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NOTIFICATION

No. H. 12018/246/2018-LJD, the 4th July, 2018. The following Act is hereby published for general information

“The Sinlung Hills Council Act, 2018”

(No. 6 of 2018)

(Received the assent of the Governor of Mizoram on the 29th June, 2018)

The Sinlung Hills Councils Act, 2018

AN

ACT

To provide for the establishment of an authority in the name and style of “**The Sinlung Hills Council**,” and for certain matters incidental thereto and connected therewith.

Preamble : Whereas it is expedient to provide for the establishment of the Sinlung Hills Council within the State of Mizoram with autonomy to some extent under the State Government.

Be it enacted by the Mizoram Legislative Assembly in the Sixty Ninth year of the Republic of India as follows :-

CHAPTER-1 PRELIMINARY

1. SHORT TITLE, EXTENT AND COMMENCEMENT.

- (1) This Act may be called Sinlung Hills Council Act, 2018.
- (2) It extend to the area(s) as may be notified by the Government from time to time.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette appoint.

2. Definition .-

- (1) In this Act, unless the context otherwise requires,-
 - (a) "Bye law" means the bye-law framed by the General Council.
 - (b) "Commission" means the Mizoram State Election Commission.
 - (c) "Constitution" means the Constitution of India.
 - (d) "Constituency" means the constituency referred to in Section 30 of this Act.
 - (e) "Council Area" means the Sinlung Hills Council Area.
 - (f) "Executive Council" means the Executive body of the General Council of Sinlung Hills Council under sub-section (1) of section 3 and section 23.
 - (g) "Elector" in relation to a constituency means a person whose name is entered in the electoral roll of that constituency.
 - (h) "General Council Fund" means the funds constituted under section 43.
 - (i) "Government" means the State Government of Mizoram.
 - (j) "General Council" means the General Council of the Sinlung Hills Council referred to in section 3 of this Act.
 - (k) "Member" means a member of the General Council or the Executive Council, as the case may be.
 - (l) "Notification" means the notification issued under this Act.
 - (m) "Official Gazette" means the Official Gazette of Mizoram.
 - (n) "Prescribed" means prescribed by rules made under this Act.
 - (o) "Village Council" means the Village Councils as constituted under the Lushai Hills District (Village Councils) Act, 1953 as amended from time to time.

3. Sinlung Hills Council ,-

- (1) There shall be a Council to be called the Sinlung Hills Council within the State of Mizoram comprising of the areas of the Village Councils as may be notified by the Government, from time to time in the Official Gazette.
- (2) The Council shall be within the framework of the Constitution.
- (3) The Sinlung Hills Council shall have a General Council and an Executive Council as provided hereinafter.

CHAPTER-II THE GENERAL COUNCIL

4. Incorporation of the General Council, -

The General Council shall be a body corporate with the name aforesaid having perpetual succession and a common seal with powers, subject to the provisions of this Act, to acquire, hold and dispose of property; both moveable and immoveable, and to contract with approval of the Government and shall sue or be sued by its corporate name

5. Constitution and composition of the General Council, -

- (1) The General Council shall consist of 14 (fourteen) members of which 12 (twelve) shall be directly elected and 2 (two) shall be nominated by the Government in consultation with the Council.
- (2) The Council in its first day of sitting to be convened by an officer authorised by the Government and after taking Oath of Affirmation as specified under section 13 of this Act, shall elect by a secret ballot amongst the 12(twelve) elected members a pro-tem Chairman who will preside over the proceeding of the Council where in the Chairman and also the Deputy Chairman shall be elected on the same day. In case of tie in the election of Chairman and Deputy Chairman, the Deputy Commissioner who administered the Oath of Affirmation to the Pro-tem Chairman

may cast his vote to decide the result of that election. The Members on the same day and under the Chairmanship of the newly elected Chairman shall also elect from amongst themselves 1(one) Chief Executive Member.

- (3) The Chief Executive Member will nominate 4 (four) members to be appointed by the Government as Executive Member from amongst the Members.
- (4) Every Member of the General Council shall be entitled to such allowances as may be fixed by the General Council and approved by the Government.

