

ROLE OF THE VILLAGE AUTHORITY IN THE NYISHI TRIBE OF ARUNACHAL PRADESH

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Abstract: The village authority of Nyishi tribe has comprised of the HGB (Head Gaon Bura/Buri), GB (Gaon Buri) in village level. This authority regulates under old British act i.e Assam frontier(administration of justice)regulation act of 1954. This act empowered the deputy commissioner of the concerned district to appoint village authority which manifests to resolve the petty disputes arise between/among the villager irrespective of both civil and criminal in nature as per their traditional and customary laws. According to AFAJR Act 1945 no specific qualification requires to be appointed as such. Deputy Commissioner of the concerned district on recommendation of village Panchayat member or the existing village authority may appoint any person acquainted with the local customary law as member of village authority. This abstract explore to determine the role of village authority and how they entertain, hear and solve the disputes. Most importantly this study is to highlight the legal jurisdiction of the village authority and their impact in time of modern jurisprudence.

Keywords: village authority, impact, modern jurisprudence, traditional, customary, deputy commissioner, manifests, Nyishi, Tribe, Arunachal Pradesh, determine, panchayat member, gaon bura, head, inter villager, Assam frontier (administration of justice) regulation act 1945, civil, criminal, village level, acquainted, institution, modern, streamline, competent, contept, ensure.

Introduction.

Arunachal Pradesh famously known as the land of dawn lit mountain is a home to several tribes and one amongst them is the Nyishi tribe which is considered as the major tribe of the state. One of the major components of justice delivering system at village level is the role of village authority. Assam frontier (administration of justice) regulation act of 1945 regulates the so called village authority. This act defines the role and responsibility of the village authority in administration of justice for both civil and criminal disputes in village level. The village authority is the representative of the government in the village. Institution of the village authority is integral part of the democratic self government and the most important village level functionary. 2023 amendment of the Assam frontier (administration

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Multidisciplinary Streams
August 2024**

of justice) regulation act 1945 designated the institution of the village authority into customary court to strengthen and enlarges the jurisdiction. They are paid honorarium annually basis from the government of Arunachal Pradesh for their relentless service in maintaining peace and tranquility in village level. This in a way helps in the delivery of justice at a very convenient way and frees the villager from the constant hassle of going to court for the hearing. As per law report more than 3 crore cases has pending before Indian judiciary. Hence the village authority diminishes the burden of judiciary in utmost possible manners.

Review of literature:

Numerous studies and the historical account have examined the role of local self governance in Arunachal Pradesh, with a focus on traditional practices and legal frameworks pertain to the village authority of the nyishi tribe.

Key contributions includes:

- i. Bani Dangen: this scholar has analyzed the logical framework of local self government in arunachal Pradesh, particularly through the lens of independent council and the Panchayay Raj System. Dangen's work emphasize the evolution and current structure of these local system, including how village authority resolve the disputes in the village level through their various customary and traditional practices evolve since time immemorial.
- ii. Prod Christophe Von Furer-Haimendroff: known for his ethnographic note on the subansiri area where once nyishi entire population inhabited in this region. Furer provides detailed observation of the nyishi tribe's custom and governance practices. His research include insight into the judicial system in nyishi by village authority and how nyishi village authority resolve the disputes within their tribal justice system.
- iii. Dr N Lego: in "Mordern History of Arunachal Pradesh" (1825-2006). Dr Lego cover the historical development of Arunachal Pradesh, including the evolution of its legal and administrative system. The book discuss traditional practices such as role and responsibility of the village authority and their legal sanctity.
- iv. M L Bose: in his work "HISTORY OF ARUNACHAL PRADESH" ML Bose provides comprehensive overview of the region, including the role and responsibility of the village authority in the broader context of Arunachal Pradesh's governance.
- v. Assam Frontier(Administration of Justice)Regulation Act 1945: this legislation was pivotal in defining the power, jurisdiction, of the local authorities within the nyishi village council and other tribes of Arunachal Pradesh. Its aim to streamline the administration of justice and

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Multidisciplinary Streams
August 2024**

provided a framework for integrating traditional disputes resolution method of village authority.

