

GARO HILLS AUTONOMOUS DISTRICT(ADMINISTRATION OF JUSTICE)RULES, 1953

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GARO HILLS AUTONOMOUS DISTRICT(ADMINISTRATION OF JUSTICE)RULES, 1953

In pursuance of paragraph 11 of the Sixth Schedule to the Constitution of India, the following Rules made by the Garo Hills District Council with the previous approval of the Governor of Assam under sub-paragraph (4) of paragraph 4 of the said Sixth Schedule are hereby published.

CHAPTER 1 **Preliminary**

1. Short title, extent and commencement :-

(1) These Rules may be called the Garo Hills Autonomous District (Administration of Justice) Rules, 1953.

(2) These Rules shall apply to the whole of the Garo Hills Autonomous District.

(3) They shall come into force at once, but the Courts constituted under these Rules shall commence functioning from such date as the Executive Committee may, by notification in the Gazette, appoint in this behalf, hereinafter referred to as "the appointed day."

2. Definitions :-

In these Rules, unless there is anything repugnant or the context otherwise requires,

(a) "autonomous district" means a tribal area deemed as such under paragraph 1 (1) of the Sixth Schedule to the Constitution of India, and the term "district" shall be construed accordingly ;

(b) "Constitution" means the Constitution of India ;

(c) "District Council" means the District Council of the Garo Hills autonomous district constituted under the provisions of the Sixth Schedule to the Constitution and in accordance with the Assam Autonomous Districts (Constitution of District Councils) Rules, 1951 ;

(d) "Gazette" means the Assam Gazette ;

(e) "Executive Committee" means the Executive Committee of the Garo Hills District Council constituted under the Assam Autonomous Districts (Constitution of District Councils) Rules, 1951, and the terms "Chief Executive Member" and "Member of the Executive Committee" shall be construed accordingly ;

(f) "Governor" means the Governor of Assam ;

(g) "High Court" means the High Court of Assam ;

(h) "Scheduled tribe or tribes" means such tribe or tribes as are specified by order by the President of India under Art. 342(1) of the Constitution as modified by law made by Parliament from time to time in so far as the specification pertains to the autonomous district of Assam ;

(i) "Village" means the entire area within the jurisdiction of a

Laskar or an area declared as such by the District Council ;

(j) "Village Council" means a Village Council constituted for a village under R. 5.

3. Interpretation :-

Except where the context otherwise requires, the General Clauses Act, 1897 and the Assam General Clauses Act, 1915, shall apply for the interpretation of these rules, as they apply for the interpretation of an Act of Parliament or of the Legislature of the State of Assam, as the case may be.

CHAPTER 2

Constitution of Village Councils

4. Constitution of Village Councils :-

(1) There shall be a Village Council for each village within the jurisdiction of the District Council, to be composed in the manner hereinafter provided in sub-R.(2) of this rule.

(2) Each Village Council shall be composed of

(a) the Laskar of the village to be recognised by the District Council,

(b) elders, half of whom shall be nominated by the Executive Committee and the other half elected by the adult members of the village, the number of elders for each Village Council being determined by the District Council :

Provided that in case the election of elders to constitute a Village Council or Councils under this sub-rule cannot be held due to any reason considered unavoidable by the Executive Committee but the circumstances demand the immediate constitution of such a Village Council or Councils, the Executive Committee may also nominate the other half of the total number of elders of such Council or Councils, and the elders so nominated shall hold office for a period not exceeding two years from the date of the first meeting of the Council or Councils.

(3) There shall be a President and a Vice-President of each Village Council. The President and the Vice-President shall be elected by the members of the Village Council from amongst themselves by a majority of votes,

(4) Every Village Council shall have a life of five years from the

date of its first meeting unless dissolved earlier by the District Council.

(5) For the purpose of this rule, the District Council shall publish in the Gazette a list of village within its jurisdiction.

CHAPTER 3

Constitution of Courts

5. Classes of Courts :-

There shall be three classes of Courts, as specified below, in the areas within the Garo Hills autonomous district, to be constituted by the District Council for the trial of suits and cases between the parties all of whom belonging to a Scheduled Tribe or Tribes within such areas other than suits and cases to which the provisions of sub-para (1) of para 5 of the Sixth Schedule to the Constitution apply

(i) Village Courts.

(ii) Subordinate District Council Courts,

(iii) District Council Court.

I-Village Courts

6. Village Courts :-

(1) Each Village Court shall ordinarily consist of

(a) the Laskar of the village or in the case of a non-Laskar Village member of the Village Council nominated by the District Council.

