

GAHC010012882023



2024:GAU-AS:9742

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

Case No. : WP(C)/595/2023

ABDUL HANNAN LASKAR AND 13 ORS
S/O- LATE USMAN GANI LASKAR, R/O- VILL- DUDPATIL VI, DUDPATIL GP,
P.O- HATICHARA-7, DIST- CACHAR, ASSAM, PIN- 788002

2: SADIK AHMED CHOUDHURY
S/O- LATE ABDUL OWAHID CHOUDHURY
R/O- VILL- DUDPATIL VI
DUDPATIL GP
P.O- HATICHARA-7
DIST- CACHAR
ASSAM
PIN- 788002

3: JABED JAMAL CHOUDHURY
S/O- MUFIDUL ISLAM CHUODHURY
R/O- VILL- DUDPATIL VI
DUDPATIL GP
P.O- HATICHARA-7
DIST- CACHAR
ASSAM
PIN- 788002

4: TINKUL HAQUE CHOUDHURY
S/O- LATE JALAL UDDIN CHOUDHURY
R/O- VILL- DUDPATIL VI
DUDPATIL GP
P.O- HATICHARA-7
DIST- CACHAR
ASSAM
PIN- 788002

5: KUTUB UDDIN BARBHUIYA
S/O- LATE ABDUL HAMID BARBHUIYA
R/O- VILL- DUDPATIL VI

DUDPATIL GP
P.O- HATICHARA-7
DIST- CACHAR
ASSAM
PIN- 788002

6: IMAIL ALI MIR
S/O- LATE MOJOMIL ALI MIR
R/O- VILL- DUDPATIL VI
DUDPATIL GP
P.O- HATICHARA-7
DIST- CACHAR
ASSAM
PIN- 788002

7: ALAMARA BEGUM LASKAR
W/O- MIZAZUR RAHMAN LASKAR
R/O- VILL- DUDPATIL VI
DUDPATIL GP
P.O- HATICHARA-7
DIST- CACHAR
ASSAM
PIN- 788002

8: ABDULLA TALUKDAR
S/O- AMIR UDDIN TALUKDAR
R/O- VILL- DUDPATIL VI
DUDPATIL GP
P.O- HATICHARA-7
DIST- CACHAR
ASSAM
PIN- 788002

9: SUJIT DUTTA
S/O- DHIRENDRA CHANDRA DUTTA
R/O- VILL- DUDPATIL VI
DUDPATIL GP
P.O- HATICHARA-7
DIST- CACHAR
ASSAM
PIN- 788002

10: NAZIM UDDIN LASKAR
S/O- LATE TAZAMUL ALI LASKAR
R/O- VILL- DUDPATIL VI
DUDPATIL GP
P.O- HATICHARA-7
DIST- CACHAR

ASSAM
PIN- 788002

11: JAKIR HUSSAIN TALUKDAR
S/O- JALAL UDDIN TALUKDAR
R/O- VILL- DUDPATIL VI
DUDPATIL GP
P.O- HATICHARA-7
DIST- CACHAR
ASSAM
PIN- 788002

12: AKTAR HUSSAIN LASKAR
S/O- LATE BASIR UDDIN LASKAR
R/O- VILL- DUDPATIL VI
DUDPATIL GP
P.O- HATICHARA-7
DIST- CACHAR
ASSAM
PIN- 788002

13: REJEN SINGHA
S/O- LATE RADHAMOHAN SINGHA
R/O- VILL- DUDPATIL VI
DUDPATIL GP
P.O- HATICHARA-7
DIST- CACHAR
ASSAM
PIN- 788002

14: MAHBUB AHMED BARBHUIYA
S/O- LATE SAKAT ALI BARBHUIYA
R/O- VILL- DUDPATIL VI
DUDPATIL GP
P.O- HATICHARA-7
DIST- CACHAR
ASSAM
PIN- 78800

VERSUS

THE STATE OF ASSAM AND 6 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM,
DEPTT OF HOUSING AND URBAN AFFAIRS, DISPUR, GUWAHATI- 06

2: THE DIRECTOR
MUNICIPAL ADMN
DISPUR

GHY- 06

3:THE DEPUTY COMMISSIONER
CACHAR
SILCHAR- 788001

4:THE DISTRICT DEVELOPMENT COMMISSIONER
CACHAR
SILCHAR

5:THE ADDITIONAL DEPUTY COMMISSIONER AND EXECUTIVE OFFICER
SILCHAR MUNICIPAL BOARD
SILCHAR
DIST- CACHAR
ASSAM
PIN- 788001

6:THE CEO
CACHAR ZILLA PARISHAD
SILCHAR

7:THE BLOCK DEVELOPMENT OFFICER
BORKHOLA DEVELOPMENT BLOCK
CACHA

Advocate for the Petitioner : MR H R A CHOUDHURY, MS S DAS,MR F U BARBHUIYA

Advocate for the Respondent : GA, ASSAM,

Linked Case : WP(C)/3477/2023

MASOBBIR ALI LASKAR AND 4 ORS.
S/O LATE ABDUL TAHIR LASKAR R/O VILLAGE- UTTAR KRISHNAPUR
PART-I
P.O-UTTAR KRISHNAPUR
P.S- SILCHAR
DISTRICT- CACHAR
ASSAM
PIN- 788006.

2: AJMAL UDDIN BARBHUIYA
S/O LATE ROMAN ALI BARBHUIYA
VILLAGE- UTTAR KRISHNAPUR PART-I

P.O- MEHERPUR
P.S- SILCHAR
DISTRICT- CACHAR
ASSAM
PIN- 788006.

3: AKMAN UDDIN BARBHUIYA
S/O SOMJID UDDIN BARBHUIYA
VILLAGE- UTTAR KRISHNAPUR PART-I
P.O-UTTAR KRISHNAPUR
P.S- SILCHAR
DISTRICT- CACHAR
ASSAM
PIN- 788006.

4: AINUL HUSSAIN BARBHUIYA
S/O LATE NUR UDDIN BARBHUIYA
VILLAGE- UTTAR KRISHNAPUR PART-I
P.O-UTTAR KRISHNAPUR
P.S- SILCHAR
DISTRICT- CACHAR
ASSAM
PIN- 788006.

5: MEHBUB HUSSAIN LASKAR
S/O MANTAZIN ALI LASKAR
VILLAGE- UTTAR KRISHNAPUR PART-I
P.O-UTTAR KRISHNAPUR
P.S- SILCHAR
DISTRICT- CACHAR
ASSAM
PIN- 788006.
VERSUS

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

2:THE DIRECTOR
MUNICIPAL ADMINISTRATION
DISPUR
GUWAHATI-6

3:THE DEPUTY COMMISSIONER
CACHAR

P.O- SILCHAR
DISTRICT- CACHAR
ASSAM
PIN-- 788001.

4:THE DISTRICT DEVELOPMENT COMMISSIONER
CACHAR
SILCHAR
P.O- SILCHAR
DISTRICT- CACHAR
ASSAM
PIN- 788001.

5:THE ADDITIONAL DEPUTY COMMISSIONER
AND EXECUTIVE OFFICER
SILCHAR MUNICIPAL BOARD
P.O- SILCHAR
DISTRICT- CACHAR
ASSAM
PIN- 788001.

6:THE SILCHAR MUNICIPAL BOARD
REP. BY ITS EXECUTIVE OFFICER P.O. SILCHAR DIST. CACHAR ASSAM PIN
788001

7:THE CHIEF EXECUTIVE OFFICER
CACHAR ZILLA PARISHAD
P.O- SILCHAR
DISTRICT- CACHAR
ASSAM
PIN- 788001.

Advocate for : MR H R A CHOUDHURY
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 6 ORS.

Linked Case : WP(C)/605/2023

MUSTAFA AHMED CHOUDHURY AND 4 ORS
S/O- LATE JAHUR UDDIN CHOUDHURY

R/O- VILLAGE AND P.O.- KANAKPUR PART-I

P.S.- SILCHAR
DIST.- CACHAR (ASSAM).

2: CHANDAN RABIDAS
S/O- MOHAN RABIDAS

CHOUDHURY

R/O- VILLAGE AND P.O.- KANAKPUR PART-I

P.S.- SILCHAR
DIST.- CACHAR (ASSAM).

3: AYESHA AKHTAR BARBHUIYA
W/O- MOINUL HOQUE BARBHUIYA

CHOUDHURY

R/O- VILLAGE AND P.O.- KANAKPUR PART-I

P.S.- SILCHAR
DIST.- CACHAR (ASSAM).

4: SULTANA BEGUM BARLASKAR
W/O- TAHIRUDDIN BARLASKAR

CHOUDHURY

R/O- VILLAGE AND P.O.- KANAKPUR PART-I

P.S.- SILCHAR
DIST.- CACHAR (ASSAM).

5: ROUSHAN AKHTAR LASKAR
W/O- HASIM AHMED LASKAR

CHOUDHURY

R/O- VILLAGE AND P.O.- KANAKPUR PART-I

P.S.- SILCHAR
DIST.- CACHAR (ASSAM).
VERSUS

THE STATE OF ASSAM AND 6 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM

DEPARTMENT OF HOUSING AND URBAN AFFAIRS

DISPUR
GUWAHATI-6.

2:THE DIRECTOR
MUNICIPAL ADMINISTRATION

DISPUR
GUWAHATI-06.

3:THE DEPUTY COMMISSIONER
CACHAR
SILCHAR- 788001.

4:THE DISTRICT DEVELOPMENT COMMISSIONER
CACHAR
SILCHAR.

5:THE ADDL. DEPUTY COMMISSIONER AND EXECUTIVE OFFICER
SILCHAR MUNICIPAL BOARD

SILCHAR

DIST.- CACHAR (ASSAM)

PIN- 788001.

6:THE CHIEF EXECUTIVE OFFICER
CACHAR ZILLA PARISHAD
SILCHAR.

7:THE B.D.O.
BORKHOLA DEVELOPMENT BLOCK
CACHAR.

Advocate for : MR H R A CHOUDHURY
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 6 ORS

Linked Case : WP(C)/606/2023

MIA KHAN AND 3 ORS
S/O LATE NURUL ISLAM KHAN

R/O- VILL. TUPKHANA PART-I

P.O.- ARUNACHAL

P.S.- SILCHAR

DIST.- CACHAR (ASSAM).

2: NAZRUL ISLAM
S/O- LATE WAZID KHAN

R/O- VILL. TUPKHANA PART-I

P.O.- ARUNACHAL

P.S.- SILCHAR
DIST.- CACHAR (ASSAM).

3: MODORIS ALI LASKAR
S/O- LATE TARMUZ ALI LASKAR

R/O- VILL. TUPKHANA PART-I

P.O.- ARUNACHAL

P.S.- SILCHAR
DIST.- CACHAR (ASSAM).

4: MATIBUR RAHMAN BARBHUIYA
S/O- TAJAMUL ALI BARBHUIYA

R/O- VILL. TUPKHANA PART-I

P.O.- ARUNACHAL

P.S.- SILCHAR
DIST.- CACHAR (ASSAM).
VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
DEPARTMENT OF HOUSING AND URBAN AFFAIRS
DISPUR
GUWAHATI-6.

2:THE DIRECTOR
MUNICIPAL ADMINISTRATION

DISPUR
GUWAHATI-06.

3:THE DEPUTY COMMISSIONER
CACHAR
SILCHAR- 788001.

4:THE DISTRICT DEVELOPMENT COMMISSIONER
CACHAR
CACHAR.

5:THE ADDL. DEPUTY COMMISSIONER AND EXECUTIVE OFFICER
SILCHAR MUNICIPAL BOARD

SILCHAR
DIST.- CACHAR (ASSAM)
PIN- 788001.

6:THE CHIEF EXECUTIVE OFFICER
CACHAR ZILLA PARISHAD
SILCHAR.

Advocate for : MR H R A CHOUDHURY
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 5 ORS

Linked Case : WP(C)/3892/2023

HIRANMOY DAS AND 9 ORS.
S/O LATE KSHITISH CHANDRA DAS
R/O VILL AND P.O.-MASUGHAT
DIST-CACHAR
ASSAM

2: SAHEEN AKTAR MAZUMDAR
S/O AFSAL ALI MAZUMDAR
R/O VILL AND P.O.-DUDPATIL PART-V
DIST-CACHAR
ASSAM

3: NIKHIL CH. DAS
S/O LATE TARAMONI DAS
R/O VILL AND P.O.-MASUGHAT
DIST-CACHAR
ASSAM

4: ANJAN KUMAR DAS
S/O LATE PRADUNNA DAS
R/O VILL AND P.O.-MASUGHAT
DIST-CACHAR
ASSAM

5: RAJENDRA SINGHA
S/O LATE SENAPATI SINGHA
R/O VILL-DUDPATIL PART-IV
P.O.-DUDPATIL PART-V
DIST-CACHAR
ASSAM

6: SAIFUL HAQUE BARBHUIYA
S/O BARI ALI BARBHUIYA
R/O VILL-DUDPATIL
P.O.-MASUGHAT (AFOR)
DIST-CACHAR
ASSAM

7: JOYNUL HAQUE MAZUMDAR
S/O LATE MAKBUL HUSSAIN MAZUMDAR
R/O VILL- DUDPATIL PART-IV (AFOR)
P.O.-MASUGHAT
DIST-CACHAR
ASSAM

8: AZAD UDDIN LASKAR
S/O JASIM UDDIN LASKAR
R/O VILL-DUDPATIL PART-IV
P.O.-HATICHARRA-7
DIST-CACHAR
ASSAM

9: PALLAB KUMAR NATH
S/O LATE PIYUSH KANTA NATH
R/O VILL-DUDPATIL-V (NATHPARA)
P.O.-DUDPATIL-V
DIST-CACHAR
ASSAM

10: AKLAS UDDIN BARBHUIYA
S/O LATE MORAM UDDIN BARBHUIYA
R/O VILL-DUDPATIL PART-IV
P.O.-MASUGHAT
DIST-CACHAR
ASSAM
VERSUS

THE STATE OF ASSAM AND 7 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
DEPARTMENT OF HOUSING AND URBAN AFFAIRS
DISPUR

GUWAHATI-6

2:THE DIRECTOR
MUNICIPAL ADMINISTRATION
DISPUR
GUWAHATI-06

3:THE DEPUTY COMMISSIONER
CACHAR
SILCHAR-788001

4:THE DISTRICT DEVELOPMENT COMMISSIONER
CACHAR
SILCHAR

5:THE ADDITIONAL DEPUTY COMMISSIONER
AND EXECUTIVE OFFICER
SILCHAