

Editorial

Tuesday, June 19, 2018

Favouring digital govt. : still a Virtual dreamt

The government of India has come up with National e-Governance Plan (NeGP) taking a holistic view of e-Governance initiative across the country integrating them into a collective vision and shared goal with the ultimate objective of bringing public services closer and in a more convenient manner to the public. E-Governance in India has evolved over a period of time and various state governments and ministries of central government are at different stages of implementation. What began as computerization of government department subsequently led to streamlining of processes through computer networking. Of late the Government Process Re-engineering and Change Management have acquired Citizen Centricity and Service orientation. The previous e-Governance initiatives played a very important role in shaping the e-Governance strategy of India. E-Governance helps in enhancing governmental relationships and facilitates fair and efficient delivery of service but it has to be based on open and democratizing principles. In the Indian context e-governance is being introduced to improve delivery systems and reduce bureaucratization. It has been effectively employed in service delivery apparatus in certain domains yet its contribution in many areas of public systems management is not significant and calls for a more interventionist approach. People are still not accepting it. Apart from the technical difficulties and the intricacies involved in implementing such mammoth venture, it needs to be mentioned that a more intensive and holistic effort needs to be made. The present situation in the state regarding the implementation of the novel initiative is far from satisfactory, and the public is still in the dark about the utilities and services it aims to provide them. Dissemination of information on the workings and functions of such initiatives to the general public is of paramount importance. A lackadaisical and non-committal attitude adopted by those responsible for the implementation and maintenance that has crept in almost every public initiative is arguably the most prominent roadblock in ensuring the success of such ventures. Initiatives and policies can deliver results only when backed by sincere efforts and proper involvement of implementing agencies. Further, creating a conducive culture through attitudinal reorientation is also required or else the initiatives are not properly accepted as is the case in many states in India. Nevertheless, it is interesting to note that comparatively backward states like Jharkhand are also effectively using e-governance initiatives to improve delivery systems in certain domains. It is keeping in view these aspects of e-governance that the Government of India has taken up the challenge of implementing e-governance in the most backward of the states. Yet the success or otherwise of such efforts will largely depend on the human factor. Technology, in whatever form or manner, needs human intervention and monitoring. The Government should make earnest efforts to ensure that the people assigned to such vitally important public initiatives be made responsible for the outcome, along with the authority to implement them. Till then, such efforts to virtualise governance will remain a virtual dream.

Legal Clinic

Section 420 in The Indian Penal Code

420. Cheating and dishonestly inducing delivery of property.—Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

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The Manipur merger agreement & The Manipur state constitution act, 1947.

Whether the maharaja of Manipur could enter Into the Manipur merger Agreement- whether lawful or not-

By- Khaidem Mani Singh, Advocate

Before the merger of Manipur into the Dominion of India with effect from 15-10-1949 under the Manipur Merger Agreement there was the demand for the establishment of a responsible Government in the State of Manipur. So a Constitution making body was set up. On the fourth meeting of the said Constitution making body i.e. on 29.3.1947 two Sub-committees were formed; they are (1) the Constitution drafting Sub-Committee and (2) the Hill local Self-Government Regulation Sub-Committee. The said Constitution drafting Sub-Committee was headed by late L.M. Ibungohal Singh, B.A., B.L. as Chairman and Sarvashri A. Ibotombi Singh, B.A., H. Dwijamani Sharma, M.A., S. Krishnamohun Singh, M.A., B.L., A. Daiho, B.A. and Thangkhopao Kipgen were its members. The other Sub-Committee, namely, the Hill Local Self-Government Regulation Sub-Committee was headed by Mr. F.F. Pearson as the Chairman.

These two sub-committees drafted the Manipur State Constitution and the Hill local Self-Government Regulation and they were finally passed by the Constitution making body. Thereafter the Maharaja of Manipur enacted the Manipur Constitution Act, 1947, as the Supreme Law for the governance of the State of Manipur. This Act extended to the whole of the Manipur State inclusive of Hill Areas having that it shall not apply in any matter where a specific reservation of powers is made to any Authority in the Hills under the provisions of the Manipur State Hill (Administration) Regulation, 1947. After the Manipur Constitution Act, 1947 came into operation since 1st July, 1947 for the first time the Interim Council was installed on the 14th August, 1947 with Shri Maharaj Kumar Priyobrata Singh as the first Chief Minister and six other Ministers. After the Manipur Constitution Act, 1947 came into operation, and rules for election framed and constituencies determined election on adult franchise, the first of its kind in India was done and the First Manipur Assembly assembled for the fresh sitting.

