

Sl.No. 185-186/c

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This is regarding finalization of the Draft Tribal Council Regulation of Nicobarese Tribe of these Islands. The Andaman & Nicobar Administration has formulated a draft Tribal Council Regulation to have the Statutory Panchayati Raj Institutions in the tribal areas and sent to the Govt. of India, Ministry of Home Affairs for approval. In its response the Govt. of India, Ministry of Home Affairs vide their letter dated 31.10.2007 at page 152/c has stated that judicial powers cannot be exercised by the Executive or any elected body. Therefore, they have reiterated that setting up of Village Judicial Council which ~~are~~ consist of elected members of Village Council would not be legally and constitutionally in order. Considering the legal opinion the Ministry of Home Affairs is of the view that Chapter -7 regarding Village Judicial Council, Chapter-8 regarding powers of Village Judicial Council and Chapter -9 relating to procedure in cases and suits may need to be removed. They have requested this Administration to examine the matter and advise their Ministry expeditiously.

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As per the minutes of the Chief Secretary, A & N Administration recorded on the body of the Government of India's letter dated 31.10.2007 at page 150/C, we had requested to Deputy Commissioner (Nicobar) to send their views on the suggestions made by the Ministry of Home Affairs vide our reminder dated 21.1.2006 at page 154/C.

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Further, the Chief Secretary has desired that we should study the Tribal Council Regulation of Nagas, Khasis and Arunachal Keibang System, if any judicial powers have been conferred on it, for replicating among the Nicobarese Tribal Councils which may kindly be perused at page 155/C. Accordingly, we had requested the Chief Secretary, Government of Nagaland, Government of Arunachal Pradesh and Government of Mizoram vide our letter at page 156-158/C. The Under Secretary to the Government of Mizoram vide letter dated 20th December, 2007 at page 160/C has sent a copy of Mizoram Compendium of Laws, Vol. II which contain the information relating to the Lushai Hills Autonomous District (Administration of Justice) Rules, 1953, the Pawi Autonomous District (Administration of Justice) Rules, 1954 and Lakher Autonomous District (Administration of Justice) Rules, 1981.

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As per the Mizoram Compendium of Laws, there are three classes of Courts as specified below in the areas within the Lushai Hills Autonomous District, Pawi Autonomous District and Lakher Autonomous District has been constituted by the District Council for the trial of suits and cases between the parties all of whom belong to the Scheduled Tribes or Tribes within the such areas, other than suits and cases to which the provisions of sub- para (I) of para- 5 of the Sixth Schedule to the constitution apply.

- (1) Village Courts
- (2) Subordinate District Council Court
- (3) District Council Court.