THE HIGH COURT OF MEGHALAYA
SHILLONG

WP(C) No.363/2014/2507-10 Dated Shillong the 15th Dec,2014.

From : Smti B.Mawrie,
Registrar General,
High Court of Meghalaya,
Shillong.

To :1) The Union Home Secretary,
Government of India.
North Block.
New Delhi.
110001.

2) Law Secretary,
Government of India.
New Delhi.

3) The Chief Secretary,
Government of Meghalaya,
Shillong.

4) The Director General of Police,
Meghalaya,
Shillong.

Sub : Court's Judgment and Order Dated.10.12.2014
WP(C) No.363/2014
Shri Archi Siangshai and Ors
Vrs
The State Of Meghalaya and Ors.

Sir,

I am directed to send herewith the Court's Judgment & Order mentioned above with a request to kindly circulate the same to all concerned, as directed in the said Judgment & Order.

Enclo: as stated above.

Yours faithfully,

15/12/14

REGISTRAR GENERAL

4. The Officer In Charge
Lad Rymbai Police Station
East Jaintia Hills District,
Khliehriat.

5. Shri. Lukas Shylla
S/o Shri. Phransis Dkhar
Headman/President
Village Dorbar Pamrakmai

6. Shri. Diwanis Siangshai
S/o Shri. Lot Chyrmaang
Secretary Village

7. Shri. U Daikiwbha Rymbai
S/o Shri. Krit Siangshai
Secretary,
Village Dorbar Pamrakmai

..... **Respondents**

BEFORE
THE HON'BLE MR JUSTICE SR SEN

Advocate for the Petitioners	:	Mr. ODV Ladia
Advocate for the Respondents	:	Mr. ND Chullai
Date of Hearing	:	10.12.2014.
Date of Judgment & Order	:	10.12.2014.

JUDGMENT & ORDER (Oral)

The brief facts of the case is that, "the petitioners are all born and brought up at Mamrakmai village, East Khasi Hills District, Meghalaya and as such are the permanent resident of Pamrakmai village belonging to the Pnar community which is the indigenous tribe of the Jaintia Hills District. The petitioners on attaining their marriageable ages entered into marriage with non-tribal who does not belong to their village, and ever since their marriage with non-tribal, they have been constantly subjected to harassment and threat to their lives and finally without any notice ex-communicated/ostracized from their villages by the respondents No. 5, 6 & 7 and further prohibited them from visiting their villages nor allow them to visit their family members. Further,

the respondents have even denied them any residential certificates in order to enable them to claim the benefits of the governmental schemes for BPL families nor they could get any rented house and jobs in the absence of residential certificates. The petitioners faced with such hardships and difficulties approached the respondent No. 2 vide complaint date3d 21.12.2013, 21.05.2014 but the respondent No. 2 paid no heed to the complaint and again on 18.07.2014, the petitioners filed a joint complaint for protection of their fundamental rights, but to the utter shock and perplexity the complaint was registered as Non FIR case No. 5 of 2014 on the report of the Incharge Ladrymbai Police Station the respondent No. 4 and proceeded under Section 107 CrPC. Hence, when the authorities have failed to perform the constitutional obligation and duty to protect the fundamental rights of the petitioner. The petitioners are compelled to file the instant writ."

2. Mr. ODV Ladia, learned senior counsel appearing for on behalf of the petitioners submits that, as per direction of this Court, the petitioners were allowed to return to their respective villages, as such, the matter has been compromised and the petitioners are not interested to proceed with the case any further.

3. As per the order dated 02.12.2014, Officer In charge Lad Rymbai Police Outpost produced before this Court respondents No. 5 & 7 whose names are; Shri. Lukas Shylla, Headman and Shri. U Daikiwbha Rymbai, Secretary, VDP and they have been warned not to repeat such activities in the near future. Further, they have also been reminded not to interfere with the law & order for which constitutional machinery as well as statutory machinery are very much available in the state.

They have extent an apology and they are allowed to go with a warning that, in future if they repeat they will be sent to jail for such illegal activities.

