

NOTIFICATION

Dated Shillong the 20th November, 2008

No.DC/L/VII/9/2008/5/1951: In pursuance of paragraph 11 of the Sixth Schedule to the Constitution of India, the following Bill of the Khasi Hills Autonomous District Council is hereby published for general information:-

THE KHASI HILLS AUTONOMOUS DISTRICT (NOMINATION AND ELECTION OF THE SYIEM, DEPUTY SYIEM, MYNTRI, BASAN AND RANGBAH SHNONG OF BHOWAL SYIEMSHIP) ACT, 2008

(Passed by the Khasi Hills Autonomous District Council on the 24th October, 2008)

(Received the assent of the Governor on 2nd November, 2009)

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ACT

to make provision for the Nomination and Election of the Syiem, Deputy Syiem, Myntri, Basan and Rangbah Shnong of Bhowal Syiemship.

Preamble: - Whereas under clause (g) of sub-paragraph (1) of paragraph 3 of the Six Schedule to the Constitution of India, the District Council of an Autonomous District is empowered to make laws with respect to the appointment or succession of Chiefs or Headman.

And whereas it is expedient to make such provisions for the administration and nomination and election of the Syiem, Deputy Syiem, Myntri, Basan and Rangbah Shnong of Bhowal Syiemship.

Now, therefore, the District Council of the Khasi Hills Autonomous District, in exercise of powers conferred on it as aforesaid and of all other powers enabling it in that behalf, hereby enacted in the Fifty ninth year of the Republic of India as follows:-

1. Short title, Extent and Commencement: -

(1) This Act may be called the Khasi Hills Autonomous District (Nomination and Election of the Syiem, Deputy Syiem, Myntri, Basan and Rangbah Shnong of Bhowal Syiemship) Act, 2008.

(2) It shall extend to the whole of Bhowal Syiemship.

(3) It shall come into force at once.

2. Definitions: - In this Act, unless the context otherwise requires, the following expressions shall have the meaning hereby respectively assigned to them as follows:-

(a) "Adult" means a person who is not less than eighteen years of age;

(b) "Basan" means the authorized adult male representative hereditary of the Risaw clan, Nongten clan, Iawroid clan, Nongrwah clan, Thongninhah clan and Thongnibah clan of Hima Bhowal duly elected/ nominated by the respective clan as per the prevailing customs and under the provisions of this Act, who shall carry out general administrative functions under the prevailing customs representing a cluster of villages;

(c) "District Council" means the Khasi Hills Autonomous District Council constituted under the provision of the Sixth Schedule to the Constitution of India.

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(d) “Durbar Hima” or “Durbar Pyllun” means the General Durbar of Hima Bhowal to be convened, wherever necessary on the advice of the Executive Durbar, by the Syiem or any person acting as such, provided it shall be convened by the Syiem as the Chairman at least once in every year with prior intimation to the Executive Committee.

(e) “Durbar Kur Pyllun” means the customary general Durbar of the Syiem clan of Bhowal Syiemship which comprises of the male and female adults belonging to the Khasi Community who has the customary right to nominate the Syiem, Deputy Syiem and the acting Syiem when vacancy occurs.

(f) “Electors” means the indigenous Khasi male adults who are the permanent residents of the Hima who are eligible to elect the Syiem of Hima Bhowal and include the Basan and Myntri whose names have been duly recognized by the Syiem and his Durbar of Hima Bhowal and approved by the Executive Committee.

(g) “Executive Committee” means the Executive Committee of the Khasi Hills Autonomous District Council.

(h) “Executive Durbar” or “Durbar Syiem” means the committee consisting of the Syiem, Deputy Syiem, Myntri, Basan and some Elders/ Representative of the Hima, as may be appointed by the Syiem and approved by the Executive Committee, to run the day- to- day administration of the Hima. Such meeting shall be presided over by the Syiem and in his absence by the Syiem- Khynnah or by any member elected by the members present in the meeting in case both are absent.

(i) “Hima” or “Elaka” means the areas under the administrative jurisdiction of Bhowal Syiemship.

(j) “Myntri” means the authorized adult male representative hereditary of the Rangdkhew clan of Hima Bhowal duly elected/nominated by the clan concerned as per the prevailing customs and under the provisions of this Act, who shall carry out general administrative functions under the prevailing customs representing a cluster of villages.

