

Khasi Hills Autonomous District
Versus
Charlestone Sohtun

Date of Decision : 09-Aug-2002

HEADNOTE:

United Khasi-Jaintia Hills Autonomous District (Appointment and Succession of Chiefs and Headmen) Act, 1959

Section 6, Proviso — Applicability — Chiefs and Headmen — Removal — Opportunity of being heard — Proviso providing opportunity of being heard is not applicable in cases of suspension pending enquiry.

STATUTES REFERRED:

JUDGMENT/ORDER:

(1) LEAVE granted.

(2) THE executive committee constituted under provisions of section 6 of the United Khasi- Jaiñtia Hills Autonomous District (Appointment and Succession of Chiefs and Headmen) Act, 1959 (hereinafter referred to as the Act) initiated certain proceedings inter alia and directed as follows:

"Now, therefore, the executive committee. after consideration of all the facts and circumstances and being fully satisfied and for doing a free, fair and impartial justice in the inquiry, hereby suspend the said U laborious Manik Syiem from the post of Syiem of Myllichem Elaka with immediate effect and until further order, in exercise of the powers conferred upon it under sub-clause (ii) of the third proviso to section 6(1) of the United Khasi-Jaiñtia Hills Autonomous District (Appointment and Succession of Chiefs and Headmen) Act, 1959 as amended. U laborious Manik Syiem, thus suspended shall cease to do any function relating to the office of the Syiem of Myllichem and shall cease to exercise with immediate effect any power either administrative or judicial which is attached or arose out of the office of Myllichem Syiemship. Further, the executive committee is pleased to appoint J Reebourne, additional judge, district council court Khasi Hills to conduct the inquiry into the allegations against the said U laborious Manik Syiem and to submit the findings and report to the executive committee within 3 months."

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(3) THIS order came to be challenged in a writ petition before the High Court. The learned single judge who heard this matter held that the concerned Syiem was placed under suspension without reasonable opportunity of being heard and as such, requirement is statutorily mandatory, quashed the said order (?). The matter was carried in appeal unsuccessfully. Hence this appeal by special leave.

(4) SECTION 6 of the Act contemplates while removing or suspending Syiems referred to therein, an opportunity of being heard is to be given but the said proviso is not applicable in cases of suspension pending inquiry. The order extracted earlier clearly indicates that proceedings for detailed inquiry have been initiated and the Syiem had been placed under suspension pending inquiry. This aspect was completely lost sight of by the High Court.

(5) HOWEVER, Shri Raju Ramachandran, learned senior advocate contended that though the order of suspension is stated to have been passed in exercise of the power and the third proviso of section 6(1) of the Act which deals with the suspension pending inquiry, the order has in substance been passed under second proviso which deals with removal or suspension by way of punishment. But on a reading of the said order as a whole, it is clear that on specific allegations, the executive committee wanted to hold a detailed inquiry and appointed an additional judge to conduct such an inquiry and pending inquiry, he was placed under suspension. Hence, there is no basis for the arguments of Shri Raju Ramachandran. He further contended that the nature of the matter is such that when Syiems are elected by elected persons and once an inquiry had been held and the report had been given, action should have been taken quickly and cannot be prolonged in this manner. He also pointed out that the inquiry officer is yet to commence the inquiry. These aspects were not considered by the High Court while quashing the impugned order and further we do not know what circumstances have caused delay in holding the inquiry. But, it is clear that the executive committee wanted to be very cautious and careful in taking any step and even before placing first respondent under suspension a preliminary inquiry was held, material was collected and thereafter on specific allegations against him, they proceeded to place him under suspension pending further inquiry. If that is so, we do not think the contention advanced on behalf of the respondents should militate against allowing this appeal. In the aforesaid circumstances the appeal is allowed, the orders made by the High Court are set aside and the writ petition by the respondents stands dismissed. It would be appropriate for the inquiry authority to proceed with the inquiry as expeditiously as possible. Needless to say that this order will not influence the inquiry in any manner.
