

## CHAPTER-IV

### Constitution of the Tiwa and the Rabha Hasong Autonomous Council

As it has already been mentioned in the preceding chapters that the Tiwa and the Rabha Autonomous Councils are formed under The Tiwa<sup>1</sup> Autonomous Council Act, 1995 (ACT NO.XXV OF 1995), received the assent of the Governor on 27<sup>th</sup> October, 1995 and The Rabha Hasong Autonomous Council Act 1995 (ACT No.XVII OF 1995), received the assent of the Governor on 5<sup>th</sup> July, 1995 following the Memorandum of Settlement (MoS) between the Tiwa and the Rabha leaders and the State Government of Assam. The MoS with the Tiwa leaders was signed on 13<sup>th</sup> April, 1995 (called as Tiwa Accord) and with the Rabha leaders was signed on 10<sup>th</sup> march 1995 (called as Rabha Accord). The major points of agreements of both the MoS are given below.

#### 4:1 Major points of Agreements in the Tiwa Accord of 1995:

As per the provisions of the Tiwa Accord, 1995 the Government of Assam agreed to constitute an Administrative Authority for the areas predominantly inhabited by the Tiwas (Lalungs). The main objective of setting up the Administrative Authority is to provide maximum possible autonomy within the framework of the Constitution of India for social, economic, educational, ethnic and cultural advancement of the Tiwa (Lalung) people in the State.[Memorandum of Settlement (Lalung Accord),1995 Clause-2].

It is agreed that the Government of Assam shall by suitable legislation, constitute a Council which shall be known as Lalung (Tiwa) Autonomous Council. The Lalung (Tiwa) Autonomous Council consists of an Apex Council (General Council) and the Village Council called the Lalung Village Council (LVC) [Clause-3].

The General Council of the Lalung Autonomous Council shall consist of 30<sup>2</sup> (thirty) elected members out of whom 4 (four) members shall be nominated by the Government of Assam to give representation to those groups/communities of the Council area which are not

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<sup>1</sup> Substituted for the words and brackets “Lalung (Tiwa)” by the Lalung (Tiwa) Autonomous Council (Amendment) Act, 2001. Published in the Assam Gazette Extraordinary No. 49 dated 29<sup>th</sup> March, 2001

<sup>2</sup> The number of the General Council members is enhanced to 36 in the Tiwa Autonomous Council Act, 1995, (Amendment in 2001).

otherwise represented in it. There shall be the Village Councils at the bottom level in the Council. The Village Council shall be constituted with population of 6000 to 8000. The term of the office of the Lalung (Tiwa) Autonomous Council and the Village Council shall be 5 (five) years. The Lalung (Tiwa) Autonomous Council shall have executive power over 34 subjects and the Village Council shall have the power on 29 subjects [Clause- 4, 5(a)].

It is clearly mentioned in the Accord that the provisions of Assam Panchayat Act, 1994 and the Assam Municipal Act, 1994 (Amended) shall not apply to the areas of the villages included in the Lalung (Tiwa) Village Council [Clause-5(a)].

In the Accord it was mentioned that there shall constitute an Interim Council which shall continue till the elections to the Council take place [Clause-9].

#### **4:2 Major points of Agreements in the Rabha Hasong Accord of 1995:**

As per the terms of the Rabha Hasong Accord, 1995 the Govt. of Assam had agreed to constitute an Administrative Authority for the areas predominantly inhabited by the Rabhas. The main objective of setting up the Administrative Authority is to provide maximum possible autonomy within the framework of the Constitution of India for social, economic, educational, ethnic and cultural advancement of the Rabha people in the State [Memorandum of Settlement (Rabha Accord), 1995 Clause-2].

It is agreed that the State Government of Assam shall by suitable legislation, constitute a Council which is to be known as Rabha Hasong Autonomous Council. The Rabha Hasong Autonomous Council shall consist of the Apex Council (General Council) and the Village Councils called the Rabha Hasong Village Council [Clause-3].

The General Council shall consist of thirty (30) elected members out of whom four (4) members shall be nominated by the Government of Assam to give representation to those groups/communities of the Council area which are not otherwise represented in it. There shall be the Village Councils at the bottom level in the Council. The Village Council shall be constituted with villages having more than 50% of the Tribal population in the Rabha dominated areas with population of 6000 to 8000. The term of the office of the Rabha Hasong Autonomous Council and the Village Council shall be five (5) years. The Rabha Hasong Autonomous Council shall have executive power over 34 subjects and the Village Council shall have the power on 29 subjects [Clause- 4, 5(a)].