These works collectively contributes to understanding the role and responsibility of the Nyishi village authority in Arunachal Pradesh. Also highlight the legal validity of their decision in the established regular court.

Research Gap:

Existing research on this topic merely focus on the few aspects of the village authority of nyishi tribe. Focus is mainly confined to the role and responsibility and how they carry out their duty in administration of justice in village level. There are notable research gaps which ought to be done for the better judicial system. Existing research fail to demarcate the proper jurisdiction of the village authority and sanctity of their judgment in the court of law. Also existing research fail to insight on the miscarriage of the justice due to the internal and external factor. Eventhough such system plays pivotal role which diminish the burden of Indian judiciary however mere delivering of justice cannot be presumed to be justice. In Roman law it is saying that “justice shall not only do, it must be seen to be a done”. Therefore proper framework is require to streamline the power and function of the village authority under new act to ensure the proper administration of the justice.

Significance of the study:

This study aims to fill the identified research gap by providing a holistic view on the role of the village authority in imparting justice and how diminish the burden of the established judicial system in mammoth manner by understanding in comprehensive manner. To prevent the miscarriage of justice is another important aspect of this study. Provides the safeguard for the village authority so that, the village authority perform their judicial duty in impartial and effective way of justice. This study will also asses the legal influence of the village authority and evaluating the faith and trusth of villager towards such democratic institution of the village authorithy. Society and the law are not static, it has to be changed according to the time and circumstances as required by such. This approach will also help in making the village authority as modern judicial institution providing how village authority can be understood and potentially harmonized within contemporary governance structure.

Objective of the study

- i. To identified the actual concept of the village authority and its imparting justice at village level.
- ii. To examine the changes in role of village authority with changing time and society.
- iii. To evaluate the role of the nyishi village authority in imparting justice and other secondary role in the village level.

**Shaping the future of Research and its Innovative Methodologies in Various
Multidisciplinary Streams
August 2024**

- iv. To examine the legal relevancy and status of the village authority's judgment before the court of law.
- v. To analyses the faith of village community towards the institution of the nyishi village authority.
- vi. To suggest how the role and participation of the village authority of the nyishi can be strengthened and what changes needs to imparted strong and effective institution.

Hypothesis of the study:

- i. Proper judicial power vested to the institution of the village authority because existing system is informal and quasi judicial in nature.
- ii. Make complete separation of the village authority from the village Panchayat members.
- iii. Appointment of the village authority member shall be made in fair and competent ground, no influence from any political organization in making such appointment.
- iv. Provide systematic and formal rules in conducting any cases to make people faith towards institution of the village authority
- v. Proper demarcation of their jurisdiction in both civil and criminal cases.

Methodology of the study

Method

This study employed a mixed method approach, combining both quantitative survey with qualitative interview to gather comprehensive data on the role and significance of the nyishi village authority in the village level and court.

Population

The population for this study include the chief judicial magistrate, executive magistrate of first class, eminent jurist, lawyer and advocate, PI, HGB, GB, Panchayat members of village, Intellectual Public, Youth, govt officer, ex Panchayat member etc who are close associated with the village authority for very long period and involved with such institute. Also such person who was resolved their dispute within the village authority many times.

Sample

A systematic sample of 200(two hundred) individual from various nyishi-dominated area. Both urban and rural, will be selected for the study. These participation are primarily individual who have experienced both the formal and local customary laws of the nyishi tribe.

Tools Used

- i. Structured questionnaire for qualitative data collection.
- ii. Semi structured interview guides for qualitative data collection.

Statistical Technique Used For Data Analysis

Quantitative data will be analysed using description statistic, correlation analysis, and regression analysis. Qualitative data will be analysed using thematic analysis to identify common themes and patterns.

