

FOR REFERENCE ONLY

**REPORT OF THE
COMMISSION OF INQUIRY
ON
PRIMARY EDUCATION
IN
THE JAINTIA HILLS
AUTONOMOUS DISTRICT**

By

S. K. DUTTA

Former Chief Justice of
Assam & Nagaland High Court and
Chairman of the Commission

43
2
R



INDEX

	Page
1. Notification	1
2. The Back-ground	1—3
3. Legal and Constitutional position	3—4
4. Teachers' Association	4—5
5. Misuse, Misapplication and Misappropriation of Money	5—7
6. <i>Ad-hoc</i> non-recurring grants—Buildings	7—8
7. Uniforms and mid-day meals, etc.	8—10
8. Inspection	10—11
9. Appointments, Transfers of Teachers and Departmental proceedings	11—13
10. Primary School Board	13—14
11. Managing Committees	14
12. Minority Schools	14—15
13. Recommendations	15—18
14. Acknowledgement	19
15. Appendix I	21

- 541643
372
COM-R

Sub. National Systems Unit,
National Institute of Educational
Planning and Administration
W-5 Sector 11, Connaught Place, New Delhi-110016
DOC. No. 2713
Date 29/10/85

WR
1

REPORT OF THE COMMISSION OF INQUIRY ON PRIMARY EDUCATION IN THE JAINTIA HILLS DISTRICT

By a Notification No.DCA.67/82/I, dated 18th May, 1982, the Government of Meghalaya appointed me as an one-man Commission of Inquiry under paragraph 14 of the Sixth Schedule to the Constitution of India to inquire and report on the administration and management by the District Council of Primary Schools in the Jaintia Hills Autonomous District and matters connected therewith. The following were the terms of reference—

1. to ascertain whether the administration and management of the primary education and schools by the District Council of the Jaintia Hills Autonomous District is in accordance with the terms and conditions under which primary schools were transferred by the State to the District Councils ;
2. to find out the reasons for the dislocation of primary education in the aforesaid Autonomous District and to suggest measures to prevent recurrence of such dislocation ;
3. to indicate the existing procedure and to suggest measures to streamline the utilisation by the District Council of funds meant for administration and management of primary education and schools in the aforesaid Autonomous District ;
4. to ascertain and assess the overall position of primary education under the Jaintia Hills District Council and where necessary, to suggest measures for improvement ;
5. to examine any other aspects that may be considered necessary by the Commission.

The Notification also said that the Commission would be at liberty to devise its own procedure. I decided to call for written statements and record evidence. As it is not a Commission of Inquiry under the Commission of Inquiry Act and the Notification did not give me the status of a Civil Court, I decided to record evidence without administering oath and to accept memorandum and written statements instead of asking for affidavits. Even in recording what a witness said, only the substance was recorded and no signature was taken. I did not follow the Indian Evidence Act either in letter or spirit. I treated the inquiry as a mere domestic inquiry.

The back-ground—

Under paragraph 6(1) of the Sixth-Schedule to the Constitution of India the District Council for an Autonomous District may establish, construct or manage Primary Schools and make regulations for regulation and control thereof. But even after the formation of the District Councils, the State Government at the request of the respective District Councils, continued to manage and control Primary Education in the Autonomous Districts for several years. It was only with effect from 1st April, 1962, that the Government Primary Schools in the United K. and J. Hills were transferred to the District Council of the said District *under certain terms and conditions*. At that time there was no separate Jaintia Hills District Council. The Jaintia Hills were tagged to the United K. and J. Hills District Council. A separate District Council for the Jaintia Hills started functioning from 8th April, 1967 when the control and management of the Primary Schools in the Jaintia Hills which had been transferred to the United K. and J. Hills by the Government and the Primary Schools established in the Jaintia Hills by the District Council of the United K. and J. Hills passed over to the Jaintia Hills District Council. Since the functioning of the Jaintia Hills Autonomous District Council, a considerable number of Primary Schools were established by the said District Council. According to the memorandum submitted by its Executive Committee the total number of existing Primary Schools under the management and control of the Jaintia Hills District Council is 386 and the total number of teachers is 901.

Apart from the aforesaid schools there is a number of Primary Schools established in the Jaintia Hills District by private agencies *e. g.* the Roman Catholic Church. These schools receive aids from the District Council in various forms.

For the last few years public resentment was growing at the manner in which the affairs of Primary Education were managed by the Jaintia Hills District Council. There were allegations of misuse, misapplication and even misappropriation

REPORT OF THE COMMISSION OF INQUIRY ON PRIMARY EDUCATION IN THE JAINTIA HILLS DISTRICT

By a Notification No.DCA.67/82/1, dated 18th May, 1982, the Government of Meghalaya appointed me as an one-man Commission of Inquiry under paragraph 14 of the Sixth Schedule to the Constitution of India to inquire and report on the administration and management by the District Council of Primary Schools in the Jaintia Hills Autonomous District and matters connected therewith. The following were the terms of reference—

1. to ascertain whether the administration and management of the primary education and schools by the District Council of the Jaintia Hills Autonomous District is in accordance with the terms and conditions under which primary schools were transferred by the State to the District Councils ;
2. to find out the reasons for the dislocation of primary education in the aforesaid Autonomous District and to suggest measures to prevent recurrence of such dislocation ;
3. to indicate the existing procedure and to suggest measures to streamline the utilisation by the District Council of funds meant for administration and management of primary education and schools in the aforesaid Autonomous District ;
4. to ascertain and assess the overall position of primary education under the Jaintia Hills District Council and where necessary, to suggest measures for improvement ;
5. to examine any other aspects that may be considered necessary by the Commission.

The Notification also said that the Commission would be at liberty to devise its own procedure. I decided to call for written statements and record evidence. As it is not a Commission of Inquiry under the Commission of Inquiry Act and the Notification did not give me the status of a Civil Court, I decided to record evidence without administering oath and to accept memorandum and written statements instead of asking for affidavits. Even in recording what a witness said, only the substance was recorded and no signature was taken. I did not follow the Indian Evidence Act either in letter or spirit. I treated the inquiry as a mere domestic inquiry.

The back-ground—

Under paragraph 6(1) of the Sixth-Schedule to the Constitution of India the District Council for an Autonomous District may establish, construct or manage Primary Schools and make regulations for regulation and control thereof. But even after the formation of the District Councils, the State Government at the request of the respective District Councils, continued to manage and control Primary Education in the Autonomous Districts for several years. It was only with effect from 1st April, 1962, that the Government Primary Schools in the United K. and J. Hills were transferred to the District Council of the said District *under certain terms and conditions*. At that time there was no separate Jaintia Hills District Council. The Jaintia Hills were tagged to the United K. and J. Hills District Council. A separate District Council for the Jaintia Hills started functioning from 8th April, 1967 when the control and management of the Primary Schools in the Jaintia Hills which had been transferred to the United K. and J. Hills by the Government and the Primary Schools established in the Jaintia Hills by the District Council of the United K. and J. Hills passed over to the Jaintia Hills District Council. Since the functioning of the Jaintia Hills Autonomous District Council, a considerable number of Primary Schools were established by the said District Council. According to the memorandum submitted by its Executive Committee the total number of existing Primary Schools under the management and control of the Jaintia Hills District Council is 386 and the total number of teachers is 901.

Apart from the aforesaid schools there is a number of Primary Schools established in the Jaintia Hills District by private agencies *e. g.* the Roman Catholic Church. These schools receive aids from the District Council in various forms.