(b) two members of the Village Council who shall be elected by the Council by a majority of votes :

Provided that the District Council may, whenever it deems necessary, appoint three persons from amongst the members of the Village Council to sit as a Bench of the Village Court for the trial of any particular class or classes of suits and cases ;

Provided further that until such time a Village Court or Courts is or are constituted under this rule, the Laskar of a Village, either recognised or appointed as such by the District Council, shall exercise the powers of a Village Court under these Rules.

(2) The Laskar of the Village, and in case of a non-Laskar Village the member nominated by the District Council, shall ordinarily be the ex-officio President of the Village Court :

Provided that in case of a Laskar Village the District Council may, whenever it deems necessary, nominate a person other than the Laskar of the Village as the President of the Village Court and in such event the Laskar shall not be a member of the Village Court.

(3) The jurisdiction of a village Court shall extend to the hearing and trial of suits and cases arising within the territorial limits of the village.

(4) There shall be a Secretary to the Village Court to be appointed by the Executive Committee of the District Council in consultation with the Village Court and District Council Court.

(5) The tenure of the office of the members of a Village Court, except the ex-officio member shall, be coterminous with the tenure of the office of the members of the Village Council. But retiring members shall be eligible for re-election. In the event of the dissolution of a Village Council, the members of the Village Court under that Council, shall continue to be members of the court, until new members are elected, in accordance with these rules.

7. Subordinate Court :-

(1) The Headquarters of the Subordinate District Council Court shall be at Tura. Each Court shall be presided over by a Judicial Officer appointed by the District Council with the approval of the Governor and the Judicial Officer shall also act as Recorder of the Court :

Provided that the Chief Executive Member or a member of the Executive Committee or any other Member of the District Council shall not be entitled to hold office as Judicial Officer ;

Provided further that the District Council may, whenever it deems necessary, direct two or more Judicial Officers to sit together as a Bench and may by order invest such Bench with any of the powers conferred or conferrable by or under these rules on a Judicial Officer and direct it (Bench) to exercise such powers for the trial of particular suits and cases or particular class or classes of suits and cases arising within the Garo Hills autonomous district, and in that case all references to a Judicial Officer shall be construed as references to the said Bench ;

Provided also that the District Council may, whenever it deems necessary, nominate two or more local elders well conversant with the tribal usages and customary laws, to sit with the Judicial Officer

of the Court as a Bench and may by order invest such Bench with any of the powers conferred or conferrable by or under these rules on a Judicial Officer, and direct it (Bench) to exercise such powers for the trial of suits and cases based on the tribal customary laws only.

(2) The jurisdiction of the Court at Tura shall extend to the hearing and trial of suits and cases arising within the Garo Hills autonomous district,

(3) The Executive Committee of the District Council shall provide the Subordinate Court with such clerical staff as may be required to enable the Court to keep all necessary records and registers and to issue summons in the name of the Court.

8. Provision for Additional Subordinate Court :-

Notwithstanding anything contained in R. 7, the District Council with the previous approval of the Governor, may constitute by order notified in the Gazette an Additional Subordinate District Council Court or Courts with such powers, jurisdiction and seat as may be specified in the order, in respect of areas within the autonomous district and make consequential alteration in the jurisdiction of the Courts established under R. 7.

9. Service of Judicial Officers :-

The conditions of service of the Judicial Officers of a Subordinate District Council Court or an Additional Subordinate District Council Court and the staff appointed therefor shall be regulated by the rules or orders made or issued, as the case may be, under R. 15 of the Assam Autonomous Districts (Constitution of District Councils), Rules, 1951. III District Council Court

10. District Council Court :-

(1) There shall be one District Council Court for the Garo Hills autonomous district which shall be called the Garo Hills District Council Court. It shall consist of such number of Judicial Officers as may be determined by the District Council with the previous approval of the Governor.

(2) The District Council may direct any two or more Judicial Officers to sit together as a Bench, and may by order invest such Bench with any of the powers conferred or conferrable by or under these rules on a Judicial Officer, and direct it to exercise such powers in such class or classes of cases as the District Council thinks fit.

11. Appointment of Judicial Officer :-

The District Council shall appoint Judicial Officers of the District Council Court subject to the approval of the Governor :

Provided that the Chief Executive member or a Member of the Executive Committee or any other Member of the District Council shall not be entitled to hold office as Judicial Officer of the District Council Court

12. Venue of Court :-

The District Council Court shall ordinarily sit at Tura. The court may sit at such other place or places as may be directed by general or special order by the District Council for the disposal of a particular case or cases or class or classes of cases specified in the order.