Analysis and interpretation of Data

Objective-1: To identify the actual concept of the village authority and its imparting justice in village level

- i. Examine historical and legal context. Review historical and legal documents including the personal interview of the respondent to understand what is the actual concept of the village authority and how the imparting justice.
- ii. Evaluate government regulation. Analyse the regulation and administrative framework to understand how the nyishi village authority discharge their primary duty of imparting justice to the villager in village level.
- iii. Survey community perception. Collected data from the member of nyishi tribe and stakeholder to gauge their view on village authority.

From the analysis of objective 1. It was found that they are satisfied with justice delivery system of the village authority.

The village authority of the nyishi is ear and eye of the government. They represent the government in delivering of justice in the village level. The village authority is the watchdog of the village day to day life affairs so that the village maintains peace and tranquility forever. Besides the justice delivery, it also provides villager with the sense of security and safety. Generally the village authority follow the traditional law, custom, usage in imparting justice. In some peculiar circumstances they used the law by legislature. Rules applied in the court of village authority is totally unwritten like common law of the England. They follow the legal precedent in the disputes.

Objective-2 to examine the change in role of the village authority of nyishi with changing time.

- i. Investigate their modern approach in imparting justice.
- ii. Evaluate the government notification and other order connected with the conduct of the village authority.
- iii. Collect stakeholder perception. Gather insight from the various stakeholder including community leaders and local leader to understand their view on the changing pattern of the village authority's conduct.

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Multidisciplinary Streams
August 2024

From anylyses of object 2, it was found that no notable change since establishment of institution.

No notable changes take place in the role of the Nyishi village council of the state of arunachal Pradesh. Minor changes like applying of regular law and obliterate old practices which are against the morality and decency of the society. In few district of the nyishi dominated area follow some modern principle. Adoption of mordernization are not uniform in every district. Due to the flourished of money penalty and other liabilities made in cash instead of the kind. The village authority are ill informed of the government notification and order pertain to them, therefore sensitization of ill informed must be taken into utmost consideration to make modern institution of the nyishi village authority.

Objective -3: to evaluate the role of village authority in imparting justice and other secondary duty in the village level.

- i. Examine the practical proceeding of the village authority as observer of the case.
- ii. Analysis the act regulates the village authority of Nyishi tribe and other major tribes of Arunachal Pradesh’
- iii. Practical examine of the parties of dispute which case has been resolved under the institution of the village authority.
- iv. Examine the handbook for the village authority published by the state of Arunachal Pradesh.

From analysis of objective 3 it was found that the village authority enjoy excessive jurisdiction in some of the case.

Under assam frontier(administration of justice) regulation act of 1945, the government authorized the village council to resolve a specific case authorized to them. In heinous case like murder and rape, it shall be duty of the village authority to inform nearest police station and administrative government officer as soon as possible after commission of crime. Besides discharging their lawful duty in some cases they excess their jurisdiction with the consent of the parties. It also found that local authority take the cognizance of the heinous crime also out of their prescribed limitation. Additional to their primary duty they have also secondary duty as caretaker of the entire village and assist the police in investigating of any crime alleged to be committed. Also they are responsible to report the affairs of the village before the government agency.

Objective 4: to examine the legal relevancy and status of the village authority’s judgement before the court of law

- i. Complete assessment of the court order in connection to the judgment of the village authority.

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Multidisciplinary Streams
August 2024

- ii. Collect the stakeholder perception
- iii. Analysis the court opinion on the village authority judgment.

From the objective 4 it revealed that the judgment of the village authority is substantial in few matter, however in most of cases their judgment is only corroborative in nature.

Court may summon the village authority in connection of the any dispute in which the village authority hear, entertain and decided as witnesses. Same time the village authority may testify as such. If the matter has resolved within the competent jurisdiction of the village authority, the courts will such judgement as true and genuine. Court has revisional or appellate jurisdiction on such regards. If the village authority excesses their limitation, court will not considered judgment as such. It depends on the parties of the case, whether to accept or not.

