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Edited by Amita Dhanda



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Hyderabad, Telangana 500101.

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Patron

Prof. Srikrishna Deva Rao
Vice-Chancellor
NALSAR University of Law
Hyderabad

Editorial Team

Editor: Dr Amita Dhanda
Associate Editor: Dr Aymen Mohammed
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MEGHALAYA

DEBAJIT K. SARMAH*

Introduction

Meghalaya was created under the Assam Reorganisation (Meghalaya) Act 1969, consisting of the Garo Hills District and United Khasi and Jaintia Hills Districts of Assam. Meghalaya became a full-fledged State at midnight on January 20-21, 1972, in accordance with the provisions contained in the Northeastern Areas (Reorganisation) Act, 1971. Meghalaya is predominantly a tribal State, and the major tribes are the Khasi, the Jaintia and the Garo, as well as the Koch, Rabha and Bodo.

General elections to the Legislative Assembly of Meghalaya for the 11th Legislative Assembly, were held on February 27, 2023. At present, there are 55 reserved Legislative Assembly seats and 5 unreserved Legislative Assembly seats. Meghalaya has a distinct federal structure. There are three Autonomous District Councils in the state for the Khasi Hills, the Jaintia Hills and the Garo Hills under the sixth schedule of the constitution. In terms of governance by the State Government and District Councils, the Government of Meghalaya has, apart from the Law Department, a separate District Councils Affairs Department also.

As per information made available by the Department of Law, Govt. of Meghalaya, a total of 12 Acts were passed by the Meghalaya Legislative Assembly and 7 Ordinances were promulgated by the Governor in the year 2023.

Acts passed by the Meghalaya Legislative Assembly

Education

National Law University

A bill to amend the National Law University of Meghalaya Act, 2022 was introduced. This bill altered the composition of the University's Finance Committee with the government

* Assistant Professor, Tezpur University, Tezpur, Assam.

assuming a greater oversight over the financial affairs of the University. In the erstwhile 2022 Act, the Finance Committee consisted of the Vice Chancellor, Registrar, Finance and Accounts Officer and two members one of whom to be nominated by the General Council and the other by the Government of Meghalaya. Under the amendment bill, the Committee which has to be set up by the Executive Council of the University shall be chaired by a senior Government official nominated by the state government; the members being the Finance and Accounts Officer of the University, and two persons nominated respectively by the General Council and the Government of Meghalaya. The descriptor 'General Council' replaced the word 'Governing Council' in the principal Act possibly to play down the governance functions to be performed by the Council. This bill was enacted as the National Law University of Meghalaya (Amendment) Act, 2023 (Act No. 11 of 2023).

Repeal of University Status

In the education sector, the Rajitlal University (Repealing) Act (Act No. 9 of 2023) and the Captain Williamson Sangma State University (Amendment) Act (Act No. 12 of 2023) were the two major legislative developments in Meghalaya during the year. The Rajitlal University's Act was passed in 2011 and received the Governor's assent in 2020. It was provided in the Act that the sponsors shall make an application containing the proposal to the Government to establish the University in Meghalaya. However, even after three years since the publication of the Act in the official gazette, the sponsors had not made any such application to the Government. Therefore, it was felt expedient to repeal the Act because fraudulent activities victimising innocent students could take place in the name of the university. When a private university fails to act on its legislative sanction, the State is compelled to repeal the Act in order to prevent misuse of the legal recognition. This resulted in the enactment of the Rajitlal University (Repealing) Act, 2023.

Another Bill was introduced in the Legislative Assembly to amend the Captain Williamson Sangma Technical University Act of 2011. In the proposed Bill, the Governor was made the Chancellor of the University, whereas as per the original Act, the Chancellor was to be appointed by the sponsor of the University subject to the approval of the Governor who was appointed as the 'Visitor'. Furthermore, the bar on claiming and utilizing grant money was removed and the University renamed and repurposed to be a multidisciplinary institute teaching humanities and art in addition to imparting technical education. Eventually, the Captain Williamson Sangma State University (Amendment) Act, 2023 received the assent of the governor on 18 October 2023 and was published in the official gazette on 19 October 2023.