13. Service condition of Judicial Officer :-

The conditions of service of the Judicial Officers of the District Council Court shall be regulated by the rules or order made or issued, as the case may be, under R. 15 of the Assam Autonomous Districts (Constitution of District Councils) Rules, 1951.

CHAPTER 4

Powers of Courts

14. Jurisdiction of Village Court :-

A Village Court shall try suits and cases of the following nature in which both the parties belong to a Scheduled tribe or tribes resident within its jurisdiction :

(a) Cases of civil and miscellaneous nature falling within the purview of village or tribal laws and customs ;

(b) Criminal cases falling within the purview of tribal laws and customs and offences of petty nature, such as petty theft and pilfering, mischief and trespass of petty nature, simple assault and hurt, affront and affray of whatever kind, drunken or disorderly brawling, public nuisance and simple cases of wrongful restraint :

Provided that the Village Court shall not be competent to try offences in respect of which the punishment of imprisonment is obligatory under the Indian Penal Code.

15. Powers of Village Court :-

(1) A Village court shall not be competent to pass a sentence of imprisonment in any criminal case. It shall have power to impose a fine for any offence it is competent to try, up to a limit of Rs. 50

(Rupees fifty). It may award payment in restitution or compensation to the aggrieved or injured party in accordance with the customary law.

(2) In a civil case a Village Court shall have power to award all costs, as also compensation to those against whom unfounded or vexatious suits and cases have been instituted before the Court.

(3) The fines and payments imposed and ordered under sub-Rr. (1) and (2) may be enforced by distraint of the property of the offender.

16. Power of Village Court to order attendance :-

A Village Court shall have power to order in writing for attendance of the accused and the witnesses to be examined in the case and to impose a fine not exceeding Rs. 25 (Rupees twenty-five) on any person wilfully failing to attend when so ordered.

17. Realization of fine or payment :-

If any person on whom a fine or any payment has been imposed by a Village Court fails to deposit the amount at once or within such time as the Village Court may allow, the Court shall report the matter to the District Council for necessary action to realise the fine or dues in such manner as it may deem fit unless the accused person gives notice to appeal against such decision.

18. Reference to competent Court :-

Where a Village Court is of opinion that the sentence it is competent to pass is insufficient in the circumstances of the case it shall without delay refer the case to the competent Court, and that Court shall dispose of the case in accordance with these rules.

19. Appeal from orders of Village Court :-

An appeal shall lie to the Subordinate District Council Court or Additional Subordinate District Council Court from any order or sentence passed by a Village Court in a criminal case, or from the decision of the Village Court in any other case, if the appeal is preferred within sixty days of the conviction or sentence or decision of the Village Court. The Subordinate District Council Court or Additional Subordinate District Council Court while hearing the appeal, may either decide the appeal after perusal of the records of the case only or may try the case de novo.

20. Powers of Subordinate Court :-

Save as otherwise provided in the Constitution and in these Rules,

a Judicial Officer appointed to preside over the Subordinate District Council Court shall exercise such powers as defined in Chapter III of the Code of Criminal Procedure, 1898, as may be invested upon him by the Executive Committee of the District Council with the prior approval of the Governor.

21. Original jurisdiction of Subordinate Court :-

A Subordinate District Council Court shall have original jurisdiction in all suits and cases in which both the parties do not fall within the local jurisdiction of the same Village Court, but within the areas under the jurisdiction of the Subordinate District Council Court and also in cases and suits referred to it by a Village Court under R. 18. The Subordinate District Council Court and the Additional Subordinate District Council Court, as the case may be, shall also have appellate jurisdiction in respect of all suits and cases tried by Village Courts.

22. Limit of jurisdiction of Subordinate Court :-

A Subordinate District Council Court shall be competent to try all suits and cases in which both the parties belong to a Scheduled tribe or tribes resident within the jurisdiction of the Subordinate District Council Court other than the suits and cases referred to in R. 23.