The administration of the State was to be carried on by and in the name of the Maharaja. Under section 3 of the said Manipur Constitution Act, 1947, "All rights, authority and jurisdiction which appertain or are incidental to the Government of such territories are exercisable by the Maharaja subject to the provision of this Act".

Section 8 of the said Constitution act deals with the Maharaja's Prerogatives. It says as follows:-(a) All family matters which are the Maharaja's sole concern as head of the Ruling family, all matters which are his sole concern as the Defender of faith and all matters connected with Titles, Honours and Palace Ceremonials shall be deemed to fall within the Maharaja's personal prerogative and in such matters the Maharaja shall exercise full discretion subject to the provisions of the Constitution and the laws of the State.

The Maharaja's prerogative shall not, however, be taken to comprise any matter where in the legitimate interest of the State Administration or a Civil Right sustainable in a Court of law is involved. It will be within the

prerogative of the Maharaja to remit punishment and pardon offenders subject to the provisions of the Manipur State Courts Act provided that this prerogative shall not prejudice the right of any individual to compensation.

(b) It shall be the prerogative of the Maharaja and the Maharani that neither may be made answerable at Law or subject to any legal proceeding in the State Courts. Their persons and property shall be inviolable.

(c) Notwithstanding section 8 (b) above, it shall be lawful for the State Council in consultation with the Chief Court to draw up a statement of charges against the Maharaja or the Maharani has been guilty of Murder or any other Heinous Offence or of any extreme political Crime against the provisions of the Constitution.

(d) On a statement of charges being drawn up under (c) above, the Council shall present it before the Maharaja or the Maharani and require satisfaction. Should satisfaction be not forthcoming, the Council may refer the matter to such authority as may be determined hereafter.

Chapter-III of the said Constitution Act deals with the Executive. It relates sections 10,11,12,13,14,15, and 16. Subject to the provisions of this Act and subject also to the provisions of the Rules for the Administration of the Manipur State the Executive Authority of the State was delegated to and vested in the Council of Ministers. The number of the Council of Ministers according to the said Act is seven consisting of the Chief Minister and six other Ministers. The six Ministers on the Council were elected by the State Assembly and out of which two Ministers were representatives of the Hill people of the State. The Chief Minister was appointed by the Maharaja in consultation with the elected Ministers of the Council. The Council of Ministers and the Ministers individually had to exercise powers and functions as were assigned to them by or under this Act or by or under the Rules

for the Administration of the State.

Section 17 to 25 under the Chapter-IV of the said Constitution Act deals with the State Assembly. The State Assembly was constituted for a term of three years and comprises Representatives freely elected by the people on an adult franchise and on the principle of joint Electorate. The State Assembly could debate all matters concerning the Government and wellbeing of the State which, in the opinion of five members of the Assembly, it is in the public interest to debate. It could also render advice to the council of Ministers with the concurrence of the majority of the members. The State Assembly, subject to the provisions of this Act may make rule for regulating its proceedings and the conduct of business.

Under Section 57 of the said Constitution Act, where in any case circumstances arise which prevent the proper operation in law or in spirit of this constitution Act, the Council (i.e. the Council of Minister) may at their discretion refer the matter for decision to such authority outside the State as may be decided hereafter and the decision of that authority shall be binding."

In the light of the above provisions of the Constitution Act, I would like to show that the Maharaja of Manipur ceased to be absolute Monarch and became only a Constitutional head of Manipur State after the enactment of the Constitution Act, 1947. It is submitted that the Maharaja of Manipur without the concurrence of the State Assembly and without the consent of the State Council of Ministers in which the executive authority of the State was delegated and vested under the Act, could not enter the Merger Agreement for Manipur to merge into the dominion of India.

