

THE HIGH COURT OF MEGHALAYA

WP(C). No. 77 of 2015

1. The Village Durbar of Laitkynsew,
Nongkhlaw Syiemship,
East Khasi Hills District,
Meghalaya,
Represented by its Acting Sordar
Shri Modi Basaiawmoit.
2. Shri. Modi Basaiawmoit,
Acting Sordar,
Laitkynsew Village,
Laitkynsew, PS – Sohra,
East Khasi Hills District,
Meghalaya.

...Writ Petitioners

-Versus-

1. The Khasi Hills Autonomous District Council,
Represented by its Secretary to the
Executive Committee.
2. Secretary to the Executive Committee,
Khasi Hills Autonomous District Council,
Shillong.
3. Shri C.Kharshiing,
Joint Secretary to the Executive Committee,
Khasi Hills Autonomous District Council,
Shillong.
4. Shri Bakhrot Phanrang,
Of Sohsarat,
Village Laitkynsew, PS – Sohra,
East Khasi Hills District,
Meghalaya.
5. Shri Richestar Sohkhlet,
Of Sohsarat,
Village Laitkynsew, PS – Sohra,
East Khasi Hills District,
Meghalaya.

...Respondents

6. The Syiem of Nongkhlaw & Durbar,
Mairang, West Khasi Hills District,
Meghalaya.

... **Proforma Respondent**

**BEFORE
THE HON'BLE MR. JUSTICE S.R.SEN
CHIEF JUSTICE (ACTING)**

For the petitioners	:	Mr. V.G.K.Kynta, Sr. Adv. Ms. M.Kynta, Adv. Ms. V.Mawlieh, Adv.
For the respondents	:	Mr. N.D.Chullai, Sr. Adv. Mr. B.Khyriem, Adv. Ms. P.S.Nongbri, Adv. Mr. P.Nongbri, Adv.
Date of hearing	:	17-04-2018
Date of Judgment	:	17-04-2018

JUDGMENT AND ORDER (ORAL)

1. Heard Mr. V.G.K.Kynta, learned Sr. counsel assisted by Ms. M.Kynta, learned counsel on behalf of the petitioners. Also heard Ms. P.S. Nongbri, learned counsel on behalf of the respondents No. 1 to 3, Mr. N.D.Chullai, learned Sr. counsel assisted by Mr. B.Khyriem, learned counsel on behalf of the respondents No. 4 & 5 and Mr. P.Nongbri, learned counsel on behalf of the respondent No. 6.

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

"The Petitioner No. 1 is the duly appointed Village Durbar of Laitkynsew Village, which is a duly created and

recognised village under the Syiemship of Nongkhlaw and Petitioner No. 2 is the Acting Sordar of the said Village.

The Village of Laitkynsew comprises of four localities viz, (i) Ka Lum Wah-krem, (ii) Ka Mawlutuin, (iii) Ka Wahkhim-Sohsarat & (iv) Ka Rynjang which is duly confirmed by the Syiem of Nongkhlaw vide letter dated 21/4/2008 (A-7 to WP).

That Wahkhim-Sohsarat as indicated above is a locality and that the village authorities of Laitkynsew came to know that the Respondent No. 5 (Richestar Sohkhlet) has been making claims as the Sordar/Secretary of Village Durbar Sohsarat to different authorities although no such village by the name of Sohsarat was ever created and/or recognised by the competent authority under law i.e. the Syiem of Nongkhlaw and his Durbar in terms of section 3 of the Khasi Hills Autonomous District (Administration of Elaka) Act, 1991. The Syiem of Nongkhlaw on coming to know of the said illegal activities of R-5 issued letter dated 19/2/2015 (A-11) to the Respondent No. 5 clearly stating that Sohsarat is never recognised as a village either under custom or the prevailing provision of law and that he should stopped using the term 'Village Durbar of Sohsarat'.

Though Sohsarat never been formed as a village, yet the Jt. Secy. to the Executive Committee without hearing the Petitioners and without taking the majority views of the people of the Village has issued an order vide Letter No. DC.XXVII/Genl/250/PF/74-2015/99, dated 10th April 2015 inter alia appointing the Respondent No. 4 (Shri Bakhot Phanrang) as the Acting Sordar of Sohsarat.

That the order dated 10/4/2015 having the effect of formation of a new village illegally without any define territory or inhabitants is set to create huge public unrest in the entire village community of Laitkynsew in as much as in a tradition bound tribal society the common village land (Ri Raid Land) will now be subjected to administration by

the legally established authority of Petitioner No. 1 as well as a few vested interest under the command of Respondent No.4. This will create lawlessness; injure the rights of habitation, cultivation and enjoyment of the entire village land by and amongst the unified village commune, thus occasioning severe infringement of the constitutional mandates of Articles 14, 19 and 300A of the Constitution of India, further leading to breach of the very right to life as guaranteed under Article 21 of the Constitution of India.

Hence the instant writ petition before Your Lordships.”

3. Mr. V.G.K.Kynta, learned Sr. counsel assisted by Ms. M.Kynta, learned counsel for the petitioner raised a question before this Court that Sohsarat Village is not at all a village but a locality and as such, appointment of Acting Sordar does not arise. According to him, the actual village is called Wahkhim-Sohsarat. Hence, being aggrieved by the order passed by the District Council at annexure-13, this instant petition has been moved before this Court and prayed that the impugned order may be set aside.

4. On the other hand, Mr. N.D.Chullai, learned Sr. counsel assisted by Mr. B.Khyriem, learned counsel for the respondents No. 4 and 5 as well as Ms. P.S.Nongbri, learned counsel for the respondents No. 1 to 3 submit that it is not a fact that Sohsarat is not a village but just a locality. Definitely, it is a village and District Council has rightly passed the order, so annexure-13 may not be interfered with.

5. Mr. P.Nongbri, learned counsel for the respondent No. 6 submits that the authority to issue the Sanad is the

Syiem who has no detailed knowledge about it and District Council every time makes mere correspondences with him.

6. After hearing the submission advanced by the learned counsels for the parties noted above, I am of the considered view that the matter needs to be addressed properly and the concerned authority, and after hearing both sides along with their respective counsels, must come to a logical conclusion as per the documents, maps etc.

7. Besides that, this Court is not in a position to decide the disputed fact whether Sohsarat is a village or a locality and that needs to be decided by the concerned authority. Therefore, I feel and find that it is a fit case to be remanded back to the District Council to look afresh into the matter, giving an opportunity to both sides along with the aid of the respective counsels and then come to a proper conclusion and settle the matter once and for all.

8. Accordingly, the impugned letter No. DC.XXVII/Genl/250/PF/74-2015/99, dated 10th April, 2015 at annexure-13 is hereby set aside.

9. Let the whole exercise be completed within 3(three) months. In the meantime, both the parties are directed to maintain peace and harmony and not to encroach upon each other. The administration will be controlled by the Syiem of Nongkhlaw till the matter is disposed by the learned District Council.

10. With this observation and direction, the instant petition is allowed and stands disposed of.

CHIEF JUSTICE (ACTING)

S.Rynjah