Repeal of Gaming Regulation

One of the first initiatives of the present Government of Meghalaya was the enactment of the Meghalaya Regulation of Gaming (Repeal) Act, 2023 (Act No. 4 of 2023). The said Act repealed the Meghalaya Regulation of Gaming Act, 2021, and the Meghalaya Regulation of Gaming (Repeal) Ordinance, 2022. The impugned Act of 2021, which aimed towards shutting down all illegal gambling casinos and dens and open government-regulated ones, happened to be one of the most controversial laws surrounding the State's casinos. Several organisations had been protesting against it since the time this law came into force.

Goods and Services Tax

The Meghalaya Goods and Services Tax (Amendment) Act, 2023 (Act No. 6 of 2023), was also enacted further to amend the Meghalaya Goods and Services Tax Act of 2017. The new amendments made in 2023 *inter alia* provide for regulating online gaming and online money gaming as well as specified actionable claims such as the lottery, betting, and gambling. Under the title head, the Meghalaya Goods and Services Tax, the Government of Meghalaya framed a set of Rules during 2023. These are, namely, the Meghalaya Goods and Services Tax (Amendment) Rules, 2023, pertaining to the authentication of Aadhaar number, the Second Amendment Rules, 2023, providing for different forms to be used for GST returns, the Third Amendment Rules, 2023, inserting provisions on the value of supply in the case of online gaming, including online money gaming and the value of supply of actionable claims in the case of casinos, and the Fourth Amendment Rules, 2023, dealing with corporate guarantee.

Legislators Pension

The Legislative Assembly of Meghalaya (Member's Pension) (Amendment) Bill, 2023, was introduced in the Meghalaya Legislative Assembly to amend Section 3 of the Meghalaya Legislative Assembly (Member's Pension) Act, 1977. This bill became an Act, to be known as the Legislative Assembly of Meghalaya (Member's Pension) (Amendment) Act, 2023 (Act No. 8 of 2023).

Through the amendment, the qualifying years of 2 years and 6 months as contained in the proviso to section 3 (1) of the Meghalaya Legislative Assembly (Member's Pension) Act, 1977 was relaxed, and Members who had served as MLAs for less than the previous qualifying period being now made eligible to receive half the pension. Furthermore, healthcare was expanded to include all present and past MLAs even if they have not served the previously stipulated requisite period.

Miscellaneous

Apart from the aforesaid legislations, other regular Acts passed by the Meghalaya Legislative Assembly during the year 2023 include three Appropriation Acts and the Contingency Fund of Meghalaya (Amendment) Act, 2023. Further, the Meghalaya Lokayukta (Amendment) Act, 2023 (Act No. 7 of 2023) and the Meghalaya Medical Council (Amendment) Act, 2023 (Act No. 10 of 2023) introduced minor changes to the principal legislation.

Ordinances Promulgated by the Governor

Taxation

In exercise of the power conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Meghalaya also promulgated a few Ordinances during the year 2023. The Meghalaya Value Added Tax (Amendment) Ordinance, 2023, (Meghalaya Ordinance No. 4 of 2023), amended Section 44 of the Meghalaya Value Added Tax Act, 2003 by substituting the words 'central bonded warehouse' for the words 'bonded warehouse' in the Principal Act.

To amend the Meghalaya (Sales of Petroleum and Petroleum products etc. Taxation Act) 1956,¹ another ordinance was promulgated by the Governor called the Meghalaya (Sales of Petroleum and Petroleum Product etc) Taxation (Amendment) Ordinance, 2023, (Meghalaya Ordinance no 5 of 2023). This Ordinance inserted section 20-B- on the payment of security deposit by a registered retail sale outlet in the Principal Act i.e. As per the new section, the Government may by notification prescribe the amount or security deposit payable by the owner or a registered retail sale outlet at first point of sale in the State, at the commencement of the tax period payable by such date as notified. Further, the procedure of fulfilling requirement of furnishing returns of sale of taxable goods to the Superintendent of Taxes within 30 (thirty) days following the end of the month was prescribed with the framing of the Meghalaya (Sales of Petroleum and Petroleum Products) including Motor Spirit and Lubricants) Taxation (Amendment) Rules, 2023.

