Chapter XIII

Functions of the District Councils:

Broadly speaking, the powers and functions of the District Councils may be divided into four categories: Legislative, Executive, financial and judicial.

Legislative powers: The District Council has power to make laws with respect to the allotment, occupation, use or the setting apart of land, other than reserved forests for the purpose of agriculture or grazing or for residential or other non-agricultural purposes likely to promote the interests of the inhabitants of any village or town; the management of any forest not being a State Reserved forest; the use of any canal or water course for agricultural purposes; the regulation of the practice of Jhum or other forms of shifting cultivation; the establishment of town or village councils and determine their powers and functions any other matter relating to village or town administration including town or village police, public health and sanitation; the appointment or succession of chiefs or headmen; the inheritance of property; marriage and divorce; social customs; money lending and trading by persons other than the Scheduled Tribes.

Executive powers: Apart from the powers that the District Council should exercise in consonance with the laws made by the District Council itself, the District Council has also powers to establish, construct or manage primary schools, dispensaries, markets, cattle pounds, ferries, fisheries, roads and waterways. It has also power to determine the language and the manner in which primary school should be imparted in the primary schools which fall within its jurisdiction.

1. Paragraph 3 of the Sixth Schedule.
2. Paragraph 6 of the Sixth Schedule.
Taxation powers: The District Council has also the power of taxation. It has power to assess and collect land revenue, levy a tax on lands and buildings, tolls on person residing within the district, tax on professions, trades, callings and employment, tax on the entry of goods into the market for sale, toll on passengers and goods carried in ferries, taxes for the maintenance of schools, dispensaries and roads, licences or leases for the purpose of prospecting or for extracting minor minerals. The District Council has also the rights for a share in the royalties derived by the State Government from licences or leases granted for the purpose of prospecting or for the extraction of minor minerals. The rate of sharing is determined by mutual agreement by the parties concerned.

Judicial powers: Paragraph 4 of the Sixth Schedule empowers the District Council to constitute village courts for the trial of suits and cases in which both parties are members of the Scheduled Tribes. It may appoint suitable persons to be members of such village councils or Presiding Officers of such courts as may be necessary for the execution of laws made by the District Council.

Originally, the District Council is empowered to exercise the powers of a court of appeal in respect of all suits triable by the village council. It is also provided that no other court except the High Court and the Supreme Court of India should have jurisdiction over such suits and cases. It is further provided that the High Court of Assam should exercise such jurisdiction over such suits and cases. But the two sub-paragraphs dealing with this power are omitted by the Assam Reorganisation (Meghalaya) Act, 1969. According to the amendments of the Sixth Schedule under the said Act, the Governor is authorised to make rules regulating the constitution of the village councils and courts, the power to be exercised by

3. Paragraph 8 of the Sixth Schedule.
4. Paragraphs 4 and 5 of the Sixth Schedule.
them and the courts to which appeals from the village councils and courts shall lie.

Over the years, all the three district councils have constituted their courts of appeal. Each has a judge and a magistrate. The traditional courts of the Chiefs have always been functioning as Additional Sub-ordinate courts of the District Council with the traditional Chiefs as Presiding Officers.

Another power that the District Council has been originally vested is the power to make rules. It is provided that subject to the previous approval of the Governor, the District Council may make rules and regulations on the constitution of village councils and village courts, the procedure to be followed by the District Council or courts, village councils or courts constituted by it, appeals and other proceedings, the enforcement of decisions and orders of such councils or courts and all other matters ancilliary for the carrying of the provisions mentioned above.

But, both paragraphs 4 and 5 of the Sixth Schedule have been amended by the Assam Reorganisation (Meghalaya) Act, 1969 and by the North Eastern Areas (Reorganisation) Act, 1971. Thus the present position is that the District Council has no such power. The Governor has been authorised to frame all such rules. It is further provided that the President may, after consulting the Government of Meghalaya shall fix the date for the enforcement of such rules. Thus on 27th November, 1975, the Government of Meghalaya circulated the draft rules to all concerned for the purpose of getting their views. But up till date, the rules have not been finalised, and as such, the date has not been fixed for the enforcement of such rules.

Further, the District Council has also powers to exercise certain delegated functions. For instance, the Governor may authorise the District Council or any court constituted by it to
try cases punishable with death, transportation for life, imprisonment for a term of five years under the I.P.C. or any law for the time being in force.

Entrusted functions: The original Sixth Schedule does not authorise the State Government to entrust any of its power to the District Council. But when the Assam Reorganisation (Meghalaya) Act, 1969 was being framed it was understood that the Mikir Hills and the North-Cachar Hills would be given the option either to remain in the State of Assam or join the Autonomous State of Meghalaya. In order to retain them in Assam, the Government of Assam made several costly promises. The most important promise was the transfer of more functions and powers together with necessary finance and personnel. During the period of negotiation, both the Government of Assam and the APHLC leaders agreed on this score. Hence, paragraph 6 of the Sixth Schedule was amended whereby it is provided that the Governor may entrust either conditionally or unconditionally some functions to the District Councils. The functions enumerated are agriculture, animal husbandry, community projects, cooperative societies, social welfare, village planning or any other matter to which the executive power of the State extends. But in doing so, the Governor must first ascertain the consent of the District Council. So far, the Governor of Meghalaya has not entrusted any of these subjects to any of the District Councils.

Committee System: It is really surprising to note that inspite of the fact that the District Councils have powers to constitute

5. Amendment to paragraph 6 of the Sixth Schedule as incorporated in the Assam Re-organisation (Meghalaya) Act, 1969.
6. AAD.Rules, 1951. Chapter VI of Part II.
both adhoc and Standing Committees, none of the District Councils in Meghalaya has constituted such committees. It is provided that the composition, powers and functions of such committees are to be determined by the District Council itself. But so far, none of the District Councils has made any such definite rules for constituting such committees.

**District Council Finances:** The District Councils derive their income from different sources such as land revenue, forests; administration of justice; taxes on animals, vehicles and boats; taxes on professions, trades, callings and employment; tolls on persons; grants in aid from the government; loans, advances and subventions from the government; market taxes, miscellaneous receipts and receipts on account of transfer of schemes.

In all the three District Councils of Meghalaya, the major source of income is from forests, which, at present is more than 50 percent of the total income. Another major source of income is from tax on entry of goods into the market for sale. Although lands revenue constitutes one of the important sources of income for the Garo Hills and the Jaintia Hills District Councils, but in the Khasi Hills, land revenue is practically not a source of income at all. This is due to the fact that all lands in the Khasi Hills belong to the people and not to the District Council. Secondly, since all the District Councils depend mostly on their income from forests, there has been a rapid process of deforestation. Unless there are some positive schemes for reforestation, the District Councils may have to face serious financial problems. Thirdly, in

7. (a) Ibid Chapter VII of Part II.
(b) Paragraphs 3-10 of the Sixth Schedule.
(c) Article 275 of the Constitution of India.
the Garo Hills and in the Jaintia Hills, there is no serious problem in apportioning the income accrued from different sources between the District Councils and the traditional Chiefs. But in the Khasi Hills, this problem has not been tackled properly, and as such, whenever a question of sharing arises, it has been made on an ad hoc basis. Lastly, the greatest problem is to settle the principle of sharing of income from minor minerals, forests, and the like between the State Government and the District Councils. Till today, there is no definite principle about the sharing of income between the two authorities concerned.

Grants which have been given under Article 275 of the Constitution are meant for specific purposes only such as development of roads and communications, development of rural water supply, rural communications, rural health and sanitation, maintenance of primary schools, improvement of transport facilities, improvement of culture and maintenance of forests development schemes and so on. Thus, the amount is usually earmarked, by the Government and as such the District Councils have no other choice but to implement them.

Since the audit reports of the District Councils have not been published, it is difficult to make a correct assessment of the actual state of affairs. But a close study of the Budget provisions and the actual administrative adjustment clearly reveals certain infructuous expenditures. First, the amount allotted in the Budget towards the travelling expenses of the Members of the Executive Committee is enormous. Similarly, the salaries attached to the office of the Executive Committee is also great. Secondly, inspite of the fact that the Government gives grants to the District Councils for specific purposes, yet the District Councils always
re-appropriated these grants according to their own fancies. For instance, it is really incredible to find that lower primary school teachers do not receive their salaries for months together. How such a situation could have happened? Generally, when the financial position of the District Council is tight, the District Council would pay salaries to its own employees out of the grants earmarked for the primary school teachers. As a result of this state of affairs, the school teachers would always try to find out some other means of subsistence, and as such, the school children have to suffer. Then, as soon as the District Council receives grants from the Government which are meant for development works, the District Council will disburse this amount to primary school teachers as arrear salaries. As a result of this, practically, there has been no development work worth its name. All these problems have come up due to many factors. First the Government do not generally disburse the grants in time. Secondly, there is always a delay in determining the share of revenue between the District Councils and the Government. Thirdly, the District Councils have not tried to find out new avenues of income. Thus the State of affairs are as yet not satisfactory.