6. Term of Office, -

- (1) The term of office of the General Council shall be five years from the first meeting as appointed by the Government after the election of the members, unless dissolved earlier under section 50 of this Act.
- (2) Notwithstanding anything contained in sub-section (1) above, the Chief Executive Member of the Executive Council shall cease to hold office as such forthwith if he, for any reason, ceases to be a Member.
- (3) Notwithstanding anything contained in sub-section (1) above, the Government may, if it is satisfied that circumstances so exist which render the holding of the election, as provided, impracticable, extend the term for a period of 6 (six) months at a time but not exceeding one year.

7. Resignation of Members of the General Council, -

- (1) Any member of the General Council may, at any time, by giving notice in writing addressed to the Chairman, resign his office.
Provided that in case of the Chairman, the notice shall be addressed to the Deputy Chairman.
- (2) Such resignation shall take effect from such date as specified in the notice or if no such date is specified, from the date of its receipt by the Chairman or Deputy Chairman, as the case may be;
Provided that such resignation shall take effect only upon acceptance of the Chairman or Deputy Chairman, as the case may be.

8. Removal of Members of the General Council, -

- (1) The Chief Executive Member or the Executive Member or any one of them or all of them may be removed from office by a resolution carried by a simple majority of the total number of the elected Members at a special meeting of the General Council called for the purpose upon a requisition made in writing by not less than one third of the members of the General Council.
- (2) The Government, after giving an opportunity to an elected member of the General Council to show cause against the action proposed to be taken against him and after giving a reasonable opportunity of being heard, may by order, remove him from the office, if he-
 - (a) after his election, is convicted by a criminal court of an offence involving moral turpitude punishable with imprisonment for any period exceeding 6 (six) months, or
 - (b) incurs any of the disqualifications mentioned in section 36 of this Act after his election as member of the General Council, or
 - (c) is absent from three consecutive meetings of the General Council without reasonable ground.

9. Salaries, allowances and other emoluments,-

- (1) The Chief Executive Member and Executive Member shall be whole time functionaries and shall be paid out of the General Council Fund such salaries and allowances as may be prescribed.
- (2) The other terms and conditions of service of the Chief Executive Member and the Executive Members shall be such as may be prescribed by rules made hereunder.

- (3) The salary, allowances and conditions of service of the members shall be as may be prescribed by rules made thereunder and shall be paid out of the General Council Fund.
- 10. Filling up of vacancies,-**
- (1) Where the office of any member falls vacant by reason of his death, removal or otherwise, the vacancy shall be filled up by election in accordance with the provisions of this Act and the rules framed there under, as the case may be;
Provided that any vacancy in the office of the Chief Executive Member or the Executive Member shall be filled up by the General Council by electing a member thereof in the manner prescribed for the election of the Chief Executive Member or the Executive Members as the case may be.
- (2) Any member elected in accordance with the provisions of sub-section (1) above, shall hold such office only for the remainder of the term of the General Council or the period extended under sub-section(3) of Section 6 of this Act.
- 11. Powers, functions and duties of the Chief Executive Member of the General Council, -**
The Chief Executive Member shall -
- (a) have general responsibility for the financial and executive administration of the General Council.
- (b) exercise Administrative Supervision and control over the officers and employees of the General Council and the officers and employees whose services may be placed at the disposal of the General Council by the Government.
- (c) for transaction of business under this Act or for the purpose of making any order under this Act, exercise such power, perform such functions and discharged such duties as may be exercised, performed or discharge by the General Council under this Act or the Rules made there under;
Provided that the Chief Executive Member shall not exercise such power, perform such functions or discharge such duties as may be required by the rules made under this Act to be exercised, performed or discharged by the General Council at a meeting.
- (d) exercise such other powers, performed such other duties as the General Council may, by General or Special Resolution, Direct or as the Government may, by Rules made in this behalf, prescribe.
- 12. Meeting of the General Council,-**
- (1) The General Council shall meet at least once in every 4 (four) months for transaction of its business.
- (2) The meeting of the General Council shall be held at the headquarters of the Council at such time as may be notified by the Chairman on the advice of the Chief Executive Member;
Provided that the first meeting of the General Council after the election shall be held on such date as may be appointed by the Government.
- (3) Every order made or instruction issued or resolution passed by the General Council shall be authenticated by the signature of the Chairman, or in his absence, by the Deputy Chairman.
- 13. Oath of affirmation by members,-**
- (1) Elected member of the General Council shall elect amongst themselves 1(one) member to be pro-tem Chairman, who shall, before taking his seat, make and subscribe an oath of affirmation, in the manner and forms as may be prescribed, before the Deputy Commissioner of the concerned District.
- (2) Every member of the General Council shall, before taking his seat, make and subscribe an oath of affirmation, in the manner and forms as may be prescribed, before the pro-tem Chairman.

