

Manipur State Constitution Act, 1947

Ksh. Shyamkanhai Singh

Manipur State Constitution Act, 1947 is the first Constitutional Law of the people of Manipur. The Constitution introduces a democratic form of government responsible and responsive to the people through the state legislature. It guarantees the sovereignty and supremacy of the state legislature, declares the Maharaja as the constitutional Head of Manipur and defines the royal privileges and prerogatives in such a way as appropriate to his status as the custodian of the constitution.

Manipur Constitution Act guarantees absolute control of the state legislature over the Council of Ministers.

Manipur State Constitution Act abolishes the British arrangement for separation of the Manipur hill tribal administration from the overall general administration of Manipur and brings the hill and plains people of Manipur within the fold of a common administrative framework.

Manipur Constitution Act guarantees complete separation of judiciary from the executive and confers upon the Chief Court of Manipur the original and appellate jurisdiction over the courts in charge of civil and criminal administration in the hill and valley areas of Manipur.

The salient features of the three organs of the democratic form of government as in the Manipur State Constitution Act are shown hereinafter.

1. Fundamental Rights under the Manipur Constitution Act, 1947

Protection of the Fundamental Rights of the people of Manipur in the Manipur Constitution Act, 1947 is a distinct landmark in the constitutional history of the country. Such rights were denied to the people during the British rule in Manipur. Fundamental Rights of the people as declared and defined in the 12 (twelve) Articles of the Manipur Constitution Act, 1947 are briefly outlined below :

- (1) Equality of citizens before the law, elimination of titles and privileges of birth, protection of civil liberties of the citizens (Articles 45).
- (2) Trial of citizens by the competent court of law, protection of citizens from illegal arrest, detention and any other acts interfering with their civil liberties (Article 46).
- (3) Provision for legal opportunity for self defence (Article 47)
- (4) Award/determination of the penalties/punishment only under the laws (Article 48).
- (5) Protection of the citizens from illegal banishment, expulsion from the country or from such acts compelling the citizens to reside in a specified part of the country except in such cases as required under the laws (Article 50).
- (6) Provisions for not awarding capital punishment for political offence (Article 49).
- (7) Inviolability of private property/dwellings save under express provisions of law (Article 51).
- (8) Protection of the right of the citizens to sue government servants against their unlawful personal actions (Article 55).
- (9) Guarantee of social, economic and political justice such as freedom of expression, faith and worship, freedom of thought and expression of belief, freedom of Association, equality of opportunity and status, freedom of vocation (Article 52).
- (10) State patronage and promotion to the science and technology, arts and humanities (Article 53).

2. Election of the representatives of the people under the Manipur Constitution Act

Manipur Constitution Act, 1947 introduces a democratic form of government responsive and responsible to the people through the State Legislature. It thus abolishes all the restrictions on adult suffrage on the basis of property, income, taxation, education or the like, and gives the entire adult population of the country the franchise right. Therefore the whole adult population forms the electorate and shares in the political power through the members of the State legislature directly elected by such electorate.

State legislature is referred to in the constitution as "Manipur Legislative Assembly."

The following is the composition of the Assembly :

- (a) 30 general seats.
- (b) 18 seats for the hill tribals.
- (c) 3 seats for the Muslims.
- (d) 2 seats for the special interests (through royal nomination on the advice of the Council of Ministers).

Three years is a nominal term for the state legislature.

3. The Maharaja

Maharaja is the constitutional Head of the State. Constitutional monarchy is an integral part of the state legislature. State legislature is convened and prorogued in the name of Maharaja. Royal assent is a constitutional requirement for bills of the legislature to become Acts.

Maharaja is aided and advised by the Council of Ministers. The Maharaja and Council are referred to in the Manipur Constitutional Law (1947) as the "Maharaja in Council". He appoints the ministers and nominates the Chief Minister. Executive authority of the state is exercised by the council of ministers in his name. Ordinances are also promulgated in the name of the Maharaja on the advice of the council in case of emergency. Such ordinances are valid for six months and required to be referred to the state legislature at the first possible opportunity.

