

THE HIGH COURT OF MEGHALAYA

WP(C)NO. 184 OF 2014

1. Shri Sainkur Dewkhaid, son of (L) Milton Marbaniang, r/o Kenbah Malai, East Khasi Hills District, Meghalaya.
2. Shri Brassing Dewsaw, son of (L) J Ronsang, r/o Mawkasain, East Khasi Hills District, Meghalaya.
3. Shri Elias Sohtun (Ruah), S/o (L) P Iawrod, r/o Phlangwanbroi, East Khasi Hills District, Meghalaya.
4. Shri Englis Nonriang, s/o (L) Kranly Nongseij, r/o Phlangwanbroi, East Khasi Hills District, Meghalaya.
5. Shri Blingstone Ronsang, s/o (L) Sobi Nohriang, r/o Phlangwanbroi, East Khasi Hills District, Meghalaya.

.....Writ petitioners

-Versus-

1. Khasi Hills Autonomous District Council, represented by its Secretary, Shillong.
2. Executive Committee, Khasi Hills Autonomous District Council, Shillong.
3. Executive Member In-charge Elaka, Khasi Hills Autonomous District Council, Shillong.
4. Returning Officer, Khasi Hills Autonomous District Council, Shillong.
5. Acting Chief, Malaisohmat Syiemship, West Khasi Hills District, Meghalaya

..... Respondents

Shri HL Shangreiso, Advocate, present for the writ petitioners.

Ms PS Nongbri, Advocate, present for the respondents.

Date of Judgment and Order 30th May, 2014.

JUDGMENT AND ORDER

ORAL: HON'BLE PRAFULLA C. PANT, CHIEF JUSTICE

Heard.

2. By means of this writ petition, the petitioners have sought writ in the nature of mandamus directing the respondents not to hold election in pursuance to Public Notice dated 19.05.2014 for electing Syiem of Malaisohmat Syiemship.

3. Briefly stated the case of the petitioners is that they are elected Myntris of five clans which are part of Malaisohmat Syiemship. Their case is that it is only the Myntris of the five clans who had a right to elect Syiem of Malaisohmat Syiemship.

4. It is pointed out on behalf of the petitioners that in the impugned Public Notice dated 19.05.2014 (copy annexure 1 to the writ petition), the Executive Committee of Khasi Hills Autonomous District Council, Shillong has

allowed all the male members of the five villages which are part of the Syiemship to cast their votes in the election to be held for electing Syiem of Malaisohmat Syiemship. It is argued that the election is to be held as per the custom prevailing. It is further submitted that the custom cannot be changed and all the male members of the five villages cannot participate in electing the Syiem.

5. It is not disputed by the learned counsel for the parties that election in question is being held under United Khasi-Jaintia Hills Autonomous District Council (Appointment and Succession of Chiefs and Headmen) Act, 1959. Section 3 of the Act reads as under :

“Election or Nomination and Appointment of Chiefs and Headmen :- Subject to the provisions of this Act and the Rules made thereunder, all elections or nominations and appointment of Chiefs and Headmen shall be in accordance with the existing custom or prevailing in the Elaka concerned and or in accordance with the orders as the Executive Committee may issue from time to time. The Secretary of the Executive Committee or any Officer appointed by the Executive Committee in this behalf shall be the Returning Officer for all nominations or elections under this Section.”

From the above provision, it is clear that election of the Chiefs and Headmen is to be held in accordance with the existing custom, and, or in accordance with the orders of the Executive Committee. Section 2(a) defines the word “Chief” which includes Syiem also.

6. Learned counsel for the respondents did not deny that in the last election it was only Myntris of the clan who elected their Syiems. But it is pointed out that before 1903 all the male members used to elect the Syiem. In reply to this, learned counsel for the petitioners submitted that it is only between 1893 to 1903 all male members elected the Syiem of Malaisohmat Syiemship, and before 1893 also, the custom was that only Myntris used to elect Syiem. Various documents have been filed by the writ petitioners with the writ petition in support of the plea that the custom was that only Myntris used to elect the Syiem. It is further contended that even in 1893, the then Deputy Commissioner had observed in his order that the custom was to elect the Syiem by the five Myntris of the five clans of Malaisohmat Syiemship.

7. This Court is conscious of the fact that the impugned election is being held in pursuance to the order dated 27.02.2014 passed by this Court in WP(C)No. 117 of 2012 in which direction has been issued to hold the election within three months. As such, this Court is not inclined to interfere with the process of election at this stage.

8. Since admittedly, representation dated 21.05.2014 made by the petitioners is pending with Executive Member/In-charge Elaka of Khasi Hills Autonomous District Council, Shillong in the matter praying that election should be held as per custom prevailing in the Syiemship, this Court is of the view that it is desirable to dispose of this writ petition summarily directing the respondent No. 2 Executive Committee, KHADC to dispose of the representation dated 21.05.2014 of the petitioners within ten days from the date of certified copy of this order is produced before the authority concerned. The parties are allowed to produce the documentary evidence in support of their case before respondent No. 2 within a period of seven days from today. Accordingly, this writ petition stands disposed of with direction as above.

(HON'BLE PC PANT)
CHIEF JUSTICE

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