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NOTIFICATION

ANNEXURE A-1

In a Democracy, the Government is run by people through their elected representatives. The people's representatives are elected through the process of election. A free and fair election is key to proper selection of these representatives. In our country, this opportunity of selecting their representatives is given to the people through adult franchise. People exercise their franchise through paper ballots. The whole arrangement of election revolves around just and fair opportunity for voting and around proper counting of votes which is in the form of ballot papers. To ensure this, many safeguards have been prescribed by the Election Commission of India. These safeguards except some minor modification, is followed in the election of Autonomous District Councils in Mizoram as well. These safeguards, in brief are :

1. Calculation of number of ballot papers required for each constituency. This is done in accordance with formula prescribed by Election Commission of India.
2. Printing of required number of ballot papers in a secured environment. In Mizoram, the printing of ballot papers is done in Govt. Press at Aizawl. To ensure that only required number of ballot papers are printed, the printing of ballot papers are constantly monitored and each ballot paper is checked by the Press Staff as well as by the Election Staff. At the end of the process of printing, a certificate is jointly given by the Controller of Printing & Stationery, the representative of the Returning Officer and a senior impartial Official certifying the number of ballot papers printed and also the serial number of these ballot papers in each Constituency.
3. The ballot papers are then taken to a secured place and kept in a strongroom to be used at the time of election.
4. The requirement of each Polling Station is issued to the Presiding Officer with some spares. The formula for calculating the exact number of ballot papers to be issued to the Presiding Officer has been prescribed by the Election Commission of India. Balance ballot papers are retained at the strong-room to be used in case of re-polling at any Polling Station.

5. The Presiding Officers carry these ballot papers with them to the Polling Stations and sufficient security is also provided to the Presiding Officers to ensure that these ballot papers are not taken out from them. If there is any incident where ballot papers have been taken out of the Presiding Officers custody without authorisation, polling in that particular polling station is re-held.

6. At the time of polling, the ballot box is well prepared and a paper seal is inserted so that once the ballot papers are inserted in the ballot box, they cannot be taken out without spoiling the paper seal.

7. Before the ballot paper is given to the voter, the distinguishing seal of the polling station as well as signature of the Presiding Officer is put on the back of the ballot paper.

8. At the end of the poll, the ballot boxes are closed in presence of the representatives of various candidates and sealed and sent to the place of counting under proper escort. The Presiding Officer also prepares an account of ballot papers used and submits it along with the ballot box so that if any discrepancy is found in the ballot papers contained in the ballot box, it can always be cross-checked with the ballot paper account. The agents of various candidates are also given a copy of ballot papers account, if they desire so.

9. At the time of counting, the ballot boxes are opened in presence of candidates or their agents on each of the counting table and the counting is done after which the results are announced.

As is evidence from the above paragraphs, the whole exercise is oriented towards security of ballot papers and its proper counting. The main complaint of all the Petitioners is that there has been rigging by the returned candidate with the active help of the Returning Officer and the Election Staff associated with the Election process. Rigging means manipulation of ballot papers to favour a particular candidate in a Constituency. To my mind, rigging can be done in one of the following ways—

- (1) Printing excess ballot papers at a printing Press i.e. more than the limit prescribed by the Election Commission of India and to use it at the time of poll,
- (2) Booth capturing, and
- (3) Using unused ballot papers, i.e. the ballot papers which have not been issued to Presiding Officer(s), to prepare votes in favour of a particular candidate.

To rule out point No (1) above, the certificate from the Controller, Printing & Stationery were checked and it was found that three Officer i.e. Controller, Printing & Stationery, SDO(Sadar) of DC's Office, Saiha and Dy. Secretary in the Department of District Council Affairs certified the number and the Serial numbers of the ballot papers printed for each Constituency. This is an official document and have also been admitted to be correct by Shri Lalchunga Chinzah, one of the Petitioners. Hence, the printing of excess ballot papers i.e. more than the limit prescribed by the Election Commission of India, at Govt. Press is ruled out.

As for the point No. (2) above, there has been no report of Booth Capturing during the LADC election, 1997, hence this option is also ruled out.

At the time of my visit to Lawngtlai to check election related papers/documents, all the unused ballot papers were checked and statement prepared. A copy of this statement is annexed with each one of the report. Unused ballot papers returned by the Presiding Officer was also test-checked and the result of these test-checkings are also annexed with each of the report.

As explained earlier, if the unused ballot papers not issued to the Presiding Officers are intact, than there is no chance of rigging taking place.

Rajendra Kumar
Deputy Commissioner
Aizawl

ANNEXURE A-2

Most of the Petitioners have submitted a part of their complaint in the form of **"Incriminating points for consideration"**. This part is in the form of additional point and many of the petitioners have included it within their main petition as well. These points with their analysis is as follows :

1. The allegation is that the total number of voters in 23 constituencies under the Lai Autonomous District Council is **23,408**. However, the ~~total~~ number of ballot papers printed was **32,050**. Therefore, the number of ballot papers printed in excess was **8,642**.

The Election Commission provides that "The number of ballot papers with counterfoils in a stitched bundles to be supplied to each Polling Station should be equal to the number of electors allotted to the Polling Station **rounded off to the next ten**. The number required for supply to each Polling Station should be ascertained on this formula. The sum total for the Polling Stations in the Assembly Constituency rounded off to the next higher hundred should be taken as the number of ballot papers with counterfoils required for supply to Polling Stations in the Constituency".

Annexure A-3 is the record of Election Branch of DC's Office, Saiha which shows the calculation of requirement of ballot papers for various Constituencies. It is clear that **ballot papers were printed strictly in accordance with the Election Commission's guideline**. The result of checking of unused ballot papers for each Constituency is appended as annexure 'A' with each report. **Not a single ballot paper has been found unaccounted for.**

2. The second allegation is that Shri C.Liansanga, Election staff staying at PWD I.B., withdrew 7 empty ballot boxes from the strong-room of Lawngtlai Sub-Treasury at 6:30 AM on 3.5.97. **The allegation is that these empty ballot boxes have been used for rigging.**

The record of strong room was verified. It was found that 7 empty ballot boxes were **indeed withdrawn by Shri C.Liansanga** at 6:30 AM on 3.5.97. **But, the allegation that it was used for rigging purpose is not proved.** As it has been explained in Annexure A-1, as long as the unused ballot papers not issued to the Presiding Officers' remain intact and there is no report of booth capturing rigging would not have been done.

3. It was also found true that Smt. Zoramnghingi, an Election Staff had withdrawn a postal ballot box and a steel trunk from the Treasury strong-room on 30.4.97 at 1:00 PM. Also, Shri T.Basic had withdrawn many ballot boxes on 5.5.97 at 10:00 AM.

As I have explained in Para 2 above, these withdrawals in itself do not prove anything.

In every election, the sanctity of strong-room is maintained. Normally, the opening of a strong-room is avoided unless it is very much necessary. Even if the strong room requires to be opened, the Political Parties are given intimation so that they can come and watch. In MLA/MP Election, the Political Parties are even given the opportunity of putting their seal on the lock after the strong-room has been locked. These precautions are taken so that unnecessary suspicion may be avoided. However, in the case of this election, these precautions were not taken by the Returning Officer and the election staff.

REPORT ON THE ELECTION PETITION

NAME OF THE CONSTITUENCY : **1-PANGKHUA**

PETITIONER : **H.THATHRINA**

RESPONDENT : **F.ROHNUNA**

The main points of the Petitioner are :

1. The Electoral Roll for LADC election was not prepared in accordance with the MADC rules. The Electoral Roll was manipulated and supporters of Respondent were included by Returning Officer to favour the Respondent.
2. The Returning Officer acted in favour of the Respondent, who was a Congress-I candidate. The Returning Officer misused his official power to favour the Congress-I candidate.
3. Shri Hiphei, MP violated Model Code of conduct by making a promise to release his fund, if Congress-I candidate was elected in this constituency.
4. The ballot box which was used at Cheural polling station was not the same which was opened at the time of counting. The Petitioner requested to check the ballot paper account and used and unused ballot papers to find out the truth.
5. As the election was not free and fair, the Respondent who has been declared elected was elected through unfair means and hence the election of Respondent should be declared as null and void.
6. That the Petitioner be declared as elected.

The main points of the Respondent are as follows :

1. The preparation of electoral roll was done in accordance with MADC Rules, 1974. In any case, the Respondent was on tour to Aizawl during the revision period and hence he could not have influenced preparation of Electoral roll. Further, the preparation of Electoral roll was done by the Returning Officer and hence the point doesn't concern him as the Respondent.
2. The Returning Officer did not favour the Respondent. He did not do any thing which would have favoured the Congress-I party.
3. The Respondent admit that Shri Hiphei, M.P. visited the area for election campaign but he denies that Shri Hiphei had made commitment about release of fund. The allegation is false and baseless. Further confirmation can be obtained from the MP.

