



Serial No.02
Supp List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C). No. 93 of 2026

Date of Decision: 10.03.2026

Shri. Enamul Hoque,
Son of Late Haji Kolim Uddin,
Resident of village Namabilla,
P.O- Haripur, P.S. Rajabala,
West Garo Hills, Meghalaya.

...Petitioner

-Versus-

1. The State of Meghalaya, represented by
The Chief Secretary, Government of
Meghalaya, Shillong.
2. The Commissioner & Secretary to the
Government of Meghalaya, District
Council Affairs Department, Shillong,
Meghalaya.
3. The Principal Secretary to the Governor
of Meghalaya, Shillong.
4. The Deputy Commissioner/Returning
Officer, Tura, West Garo Hills.
5. The Garo Hills Autonomous District Council,
Represented by its Secretary to the Executive
Committee.
6. The Chief Executive Member, Garo Hills
Autonomous District Council, Tura.

...Respondents



Coram:

Hon'ble Mr. Justice H.S.Thangkhiew, Judge

Appearance:

For the Petitioner/Applicant(s) : Mr. K.Paul, Sr. Adv. with
Mr. S.K.Hassan, Adv.
Mr. A.H.Hazarika, Adv.
Mr. S.Chanda, Adv.
Mr. S.A.Sheikh, Adv.
Ms. M.Rahman, Adv.

For the Respondent(s) : Mr. A.Kumar, AG with
Ms. S.Laloo, GA for R 1-4.
Mr. S.Dey, Adv. for R 5 & 6.

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| i) | Whether approved for reporting in
Law journals etc: | Yes/No |
| ii) | Whether approved for publication
in press: | Yes/No |
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JUDGMENT AND ORDER (ORAL)

1. This writ petition has been filed assailing a notification dated 17-02-2026, issued by the Chief Executive Member, GHADC pursuant to a resolution arrived at in a meeting of the Executive Committee held on 09-02-2026. By the impugned notification, the submission of a Scheduled Tribe Certificate was to be treated as a compulsory requirement at the time of filing nomination papers for election as member to the Garo Hills Autonomous District Council. The grievance of the writ petitioner, who is stated to be a voter is that by the impugned notification, the respondents No.



5 & 6, by way of an executive order, cannot de-franchise legitimate non-tribal voters as this would be in violation of the Assam and Meghalaya Autonomous Districts (Constitution of District Councils) Rules, 1951, which had been framed under paragraph 2 (6) of the Sixth Schedule by the Governor. The prayer therefore, is for quashing and setting aside the impugned notification dated 17-02-2026.

2. Mr. K.Paul, learned Sr. counsel assisted by Mr. S.K.Hassan, learned counsel on behalf of the petitioner, has submitted that the notification dated 17-02-2026, is without any authority of law, inasmuch as, para 2 (6) of the Sixth Schedule, has vested the Governor while making Rules for the first constitution of District Councils under Sub-rule (c) & (d), with the power to lay down the qualifications for voting and qualifications for being elected to the District Council. He further submits that the Assam and Meghalaya Autonomous Districts (Constitution of District Councils) Rules, 1951, framed under para 2 (6) at Rule 8 thereof, has prescribed the qualifications for membership which amongst other conditions at Rule 8 (c) prescribes that a person would be qualified if he is entitled to vote at the election of members of the District Council of the Autonomous District. Further, Rule 128, he submits, provided the qualifications for electors and that a person not belonging to a Schedule Tribe would not be entitled to vote unless he is a permanent resident within the territorial limits of the said Autonomous



District. The petitioner, he submits being a voter, would therefore surely be eligible to contest the elections.

3. Coming to the impugned notification, the learned Sr. counsel has submitted that the respondents No. 5 & 6, have exceeded their jurisdiction and powers, inasmuch as, the impugned notification even if adopted by a resolution as per the mandate of Assam and Meghalaya Autonomous Districts (Constitution of District Councils) Rules, 1951, would have to undergo a process as provided in Rule 72, and should necessarily have the approval of the Governor. In the instant case, he submits, the respondent No. 5, on a resolution by the Executive Committee, without the same being placed before the House i.e., the District Council has sought to bring about a change in the Rules, which has adversely affected non-tribal voters and aspiring candidates. Historically, he submits, since the inception of the District Council and the framing of the Rules, non-tribals who have featured in the voters list, have freely voted and served as members of the Garo Hills Autonomous District Council till date. The sudden change sought to be brought about by the impugned notification, he submits, without any legislative approval is therefore incompetent and unjustified. The learned Sr. counsel in support of his submissions, has placed reliance upon a decision of the erstwhile jurisdictional High Court i.e., Gauhati High Court in the case of *Upendra Reang vrs. State of Tripura & 10 Ors. (1995) 3 Gauhati*



Law Reports 307, wherein it has been held that Rule 6 of the Tripura Tribal Areas Autonomous District Council (Constitution and Election) Rules, 1985, which is similar to Rule 8 of the Assam and Meghalaya Autonomous Districts (Constitution of District Councils) Rules, 1951, was not violative of paragraph 2 (6) of the Sixth Schedule to the Constitution of India. He lastly submits that the law being clear, the impugned notification being illegal, is liable to be set aside and quashed.