It is clearly mentioned in the Accord that the provisions of Assam Panchayat Act, 1994 and the Assam Municipal Act, 1994 (Amended) shall not apply to the areas of the villages included in the Rabha Hasong Village Council [Clause-5(a)].

In the Accord it was mentioned that there shall constitute an Interim Council which shall continue till the elections to the Council take place [Clause-9].

#### **4:3 The Tiwa and the Rabha Hasong Autonomous Council Act 1995:**

The Govt. of Assam passed the ‘The Tiwa Autonomous Council Act, 1995’ which received the assent of the Governor of Assam on 27<sup>th</sup> October, 1995. Later on the Act was amended in 1998, 2001, 2005 and 2008.

On the other hand the Assam Government passed the ‘The Rabha Hasong Autonomous Council Act, 1995’ which received the assent of the Governor of Assam on 27<sup>th</sup> October, 1995. Later on the Act was amended in 1998, 2001, 2005 and 2008.

##### **4:3:1 Composition, Powers and Functions of the Tiwa and the Rabha Hasong Autonomous Council:**

Although the Government of Assam have passed two separate Acts for the constitution of the Tiwa and the Rabha Hasong Autonomous Councils, the provisions of both the Acts regarding composition, powers and functions of the Tiwa and the Rabha Hasong Autonomous Councils are all the same. Therefore, it is presented in the same text to avoid repetition.

Section 3 of both The Tiwa/The Rabha Hasong Autonomous Council Act 1995 states that “there shall be an Autonomous Council to be called as (the Tiwa/the Rabha Hasong) Autonomous Council within the State of Assam comprising of the areas (Villages) as may be notified by the Government in the Official Gazette”.

Stating the objectives of the Autonomous Councils the preamble of the Act states “Whereas it is expedient to provide for the establishment of a (Tiwa/Rabha Hasong) Autonomous council within the State of Assam with maximum autonomy within the framework of the Constitution, comprising of the Satellite Areas and Core Areas, for social, economic, educational, ethnic and cultural advancement of the (Tiwa/Rabha) and other Scheduled Tribes communities residing therein”.

Section-3 (3) of the Act provided that the Autonomous Council (the Tiwa/ the Rabha Hasong) shall have a General Council and an Executive Council.

Section-4 of the Act also provided that there shall be Village Council for each block of villages as may be notified by the Government consisting of approximately 6000 to 8000 S/T population for proficiency.

**The General Council:**

a) The General Council shall consist of 40 (forty) members of which 36 (thirty six) shall be directly elected and 4 (four) shall be nominated by the Government with the concurrence of the Tiwa /Rabha Hasong Autonomous Council from amongst the groups of communities residing in the Council area and not otherwise represented in the General Council. Out of 40 (fourty) seats 21 (twenty one) seats are reserved for the Schedule Tribe and 6 (six) seats are reserved for the women of any community and nine (09) seats are kept as persons for the non-tribals. [Clause-6(1)]<sup>3</sup>

b) The MPs and the MLAs of Assam belonging to the Scheduled Tribes Reserved Constituencies of the Council Area shall be ex-officio members of the General Council. [Clause-6(2)]

c) The elected members of the General Council shall, at the first meeting to be convened by an officer authorized by the Government, elect from amongst themselves by a secret ballot one of the members to be the Chairman of the meeting to conduct the proceeding where he shall also cast his vote and elect from amongst themselves in the manner prescribed-

- i) One member to be the Chairman
  - ii) One member to be the Deputy Chairman
  - iii) One Chief Executive Councilor of the Executive Council
  - iv) One Deputy Chief Executive Councilor of the Executive Council
  - v) As many Executive Councilors as may be decided by the General Council, but not exceeding one-third of the total numbers of the members of the General Council.
- [Clause-6(4)]

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<sup>3</sup> This Clause [6(1)] of both the Tiwa/the Rabha Hasong Autonomous Council Act 1995 was amended in 2001 and 2005 respectively. Before amendment there was 30 (thirty) members of the General Council out of which 26 (Twenty six) shall be directly elected 4 (Four) shall be nominated by the Government from amongst the groups of the communities residing in the Council Area and not otherwise represented in the General council.