For the last few years public resentment was growing at the manner in which the affairs of Primary Education were managed by the Jaintia Hills District Council. There were allegations of misuse, misapplication and even misappropriation

the Chief Executive Member to maintain the *status quo* as on the 25th February *i. e.*, the day previous to the strike till the Commission submitted its report. Unfortunately he was not agreeable.

Legal and Constitutional Position—

Under paragraphs 6(1) of the Sixth Schedule the District Council may establish, construct or manage primary schools, dispensaries, markets, cattleponds, ferries, fisheries, roads, road transport and water-ways in the District and may with the previous approval of the Governor make regulations for regulation and control thereof and in particular, to prescribe the language and the manner in which primary education shall be imparted in the Primary Schools in the District.

In course of the Anundaram Barooah Law Lectures delivered in November, 1978, Justice M. Hiduyatullah, *ex-Chief Justice of India* and at present Vice-President of India, interpreted the above paragraph as follows:—

“The last part of the relevant paragraph takes in all the Primary Schools in the District whether established before the establishment of the District Council or after. The first part raises some difficulty as to whether new schools can be established or can the District Council take over the management of old schools already established. Another question is whether the District Councils can make regulations for regulation and control of all schools or only those which it establishes.

In my opinion the words ‘may establish, construct or manage’ must be read separately with the words ‘in the District’. So read, the question of establishment and construction gets separated from what follows. The words then are:

“.....and may, with the previous approval of the Governor, make regulations for the regulation and control thereof...”

The word ‘thereof’ limits the management of the schools which the District Council itself establishes. The word ‘thereof’ shows that a distinction is to be made between schools already established and those which the District Council establishes. Then follow the words which again make the control general that is to say, applicable to all primary schools ‘in the district’ while prescribing the language and the manner in which primary education shall be imparted.

The language is not happy. It leads to the remarkable result that some roads, some schools and some cattle ponds, etc., will be regulated by the Rules of the District Councils but not all. The rules, however, may be made by the District Council in such a way as to make this cleavage. It will be for the Governor in his supervisory jurisdiction to see that uniformity results.

With due respect, I may say that the plain reading of the paragraph leads in my opinion to the following results. While interpreting the paragraph, I have borne in mind the cardinal principle on interpretation that a provision of law should be so interpreted as not to lead to any absurd or startling result.

- (1) A District Council may establish Primary Schools by constructing the same.
- (2) It may also take over management of Primary Schools constructed and established by some other agency if they are handed over to it and they accept them.
- (3) It may with the prior approval of the Governor, make regulations for the control and management of both the above two categories of Schools.

From the above interpretation it is clear that it is not correct to say that the State Government is the controlling authority of schools which were transferred to the District Council.

Then there is the provision which says that the District Council, in particular, may prescribe the language and manner in which Primary Education shall be imparted in the Primary Schools in the District. This provision does not give a “general control” to the District Council over all Primary Schools of the District. The word “manner” must be read in its

ordinary dictionary meaning *viz* "a way or method in which something is done or happen". (*Vide* Webster's New World Dictionary). Thus the District Council may prescribe the visual method or convert all Primary Schools to Basic type. It can fix the curriculum, syllabi and the method of examination and prescribe text-books and deal with matters to link up Primary Education with Secondary Education of the State.

When it is said in paragraph 6 of the Sixth Schedule that the District Council "may" establish, construct or manage Primary Schools and make regulations for regulation and control of the same the word "may" has the force of "shall". It has been judicially held in innumerable cases by courts in England as well as in the U.S.A. that the word "may" does not merely give discretionary power but has a compulsory force when public interest or individual right calls for exercise of the power. Thus the District Council cannot by a resolution surrender to the Government their duty of establishing Primary Schools and managing the same. Similarly the making of regulations is also obligatory. If the schools are managed not by law but by executive orders, it is bound to lead to management by whims and to discrimination and favouritism. There will be very negation of Rule of Law which is enjoined by Article 14 of the Constitution of India. The Constitution has sought to keep the ultimate control over Primary Education in the hands of the State Government by providing that the Regulations regulating the control and management of Primary Schools can be made only with the prior approval of the Governor.

Then there is paragraph 16(2) of the Sixth Schedule which read as follows :—

"If at any time the Governor is satisfied that a situation has arisen in which the administration of an autonomous district or region cannot be carried on in accordance with the provisions of this Schedule, he may, by notification, assume to himself all or any of the functions or powers vested in or exercisable by the District Council or, as the case may be, the Regional Council declare that such functions or powers shall be exercisable by such person or authority as he may specify in this behalf, for a period not exceeding six months.

Provided that the Governor may by a further order or orders extend the operation of the initial order by a period not exceeding six months on each occasion.

To take action under the above provision the Governor must be satisfied that a function entrusted to a District Council cannot be carried on in accordance with the provisions of the Sixth Schedule. As an example I may point out that if a situation arise in which the District Council is not in a position to pay the teachers or spend money for other essential requirements of the Primary Schools, it must be said that Primary Education cannot be carried on by the District Council in accordance with the provisions of the Sixth Schedule.

The significance of paragraph 16 (2) must however, be clearly understood. The taking over of any function from the District Council by the Government under the said paragraph is only a temporary affair. The Government may take over any of the functions of the District Council for six months which can be extended for another six months at a time. The idea is that when the District Council cannot carry out any of the functions entrusted to it by the Constitution, the Government may step in to set the house in order. The policy of the Government in such a case must be to return the function to the District Council as soon as possible after placing the District Council firmly on the road which it is to follow in future in respect of the function concerned.

I may also refer here to the Meghalaya School Education Act, 1981. It is said in Section 2 of this Act that the Act can be applied to Primary Schools and Primary Education in an Autonomous District on the recommendation of the District Council concerned. If so applied, the Government will have the power to regulate Primary Education in the said District by virtue of Section 4 of the Act. In my opinion Section 2 of the Act is *prima facie ultra vires*. No authority can abandon their constitutional rights and obligations as such an action will amount to abdication.

Jaintia Hills L. P. School Teachers' Association :—

Before I examine the position of Primary Education in the Jaintia Hills at present and the various allegations against the Executive Committee of the District Council, I

may deal with the status of the Teachers' Association. In its Memorandum the Association contends that it was duly formed in accordance with the provisions contained in Rule 23 of the Assam Civil Service (Conduct) Rules, 1965 as adopted by the Government of Meghalaya which should have been accepted by the Jaintia Hills Autonomous District Council under Rule 15 of the Assam and Meghalaya Autonomous Districts (Constitution of District Council) Rules, 1951. The Teachers adopted the Constitution of the Association at a meeting and sent the same to the Chief Executive Member on 1st October, 1980 for recognition but he took no action. In reply to a question in the District Council in November, 1981, the Executive Member In-charge of Education said that as the Executive Committee did not receive any application for "permission" to form such an association the question of recognition did not arise at all. Such a plea has no substance. The freedom to form an association is one of the seven fundamental freedoms guaranteed by Article 19 of the Constitution and no permission is necessary to form an association. But recognition is a different thing. Such a recognition should not be denied unless there is something objectionable in the Constitution of the Association. I have noticed that there is lack of communication between the L. P. School teaching community and the Executive Committee of the District Council. As the Association has not been recognised the Executive Council cannot carry on any dialogue with the teachers as a whole. A teacher who is in the good books of the Chief Executive Member gets an opportunity of seeing him to ventilate his grievances and he/she even gets redress. This leads to discrimination and favouritism. The main purpose of forming an association is collective bargaining. But the teachers also must bear in mind, that the right to form an association does not give them the right to adopt trade union methods to achieve their objects. There should be a Teachers' Association and obtain recognition of the District Council and the Association must be recognised if those conditions are fulfilled.

