CHAPTER-8

GOVERNANCE
OF
SATELLITE AUTONOMOUS COUNCILS IN ASSAM

The 1993 post-BAC\textsuperscript{1} sequences in Assam has culminated with a series of political unrest and agitations conducted by the other plains tribes of the State. As a result of such wrath and discontentment among the plains tribes, the Assam government has signed the Mising\textsuperscript{2}, the Tiwa (Lalung)\textsuperscript{3} and the Rabha\textsuperscript{4} Accords in 1995 followed by state legislation for each of these tribes separately with the same pith and substance.

The main objective\textsuperscript{5} of setting up of such administrative authorities is to provide maximum possible autonomy within the framework of the Constitution of India for the social, economical, educational, ethnic and cultural development of the plains tribals peoples of the State. In the second phase, Memorandum of Understandings (MoU) have been signed between the Assam government and the leading organisations of the movements of the Sonowal Kachari\textsuperscript{6}, the Deori\textsuperscript{7} and the Thengal Kachari\textsuperscript{8} during 2005. The similar pattern of state statutory laws were also enacted for those communities with a view to provid them satellite forms of autonomous councils.

The provisions of these state Acts have made two tier Councils- (1) the Village Councils\textsuperscript{9} in the lower level, and (2) the General Councils\textsuperscript{10} as the apex body administrative authority. A block of satellite villages with non-
contiguous nature formed a Village Council inhabiting 6000 to 8000 tribal populations for the Mising, Tiwa and the Rabha councils and 3000 to 5000 tribal populations in case of the Sonowal, Deori and the Thengal Kachari autonomous councils respectively.

The sum and substance of all these Accords and Acts are almost same apart from a simple variation of numbers in the General Councils, for instance, Mising Autonomous Council have 40 members, Tiwa (Lalung), Rabha and Sonowal Kachari autonomous councils have 30 members respectively while the Deori have 20 members and the Thengal Kachari have 26 members only.11

Let us, now explain the administrative hierarchy of the latest satellite autonomous council structure namely; the Thengal Kachari Autonomous Council as a sample and test case to elaborate discussion and to understand the proper character and overall positions happened in the entire six Satellite Autonomous Councils.

1. The General Council

The General Council12 shall consists of 26 members out of which 4 shall be nominated by the government from amongst the groups of communities residing in the council area and not otherwise represented in the General Council. Out of 26 seats 20 seats shall be reserved for scheduled tribes and 5 seats shall be for women. The MPs and MLAs belonging to scheduled tribes reserved constituencies of the council area shall be ex-officio members of the General Council.13

2. The Executive Council

The elected members of the General Council shall, at the first meeting
after the election, for the purpose of constitution of the Executive Council, elect from amongst themselves\textsuperscript{14}; (1) one member to be the Chairman, (2) one member to be the Deputy Chairman, (3) one Chief Executive Councillor (CEC) of the Executive Council, (4) one Deputy Chief Executive Councillor, and (5) as many Executive Councillor directed by the General Council, but not exceeding one-third of the total members of the General Council.

The Mising, the Tiwa (Lalung) and the Rabha Executive Councils have been constituted only with the Chief Executive Councillor and Executive Councillors. The CEC is the President of the General Council.

3. Tenure

The term of office for the members of the General Council and Executive Council is normally for five years unless dissolved earlier under section 68 on grounds of failure to carry in accordance to the provision of the Act in the opinion of the Governor and the judicial department.\textsuperscript{15} The CEC and the EC shall be whole timer functionaries and be paid out of the General Council's Fund and responsible for maintenance of the records of financial, administrative, transaction of business and other additional powers entrusted by the General Council.\textsuperscript{16}

4. The Secretariat

There shall be a Secretariat in the headquarter of the General Council with a Principal Secretary who is the Principal Executive Officer along with a subordinated staff appointed by the state government in consultation with the CEC. The Principal Secretary and the staff deputed in the council are without voting power and subject to withdraw before the expiry of the 3 years normal term and also having the provision of extension as well.\textsuperscript{17}
5. Executive Powers of the General Council