- 14. Quorum,-**
The Quorum necessary for transaction of business at a meeting of the General Council shall be two thirds of the members excluding the Chairman.
- 15. Headquarters of the General Council,-**
The Government may, by notification in the official Gazette, declare Sakawrdai or any place within the Council Area to be the Headquarter of the General Council.
- 16. Secretariat of the Sinlung Hills Council,-**
- (1) There shall be a Secretariat for the Sinlung Hills Council at its Headquarters, headed by a Secretary to be posted by the Government in consultation with the Chief Executive Member.
 - (2) The Secretary shall be the Principal Executive Officer of the General Council, who shall be of the rank of Joint Secretary in the Government of Mizoram and all other officers of the General Council shall be subordinate to him.
 - (3) The Secretary shall be present and take part in the discussion of all the meetings of the General Council or the Executive Council or any committee of the General Council and may, with the consent of the Chairman or any other person presiding over such meeting for the time being, as the case may be, at any time make a statement or give explanation of the facts and circumstances but shall not be entitled to vote in any such meeting.
 - (4) The pay and allowances of the Secretary and the other officers of the Secretariat shall be paid out of the General Council Fund.
 - (5) The term of appointment of the Secretary shall be for a period of three years but may be extended by the Government in consultation with the Chief Executive Member.
 - (6) The Government may appoint the Secretary for the General Council on such terms and conditions as the Government may, in consultation with the Chief Executive Member, determine by rules made thereunder.
 - (7) The Government may, in consultation with the Chief Executive Member, depute such other officers or experts and supporting Staff, as may be required to assist the General Council on such terms and conditions as may be determined by the Government by rules made thereunder.
 - (8) All officers and other staff posted in the Council shall be accountable to the Executive Council and shall perform duties under the control and superintendence of the Chief Executive Member.
 - (9) Notwithstanding anything contained in sub-section (5) above, the Government may, at any time in consultation with the Chief Executive Member, withdraw the Secretary or any other officer posted or appointed by it in the Secretariat.

CHAPTER-III POWERS AND FUNCTIONS OF THE GENERAL COUNCIL

- 17. Powers and Functions of the Sinlung Hills Council (SHC), -**
Notwithstanding anything contained in any other law or rules for the time being in force, the General Council shall have executive powers in relation to the Council area to-
- (1) Formulate plan and schemes for Sinlung Hills Council area, set priorities and determine plan, policies and thrust areas and forward the proposed plan to the State Government for approval.
 - (2) Formulate, execute and implement Sinlung Hills Council area plan, out of the outlay earmarked as discretionary and incentive fund/separately earmarked to meet the local aspirations.
 - (3) Examine all plan proposals under normal State Plan, CSS and other funding agencies within the Council area and forward the same to the State Government.
 - (4) Review and monitor all Sinlung Hills Council area plan and projects under State Plan, CSS and other Central Assistance.