So far as this Commission is concerned, I accepted the office bearers of the Teachers' Association as representing the teaching community. I did not receive any submission by any teacher dissociating himself/herself from the Association. On the other hand, hundreds of teachers thronged at the Jowai Circuit House where I was recording evidence, to support the memorandum submitted on behalf of the Association. It was not possible to examine all of them in the limited time at any disposal. I however picked up some of them at random for examination.

I may now examine the various *allegations* against the District Council.

Misuse, Misapplication and Misappropriation of Money—

As already pointed out paragraph 6 of the Sixth Schedule provides that a District Council may establish, construct or manage primary schools and make regulations for regulation and control thereof. There is no provision that it will be entitled to any grant or financial assistance from the State Government for maintenance of Schools or improvement of Primary Education. It is true that Article 45 of the Constitution directs the State to take steps for free and compulsory education for all children up to the age of 14 years. Article 41 directs the State to ensure to the people "education" within the limits of its economic capacity and Article 46 enjoins that special care should be taken for the education of Scheduled Tribes. Therefore, the State policy of Meghalaya must be directed towards the promotion of Primary Education and the Government cannot be a silent spectator if it is not imparted properly. But there is no legal or Constitutional obligation on the part of the Government to give any financial aid to a District Council for maintenance of Primary Schools or improvement of Primary Education. It appears that the Constitution envisages that a District Council will meet the expenses for the above purpose from their own resources. This is clear from the fact that paragraph 8(3)(d) of the Sixth Schedule empowers a District Council to impose taxes for "the maintenance of Schools".

Even after the formation of the District Councils, the Government did not transfer the control and management of Primary Education to the respective District Councils for several years in view of the financial aspects involved.

Prior to the transfer, the Government Primary Schools were maintained entirely at Government cost and in addition the Government was giving substantial grants-in-aid to each District Council for establishing new schools and for improvement of Primary Education in general. When Primary Education was transferred to the District Councils the Government made it clear that it would be "the sole responsibility of the District Councils concerned to provide necessary funds in their own budget in this respect". But in actual practice it became the sole responsibility of the Government to bear the entire financial burden of Primary Education. That is also the attitude of the District Council of the Jaintia Hills District. They will establish as many Schools as they like

without any approval of the Government which will go on bearing all expense time to come. It has not cared to impose any tax or cess under paragraph 8(1) Sixth Schedule as it does not consider it their look-out to find money for the maintenance of the Primary Schools.

In the comments on the memorandum submitted by the Teachers' Association Executive Committee of the District Council starts by saying that the Council "is entirely on Government financial assistance for the maintenance and management of Primary School". Then it hastens to add that the funds placed by the Government are generally not sufficient and the Council is required to "contribute quite a substantial portion of its limited resources annually to bridge the deficits". In its memorandum the Executive Committee contends that the Council had incurred an expenditure of more than 28.50 lakhs of rupees from its own resources towards the maintenance of Primary Schools. This contention has no substance whatsoever. The Jaintia Hills District Council started functioning from 8th April, 1967. So the Commission called for a statement from the District Council showing the expenditure on Primary Education incurred by the District Council and also the grants received from the Government by year since 1967. The statement (Appendix I) shows that from its very inception in 1967 till the end of the financial year 1981-82 the District Council received from the Government only about 4 lakhs rupees less than the entire expenditure on Primary Education. But when we take into consideration the amount of Rs.8,31,844 which the District Council in their letter, dated 4th January, 1982 addressed to the Government admitted to have been lying at their disposal. It appears that the District Council received from the Government nearly 4½ lakhs of rupees in excess in the period from 1967 to 1981-82. It did not spend a single paise from its own source.

Moreover, the statement of expenditure submitted by the District Council creates a grave suspicion. I was informed that the expenditure for "Establishment" was for the entertainment of non-teaching staff which at present is as follows:—

- (1) Education Officer (the Secretary of the Executive Committee is at present holding this office), (2) Additional Education Officer, (3) 4 Sub-Inspectors of Schools (2 of them deputed by the Government have recently gone back to their parent Department), (4) 8 Assistant Sub-Inspectors of Schools and a ministerial staff of 39.

The amounts spent for "Establishment" year by year with the number of posts entertained as shown in the statement of expenditure filed by the District Council are given below:—

Year	Amount spent	Number of posts
1970-71	3,805	17
1971-72	23,897	20
1972-73	28,298	22
1973-74	28,123	22
1974-75	62,915	24
1975-76	1,01,392	28
1976-77	1,16,125	35
1977-78	1,67,082	37
1978-79	1,85,432	39
1979-80	2,36,435	40
1980-81	3,29,441	48
1981-82	4,99,776	55

It may be noted that increase in staff must be due to increase in ministerial employees. The inspecting staff has rather decreased when two of the Sub-Inspectors who were on deputation went back to the parent department. The Education Officer has been all along there. Yet the amount spent on Establishment which was Rs.28,132 in 1972-73 rose to Rs.62,915 in 1974-75 although the number of posts increased by two only. Similarly, the expenditure which was Rs.1,85,432 in 1978-79 went up to Rs. 2,36,435 in 1979-80 although the number of posts increased by one only. The expenditure which was only Rs. 3,805 in 1970-71 when the number of posts was 17,

has reached the fantastic figure of Rs. 4,99,776 in 1981-82 when the number of posts is 55. Thus the amount of expenditure on establishment has gone up by nearly 125 times whereas the number of posts has gone up by a little more than 3 times. There appears to be some truth in the allegation made by some witnesses that a substantial portion of the amount purported to have been spent on the Establishment of the Education Department of the District Council, is actually spent on maintaining staff of other Departments.

The Chief Executive Member drew my attention to an annexure to the statement of expenditures in which expenditures on "Contingency" were shown as follows—

1970-71	...	...	...	...	...	Rs. 3,183
1971-72	...	...	...	...	...	Rs. 4,737
1972-73	...	...	...	...	...	Rs. 253
1973-74	...	...	...	...	...	Rs. 3,363
1974-75	...	...	...	...	...	Rs. 100
1975-76	...	...	...	...	...	Nil
1976-77	...	...	...	...	...	Nil.
1977-78	...	...	...	...	...	Nil.
1978-79	...	...	...	...	...	Rs. 1,602
1979-80	...	...	...	...	...	Rs. 7,276
1980-81	...	...	...	...	...	Rs. 26,899
1981-82	...	...	...	...	...	Rs. 52,482

First it is not said what items are included in "Contingency". When I asked about it the reply was "chalks, black-boards, dusters, etc". The evidence shows that even these cheap materials were not available to the teachers. Shri R. Bareh, Chairman of the Managing Committee, Lalong L. P. School informed the Commission that he had to collect 10 or 5 paise each from the students for the purchase of chalks. In their memorandum the Teachers' Association says that attendance registers, chalks, pencils and dusters are not supplied to any L. P. School. Secondly, for three years "Contingency" expenditure was nil. In one year it was only Rs. 100 and in another year, it was Rs. 253. In 1979-80 it was Rs. 7,276. Then it jumped to Rs. 26,899 in 1981 and to Rs. 52,482 in 1981-82. No explanation is there for such wide variations. I am constrained to say that these expenditure are shady.

AD-HOC NON-RECURRING GRANTS

(a) Buildings.—

At a meeting of representatives of the District Councils and the Government held on 23rd March, 1960 in which the proposal to transfer Primary Education to the control of the District Council was agreed upon, the Minister for Tribal Areas suggested that each District Council should make it a point to get school buildings constructed by the villagers themselves on voluntary basis. In their memorandum the Executive Committee of the Jaintia Hills District Council contends that all the school buildings are owned by the local people who sponsored the establishment of the School of the area. This contention has no force. The buildings of the schools under the management and control of the District Council are owned by it. So far as the Government L. P. Schools which were transferred to the District Council are concerned, the Government transferred them together with the buildings, equipments and furniture when the District Council made a request saying "All Government buildings, furniture and equipments be transferred to the District Council free of cost". Now by contending that the owners of the school buildings are the villagers the District Council is trying to absolve itself of the responsibility of keeping these buildings in repairs. The claim of the District Council that the school buildings are far better than what they were twenty years back, as made in their memorandum, is *Prima facie* baseless. The School buildings are mostly of thatched roofs and bamboo walls. It is a matter of common sense that school buildings which have not been repaired for more than a decade, must be in a dilapidated condition. The

contention of the Teachers' Association and of others that many of these school buildings are worse than cow-sheds and some of them are about to fall down must be true. I went and saw the plinth of the Jowai L. P. School which had to be dismantled.

Shri T. K. Durnai, an *Ex-Assistant* Sub-Inspector of Schools gives a vivid description of the school buildings in a letter addressed to the Commission. "In the villages" says Shri Durnai "the School buildings have all thatched roof and bamboo walls. There are no furniture, no teaching aids. Most of the buildings are about to fall down. Cows and goats stay in the schools at night. The students clean the schools in the morning and have classes for one or two hours a day".

Annual repairs to school buildings are done with contributions from a small *ad-hoc* grant made by the Government. The Commission called for figures of the last three years. It is seen that even in the distribution of amounts from this grant, the District Council shows favouritism. Thus in 1979-80, the Government grant was Rs. 22,400. Out of 384 schools only 14 schools could be selected for receiving money from the grant for repairs of their respective school buildings. It is understandable that only 14 schools could be selected as the grant was very small. But it is not understood why some of the same schools were selected for receiving building grants in the successive years. This is nothing but favouritism which must be at the instance of some influential persons. Thus Jalaphet Shamser L. P. School, Musniang L. P. School, Moodop L. P. School, Muphlang L. P. School received Rs. 2,200, Rs. 2,200, Rs. 1,200, Rs. 2,200 and Rs. 700 respectively in 1979-80. The repair works were shown as completed. Then in 1980-81 the Government grant was Rs. 50,300 and 28 schools were selected for receiving money for repair of buildings from this grant. The Muphlang and Musniang L. P. Schools again received Rs. 500 and Rs. 4,500 respectively. In 1981-82 the Government grant was Rs. 50,000 and 23 schools were selected. The Musniang L. P. School again received Rs. 2,000. The Jalaphet Shamser L. P. School which received Rs. 2,200 in 1979-80 again received Rs. 2,000 in 1981-82. The Moodop L. P. School which received Rs. 1,200 in 1979-80, again received Rs. 1,500 in 1981-82. The Paiar L. P. School which received Rs. 1,500 in 1980-81 again received Rs. 3,000 in 1981-82. The Mookynsiang L. P. School which received Rs. 2,200 in 1979-80, again received Rs. 4,500 in 1981-82. The Sutnga L. P. School which received Rs. 4,800 in 1980-81 again received Rs. 4,500 in 1981-82. The Mookynsiang L. P. School which received Rs. 2,200 in 1979-80, again received Rs. 4,500 in 1981-82.

(b) Uniforms and Mid-day meals, etc.—

As regards Government grant for Uniforms for the children, the *ad-hoc* grant in 1979-80 was only Rs. 4,500 and 20 schools were selected for receiving uniforms. Some of these schools were those which received money for repairs of school buildings also. In 1980-81 Rs. 9,400 was the Government grant. This money was released on 26th February, 1981. It remains undisbursed till now. An amount of Rs. 10,000 was granted in 1981-82 and the money was released on 29th March, 1982. The Non-disbursement of the amount for 1981-82, till now is understandable. But why there has been so much delay in the disbursement of the amount released on 24th February, 1981 is best known to the District Council.

In 1979-80 the District Council received an *ad-hoc* grant of Rs. 22,400 for providing mid-day meals to the children. 60 Schools were selected for the purpose. The Executive Committee contends that no mid-day meal was provided since 1980-81 as no Government grant was received. But a Statement submitted to me by the Government shows that the District Council did receive grants (in kind) of Rs. 22,000 for each of the years 1980-81 and 1981-82.

There are allegations that many of the grants shown to have been paid to the Schools are on paper only and in actuality they were never paid and the utilisation certificates were false. Thus the Panaliar School is shown by the District Council as one of the schools which received a grant for building repairs in 1980-81. Shri Washynna, a member of the Managing Committee said that for the last 8 or 10 years they did not get any grant for building repairs and the school had to be shifted to the Panaliar Club house. Similarly the Mustem L. P. School has been shown to have received a grant of Rs. 500 in 1980-81 for building repairs. The Headmaster of the School, Shri Moriswell told the Commission that for the last 7/8 years the School did not receive any grant.

The Government gave *ad-hoc* grants also for furniture, text-books and stationery, games and sports and introduction of Science. The text-books purchased with the Government grant of 1979-80 are said to have been distributed in 1982. It is not understood why there was a delay for two years. As regards furniture what Shri Ioania

Pohshna, Secretary, Padu Mawakar L. P. School said is typical of the complaint by many others. Shri Pohshna said that he was a teacher in the said school since 1945 and retired in 1976. During all these years the School did not receive any grant for building or furniture. The school, even now, had no furniture and the students had to sit on pieces of wood.

The Teachers' Association in their Memorandum mentions several specific cases of fraud and false Utilisation Certificates. Shri E. Dareh, a former Chief Executive Member of the District Council said that the District Council selected the same schools for grants in successive years on the understanding that they would get one grant only. He was emphatic that the Barato L. P. School of his village which was supposed to have received a building grant in 1981-82 and also a grant for uniforms in kind in 1979-80 did not receive any grant whatsoever since 1978.

Four Members of the District Council in a written Statement say that the Executive Committee has declared that the teachers are not entitled to House Rent and Medical Allowances. Yet when they are deputed to training these allowances are shown in their Last Pay Certificates. The Teachers' Association alleges that the trainees actually received much less than what was stated in the said certificates.

In an Inquiry of the present kind, with limited time at the disposal of the Commission, it is not possible to be satisfied beyond reasonable doubt about fraud and misappropriation. But from the preponderance of evidence I find that in all probability there have been cases of misuse and even misappropriation of money in the management of Primary Schools in the Jaintia Hills District.

In its memorandum the Teachers' Association contends that ever since 1973, the teachers are not getting their increments in their salaries and that initial pay in the revised scale has been fixed arbitrarily. The Executive Committee denies the allegation but it admits that when any increment is granted the teacher concerned is not informed. It says that normally the teacher has to be informed but the practice was abandoned a few years ago. For this the blame is put vaguely on the "then Secretary". It is an admitted fact that no Service Book of a teacher has been maintained since 1972 and it is not understood how a teacher is allowed to cross Efficiency Bar. If the Commission is to verify the case of every teacher from the Acquittance Roll to find out whether increments were regularly paid, it will take several months. The very fact that the teachers are not informed of their increments, nor Service Books are maintained, shows the style of management and I am not inclined to believe that the Executive Committee has been paying the teachers their increments regularly and correctly. If this has not been done fixation of pay in the time-scales must be arbitrary.