23. Cases beyond competence of Subordinate Court :-

(1) A Subordinate District Council Court shall not be competent to try suits and cases

(a) to which the provisions of sub-paragraph (1) of paragraph 5 of the Sixth Schedule to the Constitution apply, unless the Court has been authorised by the Governor to exercise such powers for the trial of particular class or classes of cases and suits specified in that behalf by the Governor as required under the said sub-paragraph (1) of paragraph 5 of the Sixth Schedule ;

(b) in which one of the parties is a person not belonging to a Scheduled Tribe ;

(c) in respect of offences

(i) under Ss. 124-A, 147 and 153 of the Indian Penal Code,

(ii) under Chapter X of the same Code in so far as they relate to the contempt of a lawful authority other than an authority constituted by the District Council,

(iii) of giving or fabricating false evidence, as specified in S. 193 of the same Code, in any case triable by a Court other than a court constituted by the District Council under these rules.

(2) Unless specially empowered by the Governor by notification in the Gazette a Subordinate District Council Court shall not be competent to exercise powers in

(a) cases relating to the security for keeping the peace and good behaviour similar to those contemplated under S. 107 of the Code of Criminal Procedure, 1898 ;

(b) cases relating to the security for good behaviour from persons disseminating seditious matter similar to those contemplated under S. 108 of the same Code ;

(c) cases relating to the security for good behaviour from vagrants and suspected persons similar to those contemplated under S. 109 of the same Code ;

(d) cases relating to the security for good behaviour from habitual offenders similar to those contemplated under S. 110 of the same Code ;

(e) urgent cases of nuisance or apprehended danger similar to those contemplated under S. 144 of the same Code ;

(f) disputes as to immovable property of the nature similar to that contemplated under S. 14.5 of the same Code ;

(g) cases in which a public servant who is not removable from his office save by or with the sanction of the Government of Assam or some higher authority is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty.

24. Powers of existing Courts :-

(1) Suits and cases referred to in R. 23 shall continue to be tried and dealt with by the existing Courts until such time as the Governor deems fit to invest the Subordinate District Council Court with such powers by notification in the Gazette.

(2) For the purposes of this rule the "existing Courts" mean the Courts of the Deputy Commissioner and his Assistants.

25. Reference to Deputy Commissioner :-

Whenever there is any likelihood of breach of peace or whenever any person accused of any offence involving a breach of peace, or of abetting the same or any person accused of committing criminal intimidation is convicted of such offence by any Court of the District Council and such Court is of opinion that it is necessary to require such person to execute a bond for keeping the peace, the matter shall be referred to the Deputy Commissioner who shall take necessary action in accordance with law.

26. Reference to Chief Executive Member :-

Whenever any Court of the District Council is informed that

(a) any person is likely to commit a breach of the peace or disturb the public tranquillity, or to do any wrongful act that may probably occasion a breach of the peace, or disturb the public tranquillity ;

(b) there is within the limits of its jurisdiction any person who within or without such limits, either orally or in writing or in any other manner intentionally disseminates or attempts to disseminate, or in anywise abets the dissemination of

(i) any seditious matters, that is to say, any matter the publication of which is punishable under S. 124-A or S. 153-A of the Indian Penal Code ;

(ii) any matter concerning a Judge which amounts to criminal intimidation or defamation under the Indian Penal Code ;

(c) any person is taking precautions to conceal his presence within the local limits of such Court's jurisdiction, and there is reason to believe that such person is taking such precautions with a view to committing any offence ; or there is any person within such limits who has no ostensible means of subsistence or who cannot give a satisfactory account of himself ;

(d) any person within the local limits of the Court's jurisdiction -

(i) is by habit a robber, house breaker, thief or forger, or

(ii) is by habit a receiver of stolen property knowing the same to have been stolen, or

(iii) habitually protects or harbours thieves or aids in the concealment or disposal of stolen property, or

(iv) habitually commits, or attempts to commit or abets the commission of the offence of kidnapping, abducting, extortion,

cheating or mischief or any offence punishable under Chapter XII of the Indian Penal Code or under S. 489-A, S. 489-B, S. 489-C, or S. 489-D of that Code, or

(v) habitually commits, or attempts to commit or abets the commission of offences involving a breach of the peace, or

(vi) is so desperate and dangerous as to render his being at large without security hazardous to the community, the Court shall refer the matter to the Chief Executive Member for reference to the Deputy Commissioner, who shall, on such reference being made to him, deal with the case in accordance with law.

27. Reference to Chief Executive Member :-

In cases where, in the opinion of a Court of the District Council there is sufficient ground for proceeding under S. 144 of the Code of Criminal Procedure, 1898 and immediate preventive or speedy remedy is desirable, such Court shall refer the matter to the Chief Executive Member for making a reference to the Deputy Commissioner who shall on such a reference being made to him take such action as he considers necessary under the said section.

