GAHC020002522026 2026:GAU-NL:551

# THE GAUHATI HIGH COURT
## (HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
## KOHIMA BENCH

**Case No. : WP(C)/52/2026**

MR. HAINKIENG
S/O LATE INGAULUNG, R/O OLD JALUKIE VILLAGE, SECTOR - C,
P.O./P.S. JALUKIE, PEREN, NAGALAND - 797110

VERSUS

THE STATE OF NAGALAND AND 6 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF NAGALAND, KOHIMA

2:THE HOME COMMISSIONER
GOVT. OF NAGALAND
KOHIMA
NAGALAND.

3:THE DEPUTY COMMISSIONER
PEREN
NAGALAND.

4:THE ADDITIONAL DEPUTY COMMISSIONER
JALUKIE SUB-DIVISION
PEREN
NAGALAND

5:THE EXTRA ASSISTANT COMMISSIONER
JALUKIE SUB - DIVISION
PEREN
NAGALAND

6:MR. RAMDIT
HEAD GB OF OLD JALUKIE VILLAGE
PEREN

NAGALAND - 797110

7:MR. IKETETLUNG
S/O LATE KEMAUGANG
R/O OLD JALUKIE VILLAGE SECTOR C
PO/PS JALUKIE
PEREN
NAGALAND - 79711

**Advocate for the Petitioner** : A. ZHO, V KOZA,B. SOTO,C. LOSOU

**Advocate for the Respondent** : GOVT ADV NL,

**BEFORE:**

**HON'BLE MRS. JUSTICE YARENJUNGLA LONGKUMER**

**Advocates:**

| | |
|---|---|
| For the Petitioner | : A. Zho, Sr. Adv. |
| | : B. Soto |
| For the State Respondents | : Moa Imchen, Sr. Govt. Adv. (R/1-5) |
| For the Private Respondents | : Hetoka (R/6 & 7) |
| Date of Hearing and Judgment | : **13.10.2026** |

**:JUDGMENT & ORDER (ORAL):**

**1.** By filing the instant writ petition, the Petitioner is challenging the impugned Meeting Minutes dated 28.03.2026, by which the private Respondent No. 7 was chosen as the Chairman of Old Jalukie Village Council for the tenure 2026-2031 by the Gaonburas (GBs, for short) on the ground that the GBs are not members of the Village Council (VC) without any voting rights.

**2.** Heard learned Senior Counsel, Mr. A. Zho, assisted by learned counsel, Mr. B. Soto, for the Petitioner. Also heard learned Senior Government

Advocate, Mr. Moa Imchen, for the State Respondent Nos. 1 to 5 and learned counsel, Mr. Hetoka, for the Respondent Nos. 6 and 7.

**3.** The case of the Petitioner is that he is the ex-chairman of the Old Jalukie Village Council in the last tenure and he has also been selected as a new Village Council Member (VCM, for short) for the tenure 2026 to 2031 and is intending to contest for the post of Chairman, Village Council, Old Jalukie for the new tenure, having the majority support of the newly selected VCMs.

**4.** In order to select the new council members for the tenure 2026-2031, and in order to prevent any misunderstandings amongst the villagers, the Old Jalukie Village Council consisting of sectors A, B and C had a general meeting on 20.02.2026. In the said meeting, it was decided that the VCM shall be elected based on the norms and practices as exercised earlier in the village. And it was decided that sector A would have 2 (two) VCMs, sector B 3 (three) VCMs and sector C 4 (four) VCMs. It was also resolved that only proper dwellers of the village shall qualify for being selected as a VCM.

**5.** The tenure of the old Jalukie Village Council for 2021-2026 came to an end, and accordingly the Deputy Commissioner, Peren, issued a notification dated 11.03.2026 whereby it was notified to all the recognized villages under Peren district that selection of new VCMs for the tenure 2026-2031 be done in accordance with the prevailing customary practices and usages. It was also mentioned in the said notification dated 11.03.2026 that the newly selected VCMs will choose a member as

chairman of the council and the whole selection process was to be completed before 15.04.2026 for onward submission to the government for approval. It was also mentioned in the notification dated 11.03.2026 that all the village councils under Peren District stood dissolved with immediate effect and the Head GB would assume charge of the village administration till the new council was formed.