4. The ballot box of Cheural polling station was not changed and the counting was done properly. The Petitioner himself was present at the time of counting. This allegation is baseless.

5. The Petitioner lost in the LADC election three times and all the three times he submitted election petition. This is his habit. The Respondent further pleaded that as he has spent a lot of time at the cost of public work, he should be awarded appropriate cost.

I heard both the sides at length. The arguments in writing were also received from the Petitioner as well as from the Respondent. After due consideration, I arrive at the following conclusion :

1. In an election, secrecy of vote has to be maintained. To verify the contention of the Petitioner that the persons whose names were included in additional list voted for the Respondent, the individual votes of these persons will have to be checked. This would violate secrecy of votes. Hence, I am not enquiring into this point.

However, the Returning Officer's conduct during the process of preparation of Electoral roll needs to be examined. This may be done by Shri Denghnuna, who is enquiring into the conduct of the Returning Officer.

2. The conduct of Returning Officer regarding his favourable attitude towards the Respondent may again be referred to the Inquiry Officer.

3. The contention of the Petitioner that the ballot boxes was changed is not established.

4. As I have explained in Annexure 'A-1' appended to the forwarding letter, the unused ballot papers are most important and a thorough checking was done. Result of checking is enclosed at Annexure 'A'. Result of test checking of unused ballot papers returned by Presiding Officer(s) is enclosed at annexure 'B'.

Based on the above analysis, I found that the Respondent, who is the returned candidate, has been duly elected and the provisions of Rule 191 of MADC Rules, 1974 are not attracted.

RAJENDRA KUMAR
Deputy Commissioner,

&

Commissioner
for Petition, LADC Election.

ANNEXURE—A

Sheet 1

Analysis of Unused Ballot Papers					Serial Number of	
Name of Constituency: 1—Pangkhu					Ballot papers	
Total Number					From	To
Ballot papers printed					1	1350
Ballot papers issued to Presiding Officer					1	1240
Ballot papers found					1251	1300
in box containing unused					1241	1250
ballot papers						
Ballot papers and counter-foils found in postal ballot paper box					1301	1350
Ballot papers missing						
Counterfoils to be found						
in postal ballot box						
Counterfoils found in postal ballot paper box						

ANNEXURE—B

Sheet 1

Test Checking of unused ballot papers issued to Presiding Officers					
Name of the Constituency 1-Pangkhu					
Polling station No.			1/1	1/2	
A	Ballot papers issued to Presiding Officer		610	630	
B	Ballot papers returned by presiding officer		67	85	
C	Number of ballots found in the ballot box		538	545	
D	Discrepancy —		5	0	
(A-B-C)					
Note :		Discrepancy can be because of the following reasons :			
		(i) Tendered Votes			
		(ii) Spoiled ballot papers(by voter or by polling staff)			
		(iii) Voting by persons holding Election Duty Certificate			

REPORT ON THE ELECTION PETITION

NAME OF THE CONSTITUENCY : **3-SANGAU WEST**

PETITIONER : **K.HREKUNGA**

RESPONDENT : **V.VANTHAWNGA**

The main points of the Petitioner are :

1. The number of ballot papers printed were far in excess with the requirement and these ballot papers have been used by Returning Officer to rig the election in favour of Respondent.
2. The Returning Officer had withdrawn 7 empty ballot boxes on 3/5/97 at 6:30 AM for rigging. Also, the Returning Officer through Election staff had taken out postal ballot boxes in a steel trunk from the Strong room on 3/5/97 at 1 PM for rigging.
3. The Respondent, who is the returned candidate, used Govt. Vehicle for campaign after announcement of the election. This is against the guidelines of Election Commission of India.
4. The Respondent failed to lodge return of election expenses within the stipulated time and hence the Respondent should be disqualified from membership under Rule 181 (g) of MADC Rules, 1974.

The Petitioner requested to declare him elected as provided under Rule 181 of MADC Rules.

The main points of the Respondent are as follows :

1. As the allegation is against the Returning Officer, the allegation may be inquired from the Returning Officer.
2. As the allegation number 2 above is against the Election machinery, the query may be referred to Election machinery.
3. Regarding misuse of Government Vehicle, the Respondent replied that he did not use government vehicle for election campaign. As an Executive Member of LADC, he used his official vehicle only for official works. He further pointed out that LADC election was conducted in accordance with MADC Rules, 1974 and hence model code of conduct issued by Election Commission of India is not applicable.
4. The Respondent pointed out that the Petitioner was behind him by 40 votes and hence the petitioner has no right to be declared as elected.

5. The Respondent submitted that the Government extended the time to lodge the election expenses till 31st August, 1997 and he submitted a correct statement of election expenses within a stipulated time. Hence there is no question of application of Rule 18(1)(g) in this case.

The Respondent prayed for dismissal of the Petition and also requested the Commission to award appropriate cost in his favour.

I heard both sides at length. The arguments in writing were also received from the Petitioner as well as from the Respondent. After due consideration, I arrive at the following conclusion :

1. The contention of the Petitioner that the spare ballot papers were printed and have been used in rigging is not established. Annexure 'A' which is the record of checking of unused ballot papers is appended herewith. Annexure 'B' is the result of test checking of unused ballot papers returned by the Presiding Officer(s).

2. On examination of ballot boxes in the Treasury strong-room, it was found that the election staff C.Liansanga took out 7 empty ballot boxes from the Strong-room on 3/5/97 at 6:30 AM. Also from inspection of ballot boxes, it was found that it is a fact that Zoramnghingi, election staff withdrew a box from the Strong-room at 1: 00 PM. It is also correct that T.Basic, election staff had withdrawn ballot boxes on 5/5/97 at 10:00 AM. However, as explained in Annexure 'A-1' annexed to the forwarding letter, these points in itself do not prove rigging as unused ballot papers have been found intact. However, frequent withdrawal of ballot boxes from Treasury Strong-room was unnecessary and Pu Denghnuna, Inquiry Officer may be asked to look into this aspect.

3. Regarding misuse of Govt. vehicle by the Respondent, the allegation could not be proved by the Petitioner.

Based on the above analysis, I find that the Respondent has been duly elected and the provisions of Rule 191 are not attracted.

RAJENDRA KUMAR,

Deputy Commissioner,

&

Commissioner for Election
Petition.

ANNEXURE—A

Sheet 1

Analysis of Unused Ballot papers						
Name of Constituency : 3-Sangau West						
					Serial Number of Ballot papers	
Total Number			From		To	
Ballot papers printed		1350	1		1350	
Ballot papers issued to Presiding Officer		1270	1		1270	
Ballot papers found in box containing unused ballot papers		30	1271		1300	
Ballot papers and conterfoils found in postal ballot paper box		50	1301		1350	
Ballot papers missing		0				
Counterfoils to be found in postal ballot box		5				
Counterfoils found in postal ballot paper box		5				

ANNEXURE—B

Sheet 1

Test Checking of unused ballot papers issued to Presiding Officers			
Name of the Constituency : 3—Sangau West Polling station No. : 3/1			
			Number
A	Ballot papers issued to Presiding Officer		1270
B	Ballot papers returned by presiding officer		219
C	Number of ballots found in the ballot box		1047
D	Discrepancy (A—B—C)		4
Note : Discrepancy can be because of the following reasons :			
(i) Tendered Votes			
(ii) Spoiled ballot papers (by voter or by polling staff)			
(iii) Voting by persons holding Election Duty Certificate			

REPORT ON THE ELECTION PETITION

NAME OF THE CONSTITUENCY : 5-LUNGHER
PETITIONER : LALZUITHANGA
RESPONDENT : MANGHMUNA
CHINZAH

The main points of the Petitioner are :

1. The Election was rigged by the Returning Officer and his staff in favour of the Respondent.
2. There are number of incriminating points which prove that the Election was rigged.
3. The Respondent purchased votes with money.

The main points of the Respondent are :

1. He has nothing to say about allegation of rigging by Returning Officer and his staff.
2. Second point of allegation is also related to commission and omission by the Election staff and he has nothing to say about it.
3. The allegation by the Petitioner that votes were purchased is false and baseless.

I heard both sides at length. The Petitioner as well as the Respondent also submitted their arguments in writing. After due consideration of the Petition and the written statement as well as the relevant rules, I have come to the following conclusion :

1. The points raised by the Petitioner regarding rigging by the Election Staff on the basis of "Incriminating point for consideration" submitted by the Petitioner have already been analysed and appended as Annexure-A-2 with the forwarding letter. Hence, this allegation is not proved.
2. The allegation regarding purchase of votes by the Respondent is not proved.