28. Reference to Deputy Commissioner :-

Whenever a Court of the District Council is satisfied that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within the local limits of its jurisdiction, such Court shall refer the matter to the Deputy Commissioner through the Chief Executive Member and the Deputy Commissioner, whenever such a reference is made to him, shall take such action as he considers necessary under law.

29. Power to pass sentence :-

In criminal cases the Subordinate District Council Court or Additional Subordinate District Council Court may, subject to the provisions of the Constitution and of these rules, pass any sentence authorised by any law for the time being in force.

30. Appeal from decision of Subordinate Court :-

An appeal shall lie to the District Council Court from the decision of the Subordinate District Council Court or an Additional Subordinate District Council Court, in the exercise of their original or appellate jurisdiction, in any case, civil or criminal :

Provided that such appeals are accompanied by a copy of the order appealed against and a clear statement of the grounds of appeal

and are filed within 60 days of the date of the orders, excluding the time required for obtaining a copy of the order appealed against.

31. Jurisdiction of District Council Court :-

Subject to the provisions of Rr. 33 and 35, the District Council Court shall be a Court of Appeal in respect of all suits and cases triable by Subordinate District Council Courts, Additional Subordinate District Council Courts and Village Courts :

Provided that the Judicial Officer appointed to preside over the District Council Court, shall also exercise original jurisdiction to try cases and suits and shall exercise such powers as defined in Chapter III of the Code of Criminal Procedure, 1898, and such other powers conferred by or under these rules, as he may be invested with by the Executive Member of the District Council with the approval of the Governor for the disposal of the cases and suits arising within the territorial jurisdiction of the said Court.

32. Appellate and revisional powers of District Council Court :-

(1) The District Council Court may, subject to the provisions of these rules, pass any order on appeal authorised by any law for the time being in force. (2) The District Council Court may call for and examine the record of any proceedings of a Subordinate District Council Court or an Additional Subordinate District Council Court or a Village Court and may enhance, reduce, cancel or modify any sentence or finding passed by such Court or remand the case for retrial.

33. Transfer of cases :-

(1) If it appears to the District Council Court

(a) that a fair and impartial inquiry or trial cannot be had in any Village Court or Subordinate District Council Court or an Additional Subordinate District Council Court, or

(b) that some question of law, Tribal or otherwise, of unusual difficulty is likely to arise ; it may order

(i) that any offence be inquired into or tried by another Village Court or Subordinate District Council Court or an Additional Subordinate District Council Court ;

(ii) that any particular case or class of cases be transferred from one Village Court to another Village Court or from one Village Court

to a Subordinate District Council Court or an Additional Subordinate District Council Court or from one Subordinate District Council Court or an Additional Subordinate District Council Court to another Subordinate District Council Court or an Additional Subordinate District Council Court ;

(iii) that any particular case be transferred to and tried before itself.

(2) When the District Council Court withdraws for trial before itself any case from any Court other than the Court of origin it shall observe in such trial the same procedure which that Court would have observed, if the case had not been so withdrawn.

(3) The District Council Court may act either on the report of the lower Court or on the application of a party interested or on its own initiative.

34. Provision for release of offender :-

(1) When any person is convicted of an offence which the District Council Court is competent to try under these rules, and no previous conviction is proved against the offender, if it appears to that Court, regard being had to the age, character or antecedents of the offender, and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond with or without sureties to appear and receive sentence when called upon during such period not exceeding three years as the Court may direct and in the meantime to keep the peace and be of good behaviour ;

Provided that, where any first offender is convicted by a Subordinate District Council Court and the Court is of opinion that the powers conferred by this rule should be exercised, it shall record its opinion to that effect, and submit the proceedings to the District Council Court forwarding the accused to, or taking bail for his appearance before such Court which shall dispose of the case in manner provided by R. 35.

(2) In any case in which a person is convicted of theft, theft in a building, dishonest misappropriation, cheating or any offence under the Indian Penal Code punishable with not more than two years' imprisonment and no previous conviction is proved against him, the

District Council Court before which he is so convicted may, if it thinks fit, having regard to the age, character, antecedents or physical or mental condition of the offender and to the trivial nature of offence or any extenuating circumstances under which the offence was committed, instead of sentencing him to any punishment release him after due admonition :

Provided that, where a person is convicted of such offence by a Subordinate District Council Court or Additional Subordinate District Council Court and no previous conviction is proved against him, and the Court is of opinion that the powers conferred by this rule should be exercised, it shall record its opinion to that effect and submit the proceedings to the District Council Court forwarding the accused to, or taking bail for his appearance before such Court which shall dispose of the case in manner provided by R. 35.