- (5) Have power and liberty to draw up developmental projects-and schemes considered necessary for the Council area for onward submission to the Central Government or any other funding agencies through the State Government and pursue the same.
 - (6) Have the power to prepare its own budget stating the specific head for expenditure which shall be approved by the State Government.
 - (7) Be the Site Allotment Advisory Board within Sinlung Hills Council Area.
 - (8) Have the power to perform such other duties as the Government, may by rules, make in this behalf.
- 18. Other matter to be under the control of administration of the General Council, -**
Subject to the general policy of the Government, the General Council shall –
- (1) Hold a meeting with Departments of the State Government concerning the developmental affairs of the area to draw up strategic & perspective plan/annual work plan/work schedule under the fund allocated to those Departments from the State's own resources, Central Sponsor Scheme, Additional Central Assistance etc.
 - (2) Summon a meeting of at least once in every three months to monitor progress and implementation of the developmental works executed by Department of the State Government.
- 19. Powers to impose, levy and collect taxes, -**
Subject to the provisions of any other law for the time being in force, the General Council shall have the powers to collect, within the council area, fees or taxes as are payable under the law for the time being in force in the manner as may be prescribed on any or all the subjects assigned to the Village Council;
- Provided that fees or taxes collected by the Council shall not result in the duplication of levy of the said taxes or fees on the same set of people by the Village Council
- Provided further that the tax or taxes as aforesaid shall be collected from such date as may be appointed by the Government by notification in this behalf in the Official Gazette.
- 20. Power to entrust functions, -**
Notwithstanding anything contained in this Act, the Government may, in consultation with the General Council, entrust either conditionally or without any condition, to the General Council or their officers any function in relation to any matter not enumerated in Section 18 of this Act to which the executive power of the Government extends.
- 21. Power to acquire, hold and dispose of property, -**
Notwithstanding anything contained in section 4 of this Act, the General Council, subject to the previous approval of the Government and subject to such terms and conditions as may be imposed by the Government, shall have the power to acquire, hold or dispose of any immovable or movable property the value of which exceeds rupees one lakh and to enter into any contract or agreement with any party or authority.
- 22. Power to make Bye-laws,-**
- (1) The General Council may, subject to the provisions of this Act, make Rules of Procedure & Conduct of Business of the General Council.
 - (2) The General Council may, subject to the provisions of this Act and the rules made there under and subject to the approval of the Government, make bye-laws to be applicable within the Council area with respect to all or any of the matters enumerated in sections 18 and 19 of this Act for the regulation, control and administration thereof.
 - (3) All rules and bye-laws made under sub-section (1)&(2) above, shall have effect upon their publication in the Official Gazette.

**CHAPTER-IV
THE EXECUTIVE COUNCIL**

23. The Executive Council, -

- (1) The Executive Council shall consist of Chief Executive Member elected and Executive Members nominated in accordance with the provisions of sub-section (2) & (3) of section 5 of this Act.
- (2) The Chief Executive Member shall be the Chairman of the Executive Council and shall preside over the meetings thereof.
- (3) Any casual vacancy among the members of the Executive Council occurring by reasons of death, resignation, removal or otherwise shall be filled through election by the members of the General Council in the same manner as provided in sub section (3) of section 5 of this Act.
Provided that no act or proceeding of the Executive Council shall be called in question or shall become invalid merely by reason of any vacancy among its members.
- (4) The manner of transaction of business of the Executive Council shall be such as may be determined by the General Council by bye-laws made by it with the approval of the Government.
- (5) The Executive Council shall be collectively responsible to the General Council.

24. Term of office of the Executive Council,-

A member of the Executive Council shall hold office until he –

- (a) Ceases to be a member of the General Council, or
- (b) Resigns his office in writing under his hand addressed to the Chief Executive Member in which case the resignation shall take effect from the date of acceptance thereof;

Provided that in case of the Chief Executive Member, the resignation shall be addressed to Deputy Commissioner of the District concerned.

25. Powers & Functions of the Executive Council,-

- (1) The executive powers of the General Council shall vest in the Executive Council.
- (2) All orders or instructions made or executed by the Executive Council shall be deemed to have been made or executed by or under the authority of the General Council.
- (3) Every order made or instruction issued or resolution passed by the Executive Council shall be authenticated by the signature of the Secretary of the Council or other Officers specially authorized by the General Council.

26. General Powers of the Chief Executive Member of the Executive Council,-

- (1) The Chief Executive Member shall be the Chief of the Sinlung Hills Council and shall exercise such powers and discharge such functions as are conferred on him by or under this Act or the rules made there under.
- (2) The Chief Executive Member shall, for the smooth and convenient transaction of business of the Executive Council, allocate among the Executive Members such business in such manner as he may deem fit.

27. Special Power of the Chief Executive Member,-

- (1) The Executive Council may, in cases where the Chief Executive Member is required to take in accordance with the provisions of this Act or Rules made there under, or any other law for the time being in force, any action subject to the approval of the Executive Council by a general or special resolution, authorise the Chief Executive Member to take such action subject to such condition, if any, as may be specified therein, in anticipation of such approval.
- (2) Whenever the Chief Executive Member takes any action under sub-section (1) above, he shall inform the Executive Council forthwith and shall obtain the approval thereof.