4. Mr. S.Dey, learned counsel for the respondents No. 5 & 6, in reply to the arguments, has submitted that the Sixth Schedule and Article 244 (2) of the Constitution, clearly envisages that the same is for the purposes of administration and governance of tribal areas in the states of Assam, Meghalaya, Tripura and Mizoram. It is submitted that as there has been a demographic explosion, whereby the rights of the indigenous tribal population need to be further protected, the respondents No. 5 & 6 had issued the impugned notification by exercising powers under Rule 29 (a) and (b) and Rule 30 of the Assam and Meghalaya Autonomous Districts (Constitution of District Councils) Rules, 1951, which he contends, vests the Executive Committee with powers to take up matters involving any important change in administration of the Autonomous District and to make proposals for making regulations, rules or laws. Rule 30, he submits, enables the Executive Committee to take up such matters should any emergency



arise even when the Council is not in session. The learned counsel has then referred to a decision of this Court passed in *WP(C). No. 3 of 2014 in the case of Shri. Bloin Shylla & Anr. vrs. State of Meghalaya & Ors.* and other connected matters, wherein he submits, it has been held that under paragraph 2 (7) of the Sixth Schedule, after the District Council have been constituted, the power to make rules is vested with the District Council.

5. It is then further submitted that no averment has been made by the petitioner that the challenge to the notification has been made due to the rejection of his nomination, nor has the resolution dated 09-02-2026 been assailed. The learned counsel has also produced a communication dated 06-02-2026, which he submits, was an intimation showing that the resolution of the Executive Committee dated 09-02-2026 had been forwarded to the District Council Affairs Department, Government of Meghalaya, for gazette notification. He thus contends that as the matter is under consideration, no interference is called for, and that as far as the writ petitioner is concerned, there is no cause of action and the writ petition is liable to be dismissed.

6. Mr. A.Kumar, learned Advocate General assisted by Ms. S.Laloo, learned counsel for the respondents No. 1 to 4, has submitted that the impugned notification has been issued without the due process of law being complied with, though perhaps, the same was with best interests in mind. It



is submitted that the District Council is vested with powers under Rule 29 (2) (b), to make proposals for making regulations, rules or law as authorised under the provisions of the Sixth Schedule, and the legislative process for the same has been prescribed at Rule 72 which mandates that all Rules made by the District Council under paragraph 2 (7) with regard to matters in 2 (6) of the Sixth Schedule shall be drafted by the Executive Committee and shall be placed before the District Council for consideration. Rule 72 (2), he submits, provides that the Rules confirmed by the District Council, shall be sent to the District Council Affairs Department and all Rules have to be approved by the Governor, before coming into force. In the instant case, he submits, there has been no proposal for amendment of the Rules and the impugned notification has been issued without due process as provided in Rule 72, being followed. It is further submitted that change in the Rules cannot be affected without an amendment being made to Rule 128 of the Assam and Meghalaya Autonomous Districts (Constitution of District Councils) Rules, 1951. He therefore submits, by operation of law and in the absence of legislative sanction, the impugned notification cannot be said to be valid.

7. Having heard the learned counsel for the parties, it is noted that what has triggered the instant writ petition is the impugned notification dated 17-02-2026, whereby the same has effectively barred non-tribal voters from



voting or contesting in the upcoming elections to the Garo Hills Autonomous District Council. This Court is therefore to examine as to whether the impugned notification can be considered to be valid and pass the scrutiny of law, notwithstanding any other circumstances that may surround this issue. This observation is being made in view of the fact that the participation of non-tribals in the District Council elections, which elect members to the Council, which have been primarily established for the benefit of the Scheduled Tribes, has come under fierce debate with its consequential fallout, which in turn affects the society as a whole.

