

Abrogation of Article 370 & future of Jammu & Kashmir Vis-à-vis fate of Manipur People's Bill & CAB

By: Sanjibam Jugeshwar Singh
Faculty, NIELIT, Imphal.

Article 370 of the Indian Constitution used to give special status to the region of Jammu & Kashmir. The Article was drafted in part XXI of the Constitution: Temporary, Transitional and Special provision. However Ambedkar strongly opposed this Article 370, which granted a special status to the State of Jammu & Kashmir and which was included against his wishes. The constituent Assembly of Jammu & Kashmir, after its establishment, was empowered to recommend the articles of the Indian Constitution that should be applied to the state or to abrogate the Article 370 altogether. After the Jammu & Kashmir Constituent Assembly later created the state's Constitution and dissolved itself without recommending abrogation of Article 370, the Article was deemed to have a permanent feature of the Indian Constitution. This Article along with Article 35A defined that the Jammu & Kashmir state's residents live under a separate set of Laws, including those related to Citizenship, ownership of property and fundamental rights as compared to resident of other Indian states. As a result of this provision, Indian Citizens from other states cannot purchase land or property in Jammu & Kashmir.

On 5th August 2019, the President of India Ram Nath Kovind, issued a constitutional order revoking the 1954 order and making all the provisions of the Indian Constitution applicable to Jammu & Kashmir. The order rendered the Article 370 and Article 35A of the Indian Constitution ineffective. The home Minister Amit Shah also introduced a resolution in the upper house of the parliament (Rajyasabha) seeking to reorganize the state with Jammu & Kashmir serving a Union territory and Ladakh region to be a separated as a separate Union

Territory. The state of Jammu & Kashmir's original accession like all other princely states, was on three matters: defense; foreign affairs and communication. All the princely states were invited to send representatives to Indian's Constituent assembly which was formulating a Constitution for the whole of India. They were also encouraged to set up Constitutional Assemblies for their own states. Most states were unable to set up assemblies in time but a few states did, in particular Saurashtra Union, Travancore-Cochin and Mysore. Even though the states departments developed a model Constitution for the state in May 1949, the rulers and chief Ministers of all the states met and agreed that separate Constitution for the states were not necessary. They accepted the Constitution of India as their own Constitution. The states that did elect Constituent assemblies suggested a few amendments which were accepted. The position of all the states (or Union of States) thus became equivalent to that of regular Indian provinces. In particular, this meant that the subjects available for legislation by the central and state Government was uniform across India.

In case of Jammu & Kashmir, the representatives to the constituent Assembly requested that only those provisions of the Indian Constitution that corresponded to the original Instrument of Accession should be applied to the state. Accordingly the Article 370 was incorporated into the Indian Constitution, which stipulated that other Articles of the Constitution that gave power to the central government would be applied to Jammu & Kashmir only with the concurrence of the state's constituent assembly. This was a "temporary provision" in that its applicability was intended to last till the formulation and adoption of the state's constitution. However, state's Constituent Assembly dissolved itself on 25th January 1957 without recommending either abrogation or amendment of the Article 370. Thus the Article has become a permanent

feature of the Indian Constitution as confirmed by various rulings of the Supreme Court of India and High Court of Jammu & Kashmir, the latest of which was in April 2018. In exercise of the power conferred by clause (1) of Article 370 of the Constitution, the President, with the concurrence of the Government made a series of orders like Presidential order of 1950, 1952, 1954. In addition to these original orders, 47 Presidential orders had been issued between 11 February 1956 and 19 February 1994 making various other provisions of the Constitution of India applicable to Jammu & Kashmir. All these orders were issued with the concurrence of the Government of the State, without any constituent Assembly. The effect of these orders had been extend 94 of the 97 subjects in the Union List (the powers of the Central government), to the state of Jammu & Kashmir and 260 of the 395 Articles of the Constitution of India. All of these orders had been issued as amendments to the Presidential order of 1954 rather than as replacement to it, presumably because their Constitutionality was in doubt. This process has been termed the "erosion of the Article 370".