28. Meeting of the Executive Council,-

- (1) The Executive Council shall meet at least once in every three months for transaction of its business at such place and time as the Chief Executive Member may direct:
- (2) The meeting shall be convened by the Chief Executive Member by giving seven clear days notice in writing to each member of the Executive Council.

29. Quorum,-

The quorum for transaction of business at a meeting of the Executive Council shall be two third of the total strength of the Executive Members. The meeting shall be conducted by the Chief Executive Member.

CHAPTER-V ELECTION

30. Delimitation,-

- (1) There shall be 12 (twelve) constituencies in the Council Area for electing Members to the General Council. Each constituency shall be a single Member Constituency.
- (2) The Government shall, by order published in the Official Gazette, determine the territorial limits of the constituencies into which the Council area shall be delimited for the purpose of election of members to the General Council.

31. Power to amend or alter delimitation,-

Notwithstanding anything contained in section 30 above, the Government may, by notification published in the Official Gazette, alter or amend the order made under section 30;

Provided that no such order shall be made after the commencement of the election process.

32. Electoral Rolls,-

- (1) Subject to the provisions of this Act and the rules made there under, the electoral rolls of the Village Council as are relatable to a constituency of the General Council, as defined in clause (d) of section 2 of this Act, shall be the electoral roll for the constituency of the General Council.
- (2) Persons whose names are included in the electoral roll as aforesaid in sub-section (1) above, shall be the electorate for the election of members of the General Council.
- (3) The Commission shall, at the time and in the manner prescribed, publish the electoral roll in respect of a constituency.

33. Right to Vote,-

- (1) Save as otherwise provided in this Act every person whose name is entered in the electoral roll for the time being in force, of any constituency shall be entitled to vote in that constituency.
- (2) No person shall vote at an election in any constituency, if he is subject to any of the disqualification referred to in section 10 of the Representation of Peoples Act, 1951
(Central Act 43 of 1951)
- (3) No person shall vote in more than one constituency.
- (4) No person shall vote in the same constituency more than once.
- (5) No person shall vote at any election if he is confined in a prison, whether under a sentence of imprisonment or otherwise or in the lawful custody of police;
Provided that nothing in this sub-section shall apply to a person subjected to preventive detention under any law for the time being in force.

34. Election of Members,-

Election of Members for the purpose of constituting the General Council shall be held on such date or dates as may be notified by the Commission in consultation with the Government.

35. Qualification for membership of General Council,-

A person shall be qualified to be elected to the General Council if he is an elector as defined in clause (g) of section 2 of this Act.

36. Disqualification for membership of General Council,-

- (1) A person shall not be qualified for being elected to the General Council, if he/she:-
- (a) is not a citizen of India.
 - (b) is less than 18 years of age on such date as may be fixed by the Government; or
 - (c) is not registered as a voter in the electoral roll of the Village Council within the State; or
 - (d) has been elected to Member of Parliament or Member of Legislative Assembly within the State of Mizoram; or
 - (e) is in service of the Central or State Government, or if he holds any office of profit under the Central or State Government, other than an office declared either by Parliament or the State Legislature by law not to disqualify its holder; or
 - (f) has either directly or indirectly by himself, or by the person or employer or employee, any share or interest in any contract with, by or on behalf of the General Council within the Council Area; or
 - (g) has been dismissed from the services of the Central or State Government or a local authority or a Co-operative Society or a Government company as defined the Companies Act, 2013 (No 18 of 2013) or a Corporation owned or controlled by the Central or the State Government for misconduct involving moral turpitude and five years have not elapsed from the date of such dismissal; or
 - (h) has been adjudged by a competent court to be of unsound mind; or
 - (i) is undischarged insolvent; or
 - (j) has been convicted by a court of an offence involving moral turpitude punishable with imprisonment for a period of more than six months or an offence under Chapter-IX A of the Indian Penal Code or Chapter - III, Part III or Part VII of the Representation of Peoples Act, 1951 and five years have not elapsed from the date of expiration of the sentence;
- Provided that a person shall not be disqualified under this section, by reason only of his being a member of Village Council or, Chief Executive Member or Executive Member of the General Council.
- 2) The Government of Mizoram shall make rules with regard to disqualification of Members of the Council on the ground of defection.