(3) The provisions of Ss. 122, 126-A and 406-A of the Code of Criminal Procedure shall apply mutatis mutandis in the case of sureties offered in pursuance of the provisions of this rule.

35. Passing of sentence or orders on reference :-

Where proceedings are submitted to the District Council Court under R. 24 such Court may thereupon pass such sentence or make such orders as it might have passed or made if the case had originally been heard by it and, if it thinks further inquiry or additional evidence on any point to be necessary, it may make such inquiry or take such evidence itself or direct such inquiry or evidence to be made or taken.

36. Warrant against offender :-

(1) If the Court which convicted the offender, or a Court which could have dealt with the offender in respect of his original offence, is satisfied that the offender has failed to observe any of the conditions of his recognisance, it may issue a warrant for his apprehension.

(2) An offender when apprehended on any such warrant shall be brought before the Court issuing the warrant as soon as may be within a period of twenty-four hours of apprehension excluding the time necessary for the journey from the place of apprehension to such Court and such Court may either remand him in custody until the case is heard or admit him to bail with a sufficient surety conditioned on his appearing for sentence. Such Court may, after hearing the case, pass sentence.

(3) A warrant for the apprehension of an offender under sub-R. (1) shall ordinarily be directed to a police officer, but the Court may, if its immediate execution is necessary, direct it to any other person or persons, and such person or persons shall execute the same.

37. Place of offender :-

The court directing the release of an offender under sub-R. (1) of R. 34 shall be satisfied that the offender or his surety (if any) has a fixed place of abode or regular occupation in the place for which the Court acts or in which the offender is likely to live during the period named for the observance of the conditions.

38. Government appeal :-

(1) In a criminal case the District Council or the Governor may direct an appeal to be presented to the District Council Court from any order passed by a Village Court or a Subordinate District Council Court or an Additional Subordinate District Council Court.

(2) An appeal under sub-R. (1) shall be presented within 90 days of the date of order appealed against, excluding the time needed for obtaining a copy of the order.

CHAPTER 5

Procedure

39. Trial in Village Court :-

A Village Court shall try all suits and cases in accordance with the customary laws of the Village.

40. Procedure for decision :-

A Village Court shall try all cases in open Darbar in the persence of at least three witnesses and of the complainant and the accused and shall decide the issue by simple majority of votes. After hearing both parties and their witnesses, if any, it shall pronounce a decision forthwith :

Provided that the President shall have a casting vote where there is a tie.

41. Notices of Village Court :-

All notices required to be given by the Village Court to parties to a suit and their witnesses shall be in writing and for a fixed day not exceeding eight days from the day it is given. Tf a case be postponed, it shall be fixed for a day not exceeding 15 days from the date of the order of postponement, and the case may be

subsequently adjourned for a period not exceeding 7 days at a time on good cause shown. The order shall be made known to the person concerned or to some adult members of his family, and failing this, shall be openly proclaimed at the place where he is or was known to be, or shall be communicated to him or any member of his family by a written notice, in sufficient time to allow him to appear. 41-A. Power of Village Court to pass an ex parte order. A Village Court may pass an ex parte order, if it is satisfied that any of the parties is wilfully absenting itself from appearing in the Court. 41-B. Adjournment in Village Court. If any party seeks an adjournment of the hearing of a case, the Court may grant such an adjournment and may in its discretion order payment by the party seeking adjournment, of an adjournment cost, not exceeding Rs. 10 which cost, when paid, shall be appropriated to the District Council Fund.

42. Proceedings of Village Court :-

(1) The proceedings of a Village Court shall be in writing. (2) Registers of all suits and cases disposed of by a Village Court shall be kept by the Court in the forms in Appendix I.

43. Power to carry out decision :-

A Village Court may carry out its decision or may, subject to the provisions of R. 56, order attachment of property as soon as judgment is pronounced, but in no case is property so attached to be sold, if the party concerned claims to appeal within 60 days, without the orders of the District Council Court. II Subordinate District Council Courts and District Council Court

44. Application of Criminal Procedure Code :-

(1) In criminal cases the procedure of the Subordinate District Council Courts, Additional Subordinate District Council Courts and the District Council Court shall, subject to the provisions of this rule, be in the spirit of the Code of Criminal Procedure, 1898, so far as it is applicable to the circumstances of the district and not consistent with these rules. The chief exceptions are

(2) Wherever a Court constituted under these rules requires, in course of the discharge of its functions, the services of the regular police which is at the disposal of the Deputy Commissioner, that Court may send a requisition for such services to the Deputy Commissioner who will generally comply with such requisition unless he considers the compliance to be not possible for any

special reasons.

