

GAHC010253032025



2026:GAU-AS:10143

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/6635/2025

DHRUBA KUMAR SAHA AND 4 ORS.

S/O LATE BATRINDRA CHANDRA SAHA, R/O LANE NO. 1, CACHAR HIGH SCHOOL ROAD, SILCHAR- 2, P.O. AND P.S.- SILCHAR, DISTRICT- CACHAR, ASSAM.

2: PRANAB DUTTA

S/O LATE PRAMATHA NATH DUTTA

R/O HOUSE NO. 38

WARD NO. 4

MALUGRAM

P.O. AND P.S.- SILCHAR

DISTRICT- CACHAR

ASSAM.

3: MOHITOSH PAUL @ ASHU PAUL

S/O LATE MOHESH CH. PAUL

R/O SHIBBARI ROAD

MALUGRAM

SILCHAR- 2

P.O. AND P.S.- SILCHAR

DISTRICT- CACHAR

ASSAM

4: BASUDEV SARMAH

S/O LATE SAILESH CH. SARMAH

R/O SWARUPANANDA LANE

MALUGRAM

SILCHAR- 788002

P.O. AND P.S.- SILCHAR

DISTRICT- CACHAR

ASSAM.

5: ABHIJIT DAM

S/O LATE BINOY KRISHNA DAM

R/O DEVI PRASAD ROAD

MALUGRAM
P.O. AND P.S.- SILCHAR
DISTRICT- CACHAR
ASSAM

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, DEPARTMENT OF HOUSING AND URBAN
AFFAIRS, DISPUR, GUWAHATI- 781006

2:THE SECRETARY TO THE GOVERNMENT OF ASSAM
DEPARTMENT OF HOUSING AND URBAN AFFAIRS
DISPUR
GUWAHATI-781006

3:THE DIRECTOR OF MUNICIPAL ADMINISTRATION
GUWAHATI- 6
DISPUR
ASSAM

4:THE STATE ELECTION COMMISSION
ASSAM
BLOCK C
4TH FLOOR
JANATA BHAWAN
DISPUR
GUWAHATI- 6
REPRESENTED BY THE CHIEF ELECTION COMMISSIONER

5:THE DISTRICT COMMISSIONER
CACHAR
SILCHAR
ASSAM.

6:THE SILCHAR MUNICIPAL CORPORATION
CACHAR
SILCHAR
REPRESENTED BY THE COMMISSIONER.

7:THE COMMISSIONER
SILCHAR MUNICIPAL CORPORATION
CACHAR
SILCHAR

Advocate for the Petitioner : MR. D CHAKRABARTY, MS D.CHAKRABARTY

Advocate for the Respondent : GA, ASSAM, MR S DUTTA (R6, R7),MS K BORAH (R6, R7),MR. S DUTTA (R6, R7),MS S MOCHAHARI (R6, R7),MR SISHIR DUTTA (R6, R7),SC, SILCHAR MUNICIPAL BOARD,SC, A S E C

BEFORE

HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI

Advocate for the petitioners : Shri D. Chakrabarty, Advocate.

Advocate for the respondents : Shri K. Gogoi, Govt. Advocate, Assam;
Shri R. Dubey, SC, ASEC;
Shri Sishir Dutta, Sr. Advocate for Silchar
Municipal Corporation &
Ms. K. Bora, Advocate.

Date on which judgment is Reserved. : 22.07.2026

Date of pronouncement of Judgment. : 22.07.2026.

Whether the pronouncement is of the operative part of the judgment? : NA.

Whether the full judgment has been pronounced? : Yes.

JUDGMENT & ORDER (Oral)

Considering the subject matter involved and as agreed to by the learned counsel for the parties, the instant writ petition is taken up for disposal at the admission stage.

2. As per the facts projected, 5 nos. of petitioners have approached this Court with

a grievance that timely elections for the Silchar Municipal Board have not been held. It is submitted that the Silchar Municipal Board which is presently a Corporation had the last elected body which was dissolved in April, 2020 and thereafter is being run by an Executive Officer which continued for 5 years. Presently, also the Corporation is run by a Commissioner and there is no elected body. It is contended that there is a constitutional mandate as well as statutory requirement to have an elected body for the Municipal Corporation.

3. I have heard Shri D. Chakrabarty, learned counsel for the petitioners and Shri K. Gogoi, State Counsel, Assam. Also heard Shri R. Dubey, learned Standing Counsel, Assam State Election Commission (ASEC) as well as Shri Sishir Dutta, learned Senior Counsel assisted by Ms. K. Bora, learned counsel for the Silchar Municipal Corporation. The contesting respondents have also filed affidavit-in-opposition.

4. Shri Chakrabarty, learned counsel for the petitioners has drawn the attention of this Court to Article 243U of the Constitution of India, Section 26 of the Assam Municipal Act, 1956 as well as Section 7 of the Assam Municipal Corporation Act, 2022 and has submitted that holding of election is a constitutional obligation.

5. From the affidavit-in-opposition filed by the respondent no.4, it transpires that due to certain factors, elections could not be held which, amongst others include the SIR exercise and also revision of Electoral Rolls.

6. Shri Dubey, learned Standing Counsel, ASEC, in this connection has referred to the averments made in paragraphs 17 and 18 which pertain to the SIR. He, however, submits that on 15.07.2026, the said revisional exercise was over and Electoral Rolls have been published. He has also submitted that the State Government would now have to take appropriate steps for holding the elections in accordance with law. He

has submitted that such steps, amongst others would include the budgetary provisions and assistance both from the Administration and Police.

7. Shri Gogoi, learned State Counsel has submitted that all necessary steps would be taken to abide by the constitutional mandate and statutory requirements.

8. Shri Dutta, learned Senior Counsel has submitted that the Silchar Municipal Corporation as a body would not have much role in the present dispute. He has, however, endorsed the submissions that constitutional mandate has to be followed for having timely elections in the local bodies.

9. The rival submissions have been carefully examined and the materials on record carefully examined.

10. There cannot be any ambiguity or two opinions on the requirement to have elected local bodies. So far as the Municipalities are concerned, the Constitution of India under Article 243U has specifically laid down such requirements. For ready reference, the aforesaid Article along with the statutory provisions mentioned above are extracted hereinbelow:

“243U. Duration of Municipalities, etc.

(1) Every Municipality, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer:

Provided that a Municipality shall be given a reasonable opportunity of being heard before its dissolution.

(2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a Municipality at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in clause (1).

(3) An election to constitute a Municipality shall be completed,-

(a) before the expiry of its duration specified in clause (1);

(b) before the expiration of a period of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved Municipality would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Municipality for such period.

(4) A Municipality constituted upon the dissolution of a Municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Municipality would have continued under clause (1) had it not been so dissolved.

26. General election and terms of office of Commissioners.

(1) Every Municipality unless sooner dissolved under Section 298 shall continue for five years from the date of first meeting of newly constituted Board after a general selection at which quorum is present

2) The State Election Commission shall cause the results of the general election to be published in the Official Gazette and the date of Official Gazette containing the publication shall be deemed to be the date of the completion of the general election.

3) An election to constitute a Municipality shall be completed,-

(a) before the expiry of its duration specified in sub-section (1);

(b) before the expiration of six months from the date of its dissolution :

Provided that where the remainder of the period for which the dissolved Municipality would have continued is less than six months. it shall not be necessary to hold any election under this Section for constitution of the Municipality for such period.

4) A Municipality constituted upon the dissolution of a Municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Municipality would have continued under sub-section (1) had it not been so dissolved.

7. Composition of the corporation and election of Councillors.

(1) The Councillors elected in a general election or a by-election of the

Corporation in accordance with the provisions relating to municipal elections in the State, shall constitute the Corporation.

(2) The Corporation shall, unless dissolved earlier, continue for a period of five years from the date of its first meeting after the general election and no longer.

(3) An election to constitute the Corporation shall be completed, as the case may be, -

(a) before the expiry of the period specified in sub-section (2) above,

(b) before the expiry of a period of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved Corporation would have continued is less than six months, it shall not be necessary to hold an election for constituting the Corporation for such period.

(4) The Corporation constituted upon its dissolution before the expiration of the period specified in sub-section (2) above shall continue only for the remainder of the period for which the dissolved Corporation would have continued under sub-section (2) above had it not been so dissolved.

(5) If, for any reason, it is not possible to hold the general election of a Corporation before the expiry of the period of five years specified in sub-section (2) above, the Corporation shall stand dissolved on the expiration of the said period, and all the powers and functions vested in the municipal authorities under this Act or under any other law for the time being in force shall be exercised or performed, as the case may be, by such person or persons to be designated as Administrator or Board of Administrators as the State Government may, by notification, appoint.

(6) The Corporation shall consist of elected Councillors elected directly by the voters of each ward.

(7) Government may nominate not more than two persons having special knowledge or experience in Municipal Administration, as members who shall have the right to attend and speak at all meetings of the Corporation but shall not have the right to vote. Such persons shall not be deemed to be Councillors for the purpose of this Act.

(8) The members of the House of People and the members of the Assam Legislative Assembly representing the Constituencies which comprise fully or partly the Corporation Area, shall be the ex-officio members of the Corporation and who shall have the right to attend and speak at all meetings of the Corporation and shall have the right to vote.

(9) The members of the Council of States registered as electors within the Corporation area shall be the ex-officio members of the Corporation and who shall have to attend and speak at all meetings of the Corporation and shall have the right to vote.”

11. From the affidavit-in-opposition filed by the Election Commission on 08.04.2026 mentioned above, it appears that though certain reasons were cited for the delay, as submitted by the learned Standing Counsel, the revision of the Electoral Rolls has been completed and the same has been published. Accordingly, there is no impediment in holding the elections.

12. Taking into account the aforesaid facts and circumstances, including the rival submissions, the writ petition accordingly stands closed by directing the State respondents to conduct the elections in accordance with law expeditiously and preferably within a period of 2 months from today.

13. The writ petition accordingly stands disposed of in the manner indicated above.

JUDGE

Comparing Assistant