37. Filling up of vacancies, -

Where the office of any member becomes vacant by reason of his death, resignation, removal or otherwise, the vacancy shall be filled by election in accordance with the provisions of this act and the rules made there under.

38. Validation, -

Where the members elected at an election are restrained from functioning on account of the election as a whole being set aside by order of a court, anything done or any action taken by such members before they are so restrained or before the election is so set aside, as the case may be, shall be deemed to have been validly done or taken.

39. Publication of results of elections,-

The names of all persons elected to the General Council shall be published by the State Election Commission in the Official Gazette and upon such publication, the General Council shall be deemed to have been duly constituted.

40. Vacation of post,-

If an elected member is chosen to be a Member of Parliament or the State Legislature, then at the expiration of fourteen days from the date of publication in the Gazette of India or the official Gazette, as the case may be, of the declaration that he has been so elected, the seat of such member in the General Council shall become vacant unless he has previously resigned his seat in the Parliament or the State Legislature, as the case may be.

41. Disputes regarding elections,-

- (1) No election shall be called in question except by an election petition presented in such manner as may be prescribed and before such authority as may be appointed by the Government, from time to time by notification in the official Gazette;
Provided that no person below the rank of District & Session Judge, within the meaning of article 236 of the Constitution, shall be appointed for the purpose.
- (2) No election shall be called into question except on any one or more of the following grounds; namely.
- a) that on the date of his election the returned candidate was not qualified or disqualified, to be elected to fill the seat in the General Council.
 - b) that corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of the returned candidate or his election agent. Corrupt practice shall mean any of the corrupt practices specified in section 123 of the Representation of Peoples Act, 1951(Central Act 43 of 1951).
 - c) that any nomination has been improperly rejected.
 - d) that the result of the election in so far as it concerns the returned candidate has been materially affected-
 - i) by the improper acceptance of any nomination, or
 - ii) by any corrupt practice committed in the interest of the returned candidate by an agent other than his election agent, or
 - iii) by improper reception, refusal or rejection of any vote, or
 - iv) by reception of any vote which is void, or
 - v) by any non-compliance with the provisions of this act, or of any rules or order made there under.
- (3) At the conclusion of trial of any election petition, the authority appointed under sub-section (1) shall make an order:-
- a) dismissing the election petition, or
 - b) declaring the election of all or any of the returned candidates to be void, or
 - c) declaring the election of all or any of the returned candidates to be void and the petitioner or any other candidate to have been duly elected.
- (4) If a petitioner, in addition to calling in question the election of a returned candidate, make a declaration that he himself or any other candidate has been duly elected and the authority under sub-section (1) is of the opinion that—
- a) In fact the petitioner or such other candidate has received the majority votes, or
 - b) But for the votes obtained by the returned candidate by corrupt practice, the petitioner or such other candidate would have obtained the majority of the valid votes, the authority as aforesaid shall, after declaring the election of the returned candidate to be void, declare the petitioner or such other candidate, as the case may be, to have been duly elected.

42. Powers to make rules regulating the election of the members,-

The Government may, by notification in the Official Gazette make rules to regulate all or any of the following matters for the purpose of holding election to the General Council under this Act.

- (a) the designation of the officer or authority to whom the power to determine the territorial limits for the constituencies under sub-section(2) of section 30 of this Act may be delegated, and the manner in which the electoral roll shall be maintained by the Commission.
- (b) the appointment of returning officers, presiding officers and polling officers for election.
- (c) the drawing up of programme for election.
- (d) the nomination of candidates and scrutiny of nominations,
- (e) the deposits to be made by the candidates and the time and manner of making such deposits,
- (f) Withdrawal of candidature.
- (g) Appointment of agents of candidates.
- (h) The filling up of casual vacancies.
- (i) The general procedure at the election including the time, place and hours of poll and the methods by which votes shall be cast.
- (j) The fee to be paid on election petition.
- (k) Any other matter relating to election or election disputes in respect of which the Government deems it necessary to make rules under this section.