Maharaja appoints the Chief Justice of Manipur on the recommendation and advice of the council of ministers. He also appoints the judges of the Chief Court of Manipur on the advice of the council of ministers. Maharaja may remit punishment and pardon offenders subject to the relevant provisions of the Manipur State Courts Act (1947) as per Article 8 of the Manipur Constitutional Law.

The prerogatives of the Maharaja are clearly defined in Article 8 of the Manipur Constitution Act. They cover the family matters of the Maharaja, titles, honours and palace ceremonials. The royal authority over such matters is required to be exercised by the Maharaja subject to the relevant provisions of the Manipur Constitutional Act and the laws of the State. The royal prerogatives should be exercised as not to compromise any matter wherein the legitimate interest of the state administration or a civil right sustainable in a court of law is involved. The royal prerogatives also relate to the relationship of the constitutional monarchy and state

judiciary. In exercise of the royal prerogative authority, the Maharaja may remit punishment and pardon the offenders subject to the relevant provisions of the Manipur State Courts Act, 1947.

Royal family matters have been shown as being within the parameter of the royal prerogative authority. Such authority of the Maharaja over the royal family matters relating to the succession to the throne of Manipur is required to be exercised within the provisions of Article 7 (a) of the Manipur constitution Act, 1947. Succession to the throne of Manipur will be settled by the state legislature on the recommendation of the council of ministers when there is failure of royal heirs in the direct male line or royal inability to designate the successor to the throne.

There are also adequate constitutional provisions for settlement of the issue of temporary delegation of royal authority to the persons consequent on the royal desire for such delegation of the authority. This issue will be settled under Article 6 (b/d) of the Manipur Constitutional Law. As per constitutional requirement, a Council of Regency will be set up on the advice of the council of ministers. Royal authority will be exercised by the Council of Ministers before the constitution of the Council of Regency. Requirements of Article 6 (a) of the constitution may also be noted. The council of Regency will be set up by the council of ministers in the event of the minority or proved incapability of the Maharaja as per aforesaid constitutional requirements.

Royal prerogative authority is further defined and delineated in some other Articles of the Manipur Constitutional Law. Charges of murder, heinous offence, gravely serious political crimes against the Maharaja on the basis of material evidences may be drawn up by the council of ministers in consultation with the Chief Court of Manipur. Required legal proceedings will be initiated under the said Article of the constitution.

Royal prerogative authority is for all practical purposes restricted to the civil list of the Maharaja defined in Article 35 of the Manipur Constitutional Law. Such Civil List covers pay, allowances, other amenities of the Maharaja and has been fixed at 10% of the real annual revenue of the State.

4. Role of the Maharaja with reference to the Legislature

Manipur Constitution Act, 1947 provides the association of the Maharaja with the exercise of legislative functions by

the Assembly (as the head of the three organs of the government) without prejudice to the supremacy and sovereignty of the Assembly within the constitutionally prescribed domain of the powers and functions of the three organs. A bill becomes an Act after obtaining the royal assent. Any bill of the state legislature without royal assent will become Act when it is passed by the legislature for the second time in the next session of the Legislative Assembly.

Procedures as in the Manipur Constitutional Law regarding the adoption of State Budget uphold the complete control of the legislature over the state finance. Delay in the grant of royal assent to the State Budget or withholding such assent to the same will not require read-option of the Budget by the legislature. The Budget is treated as duly passed and the funds allocated therein will be drawn when the royal assent to the same is not forthcoming on or before the first day of the financial year.

Procedures for amendment of the Manipur Constitution Act, 1947 are shown in Article 56 of such constitution. This Article contains no provision for royal interference in the initiation of Constitutional Amendment Bill by the Council of Ministers. Initiation of such bill by "the Maharaja in Council" points to the constitutional requirement on the part of the Council of Ministers for informing the substance of the proposed Constitution Amendment Bill to the Maharaja. This is quite natural in view of the significance and importance of such bill. There is no obligatory constitutional requirement for informing the substance of normal bill to the Maharaja.

