

CHAPTER-VI

Structural Scenario and Functions of Darjeeling Gorkha Hill Council (DGHC)

The following chapter examines the formation, divisions and functions of Darjeeling Gorkha Hill Council (DGHC). During 1980's, the district administration of Darjeeling was disrupted and paralyzed by the massive violent Gorkhaland Movement launched by the Gorkha National Liberation Front (GNLF). The movement between 1986 to 1988 became extremely violent, engulfing the entire Nepali speaking district, bringing all governance and civic life to a virtual standstill. It demands fluctuated from sovereignty to a separate state within the federal structure of India before a settlement was reached on the establishment of the Darjeeling Gorkha Hill Council (DGHC)¹ The Tripartite Agreement between the Government of India, State of West Bengal and GNLF brought a relief social, economic, educational and cultural advancement of the hill people. The DGHC Act was passed in West Bengal Legislative Assembly as the West Bengal Act 13 of 1988. The district is divided into four subdivisions for administrative purposes where the three hill subdivisions namely Darjeeling, Kalimpong, Kurseong in the hills and Siliguri in the plains. The DGHC area comprises of three hill sub-divisions of Darjeeling, Kurseong and Kalimpong in Darjeeling district. Subhas Ghising was the Chairman of DGHC from 1988 to 2005 for three successive terms. The fourth DGHC elections were remained postponed during 2005 and the government decided to make Subhash Ghisingh the sole caretaker administrator of the DGHC. Since 2005 the elections to DGHC was stalled and DGHC was to be replaced by Gorkha Hill Council Darjeeling under Sixth Schedule. There are four municipalities in the hill areas namely Darjeeling, Kalimpong, Kurseong and Mirik. Siliguri sub-division in the plains has one Municipal Corporation, namely, Siliguri Municipal Corporation.² Though, the creation of a separate state of Gorkhaland could not be fulfilled.

Darjeeling Gorkha Hill Council was a politico-administrative institutional structure. The first DGHC elections in the hills of Darjeeling were held on 13th December 1988 and the Council Office was opened on 17th January 1989. In January 18th, 1989 Subhas Ghisingh became the Chief Executive Councillor of DGHC. The AIGL submitted a memorandum to Jawaharlal Nehru

in 1952 when he visited Kalimpong and urged for some separative measures for the future of Darjeeling.³ Another memorandum submitted by District Shramik Sangh to States Reorganisation Commission demanding the creation of the Part Central states of North Bengal comprising Darjeeling, Cooch Behar and Jalpaiguri.⁴

The British politico-administrative arrangement Policy for the people of Darjeeling could not satisfy them. The Indian Council Act of 1861 declared Darjeeling under Non-Regulated area. In council Act of 1861 distinction between regulated and non-regulated provinces concluded to exist. But three concerns assessed seriously in favor of taking Darjeeling under Non-Regulated system: (a) presentation of indigenous system of land tenures, (b) necessity of entrusting undivided responsibility to the District Officer, (c) formulation of simple laws in conformity with native institutions and simplicity of local people. The Act of 1870 embedded these provisions.⁵ The Congress Party pleaded for local autonomy through Statutory District Council to aid and advise the Government in regard to the matters of administration of local areas and with United Front in power, the Darjeeling District Committee of CPIM in 1969 called upon the United Front to constitute an Autonomy Action Committee.⁶ The Darjeeling District Congress Committee was strongly support of Autonomous District Council and Hill Council which recommended by Pataskar Commission in 1965 for the hill areas of Assam. The Commission also suggested the formation of Hill Areas Council and District Councils with separate budget and power.⁷ The creation of Meghalaya State in North-East in 1972 raised hopes for the autonomous state- Darjeeling Parbat Aicaya consisting of three hill sub-divisions of Darjeeling Sadar, Kalimpong and Kurseong and adjacent of Siliguri and Dooars.