CHAPTER-VI FUNDS, AUDIT AND BUDGET

43. General Council Fund,-

- (1) There shall be a funds to be called the General Council Fund, meant for the General Council.
- (2) Each fund as aforesaid shall be under separate sub-heads within the council budget to be held for the purpose of this Act and all money realised or realisable under this Act and all moneys otherwise received by the General Council shall be credited to this fund.
- (3) The Government shall provide funds to the General Council Fund in accordance with the appropriate formulas to be worked out keeping in mind the resources of the Government, priorities or development works in other areas along with other relevant deciding factors.
- (4) The following shall be deposited to the General Council Fund.
 - a) Contributions and grants received from the Government.
 - b) All receipts on account of donation, rates, fees, taxes etc.
 - c) All other sums received by or on behalf of the General Council.
- (5) The allocation made under these sub-heads shall be in keeping with the guidelines laid down by the Government of India from time to time in the spirit of the Constitution of India.
- (6) The Government shall not divert the fund allocated under these sub-heads except in exigencies, when there is unavoidable budget deficit.
- (7) All funds, as may be allocated by the Central Government or the State Government for the General Council shall be assigned to it and shall be credited to the General Council Fund.
- (8) The General Council, subject to the provisions of any law relating to raising of loans by the local authorities, raise loans with the approval of the Government for the purposes of this Act and create a sinking fund for the repayment of such loan.
- (9) The money credited to the General Council Fund shall be applied for the payment of all sums, charges and costs necessary for carrying out the purposes of this Act.
- (10) No payment shall be made out of the General Council fund unless such expenditure is covered by a current budget grant.
- (11) The General Council shall make rules for the management of the General Council Fund for the procedure to be followed in respect of payment of money into the said funds, withdrawal of moneys therefore, the custody of the moneys therein and any other matter incidental thereto or connected therewith.

- (12) Surplus money standing at the credit of the General Council at the end of the financial year shall be invested in accordance with such bye-laws as may be made by the General Council in this behalf;

Provided that no funds standing at the credit of the General Council shall be lapsed but shall be carried over to the budget of the next financial year.

- (13) The accounts of the General Council shall be kept in such form and manner as may be prescribed in consultation with the Accountant General, Mizoram.

44. Audit,-

Subject to the provisions of the Comptroller and Auditor General's (Duties, Power and Conditions of Service) Act, 1971 (**Act 56 Of 1971**) and the rules and the orders made there under, the audit of the accounts of the General Council shall be entrusted by the Government to the Comptroller and Auditor General of India who may submit to the Government such report therein as it may deem fit. The Government shall transmit the report to the General Council for discussion and consideration. The General Council shall return the report to the Government with comments, if any. The Government shall lay such report along with the comments of the General Council before the State Legislature.

45. Budget,-

- (1) The General Council shall at such time and in such manner as may be prescribed prepare in each financial year a budget of its estimated receipts and disbursements for the following financial year and submit it to the Government by 1st November of the current financial year.
- (2) The Government may within such time as may be prescribed, either approve the budget or return it to General Council for reconsideration on the observations of the Government, if any. The General Council shall there-upon resubmit the budget along with its comments on the observation and if the approval of the Government upon such submission or resubmission as the case may be, is not received by the General Council, the budget shall be deemed to have been approved by the Government.
- (3) No expenditure shall be incurred unless the budget of the General Council is either approved or deemed to have been approved by the Government.
- (4) The General Council may prepare in each financial year a Supplementary estimate providing for any modification of its budget for the year and may submit to the Government for approval.

**CHAPTER-VII
MISCELLANEOUS**

46. Effect of Byelaw etc., -

All the bye-laws, regulations made, orders passed and notification issued under this Act by the General Council or the Executive Council as the case may be shall be subject to maintenance of security and safety of the State of Mizoram and Government shall have the powers to take such steps as may be deemed necessary for the purpose.

47. Power to issue instructions, -

The Government shall have the general power to issue instructions from time to time for the purpose of achieving the object of this Act.

48. Protection of the right of the non-tribal and other ethnic groups,-

All rights and interest of the non-tribal citizens and other ethnic groups other than the Hmar community within the council area as exist at the commencement of this act, in matters pertaining to their language, literature, culture, religion, customs and traditions, trade and commerce, industry, land etc. shall be protected.

