

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

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

Ne, DLC 14/53, dated 7th, April, 1953. In exercise of the powers conferred under sub-paragraph (4) of paragraph 4 of the Sixth Schedule to the Constitution of India, the Lushai Hills District Council, with the previous approval of the Governor of Assam, is pleased to make the following rules, namely

CHAPTER 1 **Preliminary**

1. . :-

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

(2) These Rules shall apply to the whole of the Lushai Hills Autonomous District excluding the Pawi-Lakher Autonomous Region constituted under Government Notification No. TAD/R/10/50, dated 31st July, 1951, or any other region that may hereafter be constituted an Autonomous region under sub-paragraph (2) of paragraph 1 of the Sixth Schedule to the Constitution of India.

(3) They shall come into force on such date as may be notified by the District Council in the Gazette 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. . :-

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 Lushai 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 Lushai 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 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 districts of Assam ;

(i) "Village" means an area declared as such by the District Council ;

(j) "Village Council" means a Village Council constituted for a village under R. 4.

3. . :-

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. . :-

(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 five to eleven members of whom one third or nearest shall be nominated by the Executive Committee and the rest elected by the adult members of the village :

Provided that in case the election of members 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 remaining number of members of such Council or Councils, and the members so nominated shall hold office for a period not exceeding one year from the date of the first meeting of the Council or Councils.

(3) The District Council shall decide as to how many members shall constitute the village council in respect of each village subject to the provisions of sub-R. (2).

(4) 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.

(5) If the office of a President of a village council has fallen vacant owing to death or resignation, the District Council shall take adequate steps to fill up the said vacancy as soon as possible.

(6) Every village council or court shall have a life of 3 (three) years from the date of its first meeting unless dissolved earlier by the District Council.

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

CHAPTER 3

Constitution of Courts

5. . :-

There shall be three classes of Courts, as specified below, in the areas within the Lushai Hills autonomous district 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. . :-

(1) The village council for each village or a smaller body consisting of not less than three members of the council as elected by the council in this behalf shall sit as the village court:

Provided that when the village council sits itself as a Court, the quorum to constitute a court shall be three members or one half of the total number of members of such Council whichever is greater ;
Provided further that until such time a village court or courts is or are constituted under this rule, the Headman 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 jurisdiction of a Village Court shall extend to the hearing

and trial of suits and cases arising within the territorial limits of the village.

7. . :-

(1) There shall be one Subordinate District Council Court at Aijal and another at Lungleh. Each court shall be presided over by a Judicial Officer to be designated as Magistrate and to be appointed by the Executive Committee with the approval of the Governor, and such 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 Member of the District Council shall not be entitled to hold office as Judicial Officer.

(2) The jurisdiction of the Courts at Aijal and Lungleh shall extend to the hearing and trial of suits and cases arising respectively within the Aijal and Lungleh sub-divisions excluding the Pawi-Lakher Region.

(3) The Executive Committee of the District Council shall provide each Subordinate District Council 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. . :-

Notwithstanding anything contained in R. 7, the District Council may constitute by order notified in the Gazette one or more Additional Subordinate District Council Court or courts presided over by a Judicial Officer to be designated as Additional Magistrate and to be appointed by the Executive Committee with the approval of the Governor, within the jurisdiction of a Subordinate District Council Court. The Additional Magistrate or Magistrates shall also act as Recorder of the Court he presides over :

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

9. . :-

The conditions of service of the Judicial Officer in 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 District (Constitution of the District

Councils) Rules, 1951.

10. . :-

(1) There shall be one District Council Court for the Lushai Hills autonomous district which shall be called the Lushai Hills District Council Court. The Court shall consist of three Judicial Officers. One of the Judicial Officers shall be nominated by the District Council as the President and the Recorder of the Court.

(2) Any two or more Judicial Officers shall sit together as a Bench and the District Council 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 think fit:

Provided that in case of difference of opinion between the two Judicial Officers sitting together as a Bench the case shall be referred to the third Judicial Officer and the opinion of the majority shall prevail.