Based on the above analysis, I find that the Respondent has been duly elected and there is no need to interfere with the election result.

RAJENDRA KUMAR

**Deputy Commissioner,
&
Commissioner,**

for Petition on LADC Election.

ANNEXURE—A

Sheet 1

Analysis of Unused Ballot Papers						
Name of Constituency : 5-Lungpher						
						Serial Number of Ballot papers
				Total Number	From	To
				1200	1	
Ballot papers issued to Presiding Officer				1080		1080
Ballot papers found in box containing unused ballot papers				70	1081	1150
Ballot papers and counterfoils found in postal ballot paper box				50	1151	1200
				●		
Counterfoils to be found in postal ballot box				2		
Counterfoils found in postal ballot paper box				2		

ANNEXURE—B

Sheet 1

Test Checking of unused ballot papers issued to Presiding Officers			
Name of the Constituency : 5-Lungpher Polling station : No. 5/1			
			Number
A	Ballot papers issued to Presiding Officer		700
B	Ballot papers returned by presiding officer		90
C	Number of ballots found in the ballot box		607
D	Discrepancy (A-B-C)		3
Note : Discrepancy can be because of the following reasons:			
(i) Tendered Votes			
(ii) Spoiled ballot papers (by voter or by polling staff)			
(iii) Voting by persons holding Election Duty Certificate			

REPORT ON THE ELECTION PETITION

NAME OF THE CONSTITUENCY : 9-BUALPUI 'W'

PETITIONER : LALZAHAWMA
CHINZAH

RESPONDENT : B.LIANHRANCA

The main points of the Petitioner are :

1. The Election was not free and fair because of unfair and corrupt means adopted by the Respondent and the election officials.
2. The Respondent used Govt. vehicle No. MZ-01(G)/0179 during the campaign period.
3. The Returning Officer visited this Constituency many times.
4. The Petitioner requested to declare him elected on the basis of the above points.

The main points of the Respondent are :

1. The allegation of the Petitioner against the election staff may be inquired from the Returning Officer. The Respondent has nothing to say about it.
2. The Respondent did not use the Government vehicle in this constituency as this constituency is a small village consisting of only 200 houses, vehicle was not required by him for campaign.
3. It is correct that the Returning Officer visited this Constituency, but he did so for exigencies of public service and visited only once.

I heard both sides at length. The Petitioner as well as the Respondent also submitted their arguments in writing. After due consideration of the petition, the written statement as well as the relevant rules, I have come to the following conclusion:

1. The points raised by the Petitioner are the same as included in the other Petitions and these points have been explained at Annexure 'A-2' annexed with the forwarding letter.
2. The allegation regarding misuse of Govt. vehicle could not be proved by the Petitioner.

3. The allegation of the Petitioner regarding visit of Returning Officer to this Constituency is irrelevant as the Returning Officer/Deputy Commissioner, Saiha can visit any part of his District at any time.

4. As I have explained in Annexure 'A-1' appended to the forwarding letter, the unused ballot papers are most important and a thorough checking was done. Result of checking is enclosed at Annexure 'A' Result of test checking of unused ballot papers returned by Presiding Officer(s) is enclosed at annexure 'B'.

Based on the above analysis, I find that the Respondent has been duly elected and there is no need to interfere with the election result.

RAJENDRA KUMAR

Deputy Commissioner,

&

Commissioner
for Petition on LADC Election.

ANNEXURE—A

Sheet 1

Analysis of Unused Ballot Papers					
Name of Constituency : 9-Bualpui West					
				Serial Number of Ballot papers	
Total Number				From	To
Ballot papers printed		1300		1	1300
Ballot papers issued		350		1	350
to Presiding Officer		780		401	1180
		50		1201	1250
Ballot papers found		50		351	400
in box containing unused		20		1181	1200
ballot papers					
Ballot papers and counterfoils found in postal ballot paper box		50		1251	1300
Ballot papers missing		0			
Counterfoils to be found in postal ballot box		3			
Counterfoils found in postal ballot paper box		3			

ANNEXURE—B

Sheet 1

Test Checking of unused ballot papers issued to Presiding Officers					
Name of the Constituency : 9-Bualpui West Polling station No. 9/1					
				Number	
A	Ballot papers issued to presiding Officer			1180	
B	Ballot papers returned by presiding officer			212	
C	Number of ballots found in the ballot box			964	
D	Discrepancy (A-B-C)			4	
Note :		Discrepancy can be because of the following reasons : (i) Tendered Votes (ii) Spoiled ballot papers (by voter or by polling staff) (iii) Voting by persons holding Election Duty Certificate			

REPORT ON THE ELECTION PETITION

NAME OF THE CONSTITUENCY : **10-LAWNGTLAI
BAZAR**

PETITIONER : **C.VANTLUNGLUAIA**

RESPONDENT : **NGUNLIANCHUNGA**

The main points of the Petitioner are :

1. (a) Foreigners were included in the Electoral Roll and that they voted in favour of the Respondent.

(b) In contravention of Rule 129 of MADC Rules, 1974, the non-entitled persons were included in the Electoral Roll.

(c) Persons not staying in the LADC area were included in the Electoral Roll and they voted in favour of the Respondent.

(d) Some voters were included in this Constituency as well as in 11-Lawngtlai Vengpui Constituency and they voted in favour of the respondent.

2. In contravention of MADC Rules, work order regarding supply of Teak stumps was issued in favour of some persons with a view to get their votes in favour of the Respondent. Further, arrow cross marks were found in PWD I.B. Also, several covers of unused ballot papers were found and remains of sealing wax, indelible ink were also found. All these prove rigging of election.

3. The Returning Officer included voters of the Respondent and deleted names who might have voted for the Petitioner in contravention of MADC rules.

The main points of the Respondent are :

1. (a) The allegation of the Petitioner that a number of Foreigners were included in the Electoral Roll and that they voted in favour of the Respondent is not correct. If the Petitioner knew that there were Foreigners in the Electoral Roll then he should have raised objection at the time of preparation of Electoral Roll.

(b) The persons included in the Electoral Roll are all entitled to be included and in any case, their names were not objected at the time of preparation of Electoral Roll.

(c) The Electoral Rolls were prepared in accordance with the provision of MADC rules and if the Petitioner had any objection, he should have raised this point at the time of preparation of Electoral Roll. In any case, preparation of Electoral Roll is not the responsibility of the Respondent.

(d) That there are some names which were included in other Constituency also, is beyond the knowledge of the Respondent. The Respondent said that he is aware only about the voters included in the Electoral Roll of this Constituency and not of any other Constituency.

2. The Respondent is not aware about issue of work order for supply of Teak stumps.
3. The election was not rigged and was free and fair.
4. As the allegation is against the Returning Officer, the Respondent has nothing to say.

I heard both sides at length. After due consideration of the petition, the written statement as well as relevant laws, I arrived at the following conclusion :

1. The Petitioner should have objected to the inclusion of non-entitled persons at the time of preparation of Electoral Roll. Law provides a specific period for this purpose. Once the Electoral Roll is prepared, and final roll is published, the Electoral Roll would be taken as correct and complete. However, the points raised by the Petitioner are relevant and these points may be referred to Shri Denghnuna, the Inquiry Officer.
2. The allegation regarding supply of Teak stumps to some persons to vote in favour of Respondent could not be proved.
3. The allegation regarding arrow cross marks and other allegation have been dealt in Annexure 'A-2' appended with the forwarding letter.
4. The allegation regarding the Returning Officer may be referred to Pu Denghnuna the Inquiry Officer for complete enquiry.
5. To check the allegation of rigging, the unused ballot papers for the constituency were checked and the result is annexed at Annexure 'A'. Test checking of unused ballot papers returned by the Presiding Officer was also done and the result is annexed at Annexure 'B'.

Based on the above analysis, I find that the Respondent has been duly elected and there is no need to interfere with the election result.