**d)** The term of office of the General Council shall be 5 (five) years from the date of the first meeting after the election of the members, unless dissolved earlier under the provisions set forth.

As such the Chief Executive Councilor or the Executive Councilors shall cease to hold office if he, for any reason, ceases to be a member of the General Council.

Further, the Governor of Assam may, if he is satisfied that circumstances so exist which render the holding of the election, as provided, impracticable, extend the term of the General Council for a period not exceeding one year.

#### **Removal of members of the General Council:**

The Chief Executive Councilor or the Executive Councilors or any one of them or all of them may be removed from office by a resolution carried by a majority of the total number of the elected members at a special meeting of the General council called for the purpose upon a requisition made in writing by not less than one third of the members of the General Council.

A member of the General Council can be removed from the office, if he-

a) is convicted by a criminal court of an offence involving moral turpitude punishable with imprisonment for any period exceeding six months,

b) becomes an MP or an MLA

c) is absent from three consecutive meetings of the General Council.

#### **Meeting of the General Council:**

The General Council shall meet at least once in every three months for transaction of its business. The meeting of the General Council shall be held at the headquarter of (the Tiwa and the Rabha Hasong) Autonomous Council at such time as may be notified by the Chief Executive Councilor, provided that the first meeting of the General Council after the election shall be held on such dates as may be fixed by the Government.

#### **Secretariat of (the Tiwa and the Rabha Hasong) Autonomous Council:**

There shall be a Secretariat for (the Tiwa and the Rabha Hasong) Autonomous Council at the headquarter of the General Council headed by a Principal Secretary to be

appointed by the Government in consultation with the Chief Executive Councilor. The Principal Secretary shall be the Principal Executive Officer of the General Council and all other officers of the General Council shall be subordinate to him.

The Principal Secretary shall be present and take part in the discussion of all the meeting of the General Council.

The term of appointment of the Principal Secretary shall be for a period of three years but may be extended by the Government in consultation with the Chief Executive Councilor.

The Government may appoint such other Secretaries for the General Council, depute such other officers or experts in consultation with the Chief Executive Councilor, to assist the General Council on such terms and conditions as may be determined by the Government.

**Subjects to be under the control and administration of the General Council:**

The General council shall have executive powers in relation to the Council Area over the following subjects-

1. Cottage Industry
2. Animal Husbandry and Veterinary
3. Forest other than Reserved Forest
4. Agriculture
5. Rural Roads and Bridges
6. Sericulture
7. Education- (Adult Education, Primary Education, Upto Higher Secondary including Vocational Training)
8. Cultural Affairs
9. Soil Conservation
10. Co-Operation
11. Fisheries
12. Panchayat and Rural Development
13. Handloom and Textile
14. Public Health Engineering- drinking water
15. Minor Irrigation

16. Social Welfare
17. Flood Control Schemes for protection of villages (not of highly technical nature)
18. Sports and Youth Welfare
19. Weights and Measures
20. Library Services
21. Museum and Archaeology
22. Urban Development, Town and Country Planning
23. Tribal Research
24. Land and Land Revenue (Provided that no allotment or settlement of land shall be made in the Council Area without the recommendation of the Executive Council)
25. Publicity and Public Relation
26. Tourism
27. Transport
28. Any other matter connected with development
29. Municipal Board, Improvement Trust, District and other local self Government of Villages
30. Tribal Welfare
31. Market and Fairs
32. Lotteries and Theatres, Dramatic Performance and Cinema
33. Vital Statistics including registration of birth and deaths
34. Food and Civil Supplies.

**Other matters to be under the control and administration of the General Council:**

- i) Formulation of integrated development plans for the Council Area.
- ii) Implementation of schemes and programmes for the development of the Council Area.
- iii) Powers to appoint Class-III and Class-IV staff within the Council Area.

- iv) Powers to regulate trade and commerce within the Council Area in accordance with the existing laws including issue of permit or licenses to individuals within the Council Area.
- v) Guide customs and traditions and social justice of (the Tiwa and the Rabha community according to the traditional laws.
- vi) To allot permits for trade and commerce to the people residing in the Council Area, preference being given to (the Tiwa and the Rabha) Community.