49. Properties situated in the Council area,-

- (1) Subject to such restriction as the Government may impose all properties specified below and situated in the council area shall vest in and belong to General Council namely:-
 - a) all public buildings constructed or maintained out of the General Council Fund.
 - b) all public roads which have been constructed and maintained out of the General Council Fund and stones and other materials thereof and also trees, erections, materials implements and things provided for such roads.
 - c) all land and other properties movables or immovable transferred to the General Council by the Government.
 - d) such properties owned and controlled by the Village Council as may be assigned to the General Council by the Government.
- (2) Notwithstanding anything contained in sub-section (1) above all the properties specified in sub-section (1) and construction and maintenance of which has been done by Village Council shall vest in and belong to the Village Council within the area in which the property is situated.
- (3) The properties vested under sub-section (1) or (2) above and all other properties, which may become vested in the General Council or Village Council, as the case may be, shall be under the management, direction and control of the General Council or the Village Council concerned as the case may be.

50. Dissolution of the General Council and Executive Council, -

- (1) The Government may, if it is satisfied, on receipt of a report or otherwise and in consultation with the Home Department and Law and Judicial Department of the Government that a situation has arisen in which the administration of the Council Area cannot be carried out in accordance with the provisions of the law for the time being in force or the general or the special instructions issued by the Government from time to time, by notification in the Official Gazette, dissolve the General Council and the Executive Council before the expiry of the term and assume to itself all or any of the powers and functions of the General Council and the Executive Council and declare that such powers and functions shall be exercised by such persons or authority as the Government may specify in this behalf for a period not exceeding six months at a time.
- (2) Every order made under sub-section (1) above shall be laid before the State Legislature for approval and unless approved by the State Legislature shall cease to operate on the expiry of thirty days from the date on which the Mizoram Legislative Assembly first sits after the issue of the orders.

51. Effect of dissolution, -

- When an order of dissolution is made under section 50 of this Act, with effect from the date of the orders:-
- (a) All the members of the General Council and the Executive Council shall vacate their offices, and
 - (b) All powers, duties, functions of the General Council and the Executive Council shall be exercised, discharged and performed by such authorities or as may be appointed by the Government in this behalf.

52. Special provision for Council areas, -

The Government shall consult and give due regard to the views of the General Council before any law is made and implemented in the Council Area on the following subjects, namely —

- i) The religious and social practice of the Hmar Community.
- ii) The customary laws and procedures of the Hmar Community.

53. Members, Officers and employees to be public servants, -

The Chief Executive Member, the Executive Members and Officers and employees, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

54. Validation, -

No act or proceedings of the General Council or the Executive Council as the case may be, shall be deemed to be invalid merely by reason of existence of any vacancy therein or any defect or irregularity in the constitution thereof.

55. Indemnity, -

No suit or other legal proceedings shall lie against the General Council or the Executive Council or any member, or officer or employee thereof for anything done in good faith or intended to be done in pursuance of this Act or any rules or bye-law made there under.

56. Interpretation, -

If any question arises as to the interpretation of this Act and the Rules made there under, the same shall be referred to the Government whose decision therein shall be final.

57. Power to remove difficulties, -

(1) If any difficulty arises in giving effect to any provision of this Act, the Government may, by order, do anything not inconsistent with the provisions of this Act as may appear necessary or expedient for the purpose of removing the difficulty;

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under sub-section (1) shall be laid before the State Legislature.

58. Application of Acts of the Legislature of the State, -

If any provision of the bye-law made by the General Council is repugnant to any provision of the law made by the Legislature of the State of Mizoram, with respect to that matter then the bye-law so made, whether before or after the laws made by the Legislature of the state of Mizoram shall to the extent of repugnancy be void and the law made by the Legislature shall prevail.

59. Power to make rules, -

(1) The Government may, by notification, make rules for carrying out the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the State Legislative Assembly.

60. Transitional provision, -

The Government shall, as soon as possible, take steps for the constitution of an Interim Executive Council by nomination until the General Council is constituted under this Act.

61. Saving, -

Nothing in this Act shall affect the application of any law, whether made before or after this Act, to the Council area unless such law specifically provides for exclusion of the Council area of such application.

Marli Vankung,
Secretary,
Law & Judicial Department,
Govt. of Mizoram.