RAJENDRA KUMAR,

Deputy Commissioner,

&

Commissioner,
for Petition on LADC Election 97

Sheet 1

ANNEXURE—A

Analysis of Unused Ballot Papers						
Name of Constituency : 10-Lawngtlai Bazar						
				Serial Number of Ballot paper		
Total Number				From	To	
Ballot papers printed				1500	1	1500
Ballot papers issued to Presiding Officer				189 377	1 192	189 568
				2	570	
				28	573	600
				144	601	744
				295	746	1040
				1	1042	1042
				285	1044	1328
				69	1330	1398
Ballot papers found in box containing unused ballot papers				2 1 1 1 1	190 572 569 745 1043	191 572 569 745 1043
				1	1041	1041
				1	1329	1329
				2	1399	1400
				50	1451	1500
Ballot papers and counterfoils found in postal ballot paper box				50	1401	1450
Ballot papers missing				0		
Counterfoils to be found				10		
in postal ballot box						
Counterfoils found in postal ballot paper box				10		

Sheet 1

ANNEXURE--B

Test Checking of unused ballot papers issued to Presiding Officers				
Name of the Constituency : 10-Lawngtlai Bazar				
Polling station No. : 10/1				
			Number	
A	Ballot papers issued to Presiding Officer		1390	
B	Ballot papers returned by presiding officer		319	
C	Number of ballots found in the ballot box		1081	
D	Discrepancy (A-B-C)		10	
	Note :	Discrepancy can be because of the following reasons :		
		(i) Tendered Votes		
		(ii) Spoiled ballot papers (by voter or by polling staff)		
		(iii) Voting by persons holding Election Duty Certificate		

REPORT ON THE ELECTION PETITION

NAME OF THE CONSTITUENCY : **11 - LAWNGTLAI
VENGPI**

PETITIONER : **J.H.THANGLIANA**

RESPONDENT : **V.L.HMUAKA**

The main points of the Petitioner are :

1. Electoral Roll for this Constituency was prepared in contravention of MADC rules. Supporters of the Respondent were included whereas supporter of the Petitioner were deleted. Returning Officer also included names of foreigners in the Electoral Roll.
2. The Respondent who was Executive Member incharge of Forest Department in the last District Council, issued work order for supply of teak stumps.
3. The Respondent used Govt. vehicle for election campaign.
4. There are many persons who voted in two polling booths in this Constituency.
5. The Election staff under Returning Officer rigged the election in favour of the Respondent.

The main points of the Respondent are :

1. The process of preparation of Electoral Roll is an open process. The Petitioner should have brought out the discrepancy in the Electoral Roll at the time of preparation of Electoral Roll. He further stated that all the persons included in the Electoral Roll are Indian citizens only.
2. The Respondent stated that he passed the instruction regarding teak stumps on 31/3/1997, long before election was announced. He further stated that he is not even aware whether work order was actually issued or not.
3. Regarding misuse of Govt. vehicle, the Respondent stated that firstly, the Model Code of Conduct is not applicable in LADC election and secondly, he used the said vehicle only for his normal official works. For campaign purpose, he used two private vehicles belonging to his close relatives.
4. The allegation regarding double voting is not in the knowledge of the Respondent. He also does not know whether these candidates voted in his favour or in favour of the Petitioner.
5. The allegation regarding Election machinery may be enquired from the Returning Officer as the Respondent was not connected with it and with the conduct of election.

I heard both the sides at length. After careful and due consideration, I come to the following conclusion :

1. I agree to the Respondent's point that at this belated stage, the sanctity of Electoral Roll used for election cannot be questioned. The Petitioner always had an opportunity to point out that the discrepancy in Electoral Roll, if it existed. Further, secrecy of voting would be violated if we try to find out the candidate to whom the alleged voters have voted. Hence, this point is being over looked. However, as this is an important point and is an allegation against the conduct of Returning Officer and the Assistant Returning Officer, Pu Denghnuna, Inquiry Officer may please be asked to look into it.
2. The allegation regarding issue of work order to secure votes in favour of the Respondent is not proved.
3. The allegation regarding misuse of official vehicle for election campaign is not proved.
4. As explained in para 1 above, secrecy of voting would be violated if we try to find out whether the persons mentioned in para 4 of the Petition have casted votes in two polling booths. Hence, the allegation regarding double voting is being over-looked.
5. The allegation regarding the Election machinery is common in most of the Petition and have been submitted in a separate sheet under the heading "Incr minating points for consideration". These points have been analysed at Annexure A-2 appended to the forwarding letter.
6. As I have explained in Annexure 'A-1', the unused ballot papers are most important and a thorough checking was done. Result of checking is enclosed at Annexure 'A'. Test checking of unused ballot papers returned by Presiding Officer(s) was also done and the result is appended as Annexure 'B'.

Based on the above analysis, I find that the Respondent has been duly elected and there is no need to interfere with the election result.

RAJENDRA KUMAR,

Deputy Comnissioner,

&

Comnissioner,

for Petit on on LADC Election '97

ANNEXURE-A

Sheet 1

Analysis of Unused Ballot Papers						
Name of Constituency : 11-Lawngtlai Vengpui						
					Serial Number of Ballot papers	
			Total Number		From To	
Ballot papers printed			1750		1	1750
Ballot papers issued to Presiding Officer			1660		1	1660
Ballot papers found in box containing unused ballot papers			40		1661	1700
Ballot papers and counterfoils found in postal ballot papers box			50		1701	1750
Ballot papers missing			0			
Counterfoils to be found in postal ballot box			9			
Counterfoils found in postal ballot paper box			9			

ANNEXURE—B

Sheet 1

Test Checking of unused ballot papers issued to Presiding Officers				
Name of the Constituency : 11-Lawngtlai Vengpui Polling station No. 11/1				
			Number	
A	Ballot papers issued to Presiding Officer		1120	
B	Ballot papers returned by presiding officer		152	
C	Number of ballots found in the ballot box		965	
D	Discrepancy (A-B-C)		3	
Note : Discrepancy can be because of the following reasons :				
(i) Tendered Votes				
(ii) Spoiled ballot papers (by voter or by polling staff)				
(iii) Voting by persons holding Election Duty Certificate				

REPORT ON THE ELECTION PETITION

NAME OF THE CONSTITUENCY : **11-LAWNGTLAI
VENGPUI**

PETITIONER : **VANRAMNGAIA**

RESPONDENT : **V.L.HMUAKA**

The main points of the Petitioner are :

1. The Returning Officer made addition and deletion of names in favour of the Respondent in contravention of Rule 130(3) of MADC Rules. This illegal act on the part of the Returning Officer helped the Respondent to get elected.
2. The Respondent violated Model Code of Conduct and used Government vehicle No. MZ-03/322 for election campaign throughout the campaign period.
3. Many supporters of the Respondent had their names included in 2 Polling Stations and voted in favour of the Respondent in both the Polling Stations.
4. The total votes polled at Lawngtlai Vengpui Polling Station was 967 but the total number of ballot papers found in the ballot box at the counting hall was 965. This shows that the rigging was done.
5. The Respondent, who was Executive Member of LADC during the campaign period, issued work order for supply of teak stumps to influence voters to vote in his favour.

The main points of the Respondent are :

1. That at the time of Revision of Electoral Roll, his candidature was not finalised. Therefore, the Electoral Roll could not have been prepared in his favour. He also stated that at the time of hearing during the preparation of Electoral Roll, the Representatives of all Political Parties were present. He does not believe that the Electoral Roll was prepared in his favour.
2. The Respondent denied use of Government vehicle for election campaign. He stated that he used the Government vehicle only for normal official works. For election campaign, he used 2 private vehicles belonging to his close relatives.
3. The allegation regarding the double voting is beyond the knowledge of the Respondent. He said that it is not in his knowledge whether these people voted in these 2 Polling Stations and whether they voted for him or not.
4. As per the knowledge and belief of the Respondent, the ballot box of Lawngtlai Vengpui Polling Station was not tampered and it is a false allegation.
5. He gave instruction to issue work order concerning teak stumps on 31st March, 1997, which was well before the announcement of the election. It was a routine Government work and was not violation of MADC rules.

I heard both sides at length. The Petitioner as well as the Respondent submitted their arguments in writing. After due consideration of the Petition, the written statement and relevant rules, I have come to the following conclusions :

1. I agree to the Respondent's point that at this belated stage, the sanctity of Electoral Roll used for election cannot be questioned. The Petitioner always had an opportunity to point out the discrepancy in the Electoral Roll if it existed. However, the secrecy of vote would be violated if we try to find out the candidate to whom these alleged voters have voted. Hence, this point is being overlooked.....

However, as this is an important point and is an allegation against the conduct of Returning Officer and Asst. Returning Officer. Pu Denghnuna, Inquiry Officer may please be asked to look into it.

2. The allegation regarding issue of work order to secure votes in favour of the Respondent is not proved.

3. The allegation regarding misuse of official vehicle for election campaign is not proved.

4. It is not uncommon to have discrepancy of a few votes between the ballot paper account and the number of votes counted at the counting hall. This can be because of wrong calculation done by the Presiding Officer or because of ballots not inserted into the ballot box by a voter. The difference in vote between the Petitioner and the Respondent is more than 70. Hence, this point is being overlooked.

5. The allegation against the election machinery is common to most of the Petitions and they have been submitted on a separate sheet under the heading "Incriminating points for consideration". These points have been analysed at Annexure 'A-2' appended to the forwarding letter.

