

# Editorial

Imphal, Saturday, August 13, 2016

## Preserving and promoting culture: hopes and concerns

Putting much speculation and cynicisms to rest, the state government inaugurated not one but two institutions after completion, as assured earlier. The Manipur University of Culture, established through an Act of Manipur State Assembly- The Manipur University of Culture Bill 2015, will endeavor to serve the people of Manipur in terms of cultural studies, a fitting and deserving compliment for a state as culturally rich and varied as Manipur. The university which is only the second such university in the entire country after Odisha will have eight different courses. Established 'to protect and safeguard the beautiful cultures and traditions of our people for the future generations' as the Chief Minister puts it, the university of culture will certainly be a catalyst in efforts to propagate and showcase the kaleidoscope of cultures and myriad customs thriving in the state thereby making it possible to draw the attention of the world for reasons other than the ones for which we are reluctantly the focus at present. In fact, if Manipur has to be introduced to the rest of the world, it could only truly be through its unique and varied cultural wealth accumulated in such forms as dance, music, songs, narrative and performing arts, martial traditions, folk arts, courtly theatres, costumes and ornaments etc.

The State Film and Television Institute in Manipur also occupies place of pride as it is only the third such institute in the country after Pune and Kolkata. Interestingly, the think tank at the centre initially chose Arunachal Pradesh for establishment of the Institute, and an incident where Manipur Chief Minister Ibobi, during the meeting of Chief Ministers of the North Eastern states with Home Minister Rajnath Singh at Guwahati last year vehemently registered his protest on the decision and was quoted as saying "We make maximum regional movies in the Northeast. In fact, my state has produced nearly 60 national award-winning films. Despite that, Arunachal Pradesh was granted the new film institute," might have forced the reconsideration. Eminent Manipuri film maker Arinbam Syam Sharma also urged the GOI to consider the history, achievements and future prospects of the institute while awarding the prestigious national institute when I&B Ministry announced the proposal for establishing the country's third National Film & Television Institute (FTII) in one of the NE States.

The twin developments of establishing the Culture University and Film Institute are a positive indication of the progress and advancement that the state can make towards preserving, restoring and promote the rich cultural heritage of the state and a timely step to bring positive and necessary changes in the society through the powerful medium of films. But amidst the hopes and expectations, there still remains a lingering doubt about the future of these prestigious institutes given the long and unfortunate path such important institutes have taken in the state.

## Curfew remains in force, death toll climbs to 56

**PTI Srinagar, Aug 13:** Curfew remained in force in entire Srinagar district and Anantnag town today to thwart the separatists' plan to stage a two-day sit-in in the city centre even as the death toll in the ongoing unrest climbed to 56 in the Valley with the death of a youth injured in firing.

"Curfew has been imposed in entire Srinagar district to foil the plans of some elements to stage a sit-in for two days in the Lal Chowk city centre," a police official said.

He said curfew also remained in force in Anantnag town in south Kashmir. The separatist camp, headed by Syed Ali Shah Geelani, Mirwaiz Umar Farooq and Mohammad Yasin Malik, had asked the people to hold a "referendum" march at Lal Chowk today and tomorrow.

The separatist camp is spearheading the protests in the Valley over the civilian killings during the protests against the killing of Hizbul

Mujahideen commander Burhan Wani last month. The death toll in the ongoing unrest went up to 56 as a youth, Suhail Ahmad Wani, who was injured in firing by a policeman last week, succumbed to injuries at a hospital here today, the official said. Wani had suffered a bullet injury in the head on August 2 at Lethpora in Pulwama district on Srinagar-Jammu National Highway.

Normal life remained affected in the Valley for the 36th consecutive day due to the curbs imposed by the authorities and separatist sponsored strike against the killing of civilians in the security forces action.

Schools, colleges, business establishments, petrol pumps and private offices remained closed while public transport remained off the roads. The attendance in government offices and banks was also thin, the official said. Mobile Internet services continued to remain snapped in the entire Valley.

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# Public Interest Litigation: All social ills cannot be solved through judicial process

By: Momota Oinam

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Defined as one of the crowning achievements of India's judiciary, Public Interest Litigation ('PIL') has undergone evolutionary changes in terms of its perception, ambit, accessibility and implications. What started as a juristic revolution of the eighties for poorer sections have easy access to justice delivery system has evolved itself into a multi dimensional judicial mechanism, encompassing almost every aspect of our day-to-day life - consumer welfare, ecology, environment, forests, public accountability, public welfare schemes, illegal immigration, national heritage protection and so on and so forth.

Judicial activism and PIL as manifestation thereof have certainly opened up new vistas of judicial intervention qua what was hitherto considered 'beyond judicial reach'. Technically, PILs are for enforcement of fundamental rights under Part III of the Indian Constitution. Nonetheless, seemingly realising its role in a welfare state, Courts have increasingly taken cognizance of social and economic rights/obligations in Part IV of the Indian Constitution (otherwise not enforceable) and through PILs, the principles therein have been sought to be read with fundamental rights for a harmonious understanding and enforcement. For instance, the 'right to life' in Article 21 has been expanded to include right to free legal aid, right to live with dignity, right to education, right to work etc.