11. . :-

The District Council shall appoint Judicial Officers of the District Council Court subject to the approval of the Administrator : Provided that the Chief Executive Member or a Member of the Executive Committee or any Member of the District Council shall not be entitled to hold office as Judicial Officer.

12. . :-

The District Council Court shall ordinarily sit at Aijal. 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. . :-

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

CHAPTER 4

Powers of Courts

14. . :-

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. . :-

(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. . :-

A Village Court shall have power to order 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 only) on any person wilfully failing to attend when so ordered.

17. . :-

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 Chief Executive Member 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. . :-

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. . :-

Subject to R. 31 an appeal shall lie to the Subordinate District Council Court or Additional Subordinate District Council Court, as the case may be, from a village court within the jurisdiction of the Subordinate District Council Court or Additional Subordinate District Council Court concerned, against any order or sentence in a criminal case, or against any decision in any other case, provided the appeal is preferred within sixty days of the conviction or sentence or decision of the Village Court excluding the time for getting copies of the order or decision appealed against. 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 or may try the case de novo.

20. . :-

Save as otherwise provided in the Constitution and in these Rules, a Judicial Officer appointed under R. 7 or/and S shall exercise such powers as defined in Chapter III of the Code of Criminal Procedure, 1898, as may be invested with by the Executive Committee with the prior approval of the Governor.

21. . :-

A Subordinate Court or an Additional Subordinate District Council Court or Courts 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 or an Additional Subordinate District Council Court or Courts and also in cases and suits referred to it by a village court under R. 18.

22. . :-

(1) A Subordinate District Council Court or an Additional Subordinate District Council Court or Courts shall be competent to try all suits and cases arising within its jurisdiction other than suits and cases referred to in R. 23.

(2) An Additional Subordinate District Council Court shall try such

suits or cases, or such class or classes of suits or cases arising within its jurisdiction other than suits and cases referred to in R. 23, as the District Council may direct.

23. . :-

(1)A Subordinate District Council Court or an Additional 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

(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 or an Additional 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. 145 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. . :-

(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 or an Additional 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. . :-

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. . :-

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 ; or

(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. . :-

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 an 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. . :-

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. . :-

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. Whenever such a court is of opinion, after hearing the evidence for the prosecution and the accused, that the accused is guilty, and that he ought to receive a punishment different in kind from, or more severe than that which it is empowered to inflict, it may record the opinion and submit its proceedings to the competent court.

30. . :-

An appeal shall lie to the District Council Court from the decision of a Subordinate District Council Court or an Additional Subordinate District Council Court 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. . :-

Subject to the provisions of Rr. 33 and 34, the District Council Court shall be a Court of Appeal in respect of all suits and cases triable by Subordinate District Council Courts and Additional Subordinate District Council Courts :

Provided that the Executive Committee may, with the approval of the Governor, appoint, by notification in the Gazette one of the Judicial Officers of the District Council Court to be a Magistrate of the First Class as defined in Chapter III of the Code of Criminal Procedure, 1898, who shall have original jurisdiction throughout the

Lushai Hills Autonomous District excluding the Pawi-Lakher autonomous region in cases triable by such Magistrate of the First Class. If the said Magistrate is of opinion that the offence involved in a case filed in his court is of such nature as calls for punishment which a Subordinate District Council Court is competent to inflict he may transfer the case to the Subordinate District Council Court concerned ;

Provided further that appeals against the orders of the Judicial Officer who is appointed as Magistrate under the foregoing proviso shall lie to, and be heard by, the District Council Court sitting as a Bench of two other Judicial Officers. In case of difference of opinion in the Bench the orders of the lower Court shall prevail.

32. . :-

(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 records 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 re-trial. The appellate Bench of the District Council Court may take similar action in any proceedings of the Judicial Officer who is appointed as Magistrate of the First Class under the first proviso to R. 31.