**Powers to impose levy and collect taxes:**

The General Council shall collect such tax or taxes from such date as may be fixed by the State Government by notification in this behalf in the official Gazette. The General Council shall-

- a) levy tolls on persons, vehicles or animals of any class, for the use of any bridge or roads other than kacha road, or ferry constructed or established and managed by it.
- b) levy the following fees and rates, namely:-
  - i) fees on the registration of boats or vehicles;
  - ii) fees for providing sanitary arrangements at such places of worship, pilgrimage, fairs, melas, other public places within the Council Area as may be specified by the Government by Notification in the official Gazette;
  - iii) fees for licenses;
  - iv) water rates, where arrangements for irrigation or drinking water is made by it within the Council Area;
  - v) lighting rate where arrangements for lighting of public street or places are made by it within the Council Area;

**Power to acquire, hold and dispose of property:**

The General Council shall have the power, subject to the previous approval of the Government and subject to such terms and conditions as may be imposed by the Government,



to acquire, hold or dispose of any immovable or movable property the value of which exceeds Rupees one lakh and to enter into contract or agreement with any party or authority.

**Power to make bye-laws:**

The General Council may, subject to (the Tiwa and the Rabha Hasong Autonomous Council Act and Rules of 1995), and subject to the approval of the Government, make bye-laws to be applicable in the Council Area with respect to the subjects transferred to the Council for the regulation, control and administration thereof. All the bye-laws shall have effect upon their publication in the Official Gazette.

**The Executive Council:**

The Executive Council is the executive body of the Council responsible for carrying out all the executive functions of the General Council in the Council areas.

**Composition of the Executive Council:**

The Executive Council shall consist of the Chief Executive Councilor and the Executive Councilors elected by the General Council at the first meeting after the election for the constitution of (the Tiwa and the Rabha Hasong) Autonomous Council.

The Chief Executive Councilor shall be the Chairman of the Executive Council and shall preside over the meetings of the Council.

Any casual vacancy among the members of the Executive Council occurring by reasons of death, resignation, removal or otherwise shall be filled through election by the members of the General Council.

The manner of transaction of business of the Executive Council shall be such as may be determined by the General Council by the bye-laws made by it with the approval of the Government. The Executive Council shall be collectively responsible to the General Council.

**Term of Office of the Executive Council:**

A member of the Executive Council shall hold office until he-

a) ceases to be a member of the General Council, or

b) resigns his office in writing under his hand addressed to the Chief Executive Councilor in which case the resignation shall take effect from the date of acceptance thereof. In case of the Chief Executive Councilor, the resignation shall be addressed to any one of the Executive Councilors.

**Powers and Functions of the Executive Council:**

- 1) The Executive Powers of the General Council shall vest in the Executive Council.
- 2) All orders or instructions made or executed by the Executive Council shall be deemed to have been made or executed by or under the authority of the General Council.
- 3) Every order made or instructions issued or resolution passed by the General Council shall be authenticated by the signature of the Chief Executive Councilor, or in his absence, by any one of the Executive Councilors.

**Powers and functions of the Chief Executive Councilor:**

The Chief Executive Councilor shall

- a) be responsible for the maintenance of records of the General Council.
- b) have general responsibility for the financial and executive administration of the General Council.
- c) exercise administrative supervision and control over the officers and employees of the General Council and the officers and employees whose services may be placed at the disposal of the General Council by the Government.
- d) exercise such other powers, perform such other duties as the General Council may, by general or special resolution, direct or as the Government may, by rules made in this behalf, prescribed.

**General Powers of the Chief Executive Councilor:**

- a) The Chief Executive Councilor shall be the Chief of (the Tiwa/the Rabha Hasong) Autonomous Council and shall exercise such power and discharge such functions as are conferred upon him or under (the Tiwa/the Rabha Hasong) Autonomous Council Act 1995, or the rules made thereunder.

b) The Executive Councilor shall for the smooth and convenient transaction of business of the Executive Council, allocate among the Executive Councilors such business in such manner as he may deem fit.