The District Council attributes the dislocation of Primary Education to the procedure for releasing funds by the Government. It says that funds are released in instalments after a lapse of the quarter/period for which it was meant and grants for plan Schemes are released towards the fag-end of each year. So the Council has to find out means to pay the salaries of the teachers out of their own resources, sometimes even for 3/4 months.

The Government points out that for sanctioning maintenance grants to the District Council, the Council authorities at the outset must submit its actual requirements for the current year in the form of a budget estimate. Thereafter these estimates are examined in the relevant Departments. Since the submission and examination of the estimates take a long time the Government releases the 1st instalment/or 2nd instalment so that the teachers and deputed inspecting staff and peons receive their salaries. This is of course subject to production of the Utilisation Certificate of the last instalment. It is usually found that submission of such Certificates is very irregular and not timely and thus the Government is sometimes not in a position to release the grant in time.

There is much force in the Government contention. It can be seen from the fact that the Jaintia Hills District Council submitted its budget estimate for 1981-82 on 27th January, 1982. It was examined and scrutinised in less than one month and the sanction was received by the District Council on 23rd February, 1982. In contrast, the Garo Hills District Council submitted its budget estimates for 1981-82 to the Government on 2nd April, 1981. It is not understood why the District Council of Jaintia Hills should submit its budget estimate when the financial year is almost over and how it can expect the Government to release money if it does not give its estimates in time. The District Council passes a budget every year before the financial year commences. It should therefore know

at the very beginning of the financial year what portion of the budget as passed by it the Government has to bear.

The Commission, therefore, comes to the following conclusions:—

- (1) According to the terms and conditions under which the Schools were transferred by the Government to the District Council, the Government undertook to give financial assistance to the extent of the then "existing level of the expenditure incurred by the Government for the maintenance of Government Primary Schools, for the improvement of Primary Education under their control and such other Grants-in-aid for expansion of Primary Education as funds may permit". The District Council had to provide necessary funds in their own budget and meet from their own resources all expenditures in excess of the total Government contribution. In practice, however, the entire financial burden for the maintenance of the Primary Schools and management of Primary Education has been placed on the Government and the Jaintia Hills District Council has not spent a single paise from its own coffers for the purpose.
2. Distribution among the schools of money from the *ad-hoc* grants made by the Government for various purposes, has been most arbitrary and discriminatory.
3. Many of the expenditures, purported to have been incurred are not above suspicion.
4. The failure of the District Council to submit budget estimate and Utilisation Certificates in time is the reason for delay in the release of grants from time to time.

Inspection—

When handing over the Schools to the District Council the Government offered and the District Council accepted the services of Sub-Inspectors and Assistant Sub-Inspectors of Schools on the same terms and conditions as in the case of the teachers of the Government schools which were transferred. In its memorandum the Executive Committee says that at present there are 4 Sub-Inspector of Schools (the services of 2 Sub-Inspectors deputed by the Government have since gone back to their parent Department); and 8 Assistant Sub-Inspectors of Schools. The District is divided into 6 Circles each Circle consisting of 71 schools approximately. Each Inspecting Officer is in-charge of 42 schools approximately.

The Teachers' Association alleges that inspection of schools is seldom done. The Sub-Inspectors of Schools and the Assistant Sub-Inspectors are utilised in the office as clerks. They are appointed on purely political consideration, without advertisement and sometimes even without necessary sanction. Most of them are fresh from schools and colleges, having practically no teaching experience.

In reply to the above allegations the Executive Committee submits that inspections are generally made as "deemed necessary from time to time". It further contends that the Inspecting staff has dual functions and in addition to the inspecting work, they are required to prepare their inspection reports and compile statistics. "While not on tour they generally attend their legitimate work in office".

The above contentions of the Executive Committee are vague. According to it, inspections are made only "when deemed necessary from time to time". The evidence before me shows that inspection is scarcely done.

Shri J. S. Lyngdoh, Headmaster of Laskein, D. C. L. P. School said that for the last 2/3 years not a single inspection of his school was done, except on the 17th February, 1982, *i. e.*, before the strike.

Shri J. Dkhar, Head Master, Demthring D. C. L. P. School informed the Commission that for the last 3 years no inspection of his school was done.

Shri G. B. Laloo, Head Master, Kdiap D. C. L. P. School informed that for 3 years there was no inspection of his school.

Smti. T. D. Lakiang said that since she got her appointment as Head Mistress of the Sirdar Vallabhai Patel D. C. L. P. School several years ago no inspection was done.

Shri D. Kongwang, Head Master of Amjalong D. C. L. P. School said that his school was not inspected for 2 years.

Smti. H. L. Blah of Mukhla D. C. L. P. School informed that her School was not inspected for the last 9 or 10 years.

Smti. D. War of Chutwakhu, Jowai L. P. School said that since 1973 the school was not inspected except once in 1976.

Smti. M. Sutnga, Head Mistress, Presbyterian L. P. School said that no inspection of her school was made during the last 6 years.

Smti. L. Lamare, Head Mistress of Lulong, Jowai L. P. School said that her school was not inspected since 1979.

Shri Suk Mynsiem Kamar of Iooksi D. C. L. P. School said that since 1972 his school was never inspected.

Smti. P. Lyngdoh of Kyndong Tuber D. C. L. P. School said that there was no inspection of her school for the last 7 years.

Smti. Phlinis Rymbai of Tpeppale D. C. L. P. School said that she was transferred to that School in 1975 and no inspection was made since then. She did not know what happened earlier.

Smti. M. Shylla of Seinraj D. C. L. P. School said that since 1971 the school was inspected once only.

Smti. Mira Lhuid, Head Teacher of Mulang Ialong D. C. L. P. School said that since 1975 her school was inspected twice only and the last inspection was made in 1979.

Smti. Phoidalin Palle, Head Teacher of Ialong Tuber D. C. L. P. School said that when the Mulang Ialong D. C. L. P. School was inspected, only on those occasions her school was also inspected.

Smti. P. War, Head Teacher of Mynso D. C. L. P. School said that her School was never inspected for the last 5 or 6 years.

Smti. R. War, Head Teacher of Iong Smit D. C. L. P. School said that since 1975 there was no inspection of her School.

The above evidence shows that there was no inspection of the Schools for several years. The vague assertion of the Executive Committee that Schools are inspected only when "deemed necessary from time to time" confirms the allegation that the schools are seldom inspected. When schools are not inspected, it is not understood what reports the Inspecting Officers write in office and what statistics they compile. The Executive Committee does not explain what "legitimate" work they do in office. In these circumstances I am compelled to hold that inspection work is hardly done and the Inspecting Officers do work in office which is not their "legitimate" work.

The Executive Committee contends that the appointment of Sub-Inspectors and Assistant Sub-Inspectors of Schools is made on merit and efficiency and that practical experience is gained by them on assumption of duty and on deputation for training. The Committee does not controvert the allegation that the posts are never advertised. Its plea that practical experience is gained by the Inspecting Officers after they are appointed in course of their duty and when they are sent for training amounts to putting the cart before the horse. It may be asked why experienced and trained teachers are not appointed as Inspecting Officers. The inevitable answer will be that appointments are made on other considerations than merit.