In face of separate statehood demand the Left Front Government CPI(M) in particular reiterated its demand for granting regional autonomy for Darjeeling in 1981.⁸ The movement of the people of Darjeeling hills from 1982 to 1986 was for the creation of a separate state of 'Gorkhland' within West Bengal for themselves. The agitation came to an end with the signing of an agreement between the Central Government of India, the Government of West Bengal and the Gorkha National Liberation Front Calcutta on 22 August 1988. Subash Ghising and his GNLF appeared satisfied with the creation of this semi-autonomous Darjeeling Gorkha Hill Council. It was a new type of politico-administrative organized framework. The people of Darjeeling hills seemed satisfied with their identification as 'Gorkhas' of Indian origin. "We will no longer be

dismissed as foreigners. We have found an identity, we are first class citizens." One of the reasons for using the term "Gorkhas" was to differentiate themselves from the Nepalese of Nepal.⁹ A 'High Power Committee' was set up on August 1999, by the Government of West Bengal to review enactment of the provisions mentioned in the Memorandum of tripartite Settlement and also to examine the provisions existed in the DGHC Act 1988. The further steps have been taken to offer the considered opinions on steps to be needed to strengthening the role of the DGHC in coordinating progressive activities in the three hill sub-divisions in Darjeeling and nurturing comprehensive development program.

Another endorsement was taken forum that the 'High Power Committee' made was that the DGHC would henceforth be known as 'Darjeeling Gorkha Autonomous Hill Council' (DGAHC).¹⁰ Though, few years later the word 'autonomous' was replaced into the DGHC and Subash Ghising who was the both Chairman and Chief Executive Councillor of DGHC issued instructions to have it dropped. The word 'autonomous' was omitted from the Council's name by the DGHC Amendment Bill on 14th March 2005. The DGHC (Darjeeling Gorkha Hill Council) thus became 'Darjeeling Gorkha Autonomous Hill Council' (DGAHC) for a few years but again it converted its name to being called DGHC.¹¹ The Darjeeling Gorkha Hill Council (DGHC) came up under the State Act (West Bengal) to guarantee the social, economic, educational and cultural advancement of the Darjeeling hills of the district of Darjeeling of North Bengal (West Bengal) in India. Generally, it acted as an autonomous hill council which is to be set up under the state Act of West Bengal.

The DGHC Act runs for the establishment of an autonomous Council for the social, economic, educational and cultural development of the Gorkhas as well as other sections of the people residing in the three hill sub-divisions of Darjeeling district.¹² The DGHC area covers of three hill sub-divisions of Darjeeling, Kurseong and Kalimpong and is located in the northern part of the State of West Bengal. The DGHC area is surrounded by Sikkim in the north, Bhutan in the north-east, Nepal in the west and Siliguri sub-division and Jalpaiguri district in the south. For this purpose, in Parliament as well Communist Party members began to plead for regional autonomy for Darjeeling hills. But the view of Subhas Ghising regarding the formation of DGHC was like we are not asking for an independent Gorkhaland. We want only a separate state

within the Indian Union. We want liberation from West Bengal, and indeed from Bengali colonialism. We are willing to remain in India but not in West Bengal.”

Notwithstanding the fact that Ghising was never very consistent in his views and statements, his initial programme of action, at least till July 1986, was directed against both the Governments of India and West Bengal. Realizing that both Ghising and Central Government were dragging their feet on some pretext or the other while violence was raging in the hills, Jyoti Basu announced in March, 1988 that he would go ahead with the creation of the proposed Darjeeling Hill Council, accepted by the Government of India in August 1987 and would introduce the Hill Council Bill in the State Assembly. Meanwhile, Ghising called a forty –day *bandh* from February 10, asking for inclusion of the Dooars and Siliguri and change of the name of the Hill Council.¹³ The matter was raised by Marxist M.P.s in the floor of Parliament. In July 1983 Ananda Pathak, a veteran CPI(M) leader of Darjeeling District and M.P. from Darjeeling Lok Sabha Constituency proposed a Constitution Amendment Bill to give effect to regional autonomy in Darjeeling but it was rejected in the House.¹⁴ During this phase, another organization established in 1980 namely Prantha Parishad which also demanded a separate state for the hills of Darjeeling outside West Bengal. But GNLFF under the leadership of Ghising received wider mass support. On April 13, 1986, the agitation began on eleven point programme with “black flag” protest against “genocide” of Nepalese when over 15,000 Nepalese from all over the district assembled in Darjeeling defying the prohibitory order section 144 under Indian Penal Code and road blockade by the police.

