

CHAPTER 10

THE WORKING OF THE JAINTIA HILLS AUTONOMOUS DISTRICT COUNCIL

P.M. Passab

The Jowai Autonomous District Council, later known as the Jaintia Hills Autonomous District Council, was created on the recommendation of the Jarman Commission with effect from the first of December, 1964 by the then Government of Assam as per its Notification¹ published in the Assam Gazette Extraordinary dated 23 November 1964. It would soon complete 31 years of existence. It did not celebrate its silver Jubilee due on the 1st December 1989.

The Jaintia Hills Autonomous District Council was carved out of the erstwhile former United Khasi Jaintia Hills District by detaching the then Jowai Sub-Division of this District. The Sub-Division was also part of the former United Khasi-Jaintia Hills Autonomous District Council. An *interim* body was constituted to administer the new Autonomous District until a general election to the Council was held in 1967. There was nothing important to record about the performance of the *interim* body during its tenure of more than 2 (two) years. What is important to note is that all the members of the *interim* body were defeated in the first general elections to the Council held in the first part of 1967. This points to the fact that the functions of the Jaintia Hills Autonomous District Council were erratic right from the start and continues to be so even now.

Administration of Laws

It was only in 1967 that the first District Council formed after the first general elections, passed the first Act called the Jowai Autonomous District (Administration) Act 1967 to adopt 13 (thirteen) Acts and Rules and 3 Regulations made by the then United Khasi-Jaintia District Council for being applied to the Jowai (now Jaintia Hills) Autonomous District till such time when the Jowai District Council makes its own laws. The way the Laws, Rules and Regulations of the erstwhile U.K.J. Hills District Council are being applied to the Jaintia Hills Autonomous District Council is confusing. It is relevant here to quote here the remark of the S.K. Dutta Commission of Inquiry on Autonomous District Administration in Meghalaya in one of the many cases studied by them. The Commission remarked, "The Jaintia Hills District Council has adopted the U.K.J. Hills Autonomous District (Management and Control of Forests) Act, 1958 as amended and the Rules made thereunder in *toto without adaptation*".² It may, therefore, be concluded that all the 13 Acts and Rules and the 3 Regulations were adopted by Act No.I of 1967 without proper adaptation, and all other laws were similarly adopted subsequently.

The aforesaid Commission had also raised a very serious question about the rule under which the Jaintia Hills District Court has been constituted. It questioned the action taken by the Council to invest its Magistrate, Subordinate District Council Court with powers of a first-class Magistrate. One can imagine what shall be the fate of the various decisions, rulings and judgements already made by this particular court in the District Council. It may be mentioned that a number of bills, regulations and rules had not received the assent of the Governor because of certain legal, constitutional and technical flaws. Because of the confusing application of the Laws, Rules and Regulations made by the erstwhile U.K.J. Hills District Council, the Commission had recommended in 1984 that the Jaintia Hills District Council should make its own laws instead of adopting the laws made by the former U.K.J. Hills District Council. Till date the Council has not been able to comply with this requirement.

Abolition of House Tax and Land Revenue

It may be recalled that the main contention of the protagonists of the demand for a separate council for Jaintia Hills was that there was no uniformity in the administration of the two sub-divisions of Khasi Hills and Jaintia Hills. There were disparities in the respective land administration and revenue systems in the two sub-divisions. While the Jaintias paid house-tax and land revenue, the people in the Khasi Hills paid no such tax and revenue. To pacify the people of Jaintia Hills the then U.K.J. Hills District Council abolished the house-tax in 1961 in Jaintia Hills where it was being collected. The Jarman Commission of Inquiry called the abolition of the house-tax which was in existence for over a century, a retrograde step. This Commission was assured by the protagonists of the separate District Council that there would be no opposition by the Jaintias to the reimposition of the house-tax if a separate District Council was formed. The late Rev. J.J.M. Nichols Roy spoke highly about the need and merit of taxation in the course of his speech on the floor of the then Assam Legislative Assembly when a resolution was moved for the creation of a separate District Council for Jaintia hills. Late A. Alley, a Cabinet Minister in the erstwhile composite state of Assam said "I think the people (of Jaintia Hills) would have the courage to continue taxing themselves and do their best to expedite their own development in all respects."³

Far from reimposing the house-tax, the Jaintia District Council by a resolution adopted in December 1980, abolished land revenue in the district. Paradoxically, the District Council has been demanding for more and more power for the administration of land in the district. The S.K. Dutta Commission had to remark "...that instead of craving for more power, the District Council should utilize the powers it has got and make a regulation for the use, occupation and allotment of land... and should not curb their taxing powers by abolishing revenue."⁴

Para 12(A) of the Sixth Schedule

The power of the Council has been further abridged by the amendments of the Sixth Schedule under the Assam Re-organisation (Meghalaya) Act 1969 and the North Eastern Areas

(Reorganisation) Act 1971. One of these amendments relates to the insertion of Para 12(A) which gives the over-riding power to the State Government laws over the laws made by the District Councils in Meghalaya even in respect of the subjects entrusted to the Councils under the Sixth Schedule. The District Councils in Meghalaya have not been happy with the provision of Para 12(A). Hence they have been making a move for its deletion for quite some time now. Some time in the month of August last year a delegation of the three Autonomous District Councils in the State went to Delhi to meet the Prime Minister with due endorsement of the State Government. The State Government was pulled up by the Central Government on this issue when the former denied having endorsed the move of the three Councils. Subsequently, the ruling Congress (I) Party in the State took up the matter in May this year (1995). It transpired that the Executive Committee of the Party was not very much in favour of accepting the move to delete Para 12 (A). Hence it decided to constitute an expert committee for this purpose. Suffice it to say that the power of the District Councils in Meghalaya to make laws has obviously been curbed by the existing provision of Para 12 (A) of the Sixth Schedule.

Financial Strains and Stress

The Executive Committee of the Jaintia Hills District Council, in its Memorandum to the S.K. Dutta Commission in 1984 admitted that the council has been under severe financial stress and strains. A field investigation reveals that the problems were created by the Council itself. This was also revealed in both the S.K. Dutta Commission Reports of 1982 and of 1984. In 1982 the S.K. Dutta Commission was inquiring into the administration and management by the District Council of Primary Schools in Jaintia Hills. It investigated into the various allegations against the District Council about the Misuse, Misapplication and Misappropriation of the State Government money for the administration and management of primary schools and found that certain "expenditure are shady".⁵

The District Council has been putting the blame on the State Government for its financial stress and strain. Our field information is that the Council has been in the habit of diverting

Government funds from one development head to another and has not been able to furnish satisfactory utilization certificates for the subsequent release of funds by the Government. The three District Councils of the state pleaded their cases for direct funding by the Central Government when they met the Prime Minister in August 1994. As mentioned earlier the Central Government was not happy with the State Government for having allowed the three Councils to take up their case with the Central Government. The ruling Congress (I) Party in the State had to take up this case also in their May meeting this year where it endorsed the move of the three councils for direct funding by the Central Government while it did not do so with the proposed deletion of Para 12(A) of the Sixth Schedule.

The Constitution (73rd Amendment) Act 1992

Since the power of the District Councils under the Sixth Schedule has now, to a large extent, been curbed due to the insertion of Para 12(A) as stated earlier and since these Councils have been persistently experiencing financial strain and stress, the possible solution is perhaps the Part-IX inserted by the 73rd Constitutional Amendment. The District Councils in Meghalaya would, it is believed, gladly welcome the change-over provided they have the exclusive right to control and administer land.

The workshop on Traditional Self-Governing Institutions among the Hill Tribal Population Groups of North East India held in August 1994 at Guwahati, was of the opinion that the new Part IX of the 73rd Constitution Amendment relating to Panchayat System would not be in conflict with the traditional self-governing institutions of the hill tribes provided that suitable modifications are made to suit local aspirations and conditions of the people of the areas concerned.