**6.** In continuation of the notification dated 11.03.2026, the Additional Deputy Commissioner, Jalukie Subdivision, also issued a circular dated 13.03.2026, addressed to the Head GB, to complete the selection process of the new VCMs on or before 10.04.2026 and to submit the selected list to the office of the Additional Deputy Commissioner, Jalukie Subdivision.

**7.** Following the circular dated 13.03.2026, the selection process for the new VCMs of Old Jalukie Village was held on 26.03.2026, and 9 (nine) members were selected as VCMs: 2 (two) from Sector A, 3 (three) from Sector B, and 4 (four) from Sector C, and the final selected list of these 9 (nine) new VCMs was submitted to the Head GB, signed by 3 (three) members of the Election Commission and 7 (seven) GBs for onward submission to the government.

**8.** After the submission of the newly selected VCM list to the government, the Head GB of the Old Jalukie Village called for a meeting of the newly selected VCMs and the incumbent GBs on 28.03.2026 for the purpose of selecting the new chairman for the Old Jalukie Village Council for the tenure 2026-2031 and the Respondent No. 7 was selected/elected to be the Chairman. Being aggrieved, the petitioner is before this court.

**9.** The contention of the learned Senior Counsel appearing for the Petitioner is that such a proposed joint meeting of the VCMs and GBs of Old Jalukie Village is in total violation of Sections 4 and 7(1) of the Nagaland Village Councils Act, 1978, (The Act of 1978), inasmuch as the posts of GBs of the Old Jalukie Village of the Zeliang tribe are not hereditary village GBs and, as such, the GBs of Old Jalukie Village cannot be ex-officio members of the VC having voting rights. According to the learned Senior Counsel, in view of Section 4 of the Act of 1978, only the Sumi tribe in the State of Nagaland has hereditary village GBs who can be the ex-officio member of the VC having voting rights.

**10.** In view of the provision of Section 4 of the Act of 1978, the learned Senior Counsel submits that the GBs of Old Jalukie Village are not hereditary village GBs and as such they are not ex-officio members of the Village Council and consequently have no voting rights to choose the Chairman of the Old Jalukie Village Council.

**11.** The learned Senior Counsel further submits as per the Zeliang customs and traditions, the post of GB is not a hereditary post, but the GBs are appointed by the district administrative officers, particularly the Deputy Commissioner of the District. The post of GB has never been a hereditary post in the case of the Zeliang tribe. Since the post of GB of the Old Jalukie Village is a non-hereditary GB post, the post is filled up through any eligible and interested candidate from Old Jalukie Village, who represent the Khel or sector. In the event of the death or resignation of the GB, the vacancy is not inherited by the next of kin, but it is filled up by a new appointment through another eligible candidate. Therefore, the

GBs of Old Jalukie Village are not ex-officio members of the Village Council and they have no voting right.

**12.** With regard to the defense taken by the State Respondents that Section 4 of the Act of 1978 has been clarified by the State Government via letter number CNR/GB-FEDE/2020/339 dated 28.10.2022, stating that GBs are Ex-Officio permanent members of the Village Council with voting rights representing their clans, khels, or colonies, the same cannot be taken into account by this Court inasmuch as the law is settled that no Government order, notification, or circular can override the statutory rules framed under the authority of law.

**13.** Learned Senior Counsel for the Petitioner has relied on the following judgments in support of his contention:

i. ***Dr. Rajinder Singh v. State of Punjab & Ors.*** **[(2002) 5 SCC 482]**, and

ii. ***R. Ranjith Singh & Ors. v. The State of Tamil Nadu & Ors.*** **[2025 INSC 612]**.

**14.** Learned Senior Government Advocate, Mr. Moa Imchen, appearing on behalf of Respondent Nos. 1, 2, 3, 4 and 5, submits that amongst the Zeliang tribe of Nagaland, there is a long-standing tradition where each khel maintains a Morung house for governance and dispute resolution, wherein village elders settle internal khel disputes within the Morung, and inter-clan or inter-khel issues were resolved by a collective gathering of elders. It was during the British era that the GBs were introduced into the

Zeliang tribe customary framework, and since then they are actively involved in primary decision makers for the entire village, pronouncing decisions based on the traditional concepts of equity, good conscience, justice, and fair play. He submits that the GBs have been indispensable pillars for the administration of the entire village.

**15.** The learned Senior Government Advocate submits that Section 4 of the Act of 1978 explicitly includes GBs amongst those who shall be ex-officio members. The phrase used in Section 4 groups together "hereditary village chiefs, GBs and Anghs" for the purpose of ex-officio membership. Therefore, once a person holds the office of GB, as recognized under prevailing customary practice and approved by the government, he is entitled to function as an ex-officio member of the Village Council. He submits that this position is further reiterated by the Commissioner, Nagaland, by his letter dated 28.10.2022, wherein the Government has duly acknowledged and reaffirmed the position of GBs in village governance as ex-officio permanent members of the Village Councils with voting rights. The learned Senior Government Advocate has categorically submitted that the State Government is the agency which is executing the Act of 1978, and ever since the enactment, the GBs have been attending the Village Council meetings, and are treated as ex-officio members of the Village Councils with voting rights. He submits that an anomalous situation would arise if Section 4 of the Act of 1978 is interpreted to mean that only hereditary GBs would have voting rights in the State of Nagaland. He therefore submits that the instant writ petition lacks reasonable legal basis and is liable to be dismissed at the threshold as the Petitioner has not been able to make out any violation of his

fundamental rights or infringement of any enforceable legal right.

**16.** The learned counsel, Mr. Hetoka, appearing for the Respondent Nos. 6 and 7, has also adopted the submissions made by the learned Senior Government Advocate and further submits that the election of the Village Council Chairman for the Old Jalukie Village has been done as per prevailing customary and traditional practices. He submits that the contention of the petitioner that GBs cannot be ex-officio members is contrary to the provisions of Section 4 of the Act of 1978. It is further submitted that the Petitioner, by filing the instant writ petition, has misinterpreted the provisions of the Act of 1978 and submits that there was no violation of the Act of 1978 in the election of Respondent No. 7 as the chairman of the Old Jalukie Village Council due to the fact that hereditary Village Chiefs are also GBs in Sumi Villages and, therefore, the word 'GB' in Section 4 of the Act of 1978 would mean GBs of other tribes.

**17.** The Court has duly considered the submissions of the learned counsel for the parties and also considered the judgments relied upon by the petitioner.

**18.** The principal question arising for determination in this writ petition is the interpretation of Section 4 of the Act of 1978, particularly the scope and application of the expression, "*hereditary village chiefs GBs and Angs*", appearing in the proviso. The interpretation centers on whether the word "*hereditary*", qualifies all the three categories, namely village chiefs, GBs and Anghs, or whether it qualifies only village chiefs, leaving GBs and Anghs as separate categories of ex-officio members entitled to voting

rights.

**19.** This question assumes particular significance in view of the differing customary practices prevailing amongst the various Naga tribes in the State of Nagaland concerning the appointment and succession of GBs. This Court is, therefore, required to consider the State Government's clarification dated 28.10.2022 regarding the scope of Section 4 of the Act of 1978 and the established practices of recognizing government-appointed GBs as ex-officio members possessing voting rights.

**20.** The Petitioner has challenged the Meeting Minutes dated 08.03.2026, choosing the Respondent No. 7 as the new Chairman of the Old Jalukie Village Council and the letter dated NIL, of the Head GB forwarding the name of Respondent No. 7 as the new Chairman to the Additional Deputy Commissioner, Peren Sub-division and has prayed for a direction to the State Government not to approve the name of the Respondent No. 7 as the new Chairman. The Petitioner further prays for a direction to the Head GB of Old Jalukie Village to call for a fresh meeting of the VCMs for choosing a member as its chairman for the tenure 2026-2031 on the ground that Section 4 of the Act of 1978 has been incorrectly interpreted by the Respondents.

**21.** For convenience, Section 4 of the Act of 1978 is reproduced herein below:

> *"4. A Village Council shall consist of members chosen by Villagers in accordance with the prevailing customary practices and usages, the same being approved by the State Government, provided that heriditory Village Chiefs GBs and Angs shall be Ex-officio members of such Council and shall have voting right."*

**22.** A plain reading of Section 4 reveals that the Legislature has provided for the constitution of Village Councils in Nagaland in accordance with the prevailing customary practices and usages approved by the State Government. The proviso to Section 4 expressly recognizes certain traditional office holders as ex-officio members with voting rights. The issue is whether the adjective "*hereditary*" placed before the expression "*Village Chiefs"* must necessarily be read as qualifying the succeeding categories or whether the provision permits an interpretation under which hereditary Village Chiefs, GBs and Anghs are three distinct categories.