Their programme included timber blockade, election boycott, and social ostracism of pro-Bengal leaders, refused to pay taxes and burning of Indo-Nepalese Treaty of 1950. It was resolved if the centre failed to respond appropriately they would launch a “do or die” struggle.¹⁵ The most serious sign of the movement took place at a time when both CPI(M) and GNLFF adopted a strategy of starving each other supporters by clocking the movement of food grains and essential commodities.¹⁶ Another important dimension of the movement was the formation of “Study Forum”, consisting of Gorkha Citizens, Congress (I) supporters and active missionary worker with B.K. Pradhan, Chairman of Darjeeling Municipality as its Chairman. The prominent Church personality Enos Das Pradhan was its leading figure. In a memorandum signed by 15,000 citizens of three hill sub-divisions it fully supported the demand for Gorkhaland as it was the

“inalienable right of Indian Gorkhas to establish their own identity”¹⁷ Ghising on the other hand agreed to withdraw the Bandh Call from June 29, 1987 and the State Government reciprocated by release of important functionaries of GNLF, stopping arrests and revoking Anti-Terrorist Act.¹⁸ Initiative of the State Government in regard to the GNLF movement was taken on September 17, 1988 in an all-party meeting. It ratified a formula jointly worked out by the Central and State Governments, for a lasting political solution which envisaged the formulation of a Darjeeling Hill Council with elected representatives from three hill sub-divisions.¹⁹ In July, 1983, the constitution Amendment Bill proposed by CPI(M) MPs was rejected.

In August, 1985, Private member bill by Ananda Pathak seeking Amendment to identical fate. In fact, regional autonomy was the fulcrum around which Tripartite Agreement in 1988 was signed. Though the GNLF can be traced to 30th July 1980, it remained dormant till 1986 when suddenly it burst forth in political firmament as a powerful force. Since then in the race for political power it remains far ahead of others. GNLF voiced the issues, steered the movement and ultimately attained an alternative politico-administrative structure called Darjeeling Gorkha Hill Council for the Nepalis in the hills of Darjeeling district, a kind of new experiment with regional autonomy and it has been under its sway from its inception in 1988.

The DGHC elections in Darjeeling hills were held on 13th December 1988, and the Office of the Council was opened on 17th January 1989. The GNLF head Subash Ghising hold the office as Chief Executive Councilor on 18th January 1989. The DGHC would be the top body and would replace the old existing Zilla Parishad. It would have supervisory powers over the Panchayat Samitis and Municipal bodies in the three hill sub-divisions in Darjeeling. In the midst of trading charges and countercharges between the State Government and the GNLF under the leadership of Subhas Ghising , it is highly important to undertake a thorough probe into the working of DGHC to determine its extent of success and failure.²⁰ The Darjeeling Gorkha Hill Council was the result of the signing of the Darjeeling Gorkha Hill Council Agreement between the Central Government of India, the Government of West Bengal and the Gorkha National Liberation Front Calcutta on 22 August 1988. Subash Ghising and his GNLF appeared satisfied with the creation of this semi-autonomous Darjeeling Gorkha Hill Council.

It was a new type of politico-administrative organized framework. The people of Darjeeling hills seemed satisfied with their identification as ‘Gorkhas’ of Indian origin. "We will no longer be

dismissed as foreigners. We have found an identity, we are first class citizens." One of the reasons for using the term "Gorkhas" was to differentiate themselves from the Nepalese of Nepal.²¹The Darjeeling Gorkha Hill Council Act passed in November, 1988 and the election was held on December 13, 1988 for the 28 council seats. The GNLFF swept the Council poll, winning 26 seats and securing 84% of the votes, while the remaining two seats were won by the CPI(M), securing 8.64% of the total votes. After the formation of the Darjeeling Gorkha Hill Council in 1988, the closeness between Congress and the GNLFF resulted in an electoral alliance, Khuller chose to be a Congress candidate which suited Ghising's political predilections.²² The Council emerged out of the unanimous decision of the Government of India, the West Bengal Government and the Gorkha National Liberation Front. It was duly endorsed by almost all political parties in the state. It enables the States to assess public reaction to Government policy and evaluate administrative performances. In other words, it establishes the communication between National and State policy makers and wide range of diverse interest affected by public policy. To find a Gorkhaland issue within the framework of Indian Constitution protracted negotiations continued till August 22, 1988 and it resulted in the signing of an accord. The model of Tripura Areas Autonomous District Council (Act of 1979) provided necessary impetus to the Darjeeling Gorkha Hill Council (Act of 1988) To give shape to the concept of regional autonomy, DGHC, a politico-administrative artifice, is set up to organize governmental activities at the sub-state level.

