

**GOVERNMENT OF MEGHALAYA**  
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**Seminar on District Council Courts of Meghalaya**

**Shillong, July 6<sup>th</sup>, 2019** : The Hon'ble Chief Justice of the High Court of Meghalaya, Hon'ble Mr. Justice Ajay Kumar Mittal, today inaugurated the Seminar on District



Council Courts of Meghalaya at the Conference Hall, High Court of Meghalaya, Shillong. The seminar was organised by the Meghalaya State Judicial Academy.

Also present on the occasion were Hon'ble Mr. Justice H S Thangkhiew, Judge, High Court of Meghalaya, Shri W Diengdoh, District Judge and officials from the High Court of Meghalaya and District Courts.

### **Speech of the Hon'ble Chief Justice, High Court of Meghalaya**

1. *My esteemed brother Justice HS Thangkhiew;*
2. *Smti. Belma Mawrie, Registrar General, High Court of Meghalaya;*
3. *Shri W. Diengdoh, District & Sessions Judge, Shillong;*
4. *Smti. MB Challam, Director, Meghalaya State Judicial Academy;*
5. *Learned Judges of District Councils, Judicial Officers, Senior Advocates, learned Resource Persons, distinguished guests, members of the Registry, ladies & gentlemen present here today.*

*A very warm good morning to you all.*

*I am indeed very happy that Meghalaya State Judicial Academy is organizing this seminar on "District Council Courts of Meghalaya" which is something new to me. However, I am making full endeavor to know how the District Council Courts function here in the State of Meghalaya. I commend the efforts made by the Meghalaya State Judicial Academy in that direction.*

*I have been informed that some distinguished personalities including Judges of District Council Courts, senior Advocates and Resource persons are taking part in the Technical Session and shall share their knowledge on various aspects of the topic in detail which, I am sure, is going to enlighten this house immensely.*

*The eminent jurist Nani A. Palkhivala, once said,*

*"The survival of our democracy and the unity and integrity of the nation depend upon the realization that constitutional morality is no less essential than constitutional legality. Dharma lives in the hearts of public men; when it dies there, no Constitution, no law, no amendment can save it."*

*The Sixth Schedule to the Constitution of India is a mini Constitution governing the administration of tribal areas of the north-eastern part of our country. It was aimed at granting some kind of autonomy to the tribal populace so that they could be guided by their customary laws and practices and not be pushed to conform to a modern system of governance where they might not be able to negotiate their own liberal political space and to grow according to their own genius. It provides for administration of certain tribal areas as autonomous entities.*

*Article 244 of the Constitution of India provides for Administration of scheduled Areas and Tribal Areas.*

*The Constitution of India makes special provisions for the administration of the tribal dominated areas in four states viz. Assam, Meghalaya, Tripura and Mizoram. As per article 244 and 6th Schedule, these areas are called "Tribal Areas", which are technically different from the Scheduled Areas under fifth schedule. Presently, there are ten such Councils in the region of which the State of Meghalaya has three namely, Khasi Hills Autonomous District Council, Jaintia Hills Autonomous District Council and Garo Hills Autonomous District Council.*

*There is a unique system of administration of justice in the State of Meghalaya where 3 (three) sets of judicial institutions or functionaries and laws are in place. Firstly, in the Normal Areas of Shillong (the three Municipal Wards of Police Bazar, Jail Road, European Ward and the Cantonment area), the Code of Criminal Procedure and the Civil Procedure Code are applicable as such, both in letter and in spirit. The Court of the District Judge and his subordinates have jurisdiction over these areas as per the provisions of the Bengal, Agra, Assam Civil Courts Act, 1887. The explanation to sub-section (2) of Section 1 of the Code of Criminal Procedure, 1973 distinctly recognizes such a unique feature relating to Shillong.*

*Secondly, the Deputy Commissioner and his Assistants are empowered to try civil and criminal cases in the entire State of Meghalaya, barring the Normal Areas of Shillong, under the provisions of :*