Procedures for removal of the ministers are laid down in Article 21 of the Manipur Constitution Act, 1947. As per provision of such Article, minister can be removed by the Maharaja on the strength of no confidence motion, passed by the state legislature against such minister. The Article also confers upon the Maharaja the power to warn the legislature against the misuse of its powers for removal of the ministers. In exercise of such royal powers and in consideration of the valid and strong reasons in favour of retention of the minister, the Maharaja may withhold his assent to the no confidence motion of the state legislature against such minister. The term "strong and valid reasons" as in such Article is significant. It requires that a minister should not be removed with-

out such compelling reasons for his removal even though he is elected by the state legislature. Thus the aforesaid royal power provides the protection of the ministers against the undue harrassment or whims of the legislature and is conferred upon the Maharaja as the Constitutional Head of the State.

5. Role of Maharaja with reference to the Council of Ministers

Relevant provisions of the Manipur Constitution Act defining the relationship between the Maharaja and his council of Ministers are vague and ambiguous. Such ambiguity gives the impression that the Maharaja is the real executive Head of State and enjoys absolute powers of control and supervision over the council of Ministers in their exercise of executive authorities of the state. Such impression is strengthened by Article 10(b) of the constitution. The relevant extract of such Article is reproduced below :

"..Under this Act..it is requisite that the approval of the Maharaja shall be taken to any measure..should in any case the Maharaja's approval be withheld, the Maharaja shall inform..his reasons for withholding such approval in writing to the council".

The above absolute royal control over the council of ministers interferes with the absolute control of the state legislature over the council on any matter of public importance through its advice to the council on such matters under Article 18 of the constitution. Such control also conflicts with the delegation of state executive authorities to the council and exercise of such authorities under Article 10(a) of the constitution. This royal control is repugnant to the status of the constitutional Head of the State under Article 9(b) of the constitution. Thus Article 10(b) of the constitution providing absolute royal control over the council of ministers goes against the basic features of the Manipur Constitution Act, 1947 which visualises and introduces a democratic form of government responsive and responsible to the people of Manipur. Fortunately for all concerned during the period of the actual working of the Manipur Constitutional Law, this "misleading provisions of Article 10(b) of such constitution were not invoked by the Maharaja as the custodian of the constitution and constitutional Head of the State.

The aforesaid misleading provisions for royal control over the council of ministers may be noted with reference to the joint responsibility of such council to the Maharaja for the administration of the state under Article 12 of the Manipur Constitution Act, 1947. Article 12 reads as follows :

"The Council of Ministers shall..be jointly responsible to the Maharaja for the administration of the state".

Management of the state administration is a normal and routine business matter under the charge of the council of ministers and thus does not carry that much of importance warranting its inclusion as one of the Article in the constitution. Therefore, Article, 12 of the constitution on this daily routine matter does not contribute to the grandeur and glamour of the constitution and should have been deleted.

6. Role of the Chief Minister

Procedures prescribed in the Manipur Constitution Act, 1947 regarding the appointment of Chief Minister requires that the incumbent for the post of Chief Minister should be a nominee of the Maharaja and that his appointment to such post must be made by the Maharaja on the recommendation of the six ministers elected by the state legislature. Thus for all practical purposes, one out of a panel of royal nominees approved by the ministers will have to be the Chief Minister. Therefore, the Chief Minister becomes a nominated member of the State legislature consequent on his elevation to such exalted post. In the actual working of the relevant constitutional provisions, the Chief Minister will have to be controlled and guided by the six elected ministers in the matter of allocation of portfolios in consultation with them and settlement of executive matters by the council of ministers as the President of the council. Thus the status of the Chief Minister as royal nominee in the council of ministers carries no significance. He is like other ministers, a member of the council of ministers. He also takes the same oath of allegiance and loyalty to the king and constitution as are taken by other ministers. However, the status of Chief Minister as royal nominee has its significance and importance in the state legislature in view of the inability of the legislature to remove him on the strength of no confidence against him.

7. Hill administration under the Manipur Constitution

Manipur State Constitution Act, 1947 abolishes the British seperation of the Manipur hill tribal administration from the overall general administration of Manipur and brings the hill and plains of Manipur in the fold of a common administrative framework. The constitution does not recognise the principle of proportional representation and allots to the Manipur hill tribal citizens more seats of the Manipur Assembly than the quantum warranted on the basis of the total hill tribal population. It makes the rational and realistic provisions for protection of the vital interests of the hill tribal citizens. It does not confer upon the Manipur Assembly any power to direct the Council of Ministers to implement any measures of primary concern to the hill tribal citizens which do not command the support of the majority of the hill tribal members in the Assembly.