The DGHC replaced the existing *Zilla Parishad* in the district of Darjeeling, Hill Development Council and District Planning and Co-ordination Council.²³ As an apex body it would exercise general powers of supervision on *Panchayat Samities*, *Gram Panchayat* and Municipal Bodies in the three hill sub-division and it is incumbent on such bodies "to give effect to any direction of the General Council on matters of policy of planning for development. DGHC has function with two arms: The General Council and the Executive Council.²⁴To find a solution of Gorkhaland Issue within the framework of Indian Constitution protracted negotiations continued till August 22, 1988 and it resulted in the signing of an accord. The politics of accord has added a new dimension to the Indian federal policy. It reiterates and reinterprets the philosophy of partnership, sheet-anchor of polity.

In the process of building co-operative federalism such partnership with Proto and Infra- national groups in eastern part of the Country is likely to go a long way. While giving shape to politico-administrative structure for Darjeeling, the architects were guided by considerations of political demands and administrative needs. The model of Tripura Tribal Areas Autonomous District Council (Act of 1979) provided necessary impetus to the Darjeeling Gorkha Hill Council (Act of 1988) The DGHC replaced the existing Zilla Parishad in the District of Darjeeling, Hill Development Council and District Planning and Co-ordination Council.²⁵ After the creation of the Hill Council in 1988, some departments were transferred to DGHC (completely delinking development activities in the three hill sub-divisions and in the plain regions of Darjeeling district).

In the three hill sub-division, development works under Transferred Departments are done through DGHC and the works under Non-Transferred Departments are being done by respective departments under over all control of the District Magistrate.²⁶ DGHC has to function with two arms: The General Council and the Executive Council. Under Section 24 of the DGHC Act, the ambit of executive power of General Council extends over twenty subjects. Under Section 28, the State Government with the consent of General Council is competent to confer upon it conditionally or unconditionally the power not to enumerated in Section 24. General Council will have to formulate and implement integrated development plans for the hill are under the general policy and direction of the State Government (Section 25). The *Panchayat Samities*, *Gram Panchayats*, and Municipalities in the hill areas are to function under the general supervision and control of the General Council under Section 31.

The General Council under Section 5 of DGHC Act 1988 consists of 42 members of whom two-third shall be elected and the remaining one-third shall be nominated.²⁷ The Autonomous Council was established “for the social, economic, educational and cultural advancement of the Gorkhas and other sections of the people residing in the hill areas of the district of Darjeeling.” A Bill (No.22), in this respect was introduced in the State Assembly and passed on 28 August, 1988. It got the assent of the President of India and was published in the Calcutta Gazette on 15 October, 1988 as West Bengal Act XIII of 1988. It was then amended in 1993.²⁸ The Autonomous Council was established “for the social, economic, educational and cultural advancement of the Gorkhas and other sections of the people residing in the hill areas of the district of Darjeeling.”

The Area: The Council comprises the three hill sub- divisions of the district of Darjeeling namely, Darjeeling Kalimpong and Kurseong. Besides, it includes 13 moujas in the sub- division of Siliguri. The total geographical area of the Council is 2467 sq.km. of which 2433 sq. km is under rural area and only 43 sq. km is under urban area. It is a two-tier body comprising General Council and Executive Council.

Composition (Section 5): The General Council consists of 42 councilors of whom 28 (two thirds) are elected on the basis of adult suffrage and the remaining 14 (one-third) councilors are nominated. Among the 14 nominated councilors three are members of the State Legislative Assembly elected from three hill constituencies of Darjeeling and one member of the Lok Sabha elected from Darjeeling, three Chairmen's of Municipalities within the hill areas and the remaining seven councilors are nominated from the communities of Scheduled caste, Scheduled Tribe and women. Normally the tenure of the councilors is five years.

Powers and Functions: The General Council has executive, legislative, financial and judicial powers, subject to the regulation of the state government.²⁹

Executive Powers: The General Council has executive powers in the hill areas in relation to (a) the allotment, occupation or use, or setting apart of land other than any land which is a reserved forest; (b) the management of forest other than the reserved forest; (c) the use of any canal or water course for the purpose of agriculture; (d) agriculture ; (e) public health and sanitation, family planning, hospitals and dispensaries; (f) tourism; (g) vocational training; (h) public works development and planning ; (i) construction and maintenance of all roads except national highways; (j) transport and development of transport; (k) management of burials and burial grounds, cremation and cremation grounds; (l) preservation, protection and improvement of livestock; (m) ponds and prevention of cattle trespass; (n) water suppliers, irrigation and canals, drainage and embankment; (o) fisheries; (p) management of markets and fares; (q) education- primary, secondary and higher secondary; (r) small scale and cottage industries etc.³⁰

The General Council also formulates integrated development plans for the hill areas and implements schemes and programs for development of the hill areas. It has the power to acquire, hold and dispose of property and to enter into contracts in all cases of acquisition or disposal of immovable property.