On 21 December 2023, the Governor of Meghalaya promulgated another ordinance, the Meghalaya Fiscal Responsibility and Budget Management (Amendment) Ordinance, 2023 (Ordinance No. 7 of 2023), to amend the Meghalaya Fiscal Responsibility and Budget

¹ Assam Act IX of 1956 as adapted and amended by Meghalaya.

Management Act, 2006. This amendment pertains to maintaining the fiscal deficit to an annual limit of 3.5% of GSDP during Fiscal Year 2023-24.

Rules, Regulations, etc. Framed by the Government of Meghalaya

Rules of Executive Business

To further amend the Rules of Executive Business of the Government of the State of Meghalaya, 1972, the Rules of the Executive Business of the Government of the State of Meghalaya (Amendment) Rules, 2023 were notified on 11 July 2023. As per the new Rules, 2023, the erstwhile Planning Department was substituted by Planning Investment Promotion and Sustainable Development Department with express responsibilities on matters relating to sustainable development.²

Services

Higher Judicial Service

The Meghalaya Higher Judicial Service (Amendment) Rules, 2023 were notified on 13 September 2023 to further amend the Meghalaya Higher Judicial Services (Amendment) Rules, 2015. The new Rules amend the principle of 'merit-cum-seniority' to make the promotion of Grade II Judicial Officers to Higher Judicial Services 'strictly on the basis of merit'. Further, the new Rules *inter alia* provide that twenty-five per cent vacancies need to be filled by direct recruitment from the Bar; and (b) Ten per cent by promotion through a limited competitive examination of Civil Judges (Senior Division) with at least five years of qualifying service. On the same date of 13 September 2023, the Government of Meghalaya also notified the Meghalaya Judicial Service (Amendment) Rules, 2023 that are applicable to the Grade-II and Grade-III Judicial Officers in Meghalaya. The amended Rules *inter alia* require that all vacancies in Grade II of the service by promotion as well as all vacancies in all Grade III of the service by direct recruitment shall be filled up in accordance with the description and time schedule mentioned in the Rules 'strictly on merit'.

Extension of Tenure

The Meghalaya State Food Commission (Amendment) Rules, 2023 has enhanced the tenure of the Chairperson and Members of the Commission from three to five years.

² Rules of the Executive Business of the Government of the State of Meghalaya (Amendment) Rules, 2023, Notification No. CA.11/98/187 (July 11, 2023), available at https://meghalaya.gov.in/sites/default/files/rules/CA_11_98_187.pdf (Last visited on May 22, 2024).

Pension

The Meghalaya Civil Services (Pension) (Sixth Amendment) Rules, 2023, were notified on 1st August 2023. These Rules *inter alia* provided that a Government servant retiring after completing qualifying service of not less than 30 (thirty) years, in accordance with the provisions of the Principal Rules, shall be paid pension at 50% of the last pay drawn or at 50% of the last six-month's average emoluments of the employee, whichever is more beneficial to the pensioner, subject to the maximum of Rs.75,850.00 (Rupees Seventy five thousand eight hundred fifty) per month. In case of a Government Servant retiring in accordance with the aforesaid Rules before completing qualifying service of 30 (thirty) years, but after completing qualifying service of 10 (ten) years or more, the amount of pension shall also be proportionate to the amount admissible at 50% of the last pay drawn or at 50% of the last six-month's average emoluments of the employee, whichever is more beneficial to the pensioner. Another striking feature of the Amendment Rules 2023 is that family pension shall be calculated at a uniform rate of 30% of basic pay in all cases i.e. "pay" drawn on the date of death or on the date of retirement with a specified statutory minimum.

Health

Malaria Eradication

In furtherance of the National Framework for Malaria Elimination Programme (NFMEP) 2016- 2030 and under the Epidemic Diseases Act, 1897, the state government notified the Meghalaya Epidemic Diseases Malaria Regulation, 2023 on 15 April 2023. It outlines the powers and functions of the Inspecting Officers, and deals with the responsibilities of Medical and Health Services providers. It also requires preparation of blood slides for each fever case reported, and provides that clinical or suspected Malaria will be declared only if it is confirmed by microscopic examinations.

