

Nicobari tribals are living in a village in District Nicobar, such persons would not be included in the electoral roll and would not be eligible to vote in the elections to the Village Council and the Island Council. This is a retrograde provision as it impacts the fundamental right of representation that is available to all Indian citizens. If the rights of the tribals are to be protected, at best a provision can be made on the line of Panchayats (Extension to the Scheduled Areas) Act, 1996 that the Captain of the Village Council and at least 50% of the members of the Village Council shall be Nicobari tribals.

has already
been
addressed in
Colonel
note

- (iii) Chapter III relates to the Village Council. The draft from MHA has provision for nomination of the head of respective tuhot in the village to fill up the seats in the Village Council. The A&N Administration is doing away with this provision and the members of the Village Council will be restricted to the persons who are elected to the body. This appears to be reasonable and in accordance with democratic principles.
- (iv) Regulation 14 refers to the decision on the disqualification of any person who is member of the Village Council. It is stated that this matter shall be referred to the Deputy Commissioner who before deciding any such case shall obtain the opinion of the Election Commission and shall act in accordance with such opinion. There appears to be no mention here for opportunity to be heard by the Deputy Commissioner being given to the person whose case for disqualification is to be decided. Moreover, it appears unnecessary for the Deputy Commissioner to take the opinion of the Election Commission in such a matter. As it is proposed that the Deputy Commissioner is to abide by the opinion of the Election Commission, it would appear that the Deputy Commissioner has no authority to decide the matter and is only transmitting the view/decision of the Election Commission. Such a provision can also overload the Election Commission with "advice" cases. Hence this Regulation needs to be redrafted.
- (v) Chapter VII refers to the Island Councils. The MHA draft mentions in Regulation 53(3) that the Island Council shall exercise supervision over the Village Council. The A&N Administration has suggested deletion of this provision. Their view appears to be reasonable as one elected

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