

Rules for the Administration of Justice and Police in the Garo Hills District

MEGHALAYA

India

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Rule

RULES-FOR-THE-ADMINISTRATION-OF-JUSTICE-AND-POLICE-IN-THE-GARO-HILLS-DISTRICT-OF-1937

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Rules for the Administration of Justice and Police in the Garo Hills DistrictPublished vide Notification No 2616-A.P., dated 29th March, 1937Last Updated 19th February, 2020Garo HillsNotification No 2616-A.P. - In exercise of the powers conferred on him by Section 6 of the Schedule Districts Act, 1874 (XIV of 1874), and is supersession of all previous order on the subject, the Government of Assam is pleased prescribed the following rules for the Administration of Justice and Police in to the Garo Hills District:

Chapter I

General

1. Authorities of Administration.

- The Administration of the District known as the Garo Hills is vested in the Governor, Deputy Commissioner and his Assistants, the Mauzadars, laskars, sardars, nokmas and gaonburas or such other classes of officers as the Governor may see fit from time to time to appoint in that behalf, subject, so far as their judicial and police jurisdiction is concerned, to the exceptions, restrictions and rules hereinafter recorded.

1A. Power of Governor to appoint Additional Deputy Commissioner.

- The Governor may, when he thinks fit, appoint an Additional Deputy Commissioner, either generally, or for the trial of a particular case or particular cases, civil or criminal, and may direct that such Additional Deputy Commissioner shall, for the general or special purposes aforesaid, exercise all or any of the powers of the Deputy Commissioner.

1B. Power of High Court to transfer original cases.

- The High Court may, for any reason which it considers proper, transfer any original case whether civil or criminal, at any stage when it is pending or under trial before any Court, to any other competent to try it.

Chapter II

Police

2. Police of Garo Hills.

- The police of the Garo Hills shall consist of-(a)Regular police subject to Act V of 1861 and the Assam Rifles Act.(b)Rural police, consisting of laskars, sardars and nokmas or other village authorities recognized by the Deputy Commissioner as such in the hill mauzas, and gaonburas in the plains mauzas.

2A. Rural police, how deemed.

- Rural police shall not be deemed to be police officers for the purposes of Section 26 of the Indian Evidence Act or Section 162 of the Code of Criminal Procedure.

3. Control or police.

- The control of the police of the Garo Hills is vested in the Deputy Commissioner and in such other officers as the Governor may from time to time appoint. Misconduct on the part of the regular police shall be punished in accordance with Act V of 1861, the Assam Rifles Act and Penal Code or any other enactment to which they may be subject. Misconduct on the part of the rural police is punishable by dismissal or by fine, which may extend to Rs. 500/- or by imprisonment to an extent which would be awardable under the Penal Code for a like offence. Imprisonment may be awarded in lieu of fine, but only by the Deputy Commissioner or other person duly authorised.

4. Appeal from orders of village authorities.

- An appeal lies from all orders of laskars, sardars, nokmas, gaonburas and other village authorities in police matters to the Deputy Commissioner whose orders are final. But the Government may call

for the proceedings of any officer subordinate to him and modify or reverse any order should be think fit.

5. Rule of police.

- The ordinary rules of the police shall, as far as they are applicable, be observed by the regular police and all returns in matters of accounts and all registers required to be kept by the police, as far as they are applicable, shall be made and kept up.

6. Function of regular police.

- The regular police shall only act in the hill mauzas when required to do so by general or special order of the Inspector-General of Police or Deputy Commissioner or other officer duly authorised, who may assign to the force any portion of the duties of police under Act V of 1861 or the Assam Rifles Act in any locality. In the plains mauzas, the regular police shall, as far as is practicable, exercise the powers and perform the duties contained in and enjoined by Chapter IV to XIV (inclusive) of the Code of Criminal Procedure, but the Deputy Commissioner may from time to time exclude any area from their jurisdiction.