### **Special Powers of the Chief Executive Councilor:**

The Executive Council may, in cases where the Chief Executive Councilor is required to take in accordance with the provisions of the Act (the Tiwa/the Rabha Hasong Autonomous Council Act 1995) or rules made thereunder, or any other law for the time being in force, any action subject to the approval of the Executive Council, by a general or special resolution, authorized the Chief Executive Councilor to take such action subject to such condition, if any, as may be specified therein, in anticipation of such approval.

Whenever the Chief Executive Councilor takes any action under the above provision, he shall inform the Executive Council forthwith and shall obtain the approval thereof.

### **Meeting of the Executive Council:**

The Executive Council shall meet at least once in every three months for transaction of its business at such place and time as the Chief Executive Councilor may direct. The meeting shall be convened by the Chief Executive Councilor by giving seven clear days notice in writing to each member of the Executive Council.

### **(3) The Village Council:**

The Village Council is a body corporate having perpetual succession and a common seal with powers to acquire, hold and dispose of property and shall sue or be sued by its corporate name.

### **Composition:**

The Village Council shall consist of 10 (ten) members of which 5 (five) seats shall be reserved for the (Tiwa/Rabha) Community out of which at least one shall be a women. Every member of the Village Council shall be entitled to such sitting allowances as may be fixed by the Village Council subject to the approval of the General Council and the Government.

The elected members of the Village council shall, at the first meeting after the election, elect from among themselves, in the manner prescribed-

- i) One member to be the President who shall also be the Chief of the Village Council
- ii) One member to be the Vice President who shall be the Deputy Chief of the Village Council.

**Term of Office:**

- i) The term of office of the Village Council shall be five years from the date of the first meeting as appointed by the Government after the election of the members, unless dissolved earlier. It is also provided that the Governor may, if he is satisfied that circumstances exist which render the holding of election is impracticable, extend the term for a period not exceeding one year.
- ii) The President or Vice-President of a Village Council shall cease to hold office if he, for any reason, ceases to be a member.

**Salaries, allowances and other emoluments:**

The President and the Vice-President shall be whole time functionaries and shall be paid out of the Village Council fund such salaries and allowances as may be prescribed.

**Office of the Village Council:**

The State Government shall in consultation of the President of the Village Council appoint a Secretary to the Village Council. The Secretary shall be the Chief Executive of the Village Council and shall act under the direction and control of the President. All other officers and staff shall be subordinate to him.

The Government may, in consultation with the President, depute such other officers or experts, as may be required, to assist the Village Council on such terms and conditions as may be determined by the Government.

The Government may, from time to time post such other officers or staff as may be required so as to meet the exigencies.

All officers and staff posted in the Village Council office shall be accountable to the Village Council for their performances and assessment of their works recorded by the village Council shall be incorporated in their Annual Confidential reports by the Government.

**Subjects to be under the control and administration of the Village Council:**

The Village Council shall have the executive power in relation to the Village Council area over the following subjects:

1. Agriculture including agricultural extension,
2. Animal Husbandry, Dairy Development and Poultry,
3. Fisheries,
4. Social and Farm Forestry/ Minor Forest produce, Fuel & Fodder,
5. Khadi, Village & Cottage Industries,
6. Rural Housing,
7. Drinking Water,
8. Road, Building, Culverts, Bridges, Tunnels, Waterways and other means of communications,
9. Rural Electrification
10. Non-conventional Energy Sources
11. Poverty alleviation Programme,
12. Education including primary schools
13. Adult & non-formal Education,
14. Libraries,
15. Cultural Activities,
16. Markets and Fairs,
17. Rural Sanitation
18. Public Health & Family Welfare,
19. Women and Child development.
20. Social Welfare including welfare of handicapped & mentally retarded.
21. Welfare of weaker section and in particular the SC/ST.
22. Public Distribution System,
23. Maintenance of community assets,
24. Construction and maintenance of cattle sheds and similar institutions,
25. Construction and maintenance of cattle sheds, pounds and cart stands,
26. Maintenance of public parks and play grounds,
27. Construction and maintenance of slaughterhouse,
28. Maintenance and regulation manure,
29. such other functions as may be entrusted by the Government from time to time.