6. As I have explained in Annexure 'A-1' appended to the forwarding letter, the unused ballot papers are most important and a thorough checking was done. Result of checking is enclosed at Annexure 'A'. Result of test checking of unused ballot papers returned by Presiding Officer (s) is enclosed at annexure 'B'.

Based on the above analysis, I find that the Respondent has been duly elected and there is no need to interfere with the election result.

RAJENDRA KUMAR

Deputy Commissioner,

&

Commissioner,
for Petition on LADC Election, 97.

ANNEXURE-A

Sheet 1

Analysis of Unused Ballot Papers						
Name of Constituency : 11-Lawngtlai Vengpui						
					Serial Number of Ballot Papers	
				Total Number	From	To
Ballot papers printed				1750	1	1750
Ballot papers issued to Presiding Officer				1660	1	1660
Ballot papers found in box containing unused ballot papers				40	1661	1700
Ballot papers and counterfoils found in postal ballot papers box				50	1701	1750
Ballot papers missing				0		
Counterfoils to be found in postal ballot box				9		
Counterfoils found in postal ballot paper box				9		

ANNEXURE—B

Sheet 1

Test Checking of unused ballot papers issued to Presiding Officers				
Name of the Constituency : 1-Pangkhu				
Polling station No.				
A	Ballot papers issued to Presiding Officer		610	
B	Ballot papers returned by presiding officer		67	
C	Number of ballots found in the ballot box		538	
D	Discrepancy		5	
	(A-B-C)			
	(i) Tendered Votes			
	(ii) Spoiled ballot papers (by voter or by polling staff)			
	(iii) Voting by persons holding Election Duty Certificate			

REPORT ON THE ELECTION PETITION

NAME OF THE CONSTITUENCY : **13-LAWNGTLAI
COLLEGE VENG**

PETITIONER : **CHHUANAWMA**

RESPONDENT : **F. MANGHNUNA**

The main points of the Petitioner are :

1. At the time of counting of votes, the Returning Officer had rejected 1 ballot paper. Therefore, the Petitioner and the Respondent obtained equal number of votes. However, on pressure from the Respondent and his supporters, the Returning Officer revalidated the rejected ballot paper. Further, his contention is that had the rejected ballot paper not been revalidated, the Respondent would not have been elected.
2. There were some persons whose names were included in 2 Constituencies and they voted in favour of the Respondent.
3. One Presiding Officer assisted a lady, who was having bad eye sight, and made her vote for the Respondent. As the difference of votes is only 1, this point is relevant.

The Petitioner requested that he be declared elected on the basis of above points.

The main points of the Respondent are :

1. It is correct that the Returning Officer had initially declared a vote as invalid. On request from the Respondent, that particular ballot was re-examined and it was found that it was in favour of the Respondent. Hence, there was no irregularity.
2. The names which the Petitioner had mentioned in the petition are mostly supporters of the Petitioner and they would have helped the Petitioner even if they voted in two constituencies. If their votes are to be cancelled, it will only favour the Respondent.
3. The Presiding Officer, as mentioned by the Petitioner in the petition, had not helped anyone to cast vote in favour of Respondent.

I heard both the sides at length. After due consideration of the Petition, the written statement as well as the relevant laws, I have reached the following conclusion :

1. The rejected vote as mentioned by the Petitioner, was checked by me at Lawngtlai and it was found that the final decision of the Returning Officer to revalidate it in favour of the Respondent was correct.
2. Both the Petitioner and the Respondent have their own story about the incorrect preparation of Electoral Roll. However, both of them had the chance to put forward their objections/claims at the time of preparation of the Electoral Roll. Both failed to do so.

Further the exercise to find out the candidate to whom these voters have voted, would violate the secrecy of voting. Hence, this point is not enquired into.

Due to large number of complaints from many of the Constituencies about incorrect Electoral Rolls, it is suggested that :

a) As the allegation is against the Returning Officer and Election machinery, Pu Denghnuna, Inquiry Officer may inquire into the same.

b) The time table and procedure followed for preparation of Assembly Electoral Roll be followed for preparation of Autonomous District Council Electoral Roll. The current provision of exclusion of non-tribals from electoral roll for elections under MADC rules should however continue.

3. The allegation regarding assistance to the lady to vote for the Respondent could not be proved.

4. Checking of unused ballot papers for the Constituency was done to rule out rigging. The results are annexed at Annexure 'A'. Test checking of unused ballot papers by the Presiding Officer (s) was also done and the result is annexed at Annexure 'B'.

Based on the above analysis, I find that the Respondent has been duly elected and there is no need to interfere with the election result.

RAJENDRA KUMAR

Deputy Commissioner,

&

Commissioner for

Petition on LADC Election, 97.

ANNEXURE—A

Sheet 1

Analysis of Unused Ballot Papers						
Name of Constituency: 13-Lawngtlai College Veng						
					Serial Number of Ballot papers	
			Total Number		From	To
	Ballot papers printed		1250		1	1250
	Ballot papers issued to Presiding Officer		1120		1	1120
	Ballot papers found in box containing unused ballot papers	80			1121	1200
	Ballot papers and counterfoils found in postal ballot paper box	50			1201	1250
	Ballot papers missing	0				
	Counterfoils to be found in postal ballot box	4				
	Counterfoils found in postal ballot paper box	4				

ANNEXURE-B

Sheet 1

Test Checking of unused ballot papers issued to Presiding Officers				
Name of the Constituency: 13-Lawngtlai College Veng				
Polling station No. 13/1				
			Number	
A	Ballot papers issued to Presiding Officer		660	
B	Ballot papers returned by presiding officer		113	
C	Number of ballots found in the ballot box		547	
D	Discrepancy (A-B-C)		0	
	Note :	Discrepancy can be because of the following reasons:		
		(i) Tendered Votes		
		(ii) Spoiled ballot papers (by voter or by polling staff)		
		(iii) Voting by persons holding Election Duty Certificate		

REPORT ON THE ELECTION PETITION

NAME OF THE CONSTITUENCY : **14-LAWNGTLAI
SALEM**

PETITIONER : **F.CHUNG MANGA**

RESPONDENT : **K. LIANSIAMA**

The main points of the Petitioner are :

1. Although the counting was done on 4.5.97, the result was announced on 3.5.97. This shows that the rigging has been done.
2. The Returning Officer revised the Electoral Roll in a biased manner. He deleted the names of the supporters of the Petitioner and entered the names of the supporters of the Respondent. While doing so, the relevant rules were not at all followed.
3. The Respondent obtained votes from the Bru community by promising purchase of a gun for their leader Chawpa.
4. The Petitioner and his agent were debarred from entering the Counting Hall.
5. 2 ballot papers were found missing from the ballot box and numerous ballot papers without the signature of Presiding Officer were detected at the time counting.
6. Shri Hiphei, MP, collected all the Mara residents of Lawngtlai and gave them Rs. 650/- each to vote for Congress.

The main points of the Respondent are :

1. The Respondent has nothing to say about the preparation of Electoral Roll as it is the prerogative of the Returning Officer. However, as far as his knowledge goes, the Returning Officer prepared the Electoral Roll in accordance with rules.
2. The Respondent denied the allegation regarding purchase of gun for Chawpa. He further stated that there is no such person named Chawpa amongst the Bru.
3. The Petitioner and his agent were not barred from entering into the Counting Hall and they were present at the time of opening of ballot box.
4. The Respondent suggested checking of all ballot papers with counterfoils to find out which ballot papers are missing and to whom such ballot papers were issued. He further stated that it is not in his knowledge that many ballot papers did not carry signature of the Presiding Officer.
5. The allegation that Shri Hiphei, MP gave Rs. 650/- each to Mara residents of Lawngtlai is beyond his knowledge.

I heard both sides at length. The Petitioner as well as the Respondent also submitted their arguments in writing. After due consideration of the petition, the written statement as well as the relevant rules, I have come to the following conclusion:

1. The Returning Officer, Shri B. Sanghnuna has been careless in the preparation of Result sheet. From such a senior officer, this mistake is not expected. However, it is a clerical mistake and hence should be overlooked.
2. The allegation regarding inclusion of the Respondent's supporters in Electoral Roll and deletion of the Petitioner's supporters from Electoral Roll cannot be checked without violating the secrecy of voting. Hence, this allegation is being overlooked. However, as the preparation of Electoral Roll was one of the important duties of the Returning Officer, Pu Denghnuna, Inquiry Officer may be asked to look into it.
3. The allegation regarding purchase of Bru votes by the Respondent could not be proved by the Petitioner.
4. It is not uncommon to find discrepancy between ballot papers account and number of ballot papers actually found in the ballot box at the time of counting. As the difference between the two candidates is 67, 2 ballot papers cannot make any difference.
5. To check the allegation that many ballot papers did not carry the signature of the Presiding Officer, random checking of polled ballot papers was done. It was found that many ballot papers did not carry the signature of the Presiding Officer at the back. The MADC Rules provide that procedure for counting would be exactly same as that of MLA/MP Election. The counting procedure for MLA/MP Election provides that in case it is found that the Presiding Officer has not put his signature at the back of the ballot paper, the ballots should be taken as doubtful ballots and should be sent to the Returning Officer to check whether it is genuine ballot or not. This procedure was not followed by the Returning Officer. The Government may refer this point to Shri Denghnuna, Inquiry Officer. However, all these ballot papers on checking, were found to be genuine ballot paper and were found to be within the range of ballot papers issued to the Presiding Officer. All of them also had distinguishing mark of the Polling Station. Hence, the contention of the Petitioner in this regard is rejected.
5. The allegation against Shri Hiphei, MP could not be proved.