The Manipur Constitutional Law declares the promotion of welfare and well being of the hill tribal citizens as the primary responsibility of the council of ministers. It makes provision for allocation of at least 17½ per cent of the real annual Manipur revenue for promotion of the development and planning in the hill tribal areas.

Local self-governing institutions in the Manipur hill tribal areas are organised as per provisions of one of the two schedules of the Manipur State Constitution Act, 1947, viz. The Manipur State Hill Peoples (administration) Regulations, 1947. There is a two-tier system of local self governing bodies for the hill tribal areas. Circle Authority is at the top of such system and the Village Authority comes to the lower ladder. The aforesaid local self governmental arrangement for the Manipur hill tribal areas continued by the Government of India, even after the merger of Manipur with India on 15-10-1949 and enforced upto 1955.

8. Judicial administration under the Manipur Constitution Act, 1947

Provisions for judicial administration in Manipur are detailed in the Manipur Constitution Act and schedule to such constitution ; viz. Manipur State Courts Act, 1947. Complete seperation of Judiciary from the executive is provided in Article 41 of the constitution.

The Chief Court is the highest court of the country with original and appellate jurisdiction over the lower civil and criminal courts of the country. The court consists of the Chief Justice of Manipur and two judges. The Chief Justice and judges are appointed by the Maharaja on the advice of the Council of Ministers and may hold office upto the age of 65 years.

Below the Chief Court in the civil administration side, there are the following courts :-

- (a) Court of District Judge.
- (b) Court of Subordinate Judge.
- (c) Court of Munsiff.
- (d) Village Panchayat.

Below the Chief Court of Manipur, on the criminal administration side, there are the following courts of law :

- (a) Court of Sessions.
- (b) Court of Magistrate First Class.
- (c) Court of Magistrate Second Class.
- (d) Court of Magistrate Third Class.
- (e) Village Panchayat.

The Chief Court of Manipur exercises original and appellate jurisdiction over the following courts in charge of the civil and criminal administration in the Manipur Hill tribal areas :

- (a) Hill Bench.
- (b) Circle Bench.
- (c) Village Authority.

9. Conclusion

Manipur Constitution Act, 1947 is the first constitutional Law of the people of Manipur. Some provisions of such Act may better be appreciated with reference to the political realities before and during the period from March to July, 1947. The drafting of the constitution began on 10-3-1947 and the Draft Constitution was submitted for royal assent on 27-7-1947. No democratic institutions had been worked and the political parties have been formed after 1945. Thus there had been no stable and organised political parties and reasonably dependable political leadership in Manipur. The constitution was a gift of the Maharaja to the people of Manipur. However, during some crucial phases of the drafting of the constitution there had been sharp differences between the democratic ele-

ments and the royalists in the Constitution Drafting Committee over the important provisions of the constitution. Any way, there was compromise and adjustments between the two groups in the Committee. Such adjustment and compromise are seen in the provisions of some Articles of the Constitution. Thus such provisions are intended to be interim measures for preparing the ground for smooth working of a responsive and responsible government in Manipur. There are also some references in the constitution itself to such provisions and also to the imperative necessity for gradual replacement of such provisions by appropriate arrangement through constitutional amendment.

The interim measures as embodied in the Manipur Constitution Act had not been any hurdle in the actual working of such constitution during the period from 18-10-1948 to 14-10-1949. The responsible and responsive government introduced under this constitution functioned upto the desired standard and expectation. In the royal innaugural address to the Manipur Legislative Assembly on 18-10-1948, the Maharaja rightly observed as follows :

"I feel proud..to be able to make it known to the rest of India that .. my state, for the first time in India .. has taken the lead in the direction of democratic government based on adult franchise and joint electorate in the line of which India is soon following. I take more pride in that through in countries like England responsible government has been the out-come of the blood of so many persons, there has been in my state no blood-shed since I took the initiative here."