(3) Summons on any person residing outside the jurisdiction of the Garo Hills autonomous district or on a person who does not belong to a Scheduled Tribe shall be issued by a Court other than the High Court, through the Deputy Commissioner of the district.

(4) A note of the substance of all the proceedings in cases tried before them must be kept by the District Council Court, the Subordinate District Council Courts and the Additional Subordinate District Council Courts in the form prescribed in Appendix II. In cases in which a sentence of imprisonment of not less than three months is imposed fall note of the evidenee and proceedings must be kept.

(5) There shall be no preliminary enquiries by regular or village police unless the District Council Court or Subordinate District Council Court or Additional Subordinate District Council Court secs fit to direct one.

(6) Recognisance to appear need not be taken unless it seems necessary to the District Council Court or Subordinate District Council Court or Additional Subordinate District Council Court.

(7) Examinations and proceedings in the Subordinate District Council Court or Additional Subordinate District Council Court or District Council Court generally shall be in English or in any of the recognised languages of the District.

(8) It shall not be necessary to examine witnesses upon oath or affirmation unless the accused so desired. It shall suffice if the District Council Court or Subordinate District Council Court or Additional Subordinate District Council Court at the commencement of any trial, informed the accused that, if he so requires, the witnesses will bs put on oath. It is, however, at all times optional with the court to put witnesses, on oath or affirmation but witnesses, whether on oath or affirmation or not, shall b; punishable for giving false evidence.

45. Maintenance of Registers :-

In addition to such other Registers as may be directed by the High Court, the following Registers shall be kept in the District Council Court, the Subordinate District Council Courts and the Additional Subordinate District Council Courts in the forms prescribed in Appendix III

- (1) Register of Petitions.
- (2) Register of Crimes.
- (3) Register of Criminal Cases disposed of.
- (4) Register of Fines

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46. Adjudication of civil cases :-

(1) In all civil cases the District Council Court, the Subordinate District Council Courts and the Additional Subordinate District Council Courts shall adjudicate according to law, justice, equity and good conscience consistent with the circumstances of the case.

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

47. Deposit of expenses :-

Any Court before which an appeal in a civil suit is filed may, before admitting the appeal, order the deposit by the appellant of all reasonable expenses 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 expenses, and if the appellant be a judgment-debtor, may also order security to be given for part or the whole of the decretal amount.

48. Application of C. P. C. :-

In civil cases, the procedure of the District Council Court or the Subordinate District Council Court, or the Additional Subordinate District Council Court shall be guided by the spirit, but not bound by the letter, of the Code of Civil Procedure, 1908 in all matters not covered by recognised customary laws or usages of the District.

49. Transfer of decree :-

The decree of the Appellate Court in a civil case shall be transferred to the Court passing the original order for execution as a decree of its own.

50. No imprisonment for debt :-

There shall be no imprisonment for debt, except in cases where the District Council Court or the Subordinate District Council Court or the Additional Subordinate District Council Court is satisfied that

fraudulent disposal or concealment of property has taken place and in such cases the debtor may be detained for a period not exceeding six months.

51. Legal practitioners :-

Any legal practitioner may appear in any case before the District Council Court or Subordinate District Council Court or Additional Subordinate District Council Court :

Provided that in cases where an accused is not arrested the legal practitioner shall take previous permission of the Court for such appearance.

52. Appointment of Commissioner :-

Whenever, in the course of an inquiry, trial or other proceedings under these rules before any Court it appears that a commission ought to be issued for examination of a 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.

CHAPTER 6

Execution of sentences, decrees and orders Execution

53. Execution of decrees and orders :-

(1) Whenever a Village Court has sentenced an offender to pay a fine in a criminal case or has passed an order for the payment of any money by a person in a civil suit the Court may, subject to the provisions of R. 38

(a) issue a Parwana for the payment of the amount by the offender or the person concerned ; or

(b) may apply, in writing, to the Chief Executive Member of the District Council to realise the amount of execution according to civil process against the movable or immovable property, or both, of the defaulter.