- i. *The Rules for the Administration of Justice and Police in the Khasi and Jaintia Hills District 1937;*
- ii. *The Rules for the Administration of Justice and Police in the Garo Hills District 1937; and*
- iii. *The Khasi Syiemships (Administration of Justice) Order, 1950.*

*The last set of Judicial System in the State is found in the functioning of the District Council Courts having jurisdiction within the areas covered by the Autonomous District Councils i.e., Khasi Hills Autonomous District Council, Jaintia Hills Autonomous District Council and Garo Hills Autonomous District Council, duly constituted under the provisions of the Sixth Schedule to the Constitution of India. These District Council Courts are constituted under the United Khasi-Jaintia Hills Autonomous District (Administration of Justice) Rules, 1953 for the Khasi Hills District; the Jowai Autonomous District (Administration) Act, 1967 for the Jaintia Hills District; and the Garo Hills Autonomous District (Administration of Justice) Rules, 1953 for the Garo Hills District.*

*Significant it is to mention that in the second and third sets of judicial system, the strict letters of laws of procedure do not apply but the concerned Courts are to function with the spirit of such rules of procedure.*

*Succinctly put, the entire State of Meghalaya, save and except the Cantonment Area and the Normal Areas. including Shillong Municipal Areas. essentially answers to the description of "Tribal Areas" within the meaning of the Constitution of India. The administration of justice in these tribal areas is carried on as per the provisions of paragraphs 4 and 5 of the Sixth Schedule to the Constitution; and in terms of Administration of Justice Orders and Rules abovementioned.*

*Today's Seminar has been divided into 3(three) technical sessions on the topics viz., (1) the Sixth Schedule, its Historical background and the implication of the Sixth Schedule for the tribes of Meghalaya; (2) Important decisions of the Supreme Court of India relating to the District Councils in Meghalaya and (3) the Powers and Functions of District Council Courts, where various Resource Persons*

*would be deliberating and enlightening the gathering present here. The Seminar also includes interacting session where any doubts or queries in the mind of the audience present would be cleared.*

*Once again, I would like to express my sincere appreciation to the Meghalaya State Judicial Academy for organizing such an important programme and I believe that after deliberation by the learned Resource Persons in the technical session, it will further enlighten this house on various aspects of the topic.*

*So, with these few words, I conclude my speech. Thank you very much.*  
**KHUBLEI SHIBUN.**

Justice H S Thangkhiew, in his speech, said that the Autonomous District Council Courts of Khasi Hills Autonomous District Council, (KHADC), Jaintia Hills Autonomous District Council (JHADC) and Garo Hills District Autonomous District Council (GHADC) are empowered to constitute Courts for trials of cases between parties belonging to Scheduled Tribe communities. The District Council Court for each district consists of qualified Judicial Officers, designated as Judges and Magistrates who are appointed by the Executive Committee with the approval of the Governor under The United Khasi-Jaintia Hills District (Administration of Justice) Rules, 1953.

He also informed that under the United Khasi-Jaintia Hills District (Administration of Justice) Rules, 1953, three classes of Courts have been provided, namely Village Courts, Subordinate District Council Courts and District Council Court. He also informed that these courts try all cases at different level when litigation is within the tribal areas and party or parties involved are tribals. They dispense justice in line with the traditional customs and usages.

After dwelling in detail about the powers and functions of the District Courts and the intricacy of traditional laws encountered in dispute resolutions, Justice Thangkhiew felt the need to put in place an efficient mechanism of administration of justice and expressed hoped that this seminar will deliberate on measures for a better administration of justice for the benefit of the people.



In the technical sessions, three topics were deliberated and discussed. The topics included The Sixth Schedule, its historical background and the implication of the Sixth Schedule for the tribes of Meghalaya deliberated by Dr. O L Snaitang, Important decisions of the Supreme Court of India viz-a-viz the District Councils in Meghalaya by Shri T T Diengdoh, Sr. Advocate and the Powers and Functions of District Council Courts by Dr. S Kharsyiemlieh, Judge, District Council Court.