**Other matters to be under the control and administration of the Village Council-**

The Village Council shall-

- a) Formulate integrated development plans for the Village Council area,
- b) Implement schemes and programmes for the development of the Village Council area,
- c) Have power to appoint Class-III and Class-IV staff of the Village Council,
- d) Have powers to regulate trade and commerce within the Village Council area in accordance with the existing laws including issue of permits or licenses to individuals within the Village Council area.
- e) Guide customs and traditions and social justice of the (Tiwa/Rabha) community according to their traditional laws and
- f) Allot permits for trade and commerce to the people residing in the Village Council area, preference being given to the (Tiwa/Rabha) community.

**Powers to impose levy and collect taxes:**

Subject to the provisions of any other laws for the time being in force and subject to the previous approval of the General Council, the Village Council shall have the power to collect within the Village Council Area such taxes as are payable under the law for the time being in force in the manner as prescribed. Provided that the Tax or the Taxes as aforesaid shall be collected from such date as may be fixed by the Government by notifications in this behalf in the Official Gazette. The Village Council shall-

- a) Levy tolls on person, vehicles or animals of any class for the use of any bridge, or road other than kaccha road, or ferry constructed or established by it.
- b) Levy the following fees and rates namely-
  - i) Fees on the registration of boats or vehicles,
  - ii) Fees for providing sanitary arrangements at such places or worship, pilgrimage, fairs, melas, or other public places within the Village Council Area as may be specified by the Government by notification in the official Gazette
  - iii) fees for licenses

- iv) Water rates where arrangements for irrigation or drinking water is made by it within the Village Council area
- v) Lighting rate where arrangements for lighting on public street or places are made by it within the Village Council area

The Village Council shall not undertake registration of any vehicle or levy any fees and shall not provide any sanitary arrangements at places of worship, pilgrimage, fairs, melas or other public places, if such vehicle has already been registered by any other authority under the law for the time being in force or if such provisions for sanitary arrangements has already been made by the Government or any other local authority.

The collection of tolls, fees or rates and terms and conditions for the imposition thereof shall be such as may be prescribed by the by-laws.

#### **4:3:2 Election Procedure of (the Tiwa/the Rabha) Autonomous Council:**

1) Delimitation (Constituencies): There shall be 10 (ten) constituencies in a Village Council Area and 36 (thirty six) constituencies in a General Council Area, each such constituency shall be a single member constituency and shall be territorial.

The Government shall, by order published in the official Gazette, determine the territorial limits of the constituencies into which the Village Council Area or the General Council Area shall be delimited for the purpose of election.

However, the Government shall, by order published in the official Gazette, may alter or amend the territorial limits of the constituencies into which the Village Council Area or the General Council Area shall be delimited for the purpose of election. But such cannot be made after the commencement of the election process.

2) Election of members: The election of the members for the purpose of constituting Village Council and the General Council shall be held on such date or dates as may be notified by the Authority in consultation with the Government.

3) Qualification for membership of Village Council and General Council: A person shall be qualified to be elected as member of either Village Council or General Council if he is an elector of the concerned Village Council or General Council.

4) Disputes regarding election: The Autonomous Council Act, 1995 provided that, “No election shall be called in question except by an election petition presented in such manner as may be prescribed and before such authority as may be appointed by the Government, from time to time, by notification in the official Gazette:

Provided that no person below the rank of Assistant District Judge, in case of member of Village Council and District Judge, within the meaning of Article 236 of the Constitution, in case of member of the General Council, shall be appointed for the purpose.” [Clause 59, section-1 of the (the Tiwa and the Rabha Hasong) Autonomous Council Act 1995]

5) Powers to make rules regulating the election of members: The Government of Assam may, by notification in the official Gazette make rules to regulate all matters for the purpose of holding election to the Village Councils and to the General Council.

#### **4:3:3 Funds, Audits and Budget of (the Tiwa/Rabha) Autonomous Council:**

As per the Act, there shall be two separate funds called General Council Fund and Village Council Fund. Each fund shall be under separate Sub-Heads within the State Budget and all moneys realized or realizable and all moneys otherwise received by the General Council or the Village Council as the case may be, shall be credited to its respective fund.

The Government shall provide funds to the General Council Fund and the Village Council Fund from the Tribal Sub-Plan and other resources keeping in mind the resources of the Government, priorities or development works in other areas including other tribal areas.

The following funds shall be deposited to the Village Council Fund-

- a) contributions and grants received from the Government;
- b) contributions and grants received from the General Council;
- c) all receipts on account of donation, rates, fees, taxes etc.;
- d) all other sums received by or on behalf of the Village Council;
- e) land revenue and local rates, if any, on land including Tea Garden, which falls in the Village Council Area.