Legislative Powers: The General Council has restricted legislative power. From time to time the state legislature creates law for it. It has power only to make bye-laws. Section 27 of the Act permits the Council to make bye-laws to be applicable in the hill areas with respect to all or any of the difficulties enumerated in section 24 for the regulation and control thereof.

Financial Powers: The General Council is the holder of all public buildings; public roads etc. constructed or kept up out of the Council fund, all lands and other properties movable or immovable conveyed to it by the state government. The General Council has the authority to collect certain taxes within the hill areas. It may levy tolls on persons, vehicle or animals; it may levy tolls in respect of ferry established by it; levy fee on the registration of boats or vehicles, for licenses. Besides, it may execute water-rate and lighting rate etc. It may increase loans with the approval of the Government. As the sources of finance are enormously restricted, the Council depends on the financial assistance of the State and the Union Governments. All funds therefore collected and received are assigned to the General Council and shall be credited to the Council Fund. All these funds are issued to audit by the Auditor General of India. The account of the General Council shall be reserved in such form as may be approved by the Auditor General.

Supervisory Power: The Panchayats and the Municipalities within the jurisdiction of the Council are not matching bodies. They are nearly inferior to the Council. Section 31 reads: "Notwithstanding the provisions of the West Bengal Panchayat Act, 1973, or the Bengal Municipal Act, 1932, the General Council shall exercise general powers of supervision over Panchayat Samities, Gram Panchayats and municipalities in the hill areas."³¹

Executive Council: To quicken the works of the General Council and to appliance its schemes efficiently an Executive Council has been formed. It is like a cabinet in the parliamentary system of government. The executive functions of the General Council are vested in it. The Executive Council comprises of the Chief Executive Councilor, the Vice-Chairman and fifteen other councilors, of whom thirteen are nominated by the Chief Executive Councilors from among the elected councilors, and two are nominated by the state government from among the nominated councilors. The Council is liable to the General Council for its workings. The chief Executive Councilor is also designated as Chairman. He is the land head of the executive like the chief minister in a state cabinet. He is responsible for the conservation of records, for financial and

executive administration, for the transaction of business of the Executive officers and employees of the General Council. He workouts such additional powers as the General Council vests in him. The Chief Executive Councilor and the Vice-chairman are elected by the elected councilor for a period of two five years. They should be elected councilors The Chief Executive Councilor supervises over the meeting of the General Council and the Executive Council. He deals among the councilors such business and in such manner as he thinks appropriate. By virtue of his emergency power he may direct the execution of such work or the performance of such act which he feels that fast execution of the work is essential for the maintenance of services or the wellbeing of the public or the stoppage of broad damage to any property of the General Council. For this purpose, he does not require the earlier approval of either General Council or Executive Council. He has the power to nominate thirteen Councilors to the Executive Council and to delegate powers to the Vice-Chairman. The Vice-Chairman exercises all the powers of the Chairman in his absence. The state government has legal, administrative and financial control over the Council.

Legal Control: The Council has been recognized by an act of the West Bengal Legislature. It may be adjusted by the legislature from time to time according to the necessity of the condition. The state government may change, suspend or annual a by-law or any resolution passed either by the General Council or by the Executive Council on the ground of the security of state. In Section 63 the supremacy of the state law over the by-laws of the General Council is recognized. The Section reads: “If any provision of any regulation or by-law made by the General Council is repugnant to any provision of a law made by legislature of the State of West Bengal with respect to that matter, then the regulation or the by-law so made, whether made before or after the law made by the Legislature of the State of West Bengal, Shall to the extent of repugnancy, be void and the law made by the Legislature of the State of West Bengal shall prevail.”

The state government has also the authority of interpreting the provision of the Act. Section 68 noticeably states that in case of dispute on the problem of enactment of rules or regulation the clarification of the state government should be taken as final.

Administrative Control: The Principal Secretary is appointed by the State Government in consultation with the Chief Executive Councilor. Besides, the Government may employ a secretary and may transfer such other officers and experts and may be required to assist the

General Council. Even in creating rules and regulations for the General Council, the approval of the state government is compulsory.