Based on the above analysis, I find that the Respondent has been duly elected and there is no need to interfere with the election result.

RAJENDRA KUMAR,

Deputy Commissioner,

&

Commissioner,
for Petition on LADC Election, 97.

ANNEXURE—A

Sheet 1

Analysis of Unused Ballot Papers					
Name of Constituency : 14-Lawngtlai Salem					
			Serial Number of Ballot papers		
	Total Number		From	To	
Ballot papers printed	1600		1	1600	
Ballot papers issued	48		1	48	
to Presiding Officer	1		50	50	
	1361		51	1411	
Ballot papers found	1		49	49	
in box containing unused	39		1412	1450	
ballot papers	100		1501	1600	
Ballot papers and counterfoils found in postal ballot paper box	50		1451	1500	
Ballot papers missing	0				
Counterfoils to be found in postal ballot box	17				
Counterfoils found in postal ballot paper box	17				

ANNEXURE—B

Sheet 1

Test Checking of unused ballot papers issued to Presiding Officers					
Name of the Constituency : 14-Lawngtlai Salem					
Polling station No.					
			14/1	14/2	
A	Ballot papers issued to Presiding Officer		1190	220	
B	Ballot papers returned by presiding officer		289	41	
C	Number of ballots found in the ballot box		897	178	
D	Discrepancy (A-B-C)		4	1	
Note : Discrepancy can be because of the following reasons—					
(i) Tendered Votes					
(ii) Spoiled ballot papers (by voter or by polling staff)					
(iii) Voting by persons holding Election Duty Certificate					

REPORT ON THE ELECTION PETITION

NAME OF CONSTITUENCY : **15-LAWNGTLAI**
AOC VENG

PETITIONER : **H.VANLALTHALIANA**

RESPONDENT : **C.THANGHLUNA**

The main points of the Petitioner are :

1. That the counting was held in the early morning of 4th May, '97. However, the results were ready on 3rd May, '97.
2. That the Electoral Roll was not corrected properly and the provisions of law were not followed while revising Electoral Roll.
3. That the Model Code of Conduct was not followed by the Respondent.
4. That the Election Staff under the Returning Officer rigged the election. In this connection, the following are suspicious activities :
 - a) The Steel Trunks were taken out of strong room.
 - b) 7 (Seven) empty ballot boxes were taken out from the strong room after polling.
 - c) 2 (two) arrow cross mark seals with 2 (two) stamp pads were recovered from PWD I.B.
 - d) Tampered ballot papers were recovered unburnt near Lawngtlai Sub-Treasury Office. One of these ballot papers, is of 15-Lawngtlai AOC Constituency and bears the serial number 1051.
 - e) An important slip requesting 5 paper seals and 5 cardboards was recovered unburnt near the Sub-Treasury Office.
5. That for confirmation of rigging, the following papers be verified :
 - a) All ballot papers printed with serial numbers, the ballot papers with serial numbers issued to the Presiding Officers and total number and serial numbers of unused ballot papers.
 - b) Serial numbers of counted ballot papers be also compared with the counterfoil.
 - c) The number and serial numbers of ballot papers issued to the Presiding Officers and total number of ballot papers kept at Sub-Treasury be verified.
6. The return of election expenses was not submitted within prescribed time in correct format.

The main points of the Respondent are :

1. It is accepted that the counting was done on 4.5.97 between 12:30 AM and 3 AM. However, the Returning Officer seems to have indicated 3.5.97 as the date of declaration as it was still night. In any case, it is an unintentional and clerical mistake and it does not vitiate the election.
2. The preparation of Electoral Roll was done in accordance with the MADC Rules and the contention of the Petitioner in this regard is only an excuse.
3. There is no Model Code of Conduct under MADC Rules, 1974. The Model Code of Conduct is applicable only to the election of Parliament and State Assembly. In any case, he did not use the Govt. vehicle from the date of issue of Model Code of Conduct by the Returning Officer.
4. a) The Steel Trunk and the ballot boxes taken out from the strong room were used for bonafide purposes and taking out of these materials from strong room does not mean rigging.
- b) The allegation about tampered ballot paper No. 1051 is not correct. It was only unprinted blank paper on top of actual ballot paper and some impression of actual ballot paper in reverse position was found. The existence of such blank paper which is quite common, does not mean rigging of any type.

The Respondent requested not to accept the Petition on the above mentioned grounds.

I heard both the sides at length. Both the sides also gave their arguments in writing. On consideration of the Petition and the written statement as well as due inquiry, I come to the following conclusion :

1. Date shown on the Election result sheet should have been 4.5.97 and it is a mistake on the part of the Returning Officer. However, a senior and important Government functionary like a Returning Officer is not supposed to be so careless. Election result sheet is a very important document and due care should have been taken by the Returning Officer before signing the result sheet.
2. The MADC Rules, 1974 is silent about many aspects of preparation of Electoral Roll. Hence conclusion can not be drawn in this aspect. However, the allegations and counter allegations about the incorrect Electoral Roll could not be proved by either side.

Due to large number of complaints from many of the Constituencies about incorrect Electoral Rolls, it is suggested that :

- a) As the allegation is against the Returning Officer and Election machinery, Pu Denghnuna, Inquiry Officer may inquire into the same.
- b) The time table and procedure followed for preparation of Assembly Electoral Roll be followed in toto for preparation of Autonomous District Council Electoral Roll. The current provision of exclusion of non-tribals from electoral roll for elections under MADC rules should however continue.

3. The Petitioner could not prove the allegation about the Model Code of Conduct and the applicability of the Model Code of Conduct in District Council Election is not certain. Hence, this point is being overlooked.

However, it is suggested that Model Code of Conduct be made applicable in elections to Autonomous District Council from the date of announcement of election by the State Government.

4. As explained in Annexure 'A-1' appended to the forwarding letter, the most important aspect of free and fair election is protection of ballot papers. The result of checking of unused ballot papers is annexed at Annexure 'A'. Result of test checking of the unused ballot papers returned by the Presiding Officers is also annexed at Annexure B.

5. Allegation regarding late and incorrect submission of election expense could not be proved.

Based on the above analysis, I find that the Respondent has been duly elected and there is no need to interfere with the election result.

RAJENDRA KUMAR,

Deputy Commissioner,

&

Commissioner,

for Petition on LADC Election, 97.

ANNEXURE—A

Sheet—1

Analysis of Unused Ballot Papers				
Name of Constituency: 15-Lawngtlai AOC				
			Serial Number of	
			Ballot papers	
		Total Number	From	To.
Ballot papers printed	1700		1	1700
Ballot papers issued	1560		1	1560
to Presiding Officer				
Ballot papers found	40		1561	1600
in box containing unused	50		1651	1700
ballot papers				
Ballot papers and counterfoils	50		1601	1650
found in postal ballot paper box				
Ballot papers missing	0			
Counterfoils to be found in postal ballot box	6			
Counterfoils found in	6			
postal ballot paper box				

ANNEXURE—B

Sheet 1

Test Checking of unused ballot papers			
issued to Presiding Officers			
Name of the Constituency : 15-Lawngtlai Salem Veng			
Polling station No. 15/3			
			Number
A	Ballot papers issued		500
	to Presiding Officer		
B	Ballot papers returned		31
	by presiding officer		
C	Number of ballots found		468
	in the ballot box		
D	Discrepancy		1
	(A-B-C)		
Note : Discrepancy can be because of the following reasons:			
	(i) Tendered Votes		
	(ii) Spoiled ballot papers (by voter or by polling staff)		
	(iii) Voting by persons holding Election Duty Certificate		

REPORT ON THE ELECTION PETITION**NAME OF THE CONSTITUENCY : 16-PAITHAR****PETITIONER : LALCHHUNGA
CHINZAH****RESPONDENT J.B.RUALCHHINGA**

The main points of the Petitioner are :