The allocation made under these Sub-Heads shall be kept according to the guidelines laid down by the Government of India from time to time in the spirit of the Constitution of India.

All funds, as may be allocated by the Central Government and the State Government for the General Council or the Village council, as the case may be, shall be assigned to it and shall be credited to the General Council Fund or the Village Council Fund, as the case may be.

The General Council shall make bye-laws for the management of the General Council Fund and the Village council Fund and for the procedure to be followed in respect of payment of money into the said funds, withdrawal of moneys therefrom, the custody of the moneys therein and any other matter incidental thereto or connected therewith.

The Accounts of the General Council and the Village Council shall be kept in such form and manner as may be prescribed in consultation with the Accountant General, Assam.

**Audit:**

The audit of the accounts of the General Council is entrusted to the Comptroller and Auditor General of India who may submit to the Governor such report thereon as it deems fit. The Government shall transmit the report to the General Council and the Village Councils for discussion and considerations. The General Council and the Village Councils shall return the report to the Government with comments, if any. The Government shall lay such report along with the comments of the General Council and the Village Councils before the State Legislature.

**4:3:4 Dissolution of General Council, Executive Council and Village Council:**

The Governor may, if he is satisfied, on receipt of a report or otherwise and in consultation with the Judicial Department of the Government that a situation has arisen in which the administration of the Council Area cannot be carried out in accordance with the provisions of the law for the time being in force or the general or the special instructions issued by the Government from time to time, dissolve the General Council, the Executive Council and the Village Councils before the expiry of the terms and assume to himself all or any of the powers and functions of the General Council, the Executive Council and the Village Councils before the expiry of the terms and assume to himself all or any of the

powers and functions shall be exercised by such persons or authority as he may specify in this behalf for a period not exceeding six month at a time.

Every order in this regard shall be laid before the legislature for approval and unless approved by the State Legislature shall cease to operate on the expiry of thirty days from the date on which the Assam Legislative Assembly first seats after the issue of the orders.

#### **4:3:5 Special provisions of (the Tiwa/the Rabha Hasong) Autonomous Council Areas:**

The Government shall consult and give due regard to the views of the General Council before any law is made and implemented in the Council area on the following subjects-

- a) the religious and social practice of the (Tiwa/Rabha) Community,
- b) the customary laws and procedures of the (Tiwa/Rabha) community,
- c) ownership and transfer of land within the Council Area.

#### **4:3:6 Application of Acts of the Legislature of the State:**

If there is any contradiction between the bye-laws made by the General Council and the laws passed by the State Legislature of Assam on any matter, it is the laws of the State Legislature of Assam shall prevail.

#### **4:4 Implementations of the Tiwa and the Rabha Hasong Autonomous Council Act 1995:**

The Tiwa Autonomous council Act,1995 and the Rabha Hasong Autonomous Council Act,1995 has provided for the constitution of the Tiwa and the Rabha Hasong Autonomous Councils, facilitating self- rule for the protection of their identity and to give them opportunity to develop in their own way. Though the Acts of 1995 provided for the constitution of these Councils democratically by way of direct election, yet the Government constituted the Interim Councils by nominating the loyal party workers. The first interim Tiwa Autonomous Council was formed in 1995, appointed Narayan kumar Radu Kakati as the Chief Executive Councilor. On the other hand the first interim Rabha Hasong Council was constituted in 1995 appointing late Sabyasashi Rabha as the Chief executive Councilor. Since then the State Government only appointed the Interim Councils for both the Autonomous Councils. This had resented the Tiwa and the Rabha leaders thus, they demanded for holding of the Tiwa and the Rabha Hasong Autonomous Council elections. At

last the Govt. hold the election of the Tiwa Autonomous Council in June 2010. But in the Rabha Hasong Autonomous Council, the Govt. did not hold the election as there was lack of consensus among the Rabha Organisations and the State Government regarding inclusion of the Rabha Villages in the Council area.