In so far as Jaintia Hills district is concerned, it may be recalled that a three-tier system of administration was in vogue even in the pre-colonial period. At the top, there was the King (*U Syiem or Rajah*). In the middle level, there were the governors known as *Dallois* and were in-charge of provinces known as *Raid* or *Ilakas*. And, at the bottom, there was *U Wabeh Chnong* in every village. If we were to take the District Council as replacing *U Syiem*, then it may be said that the three-tier

system continues to this day though with some modern changes that might have taken place in their way of functioning from time to time. If the 73rd Constitution Amendment were to be accepted, a three-tier system would meet the requirement of the traditional system with the District Council at the top level.

The aforesaid Workshop was also of the opinion that the existing traditional institutions should be accommodated wherever possible including adoption of suitable nomenclature and terminologies with which the respective tribes are familiar. In fact, under Article 243(D) of the 73rd Amendment, "Panchayat" means an institution for local self-government by whatever name it may be called.

The Schedule XI to the Constitution inserted by the 73rd Amendment enumerates 29 (twenty-nine) subjects which could be entrusted with the Panchayat Raj Institutions with local terminologies and nomenclatures. These institutions are endowed with adequate power and authority to formulate and implement schemes for economic development and social justice. One important salient feature of the system is the reservation of one-third of the members for women at every level of the institutions. The financial stress and strain that the present District Councils have been experiencing might not be there. The Task Force on Panchayati Raj set up by the Rajiv Gandhi Foundation had already moved the Tenth Finance Commission requesting it to recommend due share to the Panchayats as envisaged in sub-clause(bb) of Clause 3 of Article 280 which mandates the Finance Commission to augment the Consolidated Fund of a state to supplement the resources of the Panchayat institutions.⁶ It is apparent that there would be direct funding of the Panchayat institutions by the Central Government.

Conclusion

Of the Hill States in the North-East Region, Arunachal Pradesh has gone ahead by accepting the 73rd Constitution Amendment and has taken steps to constitute the Panchayat institutions. The Jaintia Hills Autonomous District Council and for that matter, all the District Councils in Meghalaya, would do well if they make a close scrutiny of the Arunachal law on the Panchayat Raj to

see whether or not it is time to accept the concept of self-governance as reflected in the 73rd Constitution

Amendment with a three-tier system keeping the District Council at the top of the hierarchy.

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2. *Report of the Commission of Inquiry* on Primary Education in the Jaintia Hills Autonomous District, 1982.
3. *Report of the Commission of Inquiry* on Autonomous District Administrations in the State of Meghalaya, Vol. I & Vol. II, 1984.
4. *Collection of Acts, Rules, Regulations, etc.* of the Jaintia Hills Autonomous District Council (1967-85).
5. P.M. Passah, "The Changing Status of *U Wabeb-Chnong*" in the *Golden Jubilee Souvenir* of the LumiongKjam Socio-Cultural Club, Jowai, 1990.
6. *The Constitution (73rd Amendment) Act, 1992.*
7. *Issues for Discussion in Sub-Regional Workshops 1994-95 and other Documents*, Task Force on Panchayati Raj, New Delhi, October 2, 1994.
8. *Resource Papers* presented to the Workshop on Traditional Self-governing Institutions Among the Hill Tribal Population Groups of North-East India held in August 1994 at Guwahati.

NOTES & REFERENCES

1. *Notification No.TAD/R/50/64 dated 23 November 1964* signed by the Secretary to the Government of Assam, Tribal Areas and Welfare of Backward Classes Department, Shillong.
2. See Report of the Commission *op. cit.*, Vol. I, p.63. (Emphasis is of the author's)
3. Quoted in *Ibid*, p. 59 (Words in brackets are of the author's)
4. *Ibid.*, p. 61.
5. *Report of the Commission of Inquiry* on Primary Education in the Jaintia Hills Autonomous District, p. 7.
6. See *Issues for Discussion in Sub-Regional Workshops 1994-95 and other Documents*, Task Force on Panchayat Raj, October 1994, p. 9 and pp. 21-22.