(k) “Rangbah Shnong” means a khasi traditional elected head of a village and includes a Headman or Sordar Shnong of a village duly elected/ nominated by the adult male of the respective village under the administrative control and territorial jurisdiction of Bhowal Syiemship, as per the prevailing custom and under the provision of this Act.

(l) “Returning Officer” means any Officer as may be appointed by the Executive Committee.

(m) “Syiem” means the traditional Chief and the customary administrative Head of Hima Bhowal who belongs to the Nandah clan and is duly appointed as per the prevailing customs and under the provision of this Act.

(n) “Syiem Clan” means the Nandah clan of Bhowal Syiemship who are the descendents from the womb of ka Kruh. The genealogical table of the Syiem’s family of Bhowal Syiemship is as shown in the Appendix – I of this Act.

(o) “Syiem-Khynnah” or the Deputy Syiem means a Khasi male belonging to the Nandah clan of Hima Bhowal duly nominated and approved as such by the Syiem and his Executive Durbar as per the prevailing customs and under the provisions of this Act.

3. Election for the appointment of the Syiem: -

(1) When a vacancy occurs in the office of the Syiem of Bhowal, the Durbar Kur of Nandah clan shall nominate a nominee/candidate for the post/office of Syiem which shall accordingly be intimated to the Returning Officer in writing.

(2) (a) The Returning Officer on receipt of the recommendations/nominations for the office/post of Syiem from the Durbar Kur Pyllun, shall as soon as possible, summon a meeting of all the approved Basan and Myntri in such a place within the Hima to confirm and affirm/elect the Syiem by a unanimous decision. Such meeting of the Basan and Myntri shall be presided over by the Presiding Officer deputed by the Returning Officer for the purpose, who shall report accordingly.

(b) In case the Durbar kur Pyllun of the Nandah clan has/had recommended or nominated only one eligible nominee from the Syiem's clan, there will be no election and as per the prevailing customary practices, the Basan and the Myntri of the Syiemship shall have to confirm and affirm as nominated or recommended by the Syiem clan.

(3) The Returning Officer shall on the basis of the report of the Presiding Officer, declare the result and may, in case of doubt or uncertainty, refer the proceeding to the Executive Committee who shall decide and direct the Returning Officer accordingly.

(4) If the Basan and Myntri are not unanimous in their confirmation and affirmation of the Syiem as required under Sub-Section(2) (a) above, the election of the Syiem shall be determined by a simple majority of the eligible electors present whose names have been duly recognized by the Syiem and his Executive Durbar and approved by the Executive committee.

(5) (a) For the purpose of Sub-Section (4) above, the Returning Officer shall call for the filling of Nomination Paper from interested and eligible persons of the Syiem's clan of Bhowal Syiemship whose names have been duly recommended by Durbar Kur Pyllun. The Returning Officer shall cause the Electoral Roll to be prepared of all eligible voters and scrutiny of candidates, hold election, declare the result thereof and or do things necessary for the purpose of the election. The Returning Officer, may in case of doubt or uncertainty refer the matter to the Executive Committee, who shall decide and direct the Returning Officer accordingly.

(b) The Returning Officer, on receipt of the names of the electors, shall by a public notification of not less than 30 (thirty) days, notify their names, call for claim and objection etc, if any, and shall approve the names of the electors. In case there is any objection regarding the name(s) of the electors, the Returning officer shall conduct a hearing of parties involved and shall finally dispose of the matter after affording an opportunity of being heard and shall approve the names of electors.

(c) If more than one nominee/candidate are nominated or recommended by the Syiem clan, the confirmation and affirmation/ election of the Syiem shall be determined by simple majority of the votes of the electors present and the successful candidate shall be declared elected and his name shall be recommended for issuing of Appointment Order or Sanad.

4. Appointment of the Syiem:- On the basis of the result referred to in Section 3 of this Act, the Executive Committee shall recommend the appointment of the elected Syiem to the next Session of the District Council and after approval of the Council, shall forthwith issue appointment order (Sanad) under such terms and conditions as the Executive Committee may provide and not inconsistent with the provisions of this Act.

5. Dispute regarding the Election :- If within thirty days of the declaration of the result by the Returning Officer, any dispute arises regarding any matter relating to or connected with the Election of the Syiem, the party or parties concerned shall refer the dispute by a petition, to the Tribunal constituted by the Council for the purpose and the Tribunal shall dispose of the matter accordingly as early as possible and shall not ordinarily exceed six months from the date of receipt of the case records which reports and findings shall be submitted to the Executive Committee for its decision.