On or before 5th August 2019, President Kovind had issued a presidential order under Article 370, superseding the 1954 order. The order states that all the provisions of the Indian Constitution apply to Jammu and Kashmir, effectively abrogating the separate constitution of the state; the constitutionality and effect of this action is contested in the public sphere until the 2019 Presidential order, the residual powers continued to rest with the state rather than the union. According to the state Autonomy Committee, 94 of 97 items in the Union List applied to Jammu & Kashmir immediately prior to August 2019; provisions of CBI and Investigation and preventive detention did not apply at that time of the concurrence List; 26 of 47 likewise items applied to Jammu & Kashmir at that time; the items of marriage and divorce, infants and minors, transfer of property other than agricultural land, contracts and torts,

bankruptcy, trusts courts, family planning and charities had been omitted i.e. the state had exclusive rights to legislate on those matters. The right to legislate on election to state bodies also rested with the state. However, the 2019 presidential order supplanted all of these provisions and made the whole of the Indian Constitution, particularly including the aforementioned lists in full, apply to the territories which were part of the state of Jammu & Kashmir. Accompanying also proposed to split the territory and reduce local legislative powers in the same, granting them instead to the union Government.

In 2019, as part of BJP manifesto for the 2019 general election, the party again pledged to integrate the state of Jammu & Kashmir into the Union of India. This was followed by government action which attempted to do just that. On 5th August 2019, the Home Minister Amit Shah announced in the Rajya Sabha that the President of India had issued a Presidential order under Article 370, superseding 1954 order. Home Minister Amit Shah has moved a resolution to render Article 370 inoperative. The passage of this resolution enables the President to declare the Article 370 has ceased to operate, so the Home Minister introduce a bill in the Rajya Sabha to convert Jammu & Kashmir's status of a state to two union territories namely Jammu & Kashmir and Ladakh. The union territory of Jammu & Kashmir is proposed to have a legislature under the resolution whereas the Union territory of Ladakh is proposed to not have one. By the end of the day, the Bill was passed by Rajya Sabha with 125 votes in favor. **This is the fate of Jammu & Kashmir now. If this is so, what could be the fate of Manipur People's Bill passed Manipur State Assembly which is waiting for President's ascent and people's apprehensions about the introduction of CAB?**

***** The writer can be reached to: sjugheshwar7@gmail.com

More State News

NRFM claims shooting at Deven's residence

IT News
Imphal, Aug 6,

Armed rebel group National Revolutionary Front Manipur, today claimed the shooting at the residence of Deven at Mantripukhri. Statement as follows: Shooting happened on the 4th of this month in the house of Achoibam Deben from Lamlai now residing in Mantripukhri,

was to warn him for the last time for challenging the organization along with the help of Indian Colonial force, said Sanajaoba Meitei NRFM information and publicity secretary. In the past one-two years, Achoibam Deben has been challenging the organization and trying to make our friends arrested in various occasions. However, since NRFM never had any

dispute with Achoibam Deben, many a times we tried to have dialogue with him by sending our friends or through mobile phones. But he has the agenda, deep rooted in him and embedded in his blood, to put the revolutionary armies in deep trouble by joining hands with our enemies, the colonial forces. Therefore, our organization realized him to be one of the elements standing

against the revolutionary army and in order to not let it happen again, the organization took this step. If he does not own up to all his blunders and wrongdoings by August 11, 2019, and ask for forgiveness from the organization, then he should willingly accept all the punishments from the organization. Regarding this matter, people of Manipur should not organize

White Coat Ceremony at RIMS

IT News

Imphal, Aug 6,

For the first time in Manipur, a White Coat

Sport India enters quarter finals of U-23 Asian Volleyball C'ship



Ceremony of the incoming MBBS students was held in RIMS. The ceremony was graced by the Director RIMS, Prof. A Santa Singh, Prof. Ch. Arunkumar Singh, MS and Brogen Singh Akojiam, Dean Academics, RIMS. Students were coated with white apron as a mark of welcome to the medical fraternity. Students took oath of commitment led by the Dean, RIMS. It was followed by inspirational talks by the Medical superintendent and Director, RIMS.