7. Ordinary duties of police.

- The ordinary duties of police shall in the hill mauzas be discharged by laskars, sardars, and nokmas. They shall arrest all criminals and repress all disorders within their respective jurisdictions. In the plains mauzas, gaonburas shall possess such powers and perform such duties as are prescribed for gaonburas by any orders in force in Assam, and shall also perform the duties of village headmen as prescribed in the Code of Criminal Procedure.

8. Duties of village authorities.

- It is the duty of laskars, sardars, nokmas and gaonburas to report to the Deputy Commissioner, in such a manner as the latter may prescribe, all crimes, violent deaths or serious accidents occurring in their jurisdiction and all occurrences, whether within or beyond their jurisdiction which may come to their knowledge, likely to affect the public peace, at the earliest possible moment and to deliver up offenders of the Officer authorised to take cognizance as soon as may be within a period of twenty four hours of arrest excluding the time necessary for the journey from the place of arrest to the Court of such officer.

9. Arrest and report of criminal.

- The laskars, sardars, nokmas, and gaonbaras shall watch, report and under the orders of the Deputy Commissioner, apprehend and deliver up all vagrants or bad or suspicious characters found in their jurisdiction. They shall arrest and deliver up all person in possession of arms contrary to the provision of the law, as soon as may be, within a period of twenty four hours of arrest excluding the

time necessary for the journey from the place of arrest to the Court of the officer authorised to take cognizance.

10. Jurisdiction to arrest.

- On the occurrence of any heinous crime in his jurisdiction, any village officer, who may, by custom or appointment, be charged with the duty of arresting criminal, shall at once apprehend the offender (if able) and in any case at once report to the laskar or other police officer, who, if the offender has not been apprehended will proceed without delay to the place where the crime occurred and enquire into the matter. If a crime beyond his jurisdiction has been committed, he will immediately report it to the Deputy Commissioner or other duly authorised officer, whether the offender has been apprehended or not. Heinous crimes include the following : Rebellion, riot, counterfeiting coin or passing counterfeit coin, murder, wounding to the injury of life or limb, rape, robbery, dacoity, arson, house-breaking, forgery.

11. Crimes beyond judicial power of laskar.

- In the case of crimes other than heinous which are beyond their judicial powers as hereinafter defined, laskars shall report their occurrence to the Deputy Commissioner or other authorised officer for orders e.g. cheating, extortion, criminal misappropriation, criminal breach of trust, injury to property exceeding Rs. 50 in value, making of fraudulent documents, offences against the State, etc.

12. Arrest from place beyond jurisdiction.

- Laskar and other police officers may pursue with hue and cry and offender fleeing beyond their jurisdiction and arrest him, but ordinarily no laskar or police officer shall attempt to arrest an offender beyond his own jurisdiction without the cognizance and cooperation of the laskar or other police officer of the jurisdiction to which the offender has fled. When an offender is traced from one jurisdiction to another, it will be sufficient to point him out to the laskar or other police officer of the jurisdiction to which the offender has fled, and request him to make the arrest.

13. Laskars to apply to authorities when they feel unable to arrest.

- When the laskars or other rural police officers feel unable to arrest an offender, they must apply to the Deputy Commissioner or any officer duly authorised for such aid as he or such officer may consider necessary.

14. Inhabitants to aid police.

- All the inhabitants of the Garo Hills are bound to aid the regular and rural police, when required to do so, for the maintenance of order or the apprehension of offenders, and are liable to fine for failure to give such assistance; the fine in the hill mauzas to be adjudged by the laskar to the extent

of his power in criminal cases, or by the Deputy Commissioner and in the plains mauzas by the Deputy Commissioner. When the particular person liable for failure to aid cannot be ascertained, the laskar of the hill village or community concerned shall be held primarily answerable and the sardar and nokma next, and in the case of plains villages the gaonbura; and if it appears that the community is to blame and that the particular offender cannot be discovered, a fine may be imposed upon the community, but by the Deputy Commissioner only.

Chapter III

Criminal Justice

15. Administration of Criminal Justice.

- Criminal justice shall be ordinarily administered by the Deputy Commissioner and his assistants and by the laskars according to their jurisdiction, but mauzadars may be empowered by the Deputy Commissioner to dispose of petty criminal cases. Mauzadars so empowered will exercise the same powers and be subject to the same restrictions as are hereinafter provided for laskars.

16. Powers of trial.

- The Deputy Commissioner shall be competent to try any case and to pass sentence of death, transportation or imprisonment up to the maximum amount awardable under the Penal Code, of whipping, and of fine up to any amount: Provided that all sentence of death, transportation or imprisonment of seven years and upwards shall be subject to the confirmation by the High Court. Assistants to the Deputy Commissioner shall, subject to the Deputy Commissioner's control, exercise such powers, not exceeding those of a Magistrate of the First Class as defined in the Criminal Procedure Code as they may be invested with by the Governor.

16A. Death reference.

- When the Deputy Commissioner passes sentence of death, the proceeding shall be submitted to the High Court and the sentence shall not be executed unless it is confirmed by the High Court.

16B. Deputy Commissioner to apprise accused regarding appeals.

- The Deputy Commissioner shall inform the accused of the period (namely 7 days) within which, if he wishes to appeal, his appeal should be preferred.

16C. Confirmation of sentence etc.

- If any case submitted under Rule 16-A the High Court-(a) may confirm the sentence or pass any other submitted under by law, or (b) may annul the conviction and convict the accused of any offence of which the Deputy Commissioner might have convicted him, or order a new trial on the

same or an amended charge, or(c)may acquit the accused person;Provided that no order of confirmation shall be made under this clause until the period allowed for preferring an appeal has expired, or, if an appeal is presented within such period, until such appeal is disposed of.

16D. Steps on receipt of High Court's orders.

- When a sentence or death passed by the Deputy Commissioner is submitted to the High Court for confirmation, the Deputy Commissioner shall, on receiving the order of confirmation or other order of the High Court thereon, cause such order to be carried into effect by issuing a warrant in the form given in Schedule V, No. XXXV of the Criminal Procedure Code, or some similar form, or taking such other steps as may be necessary.

16E. Time and place of execution.

- The Deputy Commissioner shall fix the time and place of execution, and the time fixed shall not be less than 21 or more than 27 days from the date of issue of warrant.

17. Fine and imprisonment.

- Fine or fine and imprisonment may be awarded in lieu of any other punishment, provided that no offence shall be punishable by a sentence exceeding that awarded for such offence under the provisions of the Indian Penal Code and a fine shall not exceed the value of the offender's property.

18. Provision for disposal of petty cases.

- Laskars may themselves dispose of the cases of person charged with the following offences :Theft.Injury to property not exceeding Rs. 50.injury to person not endangering life or limb.House-trespass.Affront of whatever kind.Gambling.Drunken or disorderly brawling.They may impose a fine for any offence they are competent to try to the extent of Rs. 50. They may award restitution or compensation to the extent of the injury sustained and enforce it by distraint of the property of the offender. In cases in which the fine is not paid or realised either in whole or in part, they shall represent the facts and send in the offenders to the Deputy Commissioner or to Assistant Commissioner duly authorized who may retry the case and impose such other punishment as he is competent to inflict. All laskars, sardars, and gaonburas shall receive a sanad or recognition order the Deputy Commissioner's signature.

19. Power of laskar to decide and carry out decisions.

- Laskars may carry out their decision or order attachment of property as soon as judgement is pronounced, but in no case is properly attached to be sold if the party convicted claim to appeal within thirty days, without the orders of the Deputy Commissioner. Laskars may not decide cases-(a)in which any relative of their or their wives is concerned;(b)when a defendant is not a native of the Garo Hills or is not resident within their jurisdiction.

20. Procedure before laskars.

- The laskars shall decide all cases in open Darbar in presence of at least three witnesses and the complainant and accused, whose attendance they are empowered to compel. Either party may appeal from the decision at the time decision is pronounced or within thirty days thereof to the Deputy Commissioner or his Assistant duly authorised, in which case the laskars will take the parties or cause them to be sent before the Deputy Commissioner or his Assistant, together with the persons required to attend as witnesses. The Court shall then proceed to dispose of the appeal, examining the parties, if necessary. If the Court sees reason to doubt the justice of the laskar's decision, it will try the case de novo.

21. Appeal to Deputy Commissioner.

- An appeal lies to Deputy Commissioner from the decision of his Assistant if preferred within 30 days :Provided that no appeal shall lie against the sentence of fine only passed by a Magistrate of the First Class when the amount of fine does not exceed Rs. 50.

22. Provision for appeal to High Court and for revision.

(1)An appeal shall lie to the High Court from any sentence passed by the Deputy Commissioner or Additional Deputy Commissioner. Such appeal must be presented within thirty days of the date of the order appealed against, excluding the time required for procuring a copy of the order :Provided that an appeal from a sentence of death shall be preferred within seven days from the date of the sentence.(2)The High Court or the Deputy Commissioner may call for the proceedings of any officer subordinate to it or him and reduce and enhance, cancel or alter any sentence passed or remand the case for re-trial.

22A. Government appeal.

- The Governor may direct an appeal to be presented to the High Court from an original or appellate order of acquittal passed by any Court other than the High Court. Such an appeal shall be presented within ninety days from the date of the order of acquittal excluding the time needed for obtaining a copy of the order.

22B. Issue of commission.

(1)Whenever, in the course of an inquiry, trial or other proceeding under these rules, it appears to the High Court or the Court of the Deputy Commissioner that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which under the circumstances of the case, would be unreasonable, such Court may dispense with such attendance and may issue a commission for the examination of the witness following the spirit of the Code of Criminal Procedure, 1898.(2)Whenever in the course of an inquiry, trial or other proceeding under these rules before the

Court of an Additional Deputy Commissioner, or an Assistant to the Deputy Commissioner, it appears that a commission ought to be issued for the examination of witness whose evidence is necessary for the ends of justice and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Court shall apply to the Deputy Commissioner stating the reasons for the application and the Deputy Commissioner may either issue a commission or reject the application.

22C. Return of commission.

- Whenever a commission for the examination of witness issued under the preceding rule or under any law for the time being in force in India is received by the Deputy Commissioner, he, or such of his Assistants having the powers of a Magistrate of the First Class as he may appoint in this behalf, shall execute and return the commission following the spirit of the Code of Criminal Procedure, 1898.

23. Application of Criminal Procedure Code.

- The procedure of the High Court and Deputy Commissioner and his Assistants shall be guided by the spirit of the Code of Criminal Procedure, as far as it is applicable to the circumstances of the district and consistent with these rules. The Chief exceptions are : (a) only verbal order or notice shall be requisite, except when the regular police are employed or the person concerned is not a resident of or in the district at the time; or if in the district, but resident beyond it, where his place of abode is not known. But verbal order or summons shall be for a fixed day, not exceeding sixteen days from that upon which the order is issued, and the order shall be made known to the person affected or to some adult member of his family of proclaimed at the place he was last known to be at, in sufficient time to allow him, if he sees fit to appear. (b) A note of the substance of all the proceedings in cases tried before them must be kept by the Deputy Commissioner and his Assistants in the form prescribed by Section 236, Criminal Procedure Code. In cases requiring a sentence of three years or upwards a full note of the evidence and proceedings must be kept. Examinations and proceedings shall generally be recorded in English only. (c) The proceedings of laskars or other duly recognised village authorities need not be in writing, but if at the trial before the village authorities any person who can write can be found, a brief note of the proceedings is to be made. (d) All fines levied by laskars and other duly recognised village authorities shall be paid to the Deputy Commissioner or his Assistant or other officer empowered to receive them, within eight days from the date of realization. (e) It shall not be necessary to examine witnesses on oath unless the accused so desires, except in cases where the accused is charged with murder. It shall suffice that the Deputy Commissioner or his Assistant, at the commencement of any trial, inform the accused that if he so requires the witnesses will be put on oath. It is, however, at all times optional with the Court to put witnesses on oath, but witnesses, whether on oath or not, shall be punishable for giving false evidence. For the defence of paupers accused of murder, Rules 49 to 51 of Assam Law Department Manual-Part II-Criminal Rules-shall be followed mutatis mutandis. (f) The Deputy Commissioner and his Assistants shall keep such registers as the High Court may from time to time prescribe.