The state government may stop the implementation of any regulation or by-law on the ground of safety. Further, the state government may direct the General Council in release its functions.³²

Financial control: The state government controls the finances of the council in various ways. Section 52(7) states that” Government may make rules for the management of the Council Fund and for the procedure to be followed in respect of payment of moneys into the said Fund withdrawal of moneys therefore, the custody of moneys therein and any other matter incidental thereto or connected therewith.”

The General Council is to submit the budget to the state government by the 1 November of the current year. On receipt of the budget report the government may approve the budget or return it to the General Council for such alteration as it may direct. Unless the budget is sanctioned by the Government, the General Council cannot incur any expenditure. The General Council may impose levy tolls on certain specific objects but the upper limit of the tolls is suggested by the government.

Dissolution of the General Council: The State Government may replace the General Council on the ground of incompetency, defaulting in the routine of duties advised on it or if it exceeds its limit or misuses its power. It will however be reconstructed within six months from the date of its supersession.

A Controversial point: The Section 31 empowers the Council to supervise over the local self-governments situated within its jurisdiction. But officially the status of the local governments is superior than that of the Council. For, the local governments are regulated not only by the State Act but also by the Constitution, whereas the Council is regulated only by the State Act. In case of a dispute between the local government and the Council the problem of rank may arise. The bickering with the State Government ascended on the question of the working of the panchayati raj immediately after the formation of the DGHC. Subash Ghisingh opposed the establishment of panchayat in hill areas. But the State is constitutionally bound to establish panchayat. To appease the GNLFF the Union, at the time of passing the 73 Amendment Bill in 1993, incorporated a provision saying that nothing in the Act ‘hall be construed to affect the functions and powers of

the Darjeeling Gorkha Hill Council. In spite of this endowment the DGHC Chairman opposed the gram panchayat election in the hills. According to him the panchayat had the same function as the DGHC in regard to numerous matters which would overlap and cause conflict. One of the Jawhar Rojgar Yujana(JRY), the Union had explained that the DGHC alone was authorized to appliance the JRY schemes and other rural employment schemes and obtain funds for these schemes.³³The State government also tried to dismiss doubts of any overlapping of powers between the DGHC and the modified panchayat structure.

The State had advised that all supervisory powers usually vested with the Zilla Parisad would be given to the Council once the two-tier panchayat came into being. Article 243M (3) reads, Nothing in this part (a) relating to panchayats at the district level shall apply to the hill areas of the District of Darjeeling....”In spite of these guarantees both from the Union and the State the DGHC on 30 July, 1994 passed a resolution declaring that the panchayats would harmfully affect the autonomous character of the Hill Council. Hence the Executive Council decided to boycott the panchayat election of 1995. The election of the panchayat was held under stern security. But the problem of the relation between the DGHC and the panchayat stayed unsolved.³⁴A short-term reference to the Tripura Tribal Areas Autonomous District Council is essential for the better understanding of the structure of autonomous council. For, it is the portent of this system. The Tripura Autonomous Council came into process on 3 January, 1982. The objective of the Council was to fulfill the hopes of the autochthonous tribals of Tripura for self-rule. It aimed at the conservation and development of their language, Tripuri or Kok-borok-ma, and their customary tribal culture and ways of life.

The Autonomous District Council Act provides a common law making and policy making body called District Council and an executive body called Executive Committee. Besides, it specifies the formation of village council for administration of justice. The District Council has the power to frame bye-laws with respect to inheritance of property of persons belonging to Scheduled tribes, marriage and divorce, social customs of people etc. These laws are executed by the Executive Committee of which the Chairman of the Committee is the chief architect. He is aided by a Chief Executive Officer appointed by the State Government.³⁵ Peace and stability were reestablished in Darjeeling after the formation of the Hill Council in 1988. But the fanatical features were not satisfied with the status of autonomy. They demanded the complete

statehood for Darjeeling. With this end in view the extremists were organized under the banner of Gorkha Liberation Organization led by the Kalimpong dissident leader, Chatre Suba. The GNLF tacitly supported this demand. Its Chairman, Ghisingh with his splendid political ability raised a new problem which had effectively strengthened the movement for statehood. In 1994 he raised a hue and cry over the issue of 'non-incorporation of ceded land of Darjeeling and lease hold land of Kalimpong, Western Doars and Assam Doars and for its proper admission and integrating into the Indian Union'. In a letter addressed to all the Members of Parliament, leaders of the political parties and leading citizens of India pointed out that the political parties and leading citizens of India. He pointed out that the ceded land had not been annexed to Indian Union under Article 1-(3)-(c), and Article 2 and 4 and also under Article 368 of the Constitution. His apprehension was that without these areas were properly captivated or unified into Indian Union serious dispute over the land might erupt in future and the security of the inhabitants of this area might be in risk.