Objective 5: to analysis the faith of villager towards the institution of the village authority

- i. Conduct the personal interview to the stakeholder.
- ii. Conduct survey on various village of nyishi tribe dominated area.
- iii. Collect interview from the public, eminent jurist, intellectual, other public who associated with the village authority for the long time.

Form the analysis of objective 5: it was revealed that stakeholders are satisfied with the village authority provided that necessary modification in their power and function.

Although the institution of the village authority is not formal but their influence and contribution in imparting justice is tremendous or at the different level. The most attractive things which attract the stakeholder are the speedy trial, expenses of the trial is very cheap, impartial judgment. It also came to know that the judgment of the village authority is sometime influenced by politicaly or other reason but not in the every cases. Its depend on the quality and integrity of the specific member of the village authority who headed the trial. In tribal state, state like arunachal Pradesh most the population of the rural area are poor therefore they caanot afford advocate furthermore red tapism and lingearing trial concept of the regular court. Specially in the petty case where monetary value involved less than 1000/- , in such case its quite impossible for the parties to go befor the court to enforce their right and seek justice. in such circumstance they ought to be opted the village authority rather court.

Objective 5: to suggest how the role and participation of the village authority of the Nyishi can be strengthened and what changes needs to impart strong and effective institution.

- i. Conduct interview with the legal expert, engage with the legal scholar, practitioner, government officer, villagers, village youth, village elders, village intellectual, member of the

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Multidisciplinary Streams
August 2024**

village authority GB, HGB, village panchayat member, both women and men of the village (rural area).

- ii. Survey community perception. Collect data from the members of nyishi tribe's and stockholders.

From the analyses of objective 5, it was found that necessary modification has to be made.

Firstly limit the jurisdiction of the village authority. Hence, proper demarcation has to be made in list system. List which available under the jurisdiction of the village authority only taken under the court of customary. In 2023 amendment of the Assam frontier administration of the justice regulation act 1945 designated village authority as the customary court. Jurisdiction defined under this act and the handbook of the goan bura of arunachal Pradesh is not adequate. Hence proper streamline in this context is much needful. Heinous crime like murder, rape, decoity also taken under customary court which is very unfortunate to learnt. In such case political and other influence over cases is very high. There shall be system which directly connected with the administrative authority in such case. Administrative officer of such eastablishment should be appoint the village authority who supposed to head or presided in cases. Both proper and the improper judgment of the village authority is depend on the integrity of the member of the village authority. Especially in severe crime or dispute, concerned government authority should appoint the presiding officer of the customary court.

Finding of the study

- i. Village authority is the grievance authority where the common people of the village address their grievances incase of any disputes irrespective of both civil and criminal. Village authority comprised of the HGB (head gaon bura/buri) and GB. 2-3 HGB and 5-10 BG appoint in each village where population of the village less than 500 members. Appointment of the number of HGB and GB are direct purportion to the total number of population in village. besides village level disputes the village authority also empowered to resolve the dispute between party of two village or inter village conflict. The village authority are the government representative of the village with primary purpose to resolve the local disputes of village. besides role of court they are also responsible to maintain every affairs of government in village level and maintain peace and tranquility. Generally aged persons and person with good integrity acquainted with the local traditional and customary laws are appointed for the members of village authority.
- ii. Assam frontier (administration of the justice) regulation act of 1945 is the sole act which regulates the village authority of the entire tribes of the state of Arunachal Pradesh. This act dealt with the appointment, power, jurisdiction, duties of the village authority. In recent past year the institution of the village authority re designated as the customary court. According to

**Shaping the future of Research and its Innovative Methodologies in Various
Multidisciplinary Streams
August 2024**

this act, the village authority of nyishi are competent deal with the petty matter irrespective of both civil and criminal disputes. Incase of the heinous crime they have to apprehend the culprit and report the administration forthwith. However in some case it witnessed that, the village authority even hear, entertain and decide the heinous crime like rape, murder with the consent of the both parties to the case.

- iii. Due to speedy remedy, cost cheap trial the institution of the village authority court, people tilted toward them. According to the perception of the people, the court take unnecessary delay, over expenses, unnecessary adjournment led to the lingering of any matter for long period which is lost of the time, money and energy of the parties. The village authority concept is not new, above act only formalised the institution. Before enactment of above act system was there in nyishi community since time immemorial when nyishi tribe was divided in various independent territory and unknown to the outside civilization. Still most of the people truth or faith over the institution of village authority as they are connected and emotionally attached with the old traditional, custom and usages.
- iv. Since the village authority institution is itself customary court, judicial court respect the judgment of the village authority. In village level decision of the customary court is binding to the parties of the disputes. However either party of the case are liberty to make appeal before the appellate judicial authority. According to the mandates of the above act, the institution of the village authority is inferior to the district executive magistrate such as CO, EAC, ADC, and DC of the concerned district. Any judgment taken under the supervision and direction of the village authority needs to furnish before appellate executive magistrate for further necessary consideration. In case of the appeal in judicial court, presiding officer may summon and testify the specific village authority who resolved that disputes in village level.
- v. To strengthen the institution of the village authority, government needs to streamline the jurisdiction in very lucid manners. And modernize the proceeding system. Using of any toxic substances especially alcohol shall be banned and bringing of the offensive weapon equally prohibited. This could lead to turn normal proceeding into different way. There is no formal system in appointment of presiding officer which supposed to lead the proceeding. Such arbitrary appointment may result of miscarriage of justice. in most of the cases village HGB headed the local trial with the other companion member of the GB.

Conclusion:

The analysis highlight that village authority of the Nyishi are responsible to resolve dispute of the village level irrespective of both civil and criminal as per their local traditional and customary practice.

**Shaping the future of Research and its Innovative Methodologies in Various
Multidisciplinary Streams
August 2024**

It also evident that village authority system existed since time immemorial when Nyishi tribe divided into different sub territory. This people unknown to the outside civilization for many centuries. By act of 1945 this institution gave legal recognition. Primary duty of this institution is to hear, entertain and decides the petty matter in village level. Besides that the act endowed them responsibility of maintaining peace and tranquility in the village. Most attractive part of this institution are speedy trial in low cost, preserving time and energy of parties without lingering of matter. Influences in judgment, doubting integrity, using excessive jurisdiction are few major challenges before this institution. In the recent past year, government of Arunachal Pradesh redesigned the village authority of every tribe as “customary court” after the 80 years of this act.

Recommendation of study

- i. An appointment system of the member of village authority must proceed through free and fair. No member shall appoint prior conduct certain examine to determine whether such person is competent enough to hold the membership of village authority or not to built the more trust to people towards the village authority institution.
- ii. Proper demarcation of jurisdiction of the village authority. Heinous crime like rape and murder shall not be listed within the ambits of the village authority judicature. This type of highest degree of criminal act shall be reserved for the competent criminal court of the land.
- iii. Separate regulation/manual should be enacted with intent to make the modern village authority institution, since existed law is not adequate have lots of lacuna. This is one of the major issues where member of village authority are unknown to their real power, function and responsibility towards government and parties of the disputes.
- iv. Review and reform dispute resolution process consider reforming disputes resolution process within the nyishi tribe to ensure the effective village authority system with necessary legal modification and amendment.
- v. Mass participation of the public in the proceeding of the village authority shall be discouraged to ensure the formal manner. Informal and mass gathering create unnecessary pollution and chaos in the proceeding. Only selective and intellectual person essential to that matter should allow. Most importantly, there shall be rule where carry of offensive weapon and using of the alcohol forbid till the call for the day of such proceeding.
- vi. Evil practices as method to determine the guilty and innocent of the the party, practices in the name of traditional and customary law shall be banned. Any practices which

Shaping the future of Research and its Innovative Methodologies in Various Multidisciplinary Streams

August 2024

incitement to an offence hurt human sentiment, contempt of the court, against public morality and decency shall be forbid.

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