Appointments, transfers of teachers and departmental proceedings—

In its memorandum the Teachers' Association makes the following submission regarding appointments "Government instructions regarding qualifications are flouted by the District Council. Appointments are made on political consideration, close connections or relationships and on the basis of the lists furnished by the M. D. Cs. No advertisements are published, no interview or written test held to ascertain the merits of the candidates. Everything is done secretly....."

The Association has furnished a copy of the appointment letter issued to one Smti. Aitilut Swer who was appointed as a teacher of Kyndong Tuber D. C. L. P. School. The letter was issued on 8th November, 1980 asking her to join the post retrospectively with effect from 1st November, 1980 and to submit her formal application for the post with her school certificates.

The Association has also cited the cases of one Shri Justerhill Dkhar and one Smti. Lucia Syngkon who were appointed as teachers of the Saphai Pohrtiang and Latanai Schools respectively on the production of certificates stated to be false.

In its comment on the memorandum of the Association the Executive Committee submits that "as far as practicable prescribed qualifications are being followed in the appointment of teachers except, that in certain circumstances where the exigency of filling up a post is of extreme urgency, the qualification is relaxed".

Regarding Smti. Aitilut Swer, it is submitted by the Executive Committee that it is a case of absorption to a regular post. She was an officiating teacher once formerly. The Committee contends that it is not aware of the submission of false certificates by Shri Juster Hill Dkhar and Smti. Lucia Syngkon was transferred to the Council from the Community Development Block in 1979.

By a letter dated 20th April, 1982 the Government called for the views of the District Council on allegations received by it from time to time from the teachers and the public. The District Council sent a reply on 30th April, 1982. In it, it said about the qualifications of teachers that the minimum qualification for appointment was "Class VIII" and that the Government was being approached for determination of qualification. But before me it was admitted by representatives of the District Council that some of the teachers did not read even up to Class VIII. The minimum qualification laid down is "Matriculate". It is difficult to believe that matriculates are not available for the posts of teachers. It is an admitted fact that the posts are never advertised and the District Council, therefore, cannot say with any authenticity that matriculates are not available.

The Association alleges that there have been many cases of indiscriminate transfer of teachers without rhyme or reason. It says that the villages of Moorathud and Umshaiar were deprived of their school due to indiscriminate transfer of teachers en-bloc.

In reply to the above allegation the Executive Council simply says that appointments and transfers are made "in the best interest of Primary Education".

There is also allegation of "ill treatment, harassment and victimisation of teachers on flimsy or no grounds at all" Maximum penalty of dismissal is inflicted on very minor offence. As an example of such dismissal the case of Smti. Sharmai Sariang, a teacher of Umbluh Mynsning, L. P. School is cited. As an example of victimisation the case of one Shri Harindro Lamare, a teacher of Sokhymphon School is mentioned. He was suspended on 13th January, 1981 but no charge sheet has been given yet.

In reply to the above, the Executive Committee says that Shri Harindro Lamare was suspended for failure to comply with an order of transfer dated 24-1-82 and that steps are being taken to dispose of the case. The date given by the Executive Committee *i. e.* 28-1-82 as the date of the order is obviously wrong. There is no doubt that this teacher has been on suspension for several months. It appears that the District Council uses "suspension pending inquiry" as a punishment. Usually a charge sheet should accompany the suspension order and a case where a person is on suspension should be disposed of expeditiously.

Regarding Smti. Sharmai Sariang, the Executive Council says that she was dismissed for "misconduct and disobedience". It is not said what kind of "misconduct and disobedience" was there. I may only observe that the maximum punishment of dismissal should be awarded only in cases of gross misconduct. There are other types of punishment *e. g.*, Censure, stoppage of increments which may be inflicted also in cases not involving moral turpitude. Transfers of teachers also should be made in very special circumstances. It appears that the District Council uses this power freely. It is not appreciated that the transfer of a teacher to a School far away from his own village puts him into great difficulties. Transfers are usually not resorted to in the case of poorly-paid employees.

The finding of the Commission is that arbitrary appointments and transfers are bound to be there in the absence of statutory Regulations. The method of appointments, e. g., constitution of Selection Committees, qualifications of teachers, guide-lines for transfers should all be incorporated in Regulations made under paragraph 6(1) of the Sixth Schedule. Similarly Regulations should be made regarding departmental proceedings.

Then there is also the teachers-students ratio problem. At present teachers are allotted to different schools arbitrarily. As a result many schools which have less students have more teachers than schools with more students. The following figures selected from a list given by Mr. T. K. Darnei, a member of the District Council will show how arbitrary the allotment of teachers has been. These figures are said to be as per reply to a question in the last Winter Session of the District Council.

Name of Schools	No. of Teachers	No. of students
Nongkhro	1	44
Nyngkrit	5	42
Khimmusniang	7	38
Phlangingkhan	1	65
Nongbah (Lawmusiang)	5	61
Pohratiang	1	76
Lumpyrtuh Mihmyntdu	6	43
Umkiang	1	65
Shilliangraj	6	56
Sanora	1	73
Rngad	4	56
Priang	1	40
Tarangblang Mission	5	67
Mawshrot (R. C.)	1	60
Musniang	5	64
Shnongrim	2	85

Arbitrary allotment of teachers as above, is bound to be there unless the teachers students ratio principle is fixed by a Regulation.

The teachers have been demanding House Rent, Medical and Hill Allowances, etc. It may, however, point out that the teachers cannot claim pay and allowances at par with the teachers of the Government schools which were handed over to the District Council.

The Government teachers are on deputation and they will get all benefits accordingly. The other teachers are District Council employees and the District Council may fix their remunerations. This will also have to be by Regulations.

Primary School Board—

One of the terms accepted by the District Council was that it would set up a Primary School Board to advise the Council in matters relating to curriculum, syllabus, text-books and also in all matters in connection with inter-relation of Primary Education with Secondary Education. The Government stressed the need for maintaining adequate standard of Primary education to link it up with the Middle School standard and considered it necessary that adequate arrangements should be made from the very beginning for preparation and prescription of curriculum, syllabus, text-books, etc. It pointed out that this could best be achieved by setting up a Primary School Board consisting of Educationists and other interested in education.

No Primary Education Board has been set up. There is no compulsory Primary School Leaving Certificate Examination. Every School conducts its own examination. Shri T. K. Darnei, an ex-A. S. I. and a member of the District Council says that the teachers set the question papers and value the answer papers in any way they like. There is no uniform standard. Every school has its own standard. The teachers of each school conduct the examinations independently and the Executive Council does not bother about it. Due to the absence of a Primary Education Board and other reasons discussed about the standard of primary education in the Jaintia Hills District has been going down rapidly. In their memorandum the Teachers' Association says:—"The standard of Primary Education has deteriorated in all respects and beyond imagination due to maladministration and mismanagement". This is confirmed by the District Council itself

as is evident from a letter written by the Secretary of the Executive Committee of the Jaintia Hills District Council to the Director of Public Instruction on 1st June, 1978 (*vide* letter No. JHADC/EDN/ACCTS—10/77-78/29 of that date). It was said there as follows:—“As Head of the Department, You are, Sir, quite aware of the deteriorating standard of Primary Education throughout the State. With a view to arresting this downward trend, it is high time that Government and other authorities in-charge of Primary Education should take immediate steps to prevent the present situation from getting out of hand and before it is too late to mend matters”.

I am not concerned with what has been happening in other parts of the State. But I am satisfied that the downward trend was never arrested in the Jaintia Hills District and the whole system of Primary Education there is now on the verge of virtual collapse.