Provided, that the period of six months may be extended on receipt of a written application from the Tribunal for certain reasonable grounds.

Such petition shall be filed before the Secretary to the Executive Committee in duplicate accompanied by a fee as may be prescribed by the Executive Committee from time to time.

6. Qualification for the office of the Syiem/Deputy Syiem and Acting Syiem: A male person shall qualify to be elected as a Syiem if he:

- (a) is a natural descendant of the Nandah clan of Bhowal Syiemship and of good moral character, both of whose parents are indigenous Khasi by birth;
- b) is a native and resident of Bhowal Syiemship and is not less than 25 years of age ;
- c) is not a member of another Elaka;
- d) has obtained prior recommendation from the Durbar Kur Pyllun of the Syiem clan.

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7. Term of Office: - There shall be only one Syiem to be elected from the whole of Bhowal Syiemship and his term of office shall be for life from the date of his appointment provided that he may be removed from office or suspended by the Executive Committee if:-

- (a) he violates any of the terms and conditions of his appointment;
or
- (b) he violates any of the laws, regulations, rules and the resolution passed by the Council;
or
- (c) he refuses to carry out the orders and instruction issued by the Executive Committee;
or
- (d) he is found to be mentally unfit to carry out his functions;
or
- (e) he is found incapable of carrying on the administration to the satisfaction of the Executive Committee due to ill health, old age or habitual drunkenness;
or
- (f) he violated any customary rights and practices prevailing in the Elaka and duly recognized by the Executive Committee;
or
- (g) he has been convicted of an offences involving moral turpitude;
or
- (h) he is found to have oppressed the people of the Elaka and they have just cause for dissatisfaction with his mis-rule;
or
- (i) he has lost the confidence of the majority of his electors or of the people of the Elaka;
or
- (j) he is an undischarged insolvent;
or
- (k) he is found to have been conducting himself in a manner derogatory to his office or pre-judicial to the interest of the Elaka or part thereof;
or
- (l) has been conducting himself in a manner which may undermine the authority of the Executive Committee or the District Council;
or
- (m) he fails to convene the annual Durbar Pyllun.

Provided further that (i) any complaint against the Syiem should be brought before the Durbar Hima for necessary decision and (ii) the Syiem shall not be removed from office or punished with suspension unless he is given an opportunity of being heard.

Provided also that the requirements of the second provision shall not apply –

- (i) in the case where the order of removal or suspension is awarded on account of his being convicted of an offence involving moral turpitude;
- (ii) in the case of order of suspension pending inquiry.

8A. Nomination of the Deputy Syiem:-

(1) When a vacancy occurs in the office of the Deputy Syiem, it is the duty of the Syiem Clan to nominate an eligible person belonging to the Syiem's Clan through the Durbar Kur Pyllun and to forward the name to the Syiem who shall place before the meeting of the Executive Durbar to be convened and presided by the Syiem for the purpose of confirmation.

(2) As soon as the Executive Durbar has given the confirmation, the Syiem and his Durbar shall issue appointment order (Sanad) to the Deputy Syiem who shall exercise such powers and functions as may be delegated to him by the Syiem and his Durbar. The Syiem shall submit a report to the Executive Committee for information and record.

8B. DISPUTE REGARDING NOMINATION OF THE DEPUTY SYIEM: If any dispute arises regarding the nomination of the Deputy Syiem under sub-section (2) of section 8A, the dispute shall be referred by the party or parties concerned, through a petition to the Executive Committee within a period of 30 days from the date of nomination. The decision of the Executive Committee shall be final. Such petition shall be filed before the Secretary to the Executive Committee, in duplicate accompanied by a fee as may be prescribed by the Executive Committee, which is non-refundable.

9. Appointment of Acting Syiem:-

(1) If at any time the office of a Syiem becomes vacant as a result of death, resignation, retirement due to old age, removal or suspension, the Executive Committee, may by order in writing appoint the Deputy Syiem and in case there is no Deputy Syiem, any adult male belonging to the Nandah clan of Bhowal Syiemship duly approved/recommended by the Syiem clan through the Durbar Kur Pyllun to function as an Acting Syiem who shall exercise all powers and functions of the Syiem.