Manipuri Matam Eshei Seminar

IT News
Imphal, Aug 6,

A seminar on Manipur Matam Ishei that was previously scheduled for August 9, 10, and 11, 2019, in Kangla Hall, will be conducted in Auditorium RIMS Colony of Indian Medical Association (IMA) because of certain

inconveniences. In this seminar that plans to discuss on Manipur matam ishei and its specific characteristics, lovers of Manipur matam ishei and people related to the field, all the Manipur matam ishei artists, are requested to be present. Artists are requested to bring their photo and delegate fee Rs. 300 by

August 8 and fill the delegate form, delegate card, etc. We also request to not call for any bandh or blockade on the said dates for the sake of Matam Ishei. Also, all the matam ishei artists are requested to stop programs and song recordings and kindly attend the seminar to improve the state of Manipuri Matam Ishei.

Army Recruitment Rally

PIB (DW)
Imphal, Aug 6,

Army Recruitment Rally would be held at Luwangpokpa Cricket Stadium, Imphal (Manipur) from 10 Oct 2019 to 18 Oct 2019 for enrolment of youths from Manipur only.

Online applications, for Army recruitment rally scheduled from 10 Oct 2019 to 18 Oct 2019 for recruitment to Other Ranks (OR) are being invited from 11 Aug 2019 to 24 Sep 2019. For registration online login to www.joinindianarmy.nic.in. Candidates who have registered earlier in the previous rally can directly login & apply afresh. Candidates will be allowed to attend recruitment rally only when they have registered and filled up online applications. The vacancies are for Soldier General Duty (10th & 12th std), Soldier Technical (12th std with Physics, Chemistry, Maths & English), Soldier Nursing Assistant (12th std with Physics, Chemistry, Biology & English), Soldier Tradesmen (8th & 10th std simple pass). CEE will be conducted at Rangapahar on 24 Nov 2019. For any other query contact on phone No 03862-249012 & 8974958673 from 0830 AM to 0200 PM on working days for the entire duration. Last date of registration is 24 Sep 2019.

Contd. from Page 1

Police in hands with MARC rescue 3 girls of the state

Morehand processed to be reproduced Child Welfare Committee, Chandel, after the hearing, the CWC passed an order and handed over the children to the respective families. MARC is looking into two angles from this incidence, whether it is a simple case of runaway from home for pursuing better economical future or is it a big raked of Cyber criminals trapping young girls on Social Media with false promise and exploiting their innocence. This need to be further investigated by the concern Police official handling the

case so that other children would not be trapped in a similar way. Looking to the past incidence of trafficking there is a urgent need to adopt the draft 'Plan of Action for Combating Child Trafficking in the state of Manipur' which was submitted by the MCPCR to the Department of Social Welfare, Government of Manipur comprising preventive approached, rescue protocols, rehabilitation of Survivors, and coordination and convergence of all the line department and adopt the Draft 'State policy for

children 2018" by the Sate Cabinet at the earliest, both the documents were prepared by MACR in consultation with CRY as it will help to resolve various child rights issues in the state of Manipur. The incident has proven beyond doubts that the Manipur Police has once again proven its outstanding capacity to carry out the rescue operation of the three children as and when calls for, so swiftly, despite pre engaged with their various assignments in coordination with various agencies working in the field of Child Rights.

Lost

I, the undersigned, Wangkheirakpam Ronal Singh, have lost my original certificate of my High School Leaving Certificate Examination, issued by the Board of Secondary Education, Manipur bearing Roll No. 30266 of 2015 on the way between Nongmeibung to Thangal Bazar on 5/8/2019. Finders are requested to hand over it to the undersigned.
Sd/-
Wangkheirakpam Ronal Singh

Voter ID card Lost

I, the undersigned, have lost my voter ID Card on the way between Singamei to Singamei Oinam Thingel on 30/07/2019. Finders are requested to hand over it to the undersigned.
Sd/-
Oinam Dipu Singh
Father's Name - (Late) Oinam Tomba
Mother's Name - Oinam Ongbi Tama
Singamei Oinam Thingel
Imphal- West