

THE THENGAL KACHARI AUTONOMOUS COUNCIL ACT, 2005*

[ASSAM ACT No. XXXVIII OF 2005]

(The 9th September, 2005)

(Received the assent of the Governor on 7th September, 2005)

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THE THENGAL KACHARI AUTONOMOUS COUNCIL ACT, 2005

An

Act

to provide for the establishment of an administrative authority in the name and style of Thengal Kachari Autonomous Council and for certain matters incidental thereto and connected therewith.

Preamble.- Whereas it is expedient to provide for the establishment of a Thengal Kachari Autonomous Council within the State of Assam with maximum autonomy within the framework of the Constitution, comprising of the satellite areas of Village Councils formed out of blocks of contiguous revenue villages, each having more than 50% population of Thengal Kachari Community, without having any compact area for social, economic, educational, ethnic and cultural advancement of the Thengal Kachari community residing therein.

It is hereby enacted in the Sixty-first Year of the Republic of India as follows:-

CHAPTER-I

PRELIMINARY

- 1. Short title, extent and commencement.-** (1) This Act may be called the Thengal Kachari Autonomous Council Act, 2005.
- (2) It extends to the whole of the State of Assam.

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint and different dates may be appointed for different provisions of the Act or different areas.

2. Definitions.— In this Act, unless the context otherwise requires,—

- (a) "bye-law" means the bye-laws framed by the General Council;
- (b) "Constitution" means the Constitution of India;
- (c) "Constituency" means a constituency referred to in Section 48;
- (d) "Council Area" means the Thengal Kachari Autonomous Council Area;
- (e) "Executive Council" means the executive body of the General Council of the Thengal Kachari Autonomous Council constituted under Section 3(3) and 24;
- (f) "Elector" in relation to a constituency means a person whose name is entered in the electoral roll of that constituency;
- (g) "General Council Fund" and "Village Council Fund" means the funds constituted under Section 61;
- (h) "Government" means the State Government of Assam;
- (i) "Governor" means the Governor of Assam;
- (j) "General Council" means the General Council of the Thengal Kachari Autonomous Council referred to in Section 3;
- (k) "Gaon Panchayat", "Anchalik Panchayat" and "Zilla Parishad" have the same meaning defined in the Assam Panchayat Act, 1994 (**Assam Act XVIII of 1994**);
- (l) "Member" means a member of the Village Council or the General Council or the Executive Council, as the case may be;
- (m) "Municipality" has the same meaning as in the Assam Municipal Act, 1956 (**Assam Act XV of 1957**);
- (n) "Notification" means the notification issued under this Act;
- (o) "Official Gazette" means the *Official Gazette* of Assam;

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- (p) "prescribed" means prescribed by rules made under this Act;
- (q) "Satellite area" means the area of consisting of non-contiguous cluster of villages predominantly inhabited by Thengal Kachari Community and having more than 50% Scheduled Tribe population as a whole in the cluster and not necessarily in the individual village;
- (r) "Village Council" means the Village Councils referred to in Section 4; and
- (s) "Village Council Area" means the area declared to be the area of a Village Council by the Government by notification in the *Official Gazette*.

3. Thengal Kachari Autonomous Council.— (1) There shall be an autonomous council to be called the Thengal Kachari Autonomous Council within the State of Assam comprising of the areas of the Village Councils as may be specified by the Government by notification in the *Official Gazette*.

(2) The Thengal Kachari Autonomous Council shall have maximum autonomy within the frame work of the Constitution.

(3) The Thengal Kachari Autonomous Council shall have a General Council and an Executive Council as provided hereinafter.

4. Village Council.— (1) There shall be a Village Council for each block of villages, each village having 50% or more Scheduled Tribe population.

(2) Each Village Council area shall consist of approximately 3000 to 5000 population.

(3) Each Village Council shall consist of 10 (Ten) elected members out of which 5(Five) will be form Scheduled Tribe community. Out of 5(Five) reserved seats 1(One) shall be reserved for a women member.

CHAPTER-II

THE GENERAL COUNCIL

5. Incorporation of the General Council.- The General Council shall be a body corporate having perpetual succession and a common seal with powers to acquire, hold and dispose of property and to contract and shall sue or be sued by its corporate name.

6. Constitution the General Council.- [(1) The General Council shall consist of 26 (twenty six) members out of which 22 (twenty two) shall be elected members and 4 (four) members shall be nominated by the Government of Assam to give representation of those group/communities of the council area which are not otherwise represented in it. Out of 22 (twenty two) seats, 18 (eighteen) shall be reserved for Scheduled Tribes and 3 (three) seats shall be reserved for woman, and 1 (one) for general community.]¹

(2) The Members of Parliament and the members of the Legislative Assembly, Assam belonging to Scheduled Tribes Reserved Constituencies of the Council Area shall be ex-officio members of the General Council.