23A. Suspension or remission of punishment.

(a)The President or the Governor may, either upon conditions or without conditions suspend the execution of any sentence or remit any punishment.(b)If any sentence has been suspended or remitted upon conditions, and in the opinion of the President or the Governor, as the case may be, those conditions are not fulfilled, the President or the Governor may cancel the remission and order the sentence to be carried out, and thereupon the person in whose favour the sentence had been suspended or remitted, may, if at large, be arrested by any police officer without warrant and remanded to undergo the unexpired portion of the sentence.

23B. Commutation of sentence.

- The President or the Governor may commute any one of the following sentences for any other mentioned after it:death, confiscation of imprisonment, whipping, fine.

Chapter IV Civil Rules

24. Authorities of Civil Justice.

- The Administration of Civil Justice in the Garo Hills is entrusted to the Deputy Commissioner, his Assistants and the Laskars.

25. Powers of Laskars.

- Laskars are empowered to try civil suit without limit as to amount but with the following reservations :(a)They may not try suits in which any relative of their or their wives are parties.(b)They may only try suits in which both parties are native of the him mauzas residing within their jurisdiction.(c)All suits must be decided in open Darbar in the presence of the parties and at least three respectable witnesses.

26. Laskars' power to compel.

- Laskars have power to compel attendance of parties to any suits and their witnesses-all such persons being resident within their jurisdiction-and to fine up to a limit of Rs. 50, to persons wilfully failing to attend. They have power to award all costs, also compensation to defendants for unfounded or vexatious suits brought against them.

27. Proceedings before Laskar.

- All proceedings shall be viva voce, and after hearing both the parties and the parties and their witnesses, if any, the laskars shall, with or without the opinion of assessors as they may think fit

pronounce a decision forthwith. If at the trial any person who can write can be found, a brief note of the proceedings be made. In all suits affecting the possession of land the laskar shall cause his decisions to be registered in the Deputy Commissioner's office with such particulars as the Deputy Commissioner may require.

28. Laskars power to carry out decision.

- Laskars may carry out their decision at once, and order attachment of property to be made, but in no case is property so attached to be sold if the part convicted claims to appeal within thirty days. On such appeal being made they shall forthwith send the parties and their witnesses to the Deputy Commissioner or his Assistants duly authorised, and either accompany them or send one respectable person who has been present at the trial with them.

29. Procedure for notices by Laskar.

- All notices given by laskars to parties and witnesses shall be verbal and for a fixed day not exceeding eight days from the day it is given. On good cause being shown a case shall be postponed for periods not exceeding eight days.

30. Power of the Deputy Commissioner to exercise original jurisdiction.

- The Deputy Commissioner and his Assistants (according to their powers) shall try all suits not triable by laskars, but they may also at their discretion dispose of suits triable by laskars. The Deputy Commissioner and his Assistants shall keep such registers as the High Court may, from time to time, direct.