Further I would like to add the following points:-

The Merger Agreement policy of the then Govt. of India was a wrong notion particularly in the context of Manipur's Merger into the Dominion of India in the year 1949. The Merger Agreement was

signed by the Maharaja under duress, which was not ratified by the Maharaja in Council nor by State Legislative Assembly. The Maharaja was requested by the Shri Prakasha, the Governor of Assam to come to Shillong in September, 1949 for some discussion on administrative affairs as he was unable to come to Imphal. The matter to be discussed was for clarification of pending cases and for exchange of view on administrative problems of the State. The Maharaja left Imphal for Shillong on the 15th September, 1949 (some says that it was 16th Sep. 1949). It was, however a surprise that the Maharaja's visit to Shillong was only to find that he was placed incommunicator at Red lands guarded by the heavy security personnel of the Assam Regiment on the pretext of providing security to the Maharaja who was treated as VIP. It may be recalled that, the Maharaja of Manipur had also carried his own security personnel of about a section of Manipur State Forces. No one could leave or enter Red lands at Shillong. He was to remain so until he signed the Merger Agreement. His pleadings that being a Constitutional head, he had no power to sign was not heard. It may also be recalled that in his inaugural speech of the First Manipur State Assembly on 18th October, 1948 the Maharaja Bodhachandra remind the people of Manipur by saying that "I now bring to the mind of the people that I had transferred my powers and responsibilities other than those of a Constitutional Ruler to the State Council since 1st July 1947 before the lapse of British Paramountcy and since then, I have already remained as a Constitutional Ruler.

The so called Merger Agreement between the Dominion of India and the Manipur State was done under pressure and absolutely undemocratic, inequitable and as such it can be said that the so-called Merger Agreement is null and void and non est one as the following grounds inter alia, that there was no plebiscite of the then people of Manipur on the issue of merger, the Merger Agreement itself violated the Manipur State Constitution Act, 1947, it was done without the express consent of the State Council of Ministers and the Maharaja had no authority or power the agreement without in accordance with the provisions of the State Constitution Act. Moreover the entire Manipur Constitution Act, 1947 could be amended following the due procedure for constitutional amendment. It was also never done. Lastly, the Manipur State Constitution Act, 1947 was never repealed.

From the above facts and points I will like to conclude that the Maharaja of Manipur could not enter any agreement with India like Manipur merger Agreement without the concurrence of the State Assembly.

Conclusion:

Manipur should be accorded full Autonomy as the case of Jammu & Kashmir by amending Article 370 of in the Constitution of India.

***** The write up reproduced here is an excerpt from the book called Annexation of Manipur with permission from the pushing authority.

On Manipur Merger issue by Holkhomang Haokip

Haokip Veng, Imphal, Manipur.

27th Oct., 93

I take this opportunity to write a few lines in connection with Manipur Merger Issue. It is an attempt to focus on the last minute events just before Maharajah Budhachandra Singh had to leave for Shillong to sign the Agreement against his will.

It is a fact that it was a group of Kuki Chiefs particularly Haokip Chiefs, who determined to help Maharajah and resist the Merger. Here, to be specific, a group of Kuki Chiefs was led by then Chief of Chassad and who was supported by Chief of Aihang, Chief of Nabil, Chief of Longpi and many other Haokip villages. These Chiefs went to the extent that about 200-300 volunteers with muzzle loading guns were kept at the gate of Palace to protect the Maharajah and his kingdom.

The leaders of Akhil Manipur Hindu Maha Sabha organised strikes and procession to force the Maharajah to relinquish his throne and to merge with India. There was almost a clash between the volunteers of Haokip Chiefs on one side and A.M. Hindu Maha Sabha on the other. Meanwhile, 2 or 3 telegrams reached/came to Maharajah from the then Home Minister of India, Shri Bardar Vallabhajai Patel but the Maharajah refused to go to Shillong.

Unfortunately, on that eventful day, against his will supported by the fact that Maharajah turned back 2-3 times then to God, into his car made ready for his journey to Shillong, but had to go to Shillong to sign the said Agreement.

People of Manipur or any historian have not recorded such important events of that decisive moments which took place at the palace gate. The Maharajah, out of his love for his supporters-the Haokip Chiefs and volunteers who stood by him for his protection and independent Manipur during those eventful time/moments till the last minute have granted the Haokips to settle at Haokip Veng which itself is an axiom.