On this problem Ghising filed a petition to the Supreme Court on 19 October, 1994. He expected that the top court would give approximate commands to the Union Home Minister for the formal admission of these territories to the Indian Union. Again, in an open letter addressed to the Government of India and the Government of Nepal on 10 May, 1995. Ghising on behalf of the GNLF urged upon the governments of India and Nepal to go through the related Article I of the Indo-Nepal Treaty of 1950 and the Article II of the 1925 Treaty made between Great Britain and Nepal, so as to clearly understand the correct implication of Article VII of the Indo Nepal Treaty of 1950. According to Ghising's clarification of the treaties, the disputed land of Darjeeling was not formally included in India after independence. Whereas, Article VIII of the Indo-Nepal Treaty "cancels all previous treaties, agreements and arrangements arrived into on behalf of India between the British Government and the Government of Nepal. "Hence he argued that the doubtful area of Darjeeling either had become a part of Nepal or it had turned into a no man's land. In these situations, the GNLF, in the concern of the Nepali speaking people of the area, should take the responsibility of the area as a free sovereign state. He said that he would go to the extent of telling the Prime Minister that if Darjeeling was not assimilated into India he would not hesitate to proclaim it a sovereign country.

The Chief Minister, Jyoti Basu, wrote a letter to the Union Home Minister for clarification of the issue raised by Ghising. In his reply, the Home Minister categorically rejected the contention of Ghising. He stated that the territories listed in different treaties were ceded 'in perpetuity' without any condition.³⁶ But Ghising persisted his statement that Darjeeling was a no-man's land. He said that New Delhi had denied realizing and coming to terms with what he called the point that Darjeeling was never constitutionally a part of India. It was a lease's land which would become a part of Nepal after the expiry of the occupier period. He thus made a fear psychosis amongst the statehood was not allowed to Darjeeling. Most of the Nepalese were swayed away by this argument and propaganda. The chance to obtain the claim for statehood came when H.D. Deva Gowda, the then Prime Minister of India, declared on 15 August, 1996 that the Union Government had decided to create a separate state of Uttarakhand. At this the expectation of numerous ethnic groups comprising the Bodo and the Nepalese rose high. They claimed similar status for their individual areas.

On 5 November, 1996 the General council of DGHC passed a resolution with overwhelming majority, demanding upgradation of DGHC into a full-fledged state of Gorkhaland. The resolution stated that the very concept of council was rejected by the announcement of Uttarakhand State by the Prime Minister of India. It further resolved that the proposed area of the state should be as per the 1980 blue-print of the GNLFF. The proposed area covered the whole of Darjeeling district including Siliguri and its contiguous areas of eastern Doars to Sankosh river bordering Bhutan. The GNLFF chairman made it clear that a Gorkhaland State was the only option left open to the decision makers. He said, 'in order to create good and permanent relations between the people of Bengal and the Gorkhas Gorkhaland must be supported, or else relations will suffer.'

Following the resolution of the DGHC, the left Front hurriedly held a meeting on 9 November, 1996 to discuss the situation arising out of the resolution of the DGHC. In its meeting the left Front unanimously rejected the demand for the Gorkhaland State. The left Front partners held that there was no scope for statehood. But the question of giving more powers to the autonomous council could be discussed. Even it could be brought under a modified Sixth Schedule of the Constitution. The aim was to strengthen the Council by providing a constitutional guarantee. The Front Chairman felt that the Council was functioning well and there was little need for a separate

state. According to him the allotment of funds for the fiscal year 1995-96, Rs. 400 crores, was a lot more than the money spent on most districts.