31. Reference to Panchayat.

- The Deputy Commissioner and his Assistants shall in all cases, in which the parties are indigenous inhabitants of the district and in all other cases, may endeavour to induce them to submit their case to Panchayat. If they agree to this, each party shall name an equal number of arbitrators, and shall choose, or leave the arbitrators to choose, an umpire. The name and residence of arbitrators and umpire and the matter of dispute must be recorded before the proceedings commence, and the Court will direct the laskar or other recognized authority to assemble the panchayat and witnesses within eight days. When the case has been decided, the umpire shall appear with the parties before the Court, which shall proceed to record the decision and enforce it as its own. From such decision there shall be no appeal.

32. Appeal from decision of Laskar.

- An appeals shall lie from the decision of the laskar or other duly recognized village authority to the Deputy Commissioner or his Assistants duly authorized. A record shall be made of the matter in dispute and the decision of the village authority. If necessary, the Court shall examine the parties,

and if the Decision appears to be just, shall affirm and enforce it as one of its own. If the Court sees reason to doubt the justice of the decision, it will try the case de novo, or refer it to a panchayat as above.

33. Exemption from attachment.

- Houses or house tax paying hill men, needful clothing, cooking utensils, or implements, whereby the owner subsists, may not be attached, sold or transferred in execution of a decree, unless themselves be the subject of the suit.

34. Detention for debt.

- There shall be no imprisonment for debt excepting in cases where the Deputy Commissioner is satisfied that fraudulent disposal or concealment of the property has taken place; in such case the debtor may be detained for a period not exceeding six months.

35. Appeal and revision.

- The High Court or Deputy Commissioner may, on application or otherwise, call for the proceedings of any case decided by any officer subordinate to him and pass such order as he may deem fit. An appeal shall lie to the Deputy Commissioner against the decision of any of his Assistants and to the High Court against an original decision of the Deputy Commissioner, if the value of the suit be Rs. 500 or over, or if the suit involves a question of tribal rights or customs, or of right to or possession of immovable property : Provided that the petition of appeal accompanied by a copy of the order appealed against and by a clear statement of the grounds of appeal be filed within 30 days from the date of decision excluding the time required for obtaining a copy of the decision. An appeal which lies to the High Court may be presented to the Deputy Commissioner, who shall, if it be in order and presented in due time endorse upon it the date of receipt and transmit it with the records of the case to the High Court. The decree of the appellate Court shall be transferred to the Courts passing the original order for execution as a decree of its own.

35A. Security for costs of appeal.

- Any Court before which an appeal is filed may, before admitting the appeal, order the deposit by the appellant of all reasonable expenses (including pleaders' fees) likely, in the opinion of the Court, to be incurred by the respondent in the hearing of the appeal, or may order security to be given for such expression; and if the appellant be a judgment-debtor may also order security to be given for part or the whole of the decretal amount. If the appeal fails the money deposited or security shall immediately be paid to the respondent.

36. Application of Civil Procedure Code.

(1)The High Court and the Courts of the Deputy Commissioner or Additional Deputy Commissioner and his Assistants shall be guided by the spirit, but not be bounds by the letter of Code of Civil Procedure.(2)The Deputy Commissioner's Assistants shall exercise such powers that may, from time to time, be invested with by him.(3)The Deputy Commissioner shall have power to decide any suit and to make any consequential or incidental order thereon, including the award of compensation to defendants for unfounded or vexatious suits brought against them.

37.

[Omitted].

38. Examination of witnesses.

- It shall be discretionary to examine witnesses on oath in any form, or to warn them that they are liable to the punishment for perjury, if they state that which they know to be false.

39. Application of Limitation Act.

- Although the Indian Limitation Act, 1908 (Act IX of 1908), has been barred by Notification No. 5868-A.P.I, dated the 8th September 1934, the principles of the Act should be closely followed in dispute between persons not belonging to a Scheduled Tribe or Tribes specified in items 1 and 2 of Part I-Assam, of the Schedule to the Constitution (Schedule Tribes) Order, 1950.