In February 2013, the State Government of Assam decided to hold the Panchayat election to constitute the Panchayati Raj Institutions (PRI) in the Rabha Hasong Autonomous Council areas which led to a conflict situation in the Rabha Hasong Autonomous Council area. During that time (in January-February 2013), a series of agitational programme was carried out by the Rabha Hasong Joint Movement Committee (RHJMC) protesting Governments decision to hold Panchayat election in the Rabha Hasong Autonomous Council area and demanded immediate election of the Rabha Hasong Autonomous Council. Altogether 11 people died in the conflict between the government and Rabha protesters. Following photos shows the violence occurred in Rabha Hasong area during January-February, 2013 Panchayat election.



*An injured polling officer undergoing treatment after being attacked in election violence at Bepul polling station in Goalpara during last panchayat election.– UB Photos Assam Tribune News on 13<sup>th</sup> February 2013*



*The burn bus after eleven people were killed in police firing and seven CRPF personnel and policemen injured in violence in Goalpara district during the third and final phase of the panchayat elections in Assam. (Published in The Hindu, on February 13, 2013)*

Owing to the strong protest movements by the Rabha national organisations the government of Assam had decided to hold the election to constitute the Rabha Hasong Autonomous Council democratically in April 2013. Although, the Government of Assam finally constituted the General Council of the Tiwa and the Rabha Hasong Autonomous Council democratically (Tiwa Council since June 2010 and the Rabha Hasong Council since April 2013), implementing the respective Autonomous Councils Acts, yet the Village Councils of both the Autonomous Councils were not constituted. In both the Autonomous Council Acts, the Village Councils are entrusted lots of responsibilities at the grass-root level. This shows the insincerity on the part of the State Government for the proper implementation of the Tiwa and the Rabha Hasong Autonomous Council Acts 1995.

Another contradiction which has been noticed in the implementation of the Tiwa and the Rabha Hasong Autonomous Council Act 1995 that, in the Memorandum of Settlements signed between the State Government and the Tiwa and the Rabha leaders, it is clearly mentioned in the Clause-5 (a) of the MoS that the provisions of Assam Panchayat Act, 1994 and the Assam Municipal Act, 1994 (Amended) shall not apply to the areas of the villages

included in the Lalung (Tiwa) and the Rabha Hasong Village Council.<sup>4</sup> But the State Government abolished this clause by an amendment of the Tiwa and the Rabha Accord in the Tiwa and the Rabha Hasong Autonomous Council Act 1995, in 2001. Now the Government of Assam has constituted the Panchayati Raj Institutions also in the Tiwa and the Rabha Hasong Autonomous Council areas. This is an administrative overlapping of two governing institutions in the same areas.

During recent times, the Tiwa and the Rabha organizations have been demanding for the proper implementation of provisions of the Tiwa and the Rabha Hasong Autonomous Council Act 1995. The earlier leaders associated with the Council politics of both the Communities did not raise their voice against the Government's negligence in the implementation of the Autonomous Council Act 1995, (the Tiwa and the Rabha Hasong). Rather most of them are trying to serve their political interest (being nominated as the Chief Councilor or the Councilor in the Interim Autonomous Council) with the support of the Ruling Government in the State. Even, to serve their interest many leaders had joined the Ruling Party in the State. As a result the critics have remarked that these Councils are becoming the centers of personal aggrandizement of a section of tribal leaders rather than serving the interest of the poor tribal peoples. In the next chapters an empirical analysis will be made regarding the functioning of the Tiwa and the Rabha Hasong Autonomous Councils in Assam with the help of the opinions of the leaders from both the Communities and the common villagers living in the Tiwa and the Rabha Hasong Autonomous Council area.

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<sup>4</sup> The Clause-5(a) of the Lalung (Tiwa) and the Rabha Hasong Accord, 1995 shall be read as "The (Lalung/Rabha Hasong) Village Council shall have executive power in respect of execution of development schemes on 29 (twenty nine) subjects as listed in Annexure-I and the Apex Council shall have power on 34 (thirty four) subjects as listed in Annexure-II. These powers will be subject to condition that the powers exercised by any other authority under the specific provision of law made by the Central/State Government shall not be delegated/transferred to the authority of Lalung/Rabha Hasong Village Council or Lalung/Rabha Hasong Autonomous Council. However, the provisions of Assam Panchayat Act, 1994 and the Assam Municipal Act, 1994 (Amended) shall not apply to the areas of the villages included in the Lalung/ Rabha Hasong Village Council.