief Executive Member is also at liberty to examine the parties or their witnesses and afford them opportunity to prove their case as to whether the respondent No. 3 has any rights to be substituted in place of her mother.”

5. On perusal of the said order, it is clearly understood to me that, this Court has ordered the learned CEM, Garo Hills Autonomous District Council, Tura to consider all the points raised by the petitioner and if necessary to examine the parties and witnesses. Similarly, the Order & Judgement dated 10.02.2006 passed in WP(C)(SH) No. 198 of 2003 also directed to pass necessary and appropriate order after hearing both the parties.

6. After perusal of the order dated 26.09.08 on the conclusion part, I find that the learned CEM, Garo Hills Autonomous District

Council, Tura has passed an order without giving any reason how and under what provision, Smti. Pushpa A Sangma can be substituted. The learned CEM has also noted that the matter is complex in nature, so he is not willing to pass any comments.

7. After further perusal of the order referred to above, I find that the order is a non-speaking one and the learned CEM, Garo Hills Autonomous District Council, Tura has not come to any conclusion as directed by this Court in the 2(two) orders referred above i.e. Judgement & Order dated 11.07.01 and 10.02.2006 passed in WP(C) No. 129 2000 and in WP(C)(SH) No. 198 of 2003 respectively. Hence, I feel that the learned CEM, Garo Hills Autonomous District Council, Tura has failed his duty to comply with the orders passed by this Court.

8. Therefore, I am of the further opinion that the matter needs to be remanded back to the Court of the learned CEM, Garo Hills Autonomous District Council, Tura, accordingly, I do so with the following conditions.

- i) The learned CEM, Garo Hills Autonomous District Council, Tura shall serve notice on both the parties i.e. the petitioner as well as the respondents, thereafter, if necessary to examine the witnesses either in oral or documentary.
- ii) Before passing any order, the learned CEM shall consider the prevailing customary laws under which Smti. Pushpa A Sangma is claiming to be substituted.
- iii) The learned CEM, Garo Hills Autonomous District Council, Tura is further directed that when he passes any order, he must give reasons who can be substituted and for what reasons, if not also, to give reasons.

9. Further, during the pendency of this case before the learned CEM, Garo Hills Autonomous District Council, Tura, he is at liberty to pass any order if he feels necessary to meet the ends of justice.

10. Accordingly, the impugned order dated 26.09.08 is hereby set aside with a direction to disposed of the matter in the light of the points incorporated above within 3(three) months from the date of receipt of the certified copy.

11. Registry is also directed to furnish a copy of this order to Mr. S Dey, the learned counsel for respondents No. 1 & 2 who shall in turn communicate the same to the learned CEM, Garo Hills Autonomous District Council, Tura.

12. With these above observations and directions, the petition is allowed and the matter stands disposed of.

JUDGE

V. Lyndem