(2) No Acting Syiem shall be appointed without the recommendation of the Syiem clan through the Durbar Kur Pyllun.

(3) An Acting Syiem will remain in office until appointment of a new Syiem or until further order of the Executive Committee which ever is earlier.

(4) Wherever there is a change of incumbent on account of sub-section (1) above, there shall be a proper taking and handing over charge of the office properties duly recorded in writing between the predecessor and the successor incumbent in the presence of witnesses.

Any deliberate or willful violation of this provision shall be treated to be an act of criminal breach of trust and the incumbent is liable to be proceeded with accordingly.

10. Election and Confirmation of Myntri, Basan and Rangbah Shnong: - A Khasi adult male shall be eligible to be elected as a Myntri, Basan or Rangbah Shnong if he has completed 25 years of age and he bears a good moral character both of whose parents are Khasi by birth.

(1) Any vacancy in the post of Myntri or Basan shall be reported to the Syiem and his Executive Durbar, who shall direct the respective clans to elect/nominate the Myntri or Basan under the prevailing customs, as the case may be, and such meeting for nomination/election of the Myntri or Basan shall be presided over by an Officer deputed by the Syiem for the purpose. On the basis of the result of such nomination and election, the Myntri or Basan shall be appointed by the Syiem under such terms and conditions as the Executive Durbar may provide with immediate intimation to the Executive Committee for record.

Provided that only the recognised adult male residents of the Hima belonging to the respective Basan or Myntri clan shall take part in the election of the Basan or Myntri concerned.

(2) The post of Myntri or Basan is normally elected for life, however the Durbar Hima may on the advice of the Executive Durbar, remove from Office or suspend any of the Basan or Myntri if he is found:-

- i) to have violated or purposely ignored to follow any laws, rules and regulations of the Syiemship and the resolutions/orders passed by the Durbar Hima and the District Council under the provision of this Act;
- ii) to be incapable to carry out his function due to ill health, old age or habitual drunkenness;
- iii) to have been convicted of any offence by any Court of Law;
- iv) to have lost the confidence of the majority of the members of the clan concerned.

(3) Any vacancy in the post of Rangbah Shnong shall be reported to the Syiem and his Executive Durbar, who shall summon a meeting of all the recognised Khasi male adults of the concerned village on such date and time as may be fixed by the Executive Durbar for the election of a new Rangbah Shnong and such meeting shall be presided over by the Syiem or by any person authorized by him. On the basis of the result of such election, a Rangbah Shnong shall be appointed by the Syiem under such terms and conditions as the Executive Durbar may provide which shall immediately be intimated to the Executive Committee for record.

(4) A Rangbah Shnong shall hold Office so long as he enjoys the confidence of the majority residents of the village concerned and he may be removed from the office or suspended by the Executive Durbar if:

a) he refuses to carry out the orders and instructions issued by the Executive Durbar;

or

b) he violates any of the provisions of this Act or Rules or/and Resolutions of the Executive Durbar;

or

c) he violates any of the laws, regulations, rules and resolution passed by the District Council;

or

d) he has been convicted of an offence involving moral turpitude;

or

e) he is found incapable of carrying on his duties and functions due to ill health, old age or habitual drunkenness;

or

f) he is found to be mentally unfit to carry out his duties and functions;

or

g) he is found to have been conducting himself in a manner derogatory to his office;

or

h) he is found to have been conducting himself in a manner which may undermine the authority of the Executive Committee or the District Council;

or

i) he has lost the confidence of the majority of the persons eligible to elect him.

(5) For the purpose of Section 10 (1) and (3) above, the Syiem and his Durbar shall call for the filing of Nomination Paper from interested and eligible persons belonging to the Myntri or Basan's clan concerned or from the eligible adult male of the concerned village for the post of Rangbah Shnong, as the case may be. The Syiem and his Durbar shall cause the Electoral Roll to be prepared of all eligible voters and scrutiny of candidates, hold election, declare the result thereof and/or do things necessary for the purpose of the election. The Syiem or his Officer deputed by the Syiem and his Durbar may in case of doubt or uncertainty refer the matter to the Executive Durbar or Durbar Syiem who shall decide the matter accordingly.

(6) An appeal against any order passed by the Syiem and his Durbar shall lie to the Executive Committee whose decision shall be final. Such appeal shall be filed within thirty days from the date the order is communicated or known to the party or parties concerned accompanied by a petition fee to be prescribed by the Executive Committee.

