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NOTIFICATION

No.DCA/A-97/88/67, the 17th December, 1993. Whereas under rule 181 of the Mizoram Autonomous District (Constitution & Conduct of Business of the District Councils) Rules, 1974, four candidates as shown below have filed Election Petitions against the elections of the four returned candidates of the following constituencies of the Pawi District Council at the elections held on 5th May, 1992 :-

Sl. No.	Name of persons who submitted election petition	Name of persons against whom election petition was submitted	Name of Constituency
1	2	3	4
1.	Pu A. Sanglawma	Pu Zungchema	12-LTI College Veng
2.	Pu J.H. Lianngura	Pu Lalthlamuana	17-Bungtlang 'S'
3.	Pu L.B. Zathang	Pu T. Tumsanga	Bualpui 'E'
4.	Pu H. Thathrina	Pu F. Rohnuna	1-Pangkhoa

And whereas, under sub-rule (1) of rule 185 of the Mizoram Autonomous District (Constitution & Conduct of Business of the District Councils) Rules, 1974, Pu Lalthanmawia, District Magistrate, Aizawl was appointed as Commissioner for hearing and disposing of the said election petitions;

And whereas, two election petitioners out of four, viz- Pu J.H. Lianngura and Pu L.B. Zathang, who submitted election petitions against Pu Lalthlamuana, 17-Bungtlang 'S' constituency and Pu T. Tumsanga, Bualpui 'E' constituency respectively, withdraw their election petitions before the Commissioner and as such there was no election petitions in respect of the said two petitioners pending before the Commissioner and the Commissioner accordingly reported the matter in writing to the Government;

And whereas, the said Commissioner has submitted his Report in respect of the two remaining election petitions under rule 192 of the said Rules and not recommending for re-election in both the said two constituencies mentioned below.

Now, therefore, in exercise of the powers conferred by sub-rule (1) and (3) of rule 192 of the said Rules, the Governor of Mizoram is pleased to order that the said two returned candidates listed at column 3 below are duly elected :-

Sl. No.	Name of persons who submitted election petition	Name of persons against whom election petition was submitted	Name of Constituency
1	2	3	4
1.	Pu A. Sanglawma	Pu Zungchema	12-LTI College Veng
2.	Pu H. Thathrina	Pu F. Rohnuna	1-Pangkhu

The Report of the Commissioner is appended to this notification.

Dr. H.C. Thanhanga,
Secretary to the Govt. of Mizoram,
District Council Affairs Department.

REPORTS OF THE COMMISSION (FOR DISPOSAL OF ELECTION PETITION)

In pursuance of the Government Notification No. DCA/A-97/88 dated 4th January '93 the Election petition submitted by the un-retained candidate, Shri A. Sanglawma, College Veng, Lawngtlai (III) against the returned candidate, Shri C. Zungchema, in the last P.D.C Election of 1992 was perused and heard the petitioner Pu C.Zungchema, the returned candidate against whom the petition was submitted and seven other witnesses produced by both the petitioner and Pu C. Zungchema themselves.

In the process of hearing the petitioner, the opposite party and their respective witnesses, the provisions of Rule 186(2) of the District Council Constitution (Conduct of Business of the District Council) Rules, 1974 was strictly observed. Accordingly, the statements of the petitioner, the opposite party and their respective witnesses were taken and recorded giving the required scope for the cross examination of both the parties in the spirit of Cr.P.C. The statements in writing submitted by both the petitioner and the opposite party along with the verbal statements obtained from the witnesses were recorded, examined and perused.

The main points submitted in his Election petition by the petitioner Pu A. Sanglawma are as follows :

1. Payments were made in favour of Pu C. Zungchema on the evening of Election against the work allotted earlier to the tune of Rs. 58,200/- (Rupees fifty eight thousand two hundred) only in contraventions of the order of the Lai Autonomous District Council not to issue any work order and make payment for it until further order during the course of Election campaign.
2. The maximum limit of election expenses fixed for one candidate is Rs. 4000/- (Rupees four thousand) only while the expenditure incurred by Pu C. Zungchema was Rs. 7000/- (Rupees seven thousand) only which was paid to Pu Suilina to obtain his support in Election. This is a clear violation of Rule 177 of the Mizoram Autonomous District Councils (Constitution and Conduct of Business) Rules, 1974.
3. The MNF voters had helped the informed voters Pi Aipari who belongs to Congress (I) and induced her to vote for MNF Candidate.
4. Shri Dekulha, Presiding Officer on duty at College Veng Polling Station violated the provisions of Rules 200 of Mizoram Autonomous District Councils (Constitution & Conduct of Business) Rules 1974 by striking off the names of Pu C. Ronghaka, Pi Lianzikpuii, Pi Tinpawngi and Pu Manliana and they were not allowed to vote.
5. Pi Nithai W/o Pu C. Zungchema camping herself in the house of Pu C. Chawnghnuna induced poor Congressmen by giving money to them to cast their votes in favour of Pu C. Zungchema.