33. . :-

(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 Additional Subordinate District Council Court, or

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

(c) that such an order is expedient for the ends of justice or is required by any provisions of these Rules or any law applicable to the case, it may order

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

(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. . :-

(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 or Additional 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 the 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 an 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 the 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. . :-

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. . :-

(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. . :-

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 in which the Court acts or in which the offender is likely to live during the period named for the observance of the conditions.

38. . :-

(1) In a criminal case the District Council Court 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. . :-

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

40. . :-

A Village Court shall try all cases in open Darbar in the presence of the complainant and the accused and their witnesses, if any. After hearing both parties and their witnesses, if any, it shall decide the issue by a simple majority of votes and pronounce a decision as soon as possible.

41. . :-

Except where a village court otherwise decides, only verbal notice is required to be given by the Village Court to parties to a suit and their witnesses and for a fixed day not exceeding eight days from

the day it is given. If 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 member 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, giving sufficient time to allow him to appear.

42. . :-

(1)The full proceedings of a village court need not be recorded in writing but the Subordinate District Council Court or Additional Subordinate District Council Court concerned may require a village court or courts to report its or their proceeding in any way which appears to it suitable.

(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. . :-

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.

44. . :-

(1) In criminal cases the procedure of the Subordinate District Council Court, 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 inconsistent 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 that officer 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

Lushai 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 a case in which a sentence of imprisonment of not less than three months is imposed full note of the evidence and proceedings must be kept.

(5) There shall be preliminary enquiries by regular or village police unless the District Council Court or Subordinate District Council Court or Additional Subordinate District Council Court sees 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, informs the accused that, if he so requires, the witness will be 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 be punishable for giving false evidence.

45. . :-

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.

46. . :-

(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. . :-

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. . :-

In civil cases, the procedure of the District Council Court or the Subordinate District Council Courts 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. . :-

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. . :-

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. . :-

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

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

52. . :-

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

53. . :-

(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 ;

(b) 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. The Chief Executive Member or any officer not below the rank of Circle Officer authorised by the Chief Executive Member in writing shall get the decree executed according to the spirit of the Civil Procedure Code.

(3) In the event of the non-recovery of the amount of the 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 Code of Criminal Procedure.

54. . :-

(1) Subject to the provisions of Rr. 43 and 44, the Subordinate District Council Court or the 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 is 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. . :-

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.

56. . :-

(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 on his behalf is liable to attachment and sale in execution of a decree :

Provided that only those movable and immovable properties should be attached as are permitted by Tribal custom.

(2) Nothing in these rules 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 Rr. 48 and 53, the procedure for the attachment of the property shall be in the spirit of the Code of Criminal Procedure, 1898 or the Code of Civil Procedure, 1908, as the case may be. Miscellaneous

57. . :-

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. . :-

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 a Municipal Hoard) 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.

58A. . :-

Notwithstanding anything contained in these Rules and the laws so far made by the District Council under paragraph 3 of the Sixth Schedule to the Constitution, the Judicial Officer of a Subordinate District Council Court or Additional Subordinate District Council Court and of the District Council Court, as the case may be, shall

exercise such other functions as may be entrusted to them from time to time by the Executive Committee by a notification to dispose of matters falling within the competency of the Executive Committee by virtue of the provisions of any law made under paragraph 3 of the said Schedule.

58B. . :-

The above amendments shall take effect from such date as may be notified hereinafter called "the appointed day", by the Executive Committee and all orders, decrees and sentence passed by the Subordinate District Council Courts prior to such date shall be deemed to have been passed under the Lushai Hills Autonomous District (Administration of Justice) Rules, 1953 as amended under this notification. Repeal and Savings

59. . :-

(1) The provisions of the Rules for the Regulation of the Procedure of Officers Appointed to Administer Justice in the Lushai Hills, published under the Government of Assam Notification No. 2530 (a) A. P., dated 25th March, 1937, as subsequently amended and adopted, in so far as they relate to the matters dealt with in these Rules, are hereby repealed with effect from the 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, Lushai Hills or his Assistants shall be transferred for disposal to the court which would have been competent to entertain and dispose of such suits, appeal, application for revision, proceeding or business had these Rules been brought 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.