Mental Health

According to the Health of the Nation's States report, depressive and anxiety disorders feature in the top 15 causes of YLDs (years of healthy life lost due to disability) in Meghalaya. Meghalaya reported 226 deaths by suicide in 2021, i.e. nearly six for every 10,000 people (National Crime Records Bureau, 2022). There has also been a significant rise in substance use in Meghalaya over the last decade, which has reached three times the national average due to the increased availability of substances. In this backdrop, a drafting Committee for preparing a Mental Health Care Policy was notified by the Government of Meghalaya in 6 2022 with the Principal Secretary, Health, and Family Welfare Department as the chairperson and nine other Members. The terms of reference for the Committee was to

prepare the draft policy for Mental Healthcare for the State, to conduct consultative meetings with other related agencies pertaining to the Mental Healthcare issues, the Committee could co-opt expert members as deemed fit for the purpose and any other matter relevant for the purpose. A Sub-committee consisting of representatives of NGOs and Academia was subsequently notified by the Meghalaya government in partial modification of the earlier notification. The Meghalaya Mental Health and Social Care Policy was notified on 19th January 2023, and the key features of the Policy include strengthening Human Resources, Inter-Departmental Collaboration and Policy Convergence and mobilising and empowering Community Institutions.

Trade and Business

Renting and Leasing of Discom Assets

The Meghalaya State Electricity Regulatory Commission (Renting/Leasing Out of the Discom assets for Facilitation of Telecommunication Network) Regulations, 2023, published in the gazette on March 13, 2023, is applicable to the distribution licensees and franchisees engaged in the business of distribution and supply of electricity in the State. The objective of the 2023 Regulations is to facilitate the telecommunication network services including 5G network in the State with fair revenue sharing earned from telecommunication business networks. Moreover, it also prescribes penalties for unauthorised use of discom assets or for violation of Meghalaya Telecom Infrastructure Policy, 2018 by any applicant.

Direct Selling

The Consumer Protection (Direct Selling) (Amendment) Rules, 2023 which were notified to further amend the Consumer Protection (Direct Selling) Rules, 2021 substituted the words 'through direct sellers' with the words 'directly through a network of sellers' and also defined 'network of sellers' as 'a network of direct sellers formed by a direct selling entity to sell goods or services for the purpose of receiving consideration solely from such sale'.

Environment and Forests

The Forest and Environment Department notified the Meghalaya Water bodies (Preservation and Conservation) Guidelines on July 18, 2023. These were issued as guiding principles for conservation, preservation, protection of the water bodies following the principle of sustainable development and inter generation of equity within the State of Meghalaya. The Guidelines, *inter alia*, provide that no person shall undertake activities such as the dumping or throwing solid waste or garbage in the waterbodies, discharging untreated sewage, industrial effluents, or any other pollutants into the water bodies, obstructing or interfering with the activities of the Competent Authority or other designated

agencies tasked with the preservation and protection of the waterbodies. Further, Guidelines also provide that no person, without the permission of competent authority, shall carry out any mining or excavation activities in the waterbodies, exploit the waterbodies for commercial fishing or aquaculture activities that may disrupt the natural ecosystem, undertake any activities including the filling up of waterbodies which may cause damage or reduce the size of the waterbodies, construct or erect any structure in the waterbodies.

Laws Made by the District / Regional Councils in Meghalaya

The Sixth Schedule (Articles 244(2) and 275(1)) of the Constitution of India lays down provisions as to the Administration of Tribal Areas in the States of Assam, Meghalaya, Tripura, and Mizoram. According to it, there shall be autonomous districts and autonomous regions in the tribal areas to be administered by District Councils and Regional Councils, respectively. Areas of Meghalaya specified therein in the Schedule as tribal areas are Khasi Hills District, Jaintia Hills District, and the Garo Hills District. The entire State of Meghalaya, except the cantonment area in Shillong, are covered by the district councils. In no other Sixth Schedule State, except Meghalaya, there are district councils for the whole state.

Legislative powers of the District Councils and Regional Councils are laid down in paragraph 3 (1) of the Schedule. Paragraph 3(3) provides that the laws made under the schedule obtain gubernatorial assent. Paragraph 8 (4) of the Schedule further mentions that Regional Council or District Council may make regulations to provide for the levy and collection of any of the specified taxes. Paragraph 12A of the Schedule lays down that if any law or regulation made by a Council is repugnant to any state statute then the law made by the Legislature of the State of Meghalaya shall prevail.