Heard Pu A. Sanglawma, the petitioner in presence of Pu C. Zungchema the returned candidate against whom the Election Petition was submitted. Pu A. Sanglawma reiterated the statements he had already submitted in writing in his Election petition and there was no more points whatsoever. His statements were obtained and recorded on the daily sheets enclosed herewith.

The verbal statements of Pu C. Zungchema, the returned candidate who is the respondent No. 1 also were obtained. According to him, he was not given/allotted any work under the District Council as alleged by Pu A. Sanglawma but the said work was rather allotted to Pu Zahminga. The balance payments for the work allotted to Pu Zahminga was received by him on his behalf and the same was handed over to him prior to the holding of the Election, perhaps on 6.4.1992 and not on the evening of the Election. Either himself nor his wife did not camp in the house of Pu Chawnghnuna on the day of poll for which Pu T. Lalsawma was one of the eye witnesses to the correctness of his statements in this particular respect. As regards to the allegation stating that Pi Aipari, the informed voter was helped by MNF voter and helped her to vote in favour of Pu C. Zungchema, and that he has got nothing to say as the allegation is not directly against him but against the Presiding Officer. Another allegation stating that some persons such as Pu C. Ronghaka, Pi Lianzikpuii, Pi Tinpawngi and Pu Manliana were stricken off from the Roll under direction of the Presiding Officer of the Polling Station concerned was correct but subsequently they were allowed to vote before polling was closed as the Presiding Officer had realised that it was a mistake.

This allegation itself was not against me but against the Presiding Officer. He stated that he was not at all aware of any instances where he had purchased any voter nor did nothing to win the favour of any particular voter. He further stated that Pi Aipari herself verbally informed him that she was not helped by any body else in the process of voting. Another 10 (ten) witness produced by both the petitioner and the returned candidate were examined. None of the witnesses had given statements to substantiate the charges against the returned candidate except Pu Lalramthara who stated that Rs.300/- (Rupees three hundred) only was paid to Pu C. Zungchema in March 1992 for which he himself had approached him for help as he had no money for his admission into College.

After hearing the petitioner and the opposite party Pu C. Zungchema, the returned candidate and respondent No.1 carefully, giving chances to both the parties for cross examination and also their written statements being perused, the following are my findings :-

(i) The charges or allegation levelled against Pu C. Zungchema, the returned candidate, are found to have not been substantiated and proved beyond reasonable doubt. When the statements of Pu C. Zungchema, the returned candidate, were obtained and recorded in presence of the petitioner, Pu A. Sanglawma, the unreturned candidate, no cross examination or counter-statements were given by Pu A. Sanglawma. According to my opinion, the charges are framed on the basis of rumours or informations obtained from sources which could not be considered as reliable. Pu Suiliana was examined and he stated that he did not receive money from Pu C. Zungchema. He further stated that he did not assist Pu C. Zungchema in any way. It was a fact that I was in MNF Party earlier but now I have enrolled myself in Congress (I) Party. The charges against Pu C. Zungchema on corrupt Election practices are found to have been baseless and also could not be proved by Pu A. Sanglawma, himself and some witnesses produced by him. Rs 300/- (Rupees three hundred) only alleged to have been paid by Pu C. Zungchema to Pu Lalramthara, with an intention to in his favour to support him as a candidate was found to be not correct. This amount was paid much earlier in the early part of March, 1992 when the date for the Election was not yet announced. It is treated as normal dealing in between them as Pu Lalramthara personally approached Pu C. Zungchema for such help in taking admission in a College.

CONCLUSION :

It is, therefore, not recommended for re-election nor declaration of the result of the last District Council Election, 1992 null and void.

Lalthanmawia, IAS,
Deputy Commissioner,
Aizawl District, Aizawl.

&
Commissioner for hearing and disposal of
Election Petition.