8. Article 244 (2) of the Constitution, has provided that the provisions of the Sixth Schedule shall apply to the administration of the tribal areas in the State of Assam, Meghalaya, Tripura and Mizoram, and as provided under the Sixth Schedule, the District Councils have been established. The aims and objectives of the Sixth Schedule, is to protect the rights and interest of tribal communities recognising their distinct culture, customs and languages, and plays a crucial role in preserving the identity and rights of the tribal populations in these States. Under paragraph 2 of the Sixth Schedule, provision has been made for the constitution of District Councils and Regional Councils and under para 2 (6), the Governor have been vested with the power to make Rules for the first constitution of District Council. Para 2 (6) and 2 (7) being very relevant, are reproduced hereinbelow:



“2. Constitution of District Councils and Regional Councils –

(6) The Governor shall make rules for the first constitution of District Councils and Regional Councils in consultation with the existing tribal Councils or other representative tribal organisations within the autonomous districts or regions concerned, and such rules shall provide for—

(a) the composition of the District Councils and Regional Councils and the allocation of seats therein;

(b) the delimitation of territorial constituencies for the purpose of elections to those Councils;

(c) the qualifications for voting at such elections and the preparation of electoral rolls therefor;

(d) the qualifications for being elected at such elections as members of such Councils;

(e) the term of office of members of 1 [Regional Councils];

(f) any other matter relating to or connected with elections or nominations to such Councils;

(g) the procedure and the conduct of business 2 [including the power to act notwithstanding any vacancy] in the District and Regional Councils;

(h) the appointment of officers and staff of the District and Regional Councils.

(7) The District or the Regional Council may after its first constitution make rules 2 [with the approval of the Governor] with regard to the matters specified in subparagraph (6) of this paragraph and may also make rules 2 [with like approval] regulating—



(a) the formation of subordinate local Councils or Boards and their procedure and the conduct of their business; and

(b) generally all matters relating to the transaction of business pertaining to the administration of the district or region, as the case may be:

Provided that until rules are made by the District or the Regional Council under this sub-paragraph the rules made by the Governor under sub-paragraph (6) of this paragraph shall have effect in respect of elections to, the officers and staff of, and the procedure and the conduct of business in, each such Council.”

9. The Assam and Meghalaya Autonomous Districts (Constitution of District Councils) Rules, 1951, then in accordance with para 2 (6) was framed and came into force on 15-10-1951. Under these Rules, the Constitution, Composition, Duration and Qualifications of membership of the District Councils have been prescribed, as well as the process of Legislation, Functions of the Executive Committee and Qualification of electors. The relevant Rules i.e., Rule 8 (Qualification for membership), Rule 29 (Function of Executive Committee), Rule 30 (Savings), Rule 72 (Legislation) and Rule 128 are reproduced hereinbelow:

“Qualifications for Membership:

8. *A person shall not be qualified to be elected as a member of the District Council unless he:*



(a) is a citizen of India;

(b) is not less than twenty-five years of age; and

(c) is entitled to vote at the election of members of the District Council of that autonomous district.

Functions of the Executive Committee:

29. *(1) The Executive Committee shall dispose of all matters falling within its purview, except certain matters hereinafter specified, which shall be referred to the District Council for final approval.*

(2) The matters excepted under subrule (1) are—

(a) cases involving any important change in the administrative system of the autonomous districts or any important departure from accepted policy of practice;

(b) proposal for making regulations, rules or laws as authorized under the provisions of the Sixth Schedule to the Constitution;

(c) cases which seriously affect or are likely to affect seriously, the peace or good government of any autonomous district or likely to affect relations with any such area;

(d) cases affecting the relation of Government with the autonomous district;

(e) all correspondences of importance with the Government.

(f) all important appointments.

Savings-

30. *Notwithstanding anything contained in rule 29—*



If any time, except when the District Council is in session, an emergency arises which renders it necessary for the Executive Committee to take immediate action in respect of any matter or matters specified in clauses (a), (b), (c), (d), (e) and (f) of sub-rule 2 of that rule, the Executive Committee of a District Council other than that of Mikir Hills or the North Cachar Hills may take such action thereon as the emergency appears to it to acquire, but every such case shall be laid before the District Council at its next session.

Legislation:

Rules to be made by the District Council

72. (1) All the Rules which may be made by the District Council under sub-paragraph (7) of paragraph (2) of the Sixth Schedule with regard to matters specified in sub-paragraph (6) of that paragraph and also all rules with regard to other matters which are under the rule-making power of the District Council shall be drafted by the Executive Committee and shall be placed by the Executive Member incharge before the District Council for consideration and confirmation, and the District Council in Session shall have the power to amend, reconsider or replace them, either in the Council or with the help of a Selected Committee appointed by the Council.

Rules to be signed by the Chairman

(2) All Rules thus made and confirmed by the District Council shall be authenticated and signed by the Chairman of the Council. A copy of such rules shall be submitted to the Governor for information through the Secretary, District Council Affairs Department, Government of Meghalaya and also a copy thereof shall be sent to the Chief Executive Member.

Rules made by District Council with approval of Governor.



(3) All rules which may be made by the District Council with the approval of the Governor shall be drafted by the Executive Committee and after being passed by the District Council with or without amendments, shall be presented to the Governor for his approval.

Publication of Rules made.

