

Serial No. 03
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP (C) No.252/2018 with
MC (WPC) No.129/2018

Date of Order: 03.03.2023

Aneeta Synrem Vs. State of Meghalaya & ors

Coram:

Hon'ble Mr. Justice Sanjib Banerjee, Chief Justice
Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner

: Mr. N. Syngkon, Adv with
Ms. L. Phanjom, Adv

For the Respondents

: Mr. N.D. Chullai, AAG with
Mr. A.H. Kharwanlang, GA
Mr. V.G.K. Kynta, Sr.Adv with
Mr. H. Wanshong, Adv for R/7
Mr. L. Khyriem, Adv with
Mr. W. Jyrwa, Adv for R/10

JUDGMENT: (per the Hon'ble, the Chief Justice) (Oral)

The matter pertains to equal rights being granted by law for tribal women to participate in the election of local bodies and also being candidates at all levels.

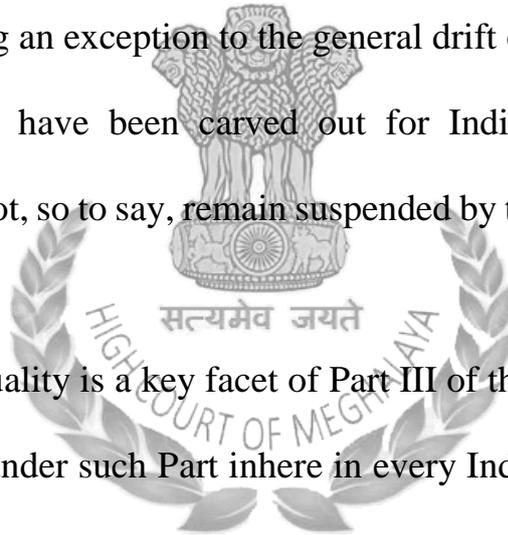
2. The petitioner points out that some of the existing laws prohibit women from participating in the process and, at any rate, to offer their candidature in some key posts. On behalf of the Khasi Hills Autonomous District Council it is submitted that there is a pleasant wind of change blowing across the society, but in several areas the women themselves are

not keen in taking up responsible positions, though they are keen to participate in the election process.

3. The matter is somewhat delicate. On the one hand, the Sixth Schedule to the Constitution mandates that customary laws, practices and usages that have come down the years will prevail and that even matters of adjudication, except in case of heinous crimes and like exceptions, would be within the District Council fold in courts set up by the District Council. At the same time, notwithstanding the provisions of the Sixth Schedule to the Constitution being an exception to the general drift of the suprema lex, the basic rights that have been carved out for Indian citizens in the Constitution would not, so to say, remain suspended by the operation of the Sixth Schedule.

4. Gender equality is a key facet of Part III of the Constitution and the rights conferred under such Part inhere in every Indian citizen and are well-nigh inalienable.

5. On the more optimistic side, the tribal population in the State does not appear to be living in the past centuries and, though the State lacks in education and healthcare facilities, inhabitants in the State cannot be regarded as primitive any longer. The integration into mainstream society is complete and FMCG penetration together with the internet and mobile networks are as may be found elsewhere in the country.



6. Yet, a change of the kind that the petitioner seeks is better received when it comes from within rather than being imposed. There is no doubt that the elders of the Council will be guided by the rapid strides towards development that this State has taken in recent times and organise a society that is in keeping with progress, development and prosperity. Since the District Council elections are scheduled to be held in the year 2024, the new body should look into the undesirable aspects of the old customs that remain, particularly those that are not inclusive or are gender prejudicial.

7. WP (C) No.252 of 2018 is closed in the hope that the changes that the petitioner desires will come sooner rather than later and in due course from within rather than being dictated from elsewhere.

8. MC (WPC) No.129 of 2018 is disposed of.

9. There will be no order as to costs.

(W. Diengdoh)
Judge

(Sanjib Banerjee)
Chief Justice

Meghalaya
03.03.2023
"Lam DR-PS"