All the way through PILs, Courts have literally brought legal aid at the

doorsteps of the teeming millions like never before.

Yet, PIL as a judicial recourse also leaves enough room for its abuse and indiscriminate filing to serve vested interests or gain easy publicity. Instances are not wanting when PIL and RTI mechanisms are misused, inter alia, to target political rivals, hassle public authorities and settle personal scores. An inevitable consequence, however unintended, is the on-going debate on judicial activism qua the executive and the legislature. Needless to say, no activity of the State and its instrumentalities is seemingly exempted from being a subject matter of PIL and purview of the Supreme Court and High Courts to the extent public interest/fundamental rights/are at stake.

Courts, while dealing with PILs, are certainly aware of the increasing thinning line between justice delivery and possible encroachment on executive and legislative domains and hence, the Supreme Court's strict guidelines on substance and procedure for entertaining PILs. Such guidelines are only to be expected in the context of the increasing inclination of many to address even vested personal and political interest through PIL as a grievance redressal mechanism. As recently as July 22, 2016, the Supreme Court in *Mrs. Santosh Singh vs. Union of India & Ors.* has opined that judicial process is not an answer

to every social ill. Dismissing a PIL seeking direction under Article 32 of the Constitution for inclusion of Moral Science as compulsory subject in the syllabus of school education from Classes I to XII, the Apex Court underlines the importance of distinguishing matters which lie beyond the province of judicial review. While endorsing the need of providing value based education, the Court is crystal clear that answers ought not to be ordained by Courts as it, *inter alia*, singularly lacks the expertise to do so and remedies lie with those who have the competence and the constitutional duty to lay down and implement educational policies to deal with such problems.

The judgment assumes significance in as much as it further clarifies judicial powers under Article 32 of the Constitution vis-a-vis PIL as a grievance redressal mechanism. The Apex Court is unequivocal - The Supreme Court's jurisdiction under Article 32 is not a panacea for all ills but a remedy for violation of fundamental rights. Highlighting the alarming tendency/assumption that every good the society aspires to achieve can be achieved through the instrumentality of Courts, the Supreme Court emphasizes that judicial process provides remedies for constitutional or legal infractions only and that on issues of governance, the basic touchstone for invocation of its jurisdiction is

addressing the issue within the framework of law or the Constitution. Although PIL as a judicial mechanism permits relaxation of strict rules of *locus standi*, the Court says it will necessarily abide by the parameters which govern a nuanced exercise of judicial powers. Touching on the contentious issue of judicial review of public policy, the Apex Court reiterates that matters of policy are entrusted to the executive arm of the State and the Court is concerned with the preservation of the rule of law.

Though the judgment is more on Article 32 and the Supreme Court's exercise of judicial powers thereunder, the principles laid down therein are equally relevant in the context of PILs under Article 226 before High Courts for enforcement of fundamental rights. The judgment enunciate principles on judicial purview on PILs by the Supreme Court, but at the same time seeks to streamline PILs in the light of increasing misuse thereof. The judgement is indeed a fine balance between the wide-felt need for safeguards against abuse of PIL as a grievance redressal mechanism and the very basis of PIL, propounded by none other than Justice P.N. Bhagwati - "*The Court has to innovate new methods and strategies to provide access to justice to large masses of people who are denied basic human rights, to whom freedom and liberty have no meaning*" ss(*S.P. Gupta vs. Union of India decided on 30-12-1981*).

## National & International News

### Congress hopeful of peace returning in Kashmir Valley

**Mumbai, Aug. 13:** Following the all-party meeting yesterday in which Prime Minister Narendra Modi committed for a permanent and peaceful solution to the issue of Jammu and Kashmir, the Congress on Saturday expressed hope once he turns his words into actions, peace will return to the Valley, which has been hit by violence since the killing of Hizbul Mujahideen commander Burhan Wani.

"This was something we had been asking for because over the time there have been people who also have been stakeholders, governments who have been part of governing Jammu and Kashmir, so trying to understand that taking everybody's opinion in

mind, it would be imperative that peace is restored. That is the biggest fact and we would hope that Prime Minister's words convert into action and ensure that peace is restored at the fastest in Kashmir," Congress leader Priyanka Chaturvedi told ANI. However, she also said that there is a 'trust deficit' between the government and the people of Kashmir.

"I think it was long overdue considering that we are almost in the 34th or 35th day of protests in Kashmir and yet we are not seeing peace being restored in Kashmir and still seeing the state of Kashmir in a curfew mode," she added.

Yesterday, during the meeting, Prime Minister Modi said Pakistan Occupied

Kashmir is an integral part of Jammu and Kashmir.