Managing Committees—

The constitution and powers of the Managing Committees of the Schools are defined by executive rules. In the Rules framed in 1979 there was Rule 3 which said as follows:—

“The School Managing Committee should see and understand that it should not interfere in any way in any matter concerning control and management of the School, posting and transfer of teachers”.

The above Rule imposing a total ban on any kind of management by the Managing Committee made its existence meaningless. It only meant that there would be a Managing Committee which would not be allowed to manage. Then the Rules were revised in 1982, but the Managing Committees were hardly given any power to manage. They have no say in the appointment, posting or transfers of teachers.

At present the following are the functions of a Managing Committee:—

1. To urge the parents to send their children to schools.
2. To undertake repair works of school buildings when necessary and collect funds and find out workers and necessary materials in case the money granted by the District Council cannot cover the overall requirement. To see that money received from the District Council and “all sorts of help received” are properly utilised.
3. To see to the punctual attendance of the teachers and that the teachers work for not less than three hours a day.
4. To see that teachers conduct the school examinations not less than two times a year and to enrol the students for appearing in the Lower Primary School Certificate/Scholarship Examinations.
5. To see that no teacher goes on leave beyond the prescribed limit during the sowing season. A teacher is to apply for leave through the Chairman or Secretary of the Managing Committee.
6. To organise Parent's Day.

The above functions will show that the Managing Committees have been entrusted with some duties without any power. They cannot do anything to a teacher who is unpunctual or does not conduct the school examinations at least twice a year. They are enjoined to see to the utilisation of all aids received from the District Council. This seems ironical when most of the schools, as already pointed out, receive no such aid. To ask a Managing Committee to collect funds and persuade parents to send their children to school is only a hollow advice.

My finding is that the Managing Committee exist only in name without any of the functions that are usually entrusted to such a body.

Minority Schools—

The Catholic Church is running quite a number of Schools in the Jaintia Hills District and they submitted Memorandum before me narrating their grievances. I may first examine the Constitutional position of these schools which are Minority Schools.

Clause (1) of Article 30 of the Constitution of India gives all minorities, whether based on religion or language the right (a) to establish and (b) to administer educational Institutions of their choice. It has been held by the Andhra Pradesh High Court in *Chinnama vs. R. Dy. D.P.I.* (AIR 1964 A.P. 277) that the term "administer" is wide enough to take in enforcement of discipline in regard to dress and other matters in educational institutions run by a minority community. Likewise the Kerala High Court has held in *A.M. Patrani vs. Kesavan* (AIR 1965 Ker 75) that the right to choose the Headmaster is an important matter which falls within the right to administer a school and therefore any restriction, a part from qualification for the post, will be violative of Article 30 (1) Clause (2) of Article 30 is only a non-discrimination clause of the constitution and it enjoins the State not to discriminate in granting aid to educational institutions on the ground that the management of the Institution is in the heads of a minority, religious or linguistic.

It is said in the memorandum submitted by the Archdiocesan Board of Education that the Catholic Church runs 62 L.P. Schools with 125 teachers and 4000 students in the Jaintia Hills District. These schools are administered by the respective governing bodies. The Parish Priest is the head of the governing body of the schools of his parish.

The grievances of the Church are as follows:—

- (1) During the first period after Primary Education was transferred to the District Council, there was perfect understanding between the Catholic Church and the District Council. The District Council recognised the right of the Catholic Church to manage their own schools. Some help was given by the District Council in the form of payment of salaries of some teachers, but the payment was always made through the school authority. From about 1972 *i.e.* after the Jaintia Hills District Council came into existence, the policy of the District Council changed. Every teachers whose salary is borne by the District Council received it directly from the District Council. Formerly, the teacher was paid when he produced his Attendance Register with the signature of the Father In-charge this practice was discontinued since 1979.

Now the said teachers are paid directly by the District Council although they do not produced any authenticated attendance registers. As a result of teachers who do not attend their schools regularly also get paid.

- (2) The said teachers are appointed, transferred and even dismissed by the District Council without any consultation with the school authority. There are many appointments on considerations other than merit, arbitrary transfers and dismissals. The school authorities have no control whatsoever over such teachers.
- (3) There is no uniform policy in giving aid, some schools are given more teachers than schools with much larger number of students.

A. RECOMMENDATIONS (Minority Schools)—

1. As I have already explained in discussing the Constitutional position of the Minority Schools, the minority community has a Fundamental Right to administer the Schools established by them. Hence, the Governing Body of such a school must be recognised and its constitution cannot be interfered with. The District Council may nominate one or two members to represent them in a Governing Body of such a school, but they cannot dictate who will be the President or Secretary of such a Body.

2. I have quoted a judicial decision to show that the right to administer includes the right to appoint teachers. This right, therefore, belongs to the Governing Body. The amount of salaries of the teachers allotted to a particular school should be sent to the Father-in-Charge of the School who will make the payment and send the receipts of the teachers to the District Council. It may be noted that the right to appoint carries with it the concomitant right to dismiss or discharge or take any other disciplinary action. As held by the Andhra Pradesh High Court in the case quoted above, the right to administer also includes the right to enforce discipline.

3. A teachers-students ratio should be fixed for allotment of teachers by the District Council.

The above recommendations have to be incorporated in Regulations made under paragraph 6(1) of the Sixth Schedule.

B. RECOMMENDATIONS—

The most important problem is *to get the schools re-opened*. I have already discussed the circumstances under which the teachers went on strike. Although any Trade Union method adopted by teachers cannot be approved, the circumstances in the present case are peculiar. The teachers were told that they will not get their pay from January, 1982 onward. It virtually meant this—"you will work, but there will be no pay". The teachers had no alternative but to go on strike. It is true that later the District Council asked the Teachers to receive their salaries and rejoin their duties. But by that time a large number of teachers were victimised by suspensions, transfers and departmental proceedings. The teachers could not be expected to rejoin their duties unless and until these penal actions were cancelled.

The District Council should note that service is a contract. The employee has to render service and the employer has to pay timely and regularly for the service. But when the employer cannot pay timely and regularly, he breaks the contract and he cannot punish the employee for not carrying out his part of the contract. Hence the penal actions taken by the District Council such as suspension, transfer, drawal up of proceedings are invalid.

I have also made it clear that Government has neither any constitutional nor any legal nor even contractual obligation to bear the expenditure on Primary Education except in respect of teachers and other employees deputed to the District Council administration. Hence the Government can certainly lay down their conditions for financial aids provided such conditions do not violate any provision of law or the Constitution.

1. The Government should call upon the District Council to restore the *status quo* as on the 25th February, 1982 within one month. This will mean the cancellation of all transfers, suspensions, proceedings and any other penal actions ordered after the aforesaid date. If the District Council refuses to do so, the Government will stop the grants and in that case the District Council cannot maintain the Primary Schools and manage Primary Education. Then a situation will arise for the Government to act under paragraph 16(2) of the Sixth Schedule and take over the schools in such a contingency, this will have to be done.

If the District Council does take action as called upon, *viz.*, restore the *status quo* as on the 25th February, 1982, the teachers must join their respective duties. If they do not do so, the District Council should then take necessary penal action.

After the schools are re-opened, the academic session should be extended to make up for the lost period. Mr. H. Hadem, Minister for Community Development, Government of Meghalaya, in his verbal statement before the Commission suggested that if the teachers had to be paid their salaries for the strike period, they must take up extra classes also to make up for the loss. This is a very reasonable suggestion and should be accepted. Now the classes are held for three hours only per day. This period should be extended to five hours a day.

