

THE HIGH COURT OF MEGHALAYA

WA No. 39 of 2014

Shri Kingland Thongni of
Rangjadong Village, Maharam Syiemship,
Mawkyrwat, West Khasi Hills District, Meghalaya.

:::: Appellant

-Vs-

1. The Khasi Hills Autonomous District Council, Shillong.
2. The Executive Committee,
Khasi Hills Autonomous District Council,
Shillong.
3. The Chief Executive Member,
Khasi Hills Autonomous District Council,
Shillong.
4. Shri L.Blah, Executive Member,
I/c Elaka Administration, etc,
Khasi Hills Autonomous District Council,
Shillong.
5. Shri T. Dkhar, Executive Member,
I/c Art & Culture, etc
Khasi Hills Autonomous District Council,
Shillong.
6. The Syiem of Maharam,
Syiemship, Mawkyrwat,
West Khasi Hills District, Meghalaya.
7. Shti Niandro Syiemiong,
Syiem of Maharam Syiemship,
Mawkyrwat, West Khasi Hills District,
Meghalaya.
8. Shri Spollanding K. Dewsaw,
Rangjadong Village, Maharam Syiemship,
West Khasi Hills District, Meghalaya.

9. Shri Nespar Syiemlieh,
Rangjadong Village,
Maharam Syiemship,
West Khasi Hills District,
Meghalaya.

:::: Respondents.

BEFORE
THE HON'BLE MR JUSTICE UMA NATH SINGH
CHIEF JUSTICE (ACTING)
THE HON'BLE MR JUSTICE T NANDAKUMAR SINGH

For the Appellant : Mr BMR Chyne, Adv
Mr. BM Roy Dolloi, Adv

For the Respondents : Ms. PS Nongbri, Adv

Date of hearing : 29.10.2014

Date of Judgment & Order : 29.10.2014

JUDGMENT AND ORDER (ORAL)

Hon'ble Justice Uma Nath Singh, CJ (Acting)

1. We have heard learned counsel for the parties and perused the pleadings of the writ appeal.

2. The precise dispute, according to learned counsel for petitioner, impugned in this writ appeal is that by violating the principle of natural justice, no inquiry was conducted in respect of the show cause notice and the reply filed by the appellant thereto. It appears that the petitioner was a Myntri of Rangjadong Village for considerably long period, say, over 1½ decade. Therefore, the minimum that he was entitled to get was an

opportunity to explain and submit reply to the complaint made against him. It appears that after submission of explanation to the show cause notice, the Syiem of Maharam Syiemship passed the order dated 15-12-2010, for conduct of referendum against the appellant, and the said order was upheld by the Executive Committee of Khasi Hills Autonomous District Council (for short KHADC), Shillong, vide its order dated 27-04-2011, by rejecting the political appeal of the appellant. The said order dated 15-12-2010, passed by the Syiem and the appellate order passed by the Executive Council of KHADC, were challenged in WP(C) No. (SH) 213/ 2011. Which was rejected, basically, on the ground that after the impugned orders were passed, the referendum was held and some other person was appointed as Myntri of Rangjadong Village. The said order was not questioned by way of amending the writ petition or by filing a separate petition.

3. Being aggrieved, the appellant has filed this writ appeal. The one and only point raised even today, is that he was not given an opportunity to explain and submit a reply to the complaints submitted against him. It is also his submission that under the new Act, namely, the Khasi Hills Autonomous District (Nomination and Election of the Syiem, Deputy Syiem and Electors of Hima Maharam) Act, 2006, (for short the Act of 2006) there is no provision for referendum and his case has to be considered only within the precincts of that Act. It is the further submission of learned counsel that once the petitioner was elected as Myntri, he was to continue in office for whole life, unless there was an inquiry and he was found guilty on any or all the grounds for removal as provided in the Act. Further, according to him vide Section 5 of the new Act of 2006, the term of office of the Syiem has been given. The said Section on reproduction would read as:

“Section 5 Term of office of the Syiem:- The Syiem of Maharam shall be appointed for life from the date of his appointment.

However, in the event of any complain against the Syiem which prima facie disclosed that he has violated any of the terms and conditions of his appointment/Sanad or that he has lost the confidence of the majority of his electors, or he has been conducting himself in a manner derogatory to his office or which may undermine the authority of the Council, or he is found to be mentally unfit or incapable to carry out the administration of the Hima due to ill health, old age or habitual drunkenness, the Executive Committee may after inquiry suspend or remove him from office.

Provided that, any complain against a Syiem should first be brought to the knowledge and notice of the Durbar Hima.

Provided further that, the Syiem shall not be removed or suspended from office unless he is given an opportunity of being heard”.

4. Therefore, none of the grounds provided in the Act namely, loosing the confidence of the majority of his electors, or conducting himself in a manner derogatory to his office or by such act undermining the authority of the Council, or he is found to be mentally unfit or incapable to carry out the administration of the Hima due to ill health, old age or habitual drunkenness, can be said to invite the impugned orders.

5. On the other hand, learned counsel for KHADC submits that the political appeal of the writ appellant was duly considered and rejected by upholding the order passed by the Syiem.

6. On due consideration of rival submissions and having gone through the pleadings and documents, we are of the view that the appeal is not sustainable for the reason that the appointment of successor incumbent to the office of Myntri was never challenged. It appears from the record that the successor was duly elected in referendum and is continuing in office, therefore, after a gap of 4(four) years it would not be open for the petitioner to challenge the orders on the ground that he was not given opportunity to show cause. The second point that the learned counsel for the petitioner has overstressed and overemphasized is regarding the grant of opportunity

to show cause and explain his position also stands answered in view of the fact that during the course of hearing on appeal, he was given sufficient opportunity and therefore that requirement or infirmity as raised by the appellant was adequately met. Thus, it would not be open for the appellant to raise the same question again and again. In the premises discussed herein above, finding no merit, we dismiss this writ appeal.

7. However, before parting with the judgment, we may notice the conduct of the Syiem of Maharam Syiemship, who having received the notice dated 03-07-2014 and having availed several opportunities, has not filed a reply although he is holding a public office. As noted herein above, Section 5 of the Act also provides for removal of the Syiem on certain grounds and showing disrespect or indifference to the order of the Highest Court in the State may amount to conducting himself in a manner derogatory to his office.

8. This order may be brought to the notice of the State Government as well as the KHADC, to be placed on record.

JUDGE

CHIEF JUSTICE (ACTING)

S.Rynjah