The General Council may make rules for carrying the executive powers over 34 subjects relating to cottage industry, animal husbandry and veterinary, forest (other than reserved forest), agriculture, rural roads and bridges, sericulture, education, (adult, primary and higher secondary including vocational training), panchayats and rural development, handloom and textile, public health engineering and drinking water, minor irrigation, social welfare, flood control schemes (not of high technical nature), sports and youth welfare, weights and measures, library services, museum and archeology, urban development-town and country planning, tribal research, land and land research, publicity and public relation, tourism, transport, other matters connected with development, municipal–trust–district boards–local self-government or village administration, tribal welfare, market and fairs, lottery–theatre–drama–cinema, statistics including registration of birth and death, and food and civil supplies.

In addition to these powers the General Council subject to general policy and law of the government shall formulate integrated development plans, implement schemes, appoint staff and officers, regulate trade and commerce, guide customs–traditions and social justice, drive special recruitment, collect taxes, levy tolls and fees, acquire–hold or dispose of movable and immovable property exceed one lakh value, and make bye-laws applicable within the council area.

6. The Village Council

The Village Council is a body corporate consist of 10 members of which 5 seats shall be reserved for the Thengal Kachari community out of which at least one shall be a women.
6.1 The President and the Vice-President

The elected members of the Village Council shall, at the first meeting after the election, elect from amongst themselves one President and one Vice-President who shall be the Chief of the Village Council for a tenure of 5 years subject to earlier dissolution under section 68. The term of the Village Council shall be co-terminus with the General Council. They can be removed by the two-third majority in a requisition meeting of the members or issuing show-cause notice giving reasonable opportunity to be heard by the government on charged of the Court conviction order, disqualification incurs, absent from 3 consecutive meetings etc. They have the liberty to appeal within 30 days before a government's prescribed judicial authority whose decision is final.21

The President and the Vice-President are the wholetime functionaries and responsible for the maintenance of the records and administration or control of the Village Council. The Village Council shall meet at least once in every month for transaction of business. The government shall appoint a Secretary for the Village Council in consulting with the President who shall be the Chief Executive having no voting rights.22

6.2 Power and Functions of the Village Council

The Village Council shall have the executive powers over the following 29 subjects23 —Agriculture (including extension), animal husbandries—daries and paultries, fisheries, social and farms forestry, khadi—village and cottage industries, rural housing, drinking water, roads—buildings—culverts—tunnels—waterways and other means of communications, rural electrification, non-conventional energy, poverty
alleviation, education (primary, adult, non-formal), libraries, cultural affairs, markets and fairs, rural sanitations, public health and family welfare, women and child development, social welfare (including handicapped and mentally retarded), weaker section welfare (particularly SC/ST), public distributions, community assets, dharamsalas and similar institutions, cattle sheds-pounds- cart stands, public parks and play grounds, slaughter houses, regulations of manure, and additional functions entrusted by the government from time to time.

Subject to the general policy of government and supervision and control of General Council, the Village Council shall execute all functions similar to that of the General Council within the Village Council area.24

7. Election

There shall be 10 constituencies in a Village Council area for electing members to the Village Council. Each such constituency shall be a single member constituency and shall be territorial.25

There shall be 26 constituencies covering the council gazette, determine the territorial limits of the constituencies into which the Village Council area or the General Council area shall be delimited for the purpose of election of members to the Village Council and the General Council.26

The electoral roll for the Assembly in force shall be the electrol roll for the purpose of both Village and General Councils. The qualifications and disqualifications nature of the members to be constested is same with the Representation of Peoples Act, 1951. No election shall be called in question except by an election petition before such authority as may be prescribed by the government from time to time atleast not below the rank of Assistant
District Judge and District Judge for Village Council and General Council respectively.\textsuperscript{27}

The state government may, by notification in the official gazette make rules for the purpose of holding election regarding constituencies, appointment of Returning Officers, Presiding Officers and Polling Officers for election, election programme, nominations, agents, procedure, fees and any other matters relating to election disputes.\textsuperscript{28}

\textbf{8. Funds, Audit and Budget}

There shall be two separate sub-heads within the state budget as Village Council Fund and General Council Fund.\textsuperscript{29} The government shall provide funds from the Tribal Sub-Plan (TSP) and other sources in accordance with the appropriate formula prepared on the basis of priorities or development works.\textsuperscript{30} The fund is constituted out of the contribution and grants from government, donation, rates, fees, taxes, land revenues including tea gardens falls within the council area. The council may obtain loan subject to approval of the government.