(4) All rules thus made and passed by the District Council, after being approved by the Governor in case of rules requiring such approval under any of the provisions in the Sixth Schedule, shall be published in the Gazette of the State and on such publication shall come into – force.

Qualification for Electors

128. *(1) Save in so far as is otherwise provided in these rules every person who is—*

(a) a citizen of India and ordinary resident in a constituency for not less than 180 days during the qualifying period;

(b) not below the age of eighteen on the qualifying date;

(c) not of unsound mind and does not stand to declared by a competent Court or such other authority as may be empowered by the Governor in this behalf;

(d) for the time being not disqualified from voting under the provisions of any law relating to corrupt or illegal practices and other offences in connection with elections; shall be entitled to vote at any election to the District Council of an autonomous district;

Provided that a person not belonging to a Scheduled Tribe specified in part XI – Meghalaya,



of the Schedule to the Constitution (Schedule Tribes) order, 1950, as amended up to date shall not be entitled to so vote unless he is a permanently resident within the territorial limits of the said autonomous district.

(2) The expression “ordinarily resident” used in subrule (1) shall have the same meaning as assigned to it by section 20 of the Representation of the people Act, 1950 (XLIII of 1950).

(3) For the purposes of this rule a person shall be deemed to be a permanent resident within the territorial limits of an autonomous district if he has taken up his fixed or permanent habitation with his family or made his permanent home in that district and resided continually therein for a period of not less than twelve years on the qualifying date. A person shall not be deemed to have taken up his fixed habitation in the district merely by the reason of his having resided there in connection with his civil or military service or in exercise of any profession or calling.

(4) For the purposes of this rule, “the qualifying date” and “the qualifying period”—

(a) in the case of electoral rolls first prepared under these rules, shall be the first day of March, 1950 and the period beginning on the first day of April, 1947, and ending on the 31st day of December, 1949 respectively;

(b) in the case of every electoral roll subsequently prepared under these rules, shall be the first day of January of the year in which it is prepared, and the year immediately preceding that year respectively”.



10. Having set out the above applicable legal provisions, a perusal of Rule 8, would show that a person entitled to vote at the election to the District Council is also qualified to be a member. Further, Rule 128 has set out the qualifications for electors with the conditions to be met encompassed therein. These two Rules, ever since the constitution of the District Councils have remained unchanged, thus preserving the right of every enrolled voter either tribal or non-tribal, to be qualified to be a member or voter. Looking into the history of the elections and the elected members of the Garo Hills Autonomous District Council, it is noted that since its inception in the list of elected members from 1952 onwards, non-tribals have featured and are present. As such, it is a well-established fact, that non-tribals residing in the concerned constituencies have been participating in, and have also been elected to the Council as members. This however, as submitted by the learned counsel for the respondents No. 5 & 6, due to the change in demographics has now been sought to be altered by way of the impugned notification, to limit participation only within the members of the Scheduled Tribe community. However, as observed earlier, the duty of the Court at this juncture, is only to examine as to whether this exercise is legislatively competent and in accordance with the Assam and Meghalaya Autonomous Districts (Constitution of District Councils) Rules, 1951.



11. The impugned notification, as noted earlier was notified in pursuance to a resolution of the Executive Committee and under powers purported to be derived under paragraph 2 of the Sixth Schedule, which is now being sought to be implemented in the upcoming elections. In this context, as arguments have been advanced that the same is in exercise of Rule 29 of the Assam and Meghalaya Autonomous Districts (Constitution of District Councils) Rules, 1951, a perusal of Rule 29 would show that 29 (2) quoted earlier, though giving latitude and power to the Executive Committee to take up matters captioned therein, the same is however subject to the reference to the District Council for final approval. The impugned notification, it is noted has been issued at the level of the Executive Committee itself, without the same being placed before the Council, and further, even if Rule 30 is resorted to, Rule 29 (2) (b) does not envisage the making of Regulations or Rules by the Executive Committee but only for proposals to be made.

12. The impugned notification, apart from other considerations discussed above, to have effect in law would also have to pass the rigours of Rule 72, which provides for the manner in which Rules are to be made by the District Council, which compulsorily require the approval of the Governor, before the same becomes law. A perusal of Rule 72, would show that under the Rule making powers of the District Council, the Rules shall be drafted by the Executive Committee and thereafter, be placed before the District Council



in session for onward process before the District Council Affairs Department and finally for assent before the Governor. The impugned notification, in the considered view of this Court, would amount to only the first stage being completed i.e., at most to only a proposal which would necessarily also have to be correspondingly accompanied with proposed amendments to Rule 8 and Rule 128 of the Rules of 1951.

13. In view of the above stated facts, circumstances and the interpretation and application of law, the impugned notification therefore, cannot pass legal scrutiny and as such, is accordingly set aside and quashed.

14. The writ petition accordingly is closed and disposed of.

Judge