

GAHC030001232019



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Cont.Cas(C)/7/2019

Vanlalsiama
Sakawrdai, aizawl

VERSUS

Lalnunmawia Chuaungo and Anr
Aizawl2:Lalrinliana Fanai Home Secretary
Govt. of Mizoram Aizawl
Aizawl

Advocate for the Petitioner : Mr P C Prusty

Advocate for the Respondent : Mr C Zoramchhana for R1

ORDER

Date : 27.10.2021

BEFORE
HONOURABLE MR. JUSTICE NELSON SAILO

Parties are represented by their respective counsels. In terms of Order dated 27.09.2021, the respondent No. 1 has filed an additional affidavit. A perusal of the additional affidavit goes to show that according to the deponent, Clause 5.1 of the Memorandum of Settlement, 1994 have been complied with by the State Government. In order to appreciate what has stated in the affidavit, paragraph No. 2 and paragraph No. 3 of the said affidavit may be abstracted hereunder:-

“2. That I say that for implementation of clause 5.1 of the Memorandum of Settlement, 1994, the Government of Mizoram had

issued Notification vide No. C. 14011/3/2016-EDN dated 29.10.2020 stating that Hmar language shall be used as medium of instruction up to Primary School level within Sinlung Hills Council area.

Neither the constitution of India nor any State/Central Act makes any provision for declaring any language as 'major language' of the state. The very fact that Hmar language has been approved as a medium of instruction up to Primary School level within the Sinlung Hills Council area is a clear indication that it has been recognized as a major language within the area. This single fact can be taken as an important step towards fulfilment of the second part of clause 5.1 of the Memorandum of Settlement which provides that "the state government will initiate measures for recognition of Hmar language as one of the major languages of the state of Mizoram."

3. That accordingly, it can be said that the State Government has fully complied with the provision of Clause 5.1 of the Memorandum of Settlement dated 27.07.1994 in as much as making and notifying Hmar language as a medium of instruction up to Primary School level within the Sinlung Hills Council area is part and parcel of the initiative taken by the State Government as a measure for recognition of the Hmar language as one of the major language of the state of Mizoram. It is relevant to mention here that Hmar dialect/language is used as a principal language only in Sinlung Hills Council area and no where else in the State. Therefore, there is no justification and no question of the State Government declaring it for use as a major language elsewhere in the State."

The case of the petitioner is that the first part of paragraph No. 5.1 has been complied with but the second part of the same paragraph has not been complied with by the Govt. of Mizoram. In order to understand paragraph No. 5.1 of the Memorandum of Settlement, the same is abstracted hereunder:-

“5.1 With a view to satisfy the desires and aspiration of Hmar community in Mizoram, the State Government will initiate measures for use of Hmar language as a medium of instruction upto Primary level and recognition of the Hmar language as one of the major language of the State of Mizoram.”

A perusal of the above abstract goes to show that the first part of paragraph No. 5.1 is with regard to initiating measures for use of Hmar language as a medium of instruction upto Primary level. In compliance to the same, the Govt. of Mizoram in the School Education Department issued the notification under Memo No. C. 14011/3/2016-EDN dated 29.10.2020 (Annexure-IX of the affidavit filed by the respondent No. 1 on 13.11.2020).

The second part of paragraph No. 5.1 speaks about the recognition of Hmar language as one of the major language of the State of Mizoram. On a perusal of the affidavit filed by the respondent No. 1 on 26.10.2021, the same goes to show that by complying the first part of paragraph No. 5.1 vide Notification dated 29.10.2020, the State Government has fully complied with the provision of paragraph No. 5.1 of the Memorandum of Settlement dated 27.07.1994.

Be it stated herein that as per the meeting minutes of the meeting held on 22.10.2020 in the office chamber of the Minister of Education, a deliberation was held between the Officials of Sinlung Hills Council and the School Education Department to consider use of Hmar language as a medium of instruction upto Primary level in terms of the Memorandum of Settlement. After deliberation and discussion, the meeting unanimously resolved that a notification be issued by the Government regarding the use of Hmar language as a medium of instruction upto Primary level, in line with paragraph No. 5.1 of the Memorandum of Settlement. The meeting further observed that as per the Government of Mizoram (Allocation of Business) Rules, 2019, the purview of the School Education Department regarding paragraph No. 5.1 of the Memorandum of Settlement is limited to use of Hmar language as a medium of instruction upto Primary level only. In respect of the remaining clause/part of paragraph No. 5.1, the same is the concerned of other Departments.

The second part of paragraph No. 5.1 as already noticed herein above is with regard to recognition of Hmar language as one of the major language of the State of Mizoram. Therefore, the affidavit filed by the respondent No. 1 on 26.10.2021 stating that by issuance of the Notification dated 29.10.2020, the State Government has fully complied with paragraph No. 5.1 of the Memorandum of Settlement is only misconceived. Since this Court had passed a specific direction vide Order dated 04.09.2017 in WP(C) No. 80/2016 for compliance of the directions contained therein within a period of 1 (one) year from the date of receipt of the copy of the order, it is seen that the State Government has not fully complied with the direction.

At this stage, Mr. C. Zoramchhana, learned Addl. Advocate General submits that he may be given at least a month's time to take up the matter with the appropriate authorities in the State Government and to obtain appropriate instructions in the matter.

Considering the issue involved and the prayer made by the learned Addl. Advocate General, a month's time is granted.

List the matter again on **29.11.2021**.

JUDGE

Comparing Assistant