**23.** It is well settled that statutory interpretation cannot be resolved solely by reference to punctuation or grammatical construction. The areas implied by the Legislature must be understood in their context having regard to the scheme of the enactment, which is the object and the circumstances in which the provision operates. Whether the language admits more than one interpretation, the Court may adopt the construction that best reconciles the statutory context with its purpose provided that such construction does not amount to rewriting the enactment or supplying words that the Legislature has not used.

**24.** A pertinent consideration in the present case is the distinction between the customary inception of a GB and the inception of hereditary Village Chieftainship. It is well known that hereditary succession to the office of village chief/GB is associated with the customary establishments prevailing among the Sumi Nagas whereas such hereditary succession does not exist among the other tribes of Nagaland. Among the Kuki tribe also there is a hereditary succession to the office of village chief. In the

case of ***Tukiye v. ADC(J), Zunheboto*** in **WP(C)/7621/2005** decided on **29.08.2007**, reported in **(2019) 3 GLT 858**, a Full Bench of this Court held that among the Sumi Nagas, the office of Village Chief and Gaonbura were one and the same and the said office is hereditary. The judgment also recorded the distinction between customary arrangement among the Sumi Nagas and the selection of GBs in other tribes. Therefore, it is clear that hereditary chieftainship and the GB institution are not identical amongst the other Naga communities. If the word "hereditary" qualifies GBs as well as chiefs and Anghs, the reference to hereditary GBs would operate only in tribes where that office is hereditary, i.e., Sumis and Kukis. However, if the alternative interpretation that "hereditary" qualifies only village chiefs, with GBs and Anghs forming separate categories, this interpretation would allow the provision to operate amongst all tribes in the State of Nagaland. It is pertinent to note that the Act of 1978 applies to the entire State of Nagaland.

**25.** It has been observed that non-hereditary GBs have routinely participated as voting members across different villages and tribal areas and such practice has been accepted by the State Government over many years. In the opinion of this Court, the combination of the Government's clarification vide letter dated 28.10.2022 and the long-standing practice of allowing all GBs to vote strengthens the interpretation that "hereditary" qualifies only for village chiefs. The fact is that the hereditary GBs/chiefs exists only in Sumi areas, and the Kuki areas while GBs in other tribes are ordinarily appointed or selected on a non-hereditary basis. This strengthens the argument that the Legislature did not intend to exclude non-hereditary GBs from ex-officio membership and voting rights. If the

argument of the Petitioner is to be accepted that only the hereditary village chiefs/GBs are to be ex-officio members with voting rights, and that would lead to a situation where only the GBs among the Sumi tribe would have the voting rights, excluding all other tribes of Nagaland, which could not have been the intention of the Legislature. If we go by the argument of the Petitioner, it would lead to a situation where in tribes, where the GBs are appointed or selected, and are not inheriting the office, they would be excluded from ex-officio membership only because of a customary distinction that may not exist in their tribe/community.

**26.** The court should, where it reasonably permits, prefer an interpretation that gives the provision a workable operation across the communities to which the Act applies. In other words, the proviso to Section 4 of the Act of 1978 is meant to operate across the State of Nagaland, and therefore the interpretation of the petitioner that the word 'GB' in terms of Section 4 of the Act of 1978 would only apply to the Sumi tribe or the Kuki tribe is untenable in law.

**27.** The Act of 1978 extends throughout the State of Nagaland and recognizes the role of customary practices and usages in constituting Village Councils. The statutory framework must therefore be construed with due regard to the diversity of the customary institutions existing among the various Naga tribes.

**28.** In view of the above observations, this court is of the view that upon consideration of the language of Section 4 of the Act of 1978, the word "hereditary" should not be extended automatically to every category

appearing thereafter. This court therefore holds that Section 4 of the Act of 1978 recognizes duly appointed GBs as ex-officio members of the respective Village Councils with voting rights irrespective of whether the office of GB in that community concerned is hereditary or not, subject to the competent authority's valid recognition of the office holder. This interpretation does not confer ex-officio status upon persons who have not been duly appointed or recognized as GBs, nor does it affect the distinct customary position of hereditary village chiefs/GBs under the provision.

**29.** Resultantly, it is held that the petitioner has not been able to make out a case for the interference by this Court in its writ jurisdiction and the impugned orders are not interfered with.

**30.** Writ petition is, accordingly, dismissed.

**31.** Interim order, if any, stands vacated.

**JUDGE**

**Comparing Assistant**

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