1. That the counting was done between 4 AM and 5 AM on 4.5.97. However, the Returning Officer issued final result sheet on 3.5.97, one day in advance. It proves that ballot papers were changed and the result was ready beforehand.
2. The Respondent used his official vehicle for election campaign. During the election period, the Respondent made several appointments. He opened a new school in Rulkual village. He purchased/helped to purchase a new Maruti Car for Shri Fakzuala of Sihtlangpui. He also promised a new car to Shri Rinkima of Chawngtlangpui and promised to buy jeeps to Rinawma of Kawlchaw and Saithianga of Sihtlangpui.
3. He forcibly detained voters in a house near his campaign office at Chawngtlangpui.
4. Shri Sanghnuna and Smt. Tlangruali, both employees of Lai District Council, were engaged by the Respondent for campaign work throughout the election.
5. There are many incriminating points for consideration which prove that the rigging was done.
6. The ballot box of 16-Paithar Constituency was withdrawn from the strong room at 2:15 AM on 4.5.97 for counting. However, the ballot boxes reached the counting hall at 4:00 AM. This delay was caused because the votes were changed at Soil Conservation Rest House by the Election Officer and the Respondent.
7. The Respondent did not submit return of election expenditure in stipulated form. He also failed to submit correct account within the prescribed time limit.
8. The ballot paper account of Setlangpui Polling Station was destroyed by the Returning Officer and another account was prepared. The Returning Officer asked the Presiding Officer to sign it. However, the Presiding Officer refused to sign it.

The main points of the Respondent are :

1. The Petition by the Petitioner has been presented under Rule 181(1)(b). The Petition is not maintainable under this Rule and should be dismissed outright.
2. The Petition does not comply with the statutory provisions as provided under Rule 182 and as such, the same should be dismissed.

3. That the application dated 11.6.97 submitted by the Petitioner and the matter stated therein cannot be treated as part of earlier petition dated 22.5.97 as there is no provision for amendment of the Petition under the MADC Rules.
4. The mistake on the part of Returning Officer by giving a wrong date on the election result sheet is unintentional and does not amount to corrupt/illegal practice electoral offence.
5. At the time of opening of the ballot boxes of 16-Paithar Constituency, there was no objection from any quarter. Hence the allegation of rigging of votes is baseless and mala fide.
6. The Respondent did not use his official vehicle during the election notwithstanding the fact that there is no provision of law which debar use of official vehicle by the sitting Executive Member during the election campaign.
7. The allegation regarding appointments, opening of new school, purchase of Maruti car to someone, alleged promise of purchase of new car to other person etc, are completely false and baseless.
8. The allegation that the Respondent forcibly detained voters at Chawngtlangpui is false, baseless and is denied by the Respondent.
9. The Respondent did not employ any employee of District Council for campaign work. This allegation is false and baseless.
10. The Petitioner did not make any complaint about rigging before or during the counting of votes. He made this complaint only after declaration of result. Making allegation of rigging of votes later on is baseless, malicious and uncalled for.

The Respondent prayed that the election Petition in respect of 16-Paithar Constituency be dismissed with costs.

I heard both sides at length. After due consideration of the petition etc, written statement as well as relevant laws, I arrived at the following conclusion:

1. The contention of the Petitioner that counting was done between 4:00 AM and 5:00 AM on 4/5/1997 is correct. It is also correct that the date shown on final result sheet is 3/5/1997. However, I do not agree that the result sheet was prepared in advance and ballot papers were changed and the result was ready before hand. Giving a wrong date is a clerical mistake. However, result sheet is a very important document and Returning Officer should have taken due care before signing the result sheet.
2. The Petitioner's contention regarding use of official vehicle for election campaign, opening of new school and purchase/promise of purchase of vehicle to the voters is not established.

3. The contention that some voters were detained in a house near the campaign office of the Respondent at Chawngtlangpui is not established.

4. The contention that Shri Sanghnuna and Smt. Tlangruali, employees of LADC, were engaged by the Respondent is not established.

5. The incriminating points submitted by the Petitioner has been explained at Annexure 'A-2' appended to the forwarding letter. As explained, the rigging is not proved.

6. It is correct that the ballot boxes of 16-Paithar Constituency were withdrawn from the strongroom at 2:15 AM on 4/5/97. However, there is no evidence to construe that the votes were changed. Annexure 'A-2' may be referred in this regard.

7. The allegation regarding late submission of return of election expenditure is not proved. The Respondent produced the receipt given by the Returning Officer certifying that the election expenditure was submitted in time.

8. The contention that ballot papers account of Sihtlangpui polling station was destroyed by the Returning Officer and that another was prepared by the Returning Officer is not proved. The ballot paper account seen by me and no discrepancy was found. Unused ballot papers were also intact and hence, there is no possibility of rigging on this account.

8. Checking of unused ballot papers was done and the record is annexed as Annexure 'A'. Checking of unused ballot papers returned by the Presiding Officer was also done and the result is annexed at Annexure 'B'. Out of 11 unused ballot papers which have been shown in discrepancy column in respect of 16/2 Polling station, 10 are with the Petitioner himself.

Based on the above points, I find that the contention of the Petitioner that the Election was rigged, has not been proved. I do not find any reason to interfere with the election result.

RAJENDRA KUMAR

Deputy Commissioner

&

Commissioner,

for Petition on LADC Election.

ANNEXURE—A

Sheet 1

Analysis of Unused Ballot Papers					
Name of Constituency: 16-Paithar					
				Serial Number of	
				Ballot papers	
Total Number				From To	
Ballot papers printed		1450		1	1450
Ballot papers issued		976		1	976
to Presiding Officer		343		978	1320
Ballot papers found		1		977	977
in box containing unused		50		1351	1400
ballot papers		30		1321	1350
Ballot papers and counterfoils		50		1401	1450
found in postal ballot paper box					
Ballot papers missing		0			
Counterfoils to be found		1			
in postal ballot box					
Counterfoils found in		1			
postal ballot paper box					

ANNEXURE—I

Sheet 1

Test Checking of unused ballot papers								
issued to Presiding Officers								
Name of the Constituency :16—Paithar								
Polling station No.	16/1	16/2	16/3	16/4	16/5	16/6	16/7	
A Ballot papers issued	350	260	200	229	70	90	120	
to Presiding Officer								
B Ballot papers	44	15	23	26	16	18	16	
returned by presiding officer								
C Number of ballots	306	234	177	202	54	72	103	
found in the ballot box								
D Discrepancy	0	11	0	1	0	0	1	
(A-B-C)								
Note: Discrepancy can be because of the following reasons:—								
(i) Tendered Votes								
(ii) Spoiled ballot papers (by voter or by polling staff)								
(iii) Voting by persons holding Election Duty Certificate								

REPORT ON THE ELECTION PETITION

NAME OF THE CONSTITUENCY : 17—DILTLANG
PETITIONER : H.C.TUAHSANGA
RESPONDENT : C. LALDINGKIMA

The main points of the Petitioner are :

1. Votes have been purchased by the Congress-I candidate.
2. After counting, it was announced that the Petitioner got 270 votes. However, the result sheet shows only 266 votes.
3. The Respondent used Government vehicle throughout the campaign violating Model Code of Conduct.
4. Vehicle NO.MZ 02/5307 was used to carry Congress-I voters within and outside the polling perimeter of Diltlang polling station.
5. The election was rigged.

The main points of the respondent are :

1. The allegation about purchase of votes is false and baseless.
2. The Respondent has nothing to say about the votes secured by the Petitioner and about the discrepancy between announcement of votes of Petitioner and that of the election result sheet.
3. He never used Government vehicle for campaign. He used Government vehicle only for the Official duties as the District Council was not dissolved and he had the right to use the vehicle for official purpose as an Executive Member of the Council.
4. The allegation regarding use of vehicle MZ 01/5307 is incorrect.

I heard both sides at length. After examining the petition as well as written objection, I come to the following conclusion :

1. The allegation regarding purchase of votes by Congress-I candidate is not proved.
2. The allegation regarding discrepancy between number of votes announced in the counting hall and in result sheet is irrelevant, even if it existed. The result sheet is the official pronouncement of election result.

3. The allegation regarding violation of Model Code of Conduct is not proved.
4. The allegation regarding use of vehicle for carrying Congress-I voters is not proved.
5. The allegation against the election machinery is common to most of the Petitions and they have been submitted on a separate sheet under the heading "Incriminating points for consideration". These points have been analysed at Annexure 'A-2' appended to the forwarding letter.
6. An analysis of unused ballot papers is appended at Annexure 'A'. Test checking of unused ballot papers returned by Presiding Officer is also annexed at Annexure 'B'.

Based on the above analysis, I find that the Respondent has been duly elected and there is no need to interfere with the election result.

RAJENDRA KUMAR,
Deputy Commissioner,
&
Commissioner,
for Petition on LADC Election.

ANNEXURE—A

Sheet 1

Analysis of Unused Ballot Papers					
Name of Constituency: 17-Diltlang					
				Serial Number of	
				Ballot papers	
		Total Number		From	To
Ballot papers printed		1350		1	1350
Ballot papers issued		455		1	455
to Presiding Officer		793		458	1250
Ballot papers found		2		456	457
in box containing unused		50		1251	1300
ballot papers					
Ballot papers and counterfoils		50		1301	1350
found in postal ballot paper box					
Ballot papers missing		0			
Counterfoils to be found		3			
in postal ballot box					
Counterfoils found in		3			
postal ballot paper box					

ANNEXURE—B

Sheet 1

Test Checking of unused ballot papers				
issued to Presiding Officers				
Name of the Constituency: 17-Diltlang				
Polling station No.				
		17/1	17/5	
A	Ballot papers issued	560	100	
	to Presiding Officer			
B	Ballot papers returned	59	16	
	by presiding officer			
C	Number of ballots found	500	84	
	in the ballot box			
D	Discrepancy	1	0	
	(A-B-C)			
	Note :	Discrepancy can be because of the following reasons:		
		(i) Tendered Votes		
		(ii) Spoiled ballot papers (by voter or by polling staff)		
		(iii) Voting by persons holding Election Duty		
		Certificate		

REPORT ON THE ELECTION PETITION

NAME OF THE CONSTITUENCY : 19—SAKEILUI
PETITIONER : LAXMI BIKASH
RESPONDENT : ANIL BIKASH

The main points of the Petitioner are :

1. 2 (two) arrow cross marks with a stamp pad were recovered which were used for rigging.
2. The Respondent purchased votes.
3. The Election has been rigged.
4. The return of election expense was not submitted within prescribed time limit and it was also not in correct format.

The main points of the Respondent are :

1. Recovery of arrow cross marks with stamp pad is beyond the knowledge of the Respondent.
2. The allegation regarding purchase of votes is baseless. Even the documents produced by the Petitioner in this regard are forged and bogus documents.
3. There has been no rigging.

I heard both sides at length. The petitioner as well as the Respondent also submitted their arguments in writing. After due consideration of the Petition, the written statement as well as the relevant rules, I have come to the following conclusion:

1. Allegation about arrow cross marks and its relation with rigging is not proved.
2. Allegation regarding purchase of votes could not be proved by the Petitioner.
3. The allegation against the election machinery is common to most of the Petitions and they have been submitted on a separate sheet under the heading "Incriminating points for consideration". These points have been analysed at Annexure 'A-2' appended to the forwarding letter.
4. Record of checking of unused ballot paper is appended at Annexure 'A'. Test-checking of unused ballot papers returned by the Presiding Officer was also done and the result is annexed at Annexure 'B'.

Based on the above analysis; I find that the Respondent has been duly elected and there is no need to interfere with the election result.

RAJENDRA KUMAR
Deputy Commissioner,
&
Commissioner,
for Petition of LADC Election.

ANNEXURE--A

Sheet 1

Analysis of Unused Ballot Papers						
Name of constituency:	19-Sakeilui					
				Serial Number of		
				Ballot Papers		
		Total Number		From	To	
Ballot papers printed	2150			1	2150	
Ballot papers issued	598			1	598	
to Presiding Officer	1432			600	2031	
Ballot papers found	1			599	599	
in box containing unused	19			2032	2050	
ballot papers	50			2101	2150	
Ballot papers and counterfoils	50			2051	2100	
found in postal ballot paper box						
Ballot papers missing	0					
Counterfoils to be found	0					
in postal ballot box						
Counterfoils found in	0					
postal ballot paper box						

ANNEXURE—B

Sheet 1

Test Checking of unused ballot papers issued to Presiding Officers					
Name of the Constituency: 19-Sakeilui					
Polling station No.			19/5	19/6	
A	Ballot papers issued		220	260	
	to Presiding Officer				
B	Ballot papers returned		32	34	
	by presiding officer				
C	Number of ballots found		188	224	
	in the ballot box				
D	Discrepancy		0	0	
	(A-B-C)				
Note : Discrepancy can be because of the following reasons:					
	(i)	Tendered Votes			
	(ii)	Spoiled ballot papers (by voter or by polling staff)			
	(iii)	Voting by persons holding Election Duty Certificate			

REPORT ON THE ELECTION PETITION

NAME OF THE CONSTITUENCY : **21-SEKULH**
PETITIONER : **N.ZANGURA**
RESPONDENT : **MALUNGRAI**

The main points of the Petitioner are :

1. More than 20 Foreigners were enrolled in the Electoral Roll of Damzautlang violating the Constitution of India and the existing Council Rules.
2. Electoral Roll was prepared violating Rule 130(1) and without giving opportunity for objection to the inclusion of foreigners.
3. More than 24 ballot papers without the signature of the Presiding Officer were detected, but all were counted in the Hall.
4. Taking out of 7 empty boxes and trunk from the Sub-Treasury Strongroom was for rigging.

The main points of the Respondent are :

1. Electoral Roll was prepared by the Officials under Rule 129 and 130 of Mizoram Autonomous District Council Rules, 1974 and no foreigner was included in the Electoral Roll of Damzautlang. To prove this, the Petitioner enclosed letter from VCP concerned.
2. Electoral Roll Revision was done as per Rule by the Officials and the allegation made by Petitioner is not understood by the Respondent.
3. All the candidates with their Agents except himself and his agent were present at the time of counting. As none of them objected to have counting, absence of Presiding Officer's signature might not be there as alleged.
4. In the election, only used ballot box is important. Empty ballot boxes has hardly any importance. Even if the empty ballot boxes were taken out from the Strongroom, Sekulh Constituency did not have any connection with that.

The Petitioner, who now claims to be elected stood at 3rd position in the last election and his claim is completely baseless.

I heard both the sides at length. The Petitioner as well as the Respondent also submitted their arguments in writing. After due consideration of the Petition and the written statement as well as the relevant Rules, I have come to the following conclusion :

1. The Petitioner should have objected to the inclusion of non-entitled persons at the time of preparation of Electoral Roll. Law provides a specific period for this purpose. Once the Electoral Roll is prepared, and final roll is published, then after election, the remedy does not lie in challenging the Electoral Roll. However, the points raised by the Petitioner is relevant and this point may be referred to Shri Dengluuna, the Inquiry Officer.

2. Even if the contention of the Petitioner that more than 24 ballot papers without signature of the Presiding Officer were detected is accepted, rigging is not proved. The procedure for such ballot papers is that they should be taken as doubtful ballots and should be checked by the Returning Officer for its genuineness. If the Returning Officer finds that these boxes are genuine, he would assign each ballot paper to various candidates according to the vote recorded in it. Hence, this allegation is not accepted.

3. Withdrawal of empty ballot boxes from Treasury Strongroom does not prove anything.

4. An analysis of unused ballot papers is appended at Annexure 'A'. Test checking of unused ballot papers returned by Presiding Officer is also annexed at Annexure 'B'.

Based on the above analysis, I find that the Respondent has been duly elected and there is no need to interfere with the election result.

RAJENDRA KUMAR,

Deputy Commissioner,

&

Commissioner,

for Petition on LADC Election.

in Rules I have come to the following conclusion as well as the Respondent also for the consideration of the Petition and

ANNEXURE—A

Sheet 1

Analysis of Unused Ballot Papers				
Name of Constituency : 21—Sekulh				
			Serial Number of	
			Ba lot papers	
Total Number			From	To
Ballot papers printed	1550		1	1550
Ballot papers issued	1224		1	1224
to Presiding Officer	206		1226	1431
Ballot papers found	1		1225	1225
in box containing unused	19		1432	1450
ballot papers	50		1451	1500
Ballot papers and counterfoils	50		1501	1550
found in postal ballot paper box				
Ballot papers missing	0			
Counterfoils to be found	0			
in postal ballot box				
Counterfoils found in	0			
postal ballot paper box				

ANNEXURE—B

Sheet 1

Test Checking of Unused Ballot Papers issued to Presiding Officers				
Name of the Constituency : 21—Sekulh		21/1	21/2	
Polling station No.				
A	Ballot papers issued	180	110	
	to Presiding Officer			
B	Ballot papers returned	26	34	
	by presiding officer			
C	Number of ballots found	154	75	
	in the ballot box			
D	Discrepancy	0	1	
	(A-B-C)			
Note: Discrepancy can be because of the following reasons:				
	(i) Tendered Votes			
	(ii) Spoiled ballot papers (by voter or by polling staff)			
	(iii) Voting by persons holding Election Duty Certificate			