REPORT OF THE COMMISSIONER (FOR DISPOSAL OF ELECTION PETITION)

In pursuance of the Government Notification No. DCA/A-97/88 dated 4th January, 1993 the Election petition submitted by the un-retained candidate, Shri H. Thathrina, Presiding Officer, Cheural, against the returned candidate, Shri F. Rohnuna of Pangkhua in the last P.D.C. Election of 1992 was perused and heard the petitioner and the respondent, in presence of both the petitioner and the respondent themselves on 18. 8. 1993 at Lawngtlai. Their respective statements were obtained and placed on this file. The petitioner and the respondent were given sufficient chances for hearing the statements of opposite party and further allowed them to cross-examine each other in case they were willing to do it so.

In the process of hearing the Election petition, the provisions of Rule 186(2) of the District Councils Constitution (Conduct of business of the District Council) Rules, 1974 were strictly observed. Accordingly the statements of the petitioner and the respondent were taken and recorded giving the required scope for cross-examination.

The main points of allegation submitted by the Petitioner, Shri H. Thathrina are as follows :

(1) Shri H. Lalrinliana, the Petitioner's son, was deprived of his right to vote in the last P.D.C. Election, 1992 by falsely alleging that he had already exercised his franchise through postal ballot.

(2) The three doubtful votes which should have been rejected were counted in favour of the returned candidate, P. votes polled against 335 votes polled in favour of the petitioner thereby making the total votes polled in favour of the returned candidate to 337 and the total votes polled in favour of the petitioner to 335.

The petition submitted by the petitioner, subsequent statement submitted by the opposite party, Shri F. Rohnuna, the returned candidate, and the statement obtained from the Election Officer, Saiha were all carefully examined and perused.

After hearing the petitioner and the opposite party, Pu F. Rohnuna, the returned candidate, who is the Respondent No. 1 carefully, giving chances to both the parties for cross-examination and their written statements being perused, the following are my findings :

1) On carefully checking and verifying the doubtful votes kept in the Strong Room of the Lawngtlai Treasury in presence of the Petitioner and the opposite party, I found that there were marks on the symbols of the returned candidate which could not be confused with the symbol of any other candidate. The mark was found to be not clear, perhaps, because the ink was dry at the time or the voter might have not done it properly. But the intention of the voters concerned was found to be proved that they did the marking on the symbol in favour of the returned candidate. I was fully convinced that the sound decision which was boldly made by the Returning Officer at the time should not be questioned and,

therefore, any opinion of anyone else should not be allowed to interfere in it. Thus, I fully endorsed the opinion and the decision of the Returning Officer who was the competent authority whose decision should be treated as final in this particular issue.

2) On checking carefully the postal ballots polled and kept in the Strong Room of Lawngtlai Treasury in presence of the Petitioner, the opposite party, namely, the Respondent No. 1 and the Election Officer, Saiha, I was fully convinced that no postal ballot was issued in favour of Pu H. Lalrinliana, the Petitioner's son. Only two postal ballots were issued to Pu Ramthanga of Cheural (MAP) and Pu Ramchungnunga of Pangkhua (MRP) which fact was confirmed beyond doubt on verification of the records of issue of such postal ballots kept in the Strong Room of the Lawngtlai Treasury in presence of both the petitioner and the returned candidate. It was, further, confirmed that Pu Ramthanga had voted in favour of the petitioner and Pu Ramchungnunga had voted in favour of the returned candidate. There could not be any doubt in this respect at all.

However, it was observed that a clear mistake was committed by the official who underlined and ticked the name of H. Lalrinliana, the petitioner's son as if he were issued with a postal ballot while he was never detailed on Election duty. The Returning Officer wrote to the SD(C) Lawngtlai and the reply to this letter from the SD(C) clarified that the mistake was purely a clerical one, and nothing else.

It was further established that the mistake was committed by the Election staff. In view of this, non-exercise of his franchise by H. Lalrinliana, the petitioner's son, also was due to this very mistake committed by the Election staff but not the fault of the returned candidate nor could he be held responsible for the mistake at all. At the same time, even if H. Lalrinliana might have obtained more votes than that of the petitioner and the margin would only be reduced to one only.

CONCLUSION : It is, therefore, not recommended for re-election nor declaration of the results of the last District Council Election, 1992 null and void.

Lalthanmawia,
Deputy Commissioner, Aizawl District, Aizawl.
&
Commissioner for Hearing & Disposal of
Election Petitions.