In spite of the opposition of the Left Front the movement for statehood was not abated. On the contrary it was further intensified particularly after the formation of three more states. All section of the Nepali speaking people of Darjeeling irrespective of their political affiliation demanded statehood for Darjeeling. Both the members of Parliament, R.B. Rai (Lok Sabha) and Dawa Lama (Rajya Sabha) belonging to the CPIM supported the demand and faced suspension from the party for acting against the party and floated a new party named as Communist Party of Revolutionary Marxist (CPRM) and launched a movement along with other minor parties like Akhil Bharatiya Gorkha League (ABGL) Gorkha Janashakti, Bharatiya Janata Party, Trinamul Congress, local Congress Party, Communist Party of India etc. for a separate Gorkhaland state. They were united under the banner of Gorkhaland People's Front and appealed to the GNLF refused to join them. For, they believed that they were the sole custodian of the Nepalese of Darjeeling. There are sufficient reasons behind this belief. They captured all the three municipalities of hill areas, won all the three seats of the State Assembly and in the DGHC election of 1999 they had a landslide victory. Out of 28 seats of the General Council they secured 22 seats, whereas the rebel candidates and the united front together secured only 3 seats. It indicates that the people of Darjeeling have reposed their faith in the GNLF led by Subash Ghising. The political development in Darjeeling also reveals that ethnic loyalty is deeper than party loyalty.

Subash Ghising being an assure politician wanted to move slowly and cautiously in the situation of Darjeeling arising out of the creation of three more states namely Jharkhand, Uttaranchal and Chhatisgarh. HE did not like confrontation with the State Government nor did he want conflict between the Bengalese and the Nepalese. He wanted a compromise between the aspiration of the Nepalese and the sentiment of the Bengalese. The Nepalese wanted a separate state of Gorkhaland carved out of West Bengal. When Ghising met Jyoti Basu at Writers' Building, Basu made it clear that the State Government would not accept the demand of statehood in Darjeeling hills under any circumstances. Both Basu and Ghising had, however, held the Union Government responsible for the development of the present situation in Darjeeling. Ghising blamed the Union Government for its discriminatory treatment. If the Nagaland Hill Council or

Jharkhand Autonomous Council could be upgraded to the status of state, argued Ghising, then what was the obstacle to granting a similar status to the DGHC.

In view of the changed situation both the Union and the State Governments agreed to vest more powers and granting more funds to the Hill Council. Ghising for the time being accepted this offer. But his opponents, particularly the Gorkha Liberation Organization led by Chhatre Subha disliked the soft pedaling of Ghising. To them the compromise was a betrayal of the cause of the Nepalese of Darjeeling. While Ghising was returning from New Delhi after the tripartite meeting in February, 2001 he was attacked by an extremist group with sophisticated weapons. Although he narrowly escaped his two body guards succumbed to the injuries. Chhatre Subba was the chief suspect for the attack on Ghising. In spite of this provocation Ghising remained calm and asked his men to maintain peace in the area. He, with the greater power that was vested in the Council, concentrated on the development of Darjeeling hills. Meanwhile he tried to gather support for a separate Gorkhaland from various quarters of the country. He had already got support from the former Chief Minister, Pawan Kumar Chamling. Chamling assured the GNLF to extend active and unstinted support towards the cause of Gorkha State both as the Chief Minister of Sikkim and President of the ruling Sikkim Democratic Front.³⁷

The chief characteristics of the Tripura Autonomous Council is that there is no nominated member in the District Council, the chief policy making body. All the 28 members in the Council are elected on the basis of adult suffrage. In the General Council of the DGHC only two-third councilors are elected and the remaining one-third i.e. 14 out of 42 councilors are nominated. The Executive Committee of the Tripura Autonomous Council has seven members including the Chairman. All the members are selected by the Chairman of the committee. But the Chairman of the Executive Council of the DGHC cannot select all the members of his cabinet i.e. the Executive Council. Out of 15 members he can select 11 councilors, Chairman and Vice-chairman are the ex-officio members and the remaining two are nominated by the Government. Another distinguishing feature of the Tripura Autonomous Council is the provision for Village Council. The Village Council has the power to try civil suits. The DGHC has not such power of administration of justice. The position of the Tripura Autonomous Council in relation to the panchayats has not been clarified. In case of the GHC the relation between the Council and the panchayats is ambiguous.³⁸

As Ghising's reign continued, few in Darjeeling were willing publicly to criticize the DGHC regime because of the threat of violence against dissenters. However, the DGHC's corruption and failure to significantly improve Darjeeling's public services also made it and the GNLF extremely unpopular. Ghising's explanation for this suspension of democracy was that the DGHC needed to be added to the Sixth Schedule of the Indian Constitution, which is the national list of tribal councils.³⁹This proposal was, however, unpopular with many Nepali-speakers. Creating such a body in Darjeeling would have necessitated a legal redefinition of Nepali castes as "tribes," which some in the region considered demeaning. Others feared that the change in designation would apply only to Hindus, excluding Buddhists and other religious minorities.

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