Surplus money shall be invested in accordance to the bye-laws and cannot lapse at the end of every financial year but carried over to the next budget.\textsuperscript{31} The audit of the accounts shall be entrusted to the Controller and Auditor General of India and such report alongwith the comments of the council shall be laid before the state legislature.\textsuperscript{32}

The General Council shall submit the prepared estimate to the government by 1st November of every current financial year and the Village Council concerned shall submit such estimate to the General Council before 1 October of the current financial year.\textsuperscript{33}
All laws, regulations, bye-laws, rules made by the councils, shall be subject to security and safety of India, instruction of the government, interest of non-tribals and other tribals within the council area etc.\textsuperscript{34}

The Governor may, if satisfied, on report or otherwise and in consultation with the judicial department that a situation has arisen in which the administration of the council cannot be carried, dissolve the General Council, Executive Council and the Village Council not exceeding six months at a time and the same shall be laid before the state legislature and unless approved by it such order shall cease to operate on the expiry of the thirty days the Assembly first sits.\textsuperscript{35}

In the event of any repugnancy of law between state legislature and councils the laws of the Legislature shall prevail. The Mising, the Tiwa (Lalung) and the Rabha Autonomous Council Acts, 1995 have been amended in 1997 and 2008 respectively. By the first amendment through section 80 it empowered the government for constitution of Interim General Council by nomination and to nominate the Executive Council and to form Village Councils till the General Council is constituted under these Acts.\textsuperscript{36} The 2008 amendment substituted the word ‘Authority’ for the word ‘Commission’ under sections 2,50,52,57 and 60 of the 1995 Principal Acts.\textsuperscript{37}

REFERENCES

1. supra note, 45, at chp. 4
2. Mising Accord, Signed on 14 June 1995. For details of the Act please see supra note, 34, at chp. 7
3. Tiwa (Lalung) Accord, Signed in 1995. For details of the Act please see
supra note, 58, at chp 7

4. Rabha Hasong Accord, Signed on 10 March 1995. For details of the Act please see supra note, 66, at chp. 7

5. Objectives of the Mising, the Tiwa (Lalung), the Rabha, the Sonowal Kachari, the Deori, and the Thengal Kachari Accords respectively.

6. Memorandum of Understanding (Sonowal Kachari Accord), Signed on 4 March 2005. For details of the Act please see supra note, 72, at chp. 7

7. Memorandum of Understanding (Deori Accord), Signed on 4 March 2005. For details of the Act please see supra notes 73 and 74, at chp. 7

8. Memorandum of Understanding (Thengal Kachari Accord), Signed on 10 August 2005. For details of the Act please see supra note, 76, at chp. 7

9. Chapter-V of the Mising, the Tiwa (Lalung), the Rabha, the Sonowal Kachari, the Deori, and the Thengal Kachari Autonomous Councils Acts respectively under the coverage of sections from 31 to 47.

10. Ibid. chp.-II, under sections from 5 to 17

11. Ibid., p. 6


13. Ibid., p. 257

14. Ibid. section 7

15. Id.
16. Ibid. sections 10 and 12
17. Ibid. section 17
18. Ibid. section 18
19. Ibid. section 19
20. Ibid, chp V, pp. 269-270
21. Ibid., p. 270
22. Id.
23. Ibid. section 43
24. Ibid. sections 44–47
25. Ibid. chapter-VII, section 48
26. Id.
27. Ibid. sections 50–54
28. Ibid. section 60
29. Ibid. section 61
30. Id.
31. Id.
32. Ibid. section 62
33. Ibid. section 63
34. Ibid. sections 64–66
35. Ibid. section 68
36. The Mising, the Tiwa (Lalung), and the Rabha Hasong Autonomous Councils (Amendment) Acts of 1997 respectively.
37. The Mising, the Tiwa (Lalung), and the Rabha Hasong Autonomous Councils (Amendment) Acts, 2008 respectively.