11. Power to make Rules: - The Executive Durbar shall have the power to make rules for the day-to-day administration of the Syiemship in accordance with the customary practices and the provisions of this Act including the normal collection of customary tolls as well as the administration of land which have been in practice since time immemorial and such rules shall be submitted to the Executive Committee for approval.

12. Composition of the Durbar Hima: - The Durbar Hima shall be the supreme and final authority of the Hima where the Deputy Syiem, the Myntri, the Basan, the Rangbah Shnong and some Elders/representative as may be summoned by the Executive Durbar to be the members. The Syiem shall be the Chairman and the one who convenes and presides such a Durbar which is the supreme policy decision of the Hima.

13. Taking part in Politics and Election:-

(1) The Syiem or Acting Syiem shall not be a member of or be otherwise associated with any political party or any organization which takes part in politics, nor shall they take part in subscribe in aid of or assist in any other manner, any political movement or activity.

(2) If any question arises whether any movement or activity falls within the scope of this Act, the decision of the Executive Committee shall be final.

(3) The Syiem or Acting Syiem shall not canvas or otherwise interfere or use his influence in connection with or take part in an election to any Legislature, District Council or Local authority.

Provided that:

(i) The Syiem or Acting Syiem qualified to vote at such election may exercise his right to vote, but where he does so, he shall give no indication of the manner in which he proposes to vote or has voted.

(ii) The Syiem or Acting Syiem shall not be deemed to have contravened the provisions of this Act by reason only that he assists in the conduct of an election in due performance of a duty imposed on him or under any law for the time being in force; and

(iii) The display by a Syiem or Acting Syiem of any election symbol on his person or vehicle, shall amount to using his influence in connection with an election within the meaning of this sub-section.

14. Demonstrations and Strikes: - The Syiem or Acting Syiem shall not participate in any demonstration or resort to any form of strike in connection with any matter pertaining to his condition of service.

15. Connection with press, radio, television, etc:-

(1) The Syiem or Acting Syiem shall not, except with the previous sanction of the Executive Committee own wholly or in part, or conduct or participate in the editing or managing of any newspaper or other media.

(2) The Syiem or Acting Syiem shall not except in accordance with any general or special orders of the Executive Committee or in the performance in good faith of the duties assigned to them, communicate directly or indirectly any official documents or information to any other person or to the press to whom they are not authorized to communicate such document or information.

16. Criticism of the Executive Committee:-

(1) The Syiem or Acting Syiem shall not in any manner make radio or television broadcast, or publish any document or make any statement or public utterances, or any communication to the press (i) which has the effect of an adverse criticism of the Central or the State Government or the Executive Committee or (ii) which is likely to embarrass the relation between the Central Government and the District Council, the State Government and the District Council or the Central Government and any State Government.

(2) Subject to the provisions of Sub-Section (1) above, nothing in this section shall apply to any statements made or views expressed to the Executive Committee in confidence by the Syiem, or Acting Syiem or Deputy Syiem in his official capacity or in the due performance of his duties.

17. Protection of action taking in good faith: - No suit, prosecution or other legal proceedings shall in against any officer or person for executing any order made by the Executive Committee or in respect of anything which is in good faith done or intended to be done by any authorized officer or person under this Act or the rules or orders made there under.

18. Annulment: - The provision contained in the United Khasi-Jaintia Hills Autonomous District (Appointment and succession of Chief and Headmen) Act, 1959 as amended, shall on and from the commencement of this Act no longer be operative as far as Bhowal Syiemship is concerned.

STATEMENT OF OBJECTS AND REASONS:

It is considered expedient to safeguard and preserve the customary practices within Bhowal Syiemship in matters relating to the administration, appointment and succession of the Syiem, Deputy Syiem, Myntri, Basan, and Rangbah Shnong.

Hence this Bill

Certified that the above Bill was passed by the Khasi Hills Autonomous District Council on the 24th October, 2008.

(Shri M. Pyrbot)
Chairman,
Khasi Hills Autonomous District Council,
Shillong.

No. _____

I assent to this Act.

Dated Shillong,
The 2nd November, 2009

R.S. MOOSHAHARY
GOVERNOR OF MEGHALAYA

Appendix – I
Genealogical Table of the Bhowal Syiem Family