4. Before I part with this case record, I observe that the original concept of headman of a locality is totally different from what it is at present. As far as my knowledge goes, headman should be elderly person of a locality with good background, having humane feeling, sense of integrity and who is against all kinds of violence and elected by the people of the locality and to obtain sanat from syiem. The duty of headman is to look after the welfare only of the locality concerned and at best can place the grievances of the people to the Government, District Administration or to the Police. Headman of a locality did not derive any right from law, and rule or from the Constitution of India to issue NOC for the purpose of birth/death or for registration of any document as well as for building permission and obtaining loan. We often notice that, whenever any person approached for birth/death certificate, building permission, registration of sale deed or any other document or electric connection, loan, they have been asked to bring NOC from local headman which is highly illegal on the part of the District Administration and the Government. We also notice that, very often local headmen interfere with the police work as well as with the District Administration. Now the question comes, where from those headmen derive the power to issue NOC or to interfere with administration or indulge in removing people from villages. The answer is that, no rule of law has empowered them to do so; they are doing of these kinds of activities as per their whim and will and they try to run a parallel Government. As a result, common citizens are the worse sufferers which should not be allowed at any cost.

5. It is also noticed that some headmen of a locality are drivers, peons or small businessmen and without knowing anything, they try to impose their ideas on others which is also undesirable in this modern world.

6. Therefore, I am of the considered view that, in a State 2(two) parallel Governments cannot run simultaneously. It is the Government, District Administration and the Police who are established by law to look after the matter in all respect and no assistant should be sought from any headman. Headmen should confine themselves for social development of their locality only and not to take the law in their own hands or to interfere with the administration. They have no power to issue any kind of certificate unless empowered by rule or laws.

7. The Chief Secretary, Government of Meghalaya, District Administration and Police are directed to look into the matter seriously and to put an end to all these types of parallel Government practices for the smooth functioning of the administration, peace and prosperity of the people and State.

8. Goovernment, District Administration and Police are directed not to indulge or ask people to obtain NOC from Headmen but they should function their duties independently as per rules and laws. For example, if a person approach for a sale deed, his case to be considered under Registration Act. Birth/Death certificate should be regulated through Municipal Act. Building permission as per Bye Laws of MUDA. Loan as per Banking Act and permanent residential certificate or any other certificate also should be as per rule, Electric connection as per electricity Act.

9. Further, I observe that whenever police officer appears before the Court of law, he should be properly dressed and to be discipline for which on earlier opcasions also I have

issued direction but today I observed that the officer namely; Shri. A Rymbai, Officer In charge, Lad Rymbai Police Outpost is not properly dressed which needs to be corrected.

10. Krishnamurthi in his book Police Investigation and Prosecution observed that :

> ***"It is imperative that the investigator should take all care in presenting smart appearance in a court of law. He should give the impression of smartness in his dress and behavior. He is expected to be in his uniform. He should be immaculate and correct in manners. He should take care that this dress does not show him out as a slovenly person. It will be difficult for a court to avoid the impression that a slovenly dressed person can only be slovenly in his investigation. The investigation should not give room to this kind of impression. He must dress in a conservative manner. His dress must be neat and inconspicuous. He must keep his hair well combed, his nails clean, his shoes shining. He must take particular care that his shoes do not creek so as to attract unwholesome attention.***
>
> ***The police officers are put to hard work and they often spend sleepless nights under a load of stress and stain; but when they come to the court they should take care not to give the impression of sleepy policeman in the court of law. It is in the court of law that the police officer is expected to be alert. A careless officer may cause the investigation to lose its value and the entire case, and investigation running over months of hard work would be smashed to smithereens by inadvertent answers in a court of law. It is therefore necessary that the investigator should put on his best appearance in the court of law and give the impression in the court that his is an alert, correct and immaculate policeman who can be relied upon for having done good and efficient work"***

11. The above mentioned concept is found in the Assam Police Manual which is being followed in the State of Meghalaya. Once again, I direct the Director General of Police, Meghalaya to issue instructions accordingly to all police officers who are appearing in Court.

12. Registry is directed to send a copy of this order to the Union Home Secretary, Law Secretary, Government of India as well as to the Chief Secretary, Government of Meghalaya with

a direction to circulate this Judgment & Order to all the District Magistrates and other officials connected with the administration and also to be send to the Director General of Police, Meghalaya.

13. With these observations & directions, this instant case is closed and the matter stands disposed of.

JUDGE

V Lyndem

THE HIGH COURT OF MEGHALAYA SHILLONG

True Copy
15/12/14
Superintendent (Judicial)
The High Court of Meghalaya
Shillong