There has been a demand that the Government should take over the schools immediately under paragraph 16(2). But action under this paragraph is not a permanent solution. The schools may be taken over under this paragraph only for a temporary period so that the Government may put things right. This provision should be very sparingly used. After all, there does not appear to be defect in the system itself. The failure of Primary Education in the Jaintia Hills District is due to the misdeeds of certain persons in power. These persons can be checked if steps are taken according to the recommendations given below.

2. The Government should appoint a Monitor whose function will be to "watch and advise". He will watch that Government grants are properly utilised for the purposes for which they are made. He will also see that the Regulations are followed.

3. The Government should also appoint an Accountant. He will work out the arrears and increments due, if any, to the teachers. He will also make quarterly audit of the Government grants and send the audit reports regularly to the Government.

4. The District Council shall make Regulations with the prior approval of the Governor under paragraph 6(1) of the Sixth Schedule to cover the following:—

- (1) The method of appointment of teachers—
 - (a) Composition of Selection Committee.
 - (b) Qualification.
 - (c) Scales of pay and allowances.
- (2) Procedure for Departmental proceedings including the types of penalties that can be imposed. Appeal against an order of penalty may be provided.
- (3) Conduct of the teachers *e. g.*, their participation in politics and other conditions of service.
- (4) Guide-line for transfer of teachers.
- (5) Conditions for granting recognition to any association of the teachers.
- (6) Teachers-Students ratio.
- (7) Inspection of Schools.
- (8) Composition of Managing Committee and their powers. (Some real powers should be given. It may be considered if they can be entrusted with the function of recommending persons for appointment as teachers. They may also be given the function of recommending transfer of teachers. They may be authorised to take disciplinary action against a teacher subject to confirmation by the Education Officer of any penalty imposed).
- (9) Maintenance of Service Books of teachers.
- (10) Conditions for establishment of new schools.
- (11) Constitution of Primary Education Board.

Then there is paragraph 7 of the Sixth Schedule which read as follows:—

7. *District and Regional Funds*—(1) There shall be constituted for each autonomous District a District Fund and for each autonomous region, a Regional Fund to which shall be credited all moneys received respectively by the District Council for that district and the Regional Council for that region in the course of the administration of such district or region, as the case may be, in accordance with the provisions of this Constitution.
- (2) The Governor may make rules for the management of the District Fund, or as the case may be the Regional Fund and for the procedure to be followed in respect of payment of money into the said Fund, the withdrawal of money therefrom, the custody of moneys therein and any other matter connected with or ancillary to the matters aforesaid.
- (3) The accounts of the District Council or, as the case may be, the Regional Council shall be kept in such form as the Comptroller and Auditor-General of India may, with the approval of the President, prescribe.
- (4) The Comptroller and Auditor-General shall cause the accounts of the District and Regional Council to be audited in such manner as he may think fit, and the reports of the Comptroller and Auditor-General relating to such accounts shall be submitted to the Governor who shall cause them to be laid before the Council.

The strict enforcement of the above provisions will prevent financial irregularities. The Comptroller and Auditor-General should be requested to make rules under clause (3) of the above paragraph creating a separate Head of Accounts for depositing all money meant for Primary Education. The Government can then

make rules under clause (2) for the management of the said fund which will be a part of the District Fund.

The Government has informed the Commission that till now the Comptroller and Auditor-General has not caused the accounts of the District Council to be audited and consequently there has been no audit report for the Governor to cause it to be laid before the District Council as required under clause (4) of paragraph 7. The apathy of the Comptroller and Auditor-General has thus contributed to the present sad state of affairs in the finances of the District Council. His attention should be drawn to this omission to discharge a constitutional obligation.

The Government has also pointed out that no regular/annual audit has been done by the Examiner of Local Accounts, Meghalaya. An auditor from his office examined the accounts of the District Council for the period from 1970 to 1977 and sent the report to the Government in 1981. Such slipshod audit is useless. The appointment of an Accountant to do quarterly audit, as recommended by me, is expected to stop the drift.

I have already explained that all arbitrary and discriminatory actions in the management of Primary Education by the District Council, are due to the absence of any statutory provisions made for the purpose. For example, had there been a Regulation laying down the conditions for the recognition of an association of teachers and recognition was refused arbitrarily in spite of fulfilment of those conditions, the association could file a writ for *mandamus* directing the District Council to accord the recognition. Framing of proper Regulations and regular audit are the measures that are to be adopted to streamline the management of Primary Education in the Jaintia Hills District.

Recommendations in respect of Minority Schools have already been made in dealing with the subject.

ACKNOWLEDGEMENT

I would like to record my deep appreciation of the assistance received by me from Shri W. M. S. Pariat, I. A. S., Dy. Secretary in the Department of Education, who also work as Secretary to the Commission. But for the prompt action taken by him in obtaining all informations and materials that the Commission needed from the relevant Government Departments as well as from the District Council, the work of the Commission would have been hampered. Shri A. L. Shabong was attached to the Commission as an Officer on Special Duty but he could not joined as he fell ill. Hence Shri Pariat had to work single handed. I also had very useful discussions with Shri Rama Krishnan, I. A. S., Special Secretary, Finance, Shri V. S. Kohli, I. A. S., Secretary District Council Affairs and Shri J. M. Phira, I. A. S., Special Secretary, Education and take this opportunity of thanking them for the valuable suggestions. I feel beholden to the Chief Executive Member of the Jaintia Hills District Council, Shri G. D. Pde for his kind co-operation and helpful attitude through out. I must also thank the various organisations/associations which submitted memoranda/written statements as well as the individual who did so or give evidence. Thanks are also due to my Private Secretary, Mrs. C. War and other members of the staff allotted to the Commission, for the conscientious service.

Shillong,
Dated the 29th July, 1982.

Sd/- S. K. DUTTA,

Chairman,
Commission of Inquiry on Primary
Education in the Jaintia Hills
Autonomous District.

NIEPA DC



D02713

APPENDIX I

STATEMENT OF GOVERNMENT GRANTS AND EXPENDITURE

Year					Amount of Government Grant	Expenditure
					Rs.	Rs.
1967-68	...	...	...	...	5,03,520.00	6,44,204.41
1968-69	...	...	...	...	12,76,877.00	8,54,651.10
1969-70	...	...	...	...	9,53,160.00	7,17,080.08
1970-71	...	...	...	...	6,57,710.00	11,74,773.15
1971-72	...	...	...	...	11,61,180.00	10,30,663.84
1972-73	...	...	...	...	12,12,680.00	14,56,203.36
1973-74	...	...	...	...	14,74,410.00	17,10,933.06
1974-75	...	...	...	...	16,84,236.00	17,07,620.55
1975-76	...	...	...	...	16,42,665.00	19,05,935.91
1976-77	...	...	...	...	27,28,416.00	19,84,778.48
1977-78	...	...	...	...	42,98,200.00	34,25,829.38
1978-79	...	...	...	...	33,94,000.00	39,87,197.63
1979-80	...	...	...	...	35,57,217.00	39,48,808.77
1980-81	...	...	...	...	48,24,150.00	45,96,174.17
1981-82	...	...	...	...	55,38,440.00	60,82,580.39
			TOTAL	...	<u>3,49,06,861.00</u>	<u>3,52,87,434.28</u>
					3,52,87,434.28	
					3,49,06,861.00	
			TOTAL—DEFICIT	...	<u>3,80,573.28</u>	

Sub. National Systems Unit,
National Institute of Educational
Planning and Administration
17-B, Saket, New Delhi-110016
DOC. No. 2713
Date 29/10/82