Acts and Rules of Khasi District Council

The present survey finds that in 2023, a total of 5 Acts and Rules of the Khasi Hills Autonomous District Council have been assented to by the Governor, and then published in the official gazette. For the Jaintia Hills Autonomous District Council and the Garo Hills Autonomous District Council no legislative activity happened during the year.

Control of Markets Regulations

The Khasi Hills Autonomous District (Establishment, Management and Control of Markets) (Second Amendment) Regulation Act, 2021, received the assent of the Governor on 26th July 2023. This was originally passed by the Khasi Hills Autonomous District Council on 2nd March, 2021 to further amend the Khasi Hills Autonomous District (Establishment, Management and Control of Markets) Regulation, 1979 for promoting and facilitating the marketing of agricultural produce and livestock and also for bringing more accountability

and transparency in the implementation of the regulation. By the new amendment, the Executive Committee of the Council is empowered to declare any area as a Market if it is of the opinion that people assemble in such an area either daily or weekly or bi-weekly for the sale or purchase of commodities. The new amendment also provides for the constitution of the Agricultural Produce and Livestock Marketing Facilitation Sub-Committee to ensure that legal rights and privileges of the farmers relating to the marketing of agricultural produce and livestock are honoured, no sale or purchase happens below the minimum support price fixed by the District Council etc. The Sub-Committee, among other functions, shall also support and facilitate in the marketing of the agricultural produce and livestock by farmers. Excisable articles like liquor are not allowed to be bought or sold within the market area without valid permission as per Amendment of Section 18(1) of the Principal Regulation.

Nomination and Election

The Khasi Hills Autonomous District (Nomination and Election of the Syiem, Deputy Syiem and Electors of Nongstoin Syiemship) Second Amendment), Act, 2022, received the assent of the Governor on 26th August 2023, date of gazette notification September 4, 2023. This was to amend the principal Act of 2003 and rectified the classification of the Principal Act which referred to Nongkhar' and 'Khar-rit' as two clans when in fact they were one, by clubbing them together.

The Khasi Hills Autonomous District (Nomination and Election of the Syiem, Deputy Syiem and Electors of Hima Maharam) (Amendment) Act, 2019, received the assent of the Governor on 15th September 2023, date of gazette notification September 26, 2023. This was enacted to amend the Khasi Hills Autonomous District (Nomination and Election of the Syiem, Deputy Syiem and Electors of Hima Maharam) Act of 2006 that provided for the nomination and election of the Syiem, Deputy Syiem and Electors of Hima Maharam in accordance with the prevailing customary practices of Hima. The new amendment is also in line with the election process of Hima Maharam.

Administration of Langrin Syiemship Rules

The Administration of Langrin Syiemship Rules, 2023 marks a significant development in customary law for the Khasi Hills. Made under the principal Act of 2007, the Rules empower the Executive Durbar to administer the Syiemship in line with prevailing customs. The Rules add further eligibility criteria for the Syiem, Acting Syiem and Deputy Syiem—such as residency in the Hima, familiarity with Khasi customary law, adherence to matrilineal lineage, and proficiency in the Khasi language. They also lay down the procedures for nomination and election, define the roles of traditional offices, and set out the administrative

framework for the Langrin Syiemship, including village governance and financial and revenue administration.

Service Rules

The Khasi Hills Autonomous District Council Service (Amendment) Rules, 2023 were made for the interest and welfare of Council employees by amending of the Khasi Hills Autonomous District Council Service Rules, 1961. Now, under the amended Rules, the upper age limit for employment in District Council has been raised from 30 years to 32 years, generally, and, to 35 years for holders of degrees in Law, Medicine, and Engineering.

Conclusion

The present survey describes the exercise of the legislative functions in Meghalaya by the Meghalaya Legislative Assembly and the District Councils. In addition to the regular laws relating to state finance and taxation the legislative assembly moved to repeal defunct laws which had established private universities. Other than the Khasi Hills Autonomous District Council, no other District Council made any new laws in 2023. The laws made by the Khasi Hills Autonomous District Council focus on the welfare of tribes in line with customary practices.