During the four-hour-long all-party meeting, which was called to find a political solution to the unrest in Kashmir, where over 50 people have been killed in clashes between the protesters and security forces and more than 5,000 have been injured since July 8, some of the opposition parties also asked the government to take a few immediate confidence-building measures like putting an end to the use of pellet guns and relaxing AFSPA in some parts of the valley.

"We are committed for a permanent and peaceful solution to the issue of Jammu & Kashmir in accordance with the basic principles of our

Constitution. We have an open mind and our doors are always open. We are committed to the welfare of every citizen of Jammu & Kashmir. We have been following the path shown by Shri Atal Bihari Vajpayee Ji to find a solution," the Prime Minister said.

Former prime minister Dr Manmohan Singh, Congress leaders Ghulam Nabi Azad and Mallikarjun Kharge, Samajwadi Party supremo Mulayam Singh Yadav and Janata Dal (United) chief Sharad Yadav were among those present in the meeting. Kashmir has been on the boil for more than a month with thousands injured and more than 50 killed during protests against Wani's killing.

### Islamic State's leader in Afghanistan, Pakistan killed in airstrike

**Afghanistan, Aug. 13:** The Islamic State group's leader in Afghanistan and Pakistan, Hafiz Saeed, was killed last month in an airstrike in Nangarhar province, the Pentagon said Friday, aed was named head of IS's "Khorasan province," which includes Afghanistan, Pakistan and parts of neighboring countries, early last year when a group of Pakistani Taliban switched allegiance to the jihadist group.

Pentagon deputy press secretary Gordon Trowbridge said the strike came while US and Afghan special operations forces carried out counter-IS operations in southern Nangarhar province throughout July.

"During this time, US forces conducted an airstrike targeting Hafiz Saeed Khan, the Islamic State in the Levant-Khorasan emir, in Achin district, Nangarhar province 26 July, resulting in his death," Trowbridge said.

Saeed "was known to directly participate in attacks against US and coalition forces, and the actions of his network terrorized Afghans, especially in Nangarhar," he added. Details of the strike were not immediately available, but a US official told BBC that Saeed was killed by a drone.

The death of Saeed represents a major setback for the IS group as it tries to establish itself as a serious

force in Pakistan and Afghanistan.

Afghan authorities erroneously believed Saeed had been killed in another strike in July 2015, when a US drone targeted dozens of IS-linked cadres in restive Nangarhar province, close to the Pakistani border.

That attack came less than six months after another strike in Afghanistan killed Abdul Rauf Khadim, who was thought to be the IS number two in the country.

Some Afghan Taliban members have defected to the jihadist group, with insurgents apparently adopting the black IS flag to rebrand themselves as a more lethal force.

Most Nato combat troops who had been fighting the Taliban and other insurgent groups have now left Afghanistan, with responsibility for the country's security switching to local forces.

The Afghan troops, however, still rely on US air support and training and have struggled to stem frequent Taliban offensives.

The former Taliban leader Mullah Akhtar Mansour was killed in a US drone strike inside Pakistan in May. Both the Pakistani Taliban and IS jihadists have claimed responsibility for a horrific suicide bombing on Monday at a hospital in Pakistan which killed 73 people.

The IS group has also claimed responsibility for a 23 July attack in

Kabul that killed dozens of people and left hundreds maimed.

IS has been trying to expand its presence beyond its so-called

"caliphate" in Iraq and Syria, where tens of thousands of jihadists have been killed in air strikes and offensives, but has made only limited progress.

### Suspected ULFA militants kill 2 in Assam village

**New Delhi, Aug. 13:** Two persons were killed and at least seven others injured when a group of unidentified militants, suspected to be cadres of the anti-talk faction of ULFA, opened fire in a village in Tinsukia district late Friday evening. The two dead have been identified as Rajesh Shah and Kishori Shah, both Hindi-speaking settlers of the district. Confirming this, a senior Assam Police officer here said the militants, believed to be five or six in number, armed with sophisticated weapons, fired upon a group of people who were at that time assembled for a kirtan recital in the compound of Mahendra Shah, a petty trader in village Bamunbari under Philobar police station in Tinsukia. The incident occurred at around 7:30 PM.

"There were reports of a group of militants belonging to the anti-talks faction of ULFA moving around in Tinsukia district with the intention of indulging in

violence in the run-up to Independence Day. There was an exchange of fire between militants and the police inside a reserved forest close to Doomdooma in the wee hours of Thursday," the Assam Police officer said. The officer said there was every reason to suspect the ULFA faction's hand in Friday evening's incident that occurred about seven kms away from the Philobar police station. Philobar is about 25 kms from the district headquarters of Tinsukia. Seven other persons who sustained bullet injuries have been shifted to hospitals in Tinsukia and Doomdooma, the officer said. Tinsukia has a history of the ULFA targeting Hindi-speaking settlers over the past 20-25 years.

It was only last Friday that suspected NDFB(S) militants had killed 14 persons by opening indiscriminate fire in a village market in Balajan Tinal, 12 kms north of Kokrajhar in western Assam.