(2) Where an application is made, under Cl. (b) of sub-R. (1), to the Chief Executive Member, the application shall be deemed to be a decree and the Chief Executive Member to be the decree holder.

He shall get the decree executed according to the spirit of the Civil Procedure Code.

(3) In the event of non-recovery of the amount of execution the Chief Executive Member may, by an application, move the Subordinate District Council Court or the Additional Subordinate District Council Court for the arrest and detention of the offender or the person concerned in execution of the decree.

(4) Whenever an application is made under sub-R. (3) the said Court may order for the arrest and detention of the offender or the person concerned in execution of the decree according to the spirit of the Criminal Procedure Code.

54. Application of C. P. C. and Cr. P. C. :-

(1) Subject to the provisions of Rr. 44 and 48 Subordinate District Council Court or Additional Subordinate District Council Court or the District Council Court shall cause a sentence, order or decree passed by it, to be carried into effect in accordance with the procedure prescribed by the Code of Criminal Procedure, 1898, or the Code of Civil Procedure, 1908, as the case may be, references therein to the "Collector of the District" being construed as referring to the "Chief Executive Member of the District Council".

(2) Every warrant for the execution of a sentence of imprisonment shall be directed to the Officer in charge of the Jail maintained by the State Government in which the prisoner is, or to be confined through the Deputy Commissioner.

(3) When the prisoner is to be confined in a Jail, the warrant shall be lodged with the Jailor through the Deputy Commissioner.

55. Property of absconder :-

Whenever a Parwana (Warrant) is issued by a Court against a person who is absconding or is concealing himself in connection with any criminal proceedings, any property, movable or immovable, belonging to him is liable to attachment according to the civil process prescribed in R. 56 of these rules. Attachment of property

56. Attachment of property :-

(1) Property, movable or immovable, belonging to the judgment-debtor over which or the profits of which he has a disposing power which he may exercise for his own benefit, whether the same be

held in the name of the judgment-debtor or by another person in trust for him or in his behalf is liable to attachment and sale in execution of a decree:

Provided that houses, needful clothing, cooking utensils or implement whereby the owner subsists should not be attached or sold in execution of a decree unless themselves the subject matter of the case or suit. Land may be sold or temporarily transferred where custom admits of individual right in it being transferred.

(2) Nothing in this rule shall be deemed to exempt houses and other buildings (with the materials and the sites thereof and the lands immediately appurtenant thereto and necessary for their enjoyment) from attachment or sale in execution of decrees for rent of any such house, building, site or land or if themselves be the subject of the suit.

(3) Subject to the provisions of R. 42, the procedure for the attachment of the property shall be in the spirit of the Code of the Criminal Procedure, 1898 or the Code of Civil Procedure, 1908, as the case may be. Miscellaneous

57. Detention of lunatic :-

Whenever any Court passes any order for the detention of a lunatic accused, the District Council Court shall refer the matter to the Deputy Commissioner, who shall deal with the case following the spirit of the Code of Criminal Procedure, 1898 and in accordance with rules made by the Government of Assam under the Indian Lunacy Act, 1912.

58. Barto trial :-

No Judicial Officer shall, except with the permission of the Court to which an appeal lies from his Court, try or commit for trial any case to or in which he is a party or personally interested, and no Judicial Officer shall hear an appeal from any judgment or order passed or made by himself.

Explanation. A Judicial Officer shall not be deemed to be a party or personally interested within the meaning of this rule to or in any case by reason only that he is a Member of any Town Committee or otherwise concerned, therein in a public capacity, or by reason only that he has viewed the place in which an offence is alleged to have been committed, or any other place in which any other transaction material to the case is alleged to have occurred, and made an inquiry in connection with the case.

59. Repeal and savings :-

(1) The provisions of the Rules for the Administration of Justice and Police in the Garo Hills District published in the Government of Assam's Notification No. 2616-A. P., dated 29th March, 1937, as subsequently amended and adapted, in so far as they relate to the matters dealt with in these Rules are hereby repealed with effect from appointed day.

(2) Notwithstanding such repeal every suit, appeal, application for revision, proceedings and other business relating to both civil and criminal justice pending on the appointed day with the village judicial functionaries or before the Court of the Deputy Commissioner, Garo Hills or his Assistants shall be transferred or deemed to have been transferred for disposal to the Court which would have been competent to entertain and dispose of such suit, appeal, application for revision, proceedings or business had these Rules been into force on the date of institution or commencement of the same and the latter Court shall deal with and dispose of the same in accordance with law.