(3) Every member of the General Council shall be entitled to such allowances as may be fixed by the General Council and approved by the Government.

(4) The elected members of the General Council shall, at the first meeting after the election, for the purpose of constitution of the Executive Council, 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 Councilor as may be decided by the General Council, but not exceeding one-third of the total members of the members of the General Council.

1. Substituted sub-section (1) of Section 6 by the Thengal Kachari Autonomous Council (Amendment) Act, 2010 (No. X of 2010).

Before substituted read as- "(1) The General Council shall consist of 26 (Twenty six) elected members out of which 4 (Four) members shall be nominated by the Government of Assam to give representation to those group/communities of the council area which are not other wise represented in it. Out of 26 (Twenty Six) seats, 20 (Twenty) seats shall be reserved for Scheduled tribes and 5 (Five) seats shall be for women."

7. Term of Office.— (1) The term of office of the General 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 under Section 68.

(2) Notwithstanding anything contained in sub-section (1) above, the Chief Executive Councilor or the Executive Councilors shall cease to hold office as such forthwith if he, for any reason, cease to be a member.

(3) Notwithstanding anything contained in sub-section (1), the Governor may, if he is satisfied that circumstances so exist which render the holding of the election, as provided, impracticable, extend the term for a period not exceeding one year.

8. Resignation of members of the General Council.— (1) Any member of the General Council may, at any time, by giving notice in writing addressed to the Chief Executive Councilor, resign his office :

Provided that in case of the Chief Executive Councilor, the notice shall be addressed to any of the Executive Councilors.

(2) Such resignation shall take effect from such date as specified in the notice or if no such date is specified from the date of its receipt by the office bearer addressed.

9. Removal of Members of General Council.— (1) 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.

(2) The Government, after giving an opportunity to an elected member of the General Council to show cause against the action proposed to be taken against him and after giving a reasonable opportunity of being heard, may by order, remove him from the office, if he—

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

(b) incurs any of the disqualification's mentioned in Section 54 after his election as member of the General Council, or

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

(3) Any member of the General Council who is removed from the office under sub-section (2) above, may within thirty days from the date of the order, appeal to such Judicial Authority as the Government may prescribe and the authority so prescribed after admitting an appeal may, after complying with the normal and fundamental principles of judicial proceedings, pass such order or orders either confirming or modifying or setting aside the order appealed against and pending the final disposal of the appeal may pass such other interlocutory order or orders including stay of operation or the order appealed against;

(4) The order, passed, by the Judicial Authority referred to in sub-section (3) above on such appeal shall be final.

10. Salaries, allowances and other emoluments.— (1) The Chief Executive Councilor and the Executive Councilors shall be whole time functionaries and shall be paid out of the General Council Fund such salaries and allowances as may be prescribed.

(2) The other term and conditions of service of the Chief Executive Councilor and the Executive Councilors shall be such as may be prescribed.

11. Filling up of Vacancies.— (1) Where the office of any member falls vacant by reason of his death, resignation, removal or otherwise, the vacancy shall be filled up by election in accordance with the provisions of this Act and the rules framed thereunder :

Provided that any vacancy in the office of the Chief Executive Councilor or the Executive Councilors shall be filled up by the General Council by electing a member thereof in the manner prescribed for the election of the Chief Executive Councilor or the Executive Councilors, as the case may be.

(2) Any member elected in accordance with the provisions of sub-section (1) above, shall hold such office only for the remainder of the term of the General Council or the period extended under sub-section (3) of Section 7.

12. Powers, functions and duties of the Chief Executive Councilor.— (1) The Chief Executive Councilor shall-

- (a) be responsible for the maintenance of the 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) for transaction of business under this Act or for the purpose of making any order under this Act, exercise such powers, perform such functions and discharge such duties as may be exercised, performed or discharged by the General Council under this Act or the rules made thereunder :

Provided that the Chief Executive Councilor shall not exercise such powers, perform such functions or discharge such duties as may be required by the rules made under this Act to be exercised, performed or discharged by the General Council at a meeting;

(e) 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, prescribe.

13. Meeting of the General Council.— (1) The General Council shall meet at least once in every three months for transaction of its business.

(2) The meeting of the General Council shall be held at the headquarter of the Thengal Kachari 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 date as may be appointed by the Government.

14. Oath of affirmation by members.— Every member of the General Council shall before taking his seat, make and subscribe before such person as may be appointed by the Governor in this behalf an oath or affirmation in the manner and forms as may be prescribed.

15. Quorum.— The quorum necessary for transaction of business at a meeting of the General Council shall be 15 (Fifteen) members and the decision of the General Council shall be by a single majority of votes of the members present.

16. Headquarter of the General Council.— The Government may, by notification in the official *Gazette*, declare any place within the Council Area to be the Head Quarter of the General Council.

- 17. Secretariat of the Thengal Kachari Autonomous Council.**— (1) There shall be a secretariat for the Thengal Kachari Autonomous Council at the head-quarter of the General Council headed by a Principal Secretary to be appointed by the Government in consultation with the Chief Executive Councilor.
- (2) 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.
- (3) The Principal Secretary shall be present and take part in the discussion of all the meetings of the General Council or the Executive Council or any Committee of the General Council and may, with the consent of the Chief Executive Councilor or any other person presiding over such meeting for the time being, as the case may be, at any time make a statement or give explanation of the facts and circumstances but shall not be entitled to vote in any such meeting.
- (4) The Principal Secretary and the other officers of the Secretariat shall be paid out of the General Council Fund.
- (5) 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.
- (6) The Government may appoint such other Secretaries for the General Council on such terms and conditions as the Government may, in consultation with the Chief Executive Councilor, determine.
- (7) The Government may, in consultation with the Chief Executive Councilor, depute such other officers or experts, as may be required to assist the General Council on such terms and conditions as may be determined by the Government.
- (8) The Government may from time to time post officers of the rank of Class-II and above within the Council Area in accordance with the exigencies, but while making such postings due regard may be given to the views of the General Council.
- (9) All Officers and other staff posted in the Council Area shall be accountable to the General Council for their performance and assessment to their works recorded by the Executive Council shall be incorporated in their Annual Confidential Reports by the Government.
- (10) Notwithstanding anything contained in sub-section (5) above, the Government may, at any time in consultation with the Chief Executive Councilor, withdraw the Principal Secretary or any other officer posted or appointed by it in the Secretariat.

CHAPTER-III

POWERS AND FUNCTIONS OF THE GENERAL COUNCIL

18. Subjects to be under the control and administration of the General Council.- Notwithstanding anything contained in any other law or rules for the time being in force, 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,
 - (a) Adult Education,
 - (b) Primary Education,
 - (c) Up to Higher Secondary including Vocational Training,
8. Cultural Affairs,
9. Soil Conservation,
10. Co-Operation,
11. Fisheries,
12. Panchayat & 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,

25. Publicity and Public Relation,
26. Tourism,
27. Transport,
28. Any other matter connected with development,
29. Municipal Board, Improvement Trust, District of Boards and other local-self Government of Village Administration,
30. Tribal Welfare,
31. Market and Fair,
32. Lotteries, Theatres, Dramatic performances and Cinema,
33. Vital Statistics including registration of birth and deaths,
34. Food and Civil Supplies.

19. Other matters to be under the control and administration of the General Council.- Subject to the general policy of the Government, the General Council shall-

- (i) formulate integrated development plans for the Council Area;
- (ii) implement schemes and programs for the development of the Council Area;
- (iii) have powers to appoint Class-III and Class-IV staff within the Council Area;
- (iv) have 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 Thengal Kachari community according to the traditional laws;
- (vi) Organize special recruitment drive into Army, Navy, and other para-military forces, Police Forces and other Central Government establishment for appointments of the persons belong to the Thengal Kachari community;
- (vii) Allot permits for trade and commerce to the people residing in the Council Area preference being given to the Thengal Kachari Community.

20. Powers to impose, levy and collect taxes.- (1) Subject to the provisions of any other law for the time being in force, the

General Council shall have the powers to collect within the Council Area such taxes as are payable under the law for time being in force in the manner as may be prescribed :

Provided that the tax or taxes as aforesaid shall be collected from such date as may be appointed by the Government by notification in this behalf in the official *Gazette*.

(2) Subject to sub-section (1) and such maximum rates as the Government may prescribe, the General Council shall-

- (a) levy tolls on persons, vehicles or animals of any class, for the use of any bridge or road 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.

(3) Notwithstanding anything contained in the foregoing sub-sections, the General Council shall not undertake registration of any vehicle or levy any fee in respect thereof and shall not provide sanitary arrangements at places of worship, pilgrimage, fairs, melas or other public places within the Council Area or levy and fees in respect thereof 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 have already been made by the Government or any other local authority.

(4) The collection of tolls, fees or rates and the terms and conditions for the imposition thereof shall be such as may be prescribed by the bye-laws. Such bye-laws may, inter alia, provide for exemption from all or any class of cases.

(5) The General Council may levy fees or taxes on any or all the subjects assigned to the Village Council.

21. Power to entrust functions.- Notwithstanding anything contained in this Act, the Government may, in consultation with the General Council, entrust either conditionally or without any condition, to the General Council or their officers any function in relation to any matter not enumerated in Section 18 to which the executive power of the Government extends.

22. Power to acquire, hold and dispose of property.- Notwithstanding anything contained in Section 5, the General Council, subject to the previous approval of the Government and subject to such terms and conditions as may be imposed by the Government, shall have the power to acquire, hold or dispose of any immovable property or movable property the value of which exceeds Rupees one lakh and to enter into any contract or agreement with any party or authority.

23. Power to make bye-laws.- (1) The General Council may, subject to the provisions of this Act and the rules made thereunder and subject to the approval of the Government, make bye-laws to be applicable within the Council Area with respect to all or any of the matters enumerated in Sections 18, 19, 43 and 44 for regulation, control and administration thereof.

(2) All bye-laws made under sub-section (1) above, shall have effect upon their publication in the Official Gazette.

CHAPTER-IV
THE EXECUTIVE COUNCIL

24. The Executive Council.- (1) The Executive Council shall consist of the Chief Executive Councilor and the Executive Councilors elected in accordance with the provisions of sub-section (4) of Section 6.

(2) The Chief Executive Councilor shall be the Chairman of the Executive Council and shall preside over the meetings thereof.

(3) 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 in the same manner as provided in sub-section (4) of Section 6 :

Provided that no act or proceeding of the Executive Council shall be called in question or shall become invalid merely by reason of any vacancy among its members.

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

(5) The Executive Council shall be collectively responsible to the General Council.

25. 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 :

Provided that in case of the Chief Executive Councilor, the resignation shall be addressed to any one of the Executive Councilors.

26. 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 instruction issued or resolution passed by the General Council shall be authenticated by the signature of the Chief Executive Councilor in his absence by any one of the Executive Councilors.

27. General powers of the Chief Executive Councilor.- (1) The Chief Executive Councilor shall be the Chief of the Thengal Kachari Autonomous Council and shall exercise such powers and discharge such functions as are conferred on him by or under this Act or the rules made thereunder.

(2) The Chief 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.

28. Special power of the Chief Executive Councilor.- (1) The Executive Council may, in cases where the Chief Executive Councilor is required to take in accordance with the provisions of this Act or the 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, authorize the Chief Executive Councilor to take such action subject to such condition, if any, as may be specified therein, in anticipation of such approval.

(2) Whenever the Chief Executive Councilor takes any action under sub-section (1) above, he shall inform the Executive Council forthwith and shall obtain the approval thereof.

29. Meeting of the Executive Council.- (1) 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.

(2) 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.

30. Quorum.- The Quorum for transaction of business at a meeting of the Executive Council shall be three members including the Chief Executive Councilor.

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CHAPTER-V
THE VILLAGE COUNCIL

31. Incorporation of the Village Council.- The Village Council shall be 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.

32. Constitution of the Village Council.- (1) The Village Council shall consist of 10(ten) members of which 5(five) seats shall be reserved for the Thengal Kachari community out of which at least one shall be a woman.

(2) 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.

(3) 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, and
- (ii) one member to be the Vice President who shall be the Deputy Chief of the Village Council.

33. Term of Office.- (1) 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 under Section 68 :

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

(2) Notwithstanding anything contained in sub-section (1) above, the President or the Vice President of a Village Council shall cease to hold office as such forthwith if he, for any reason, ceases to be a member.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2) above, the term of the Village Council shall be co-terminus with the General Council.

34. Resignation of members of the Village Council.- (1) Any members of the Village Council may, at any time by giving notice in writing addressed to the President, resign his office :

Provided that in case of the President the notice shall be addressed to the Vice-President.

(2) Such resignation shall take effect from such date as specified in the notice or if no such date is specified, from the date of its receipt by the office bearer addressed.

35. Removal of members of the Village Council.- (1) The President or the Vice President or both of a Village Council 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 Village Council called for the purpose upon requisition made in writing by not less than one third of the members of the Village Council.

(2) The Government, after giving an opportunity to an elected member of the Village Council to show cause against the action proposed to be taken against him and after giving a reasonable opportunity of being heard, may, by order, remove him from the office, if he-

- (a) after his election, is convicted by a criminal court of an offence involving moral turpitude punishable with imprisonment for any period exceeding six months; or
- (b) incurs any of the disqualification's mentioned, in Section 54 after his election as member of the Village Council; or
- (c) is absent from three consecutive meetings of the Village Council.

(3) Any members of the Village Council who is removed from the office under sub-section (2) above may, within thirty days from the date of the order, appeal to such judicial Authority as the Government may prescribe and the authority so prescribed after admitting an appeal may, after complying with the normal and fundamental principles of judicial proceedings, pass such order or orders either confirming or modifying or setting aside the order appealed against and pending the final disposal of the appeal, may pass such other interlocutory order or orders including stay of operation of the order appealed against.

(4) The order passed by the Judicial authority referred to in sub-section (3) above, on such appeal shall be final.

36. Filling up of vacancy in the office of the President or Vice President.- Any vacancy in the office of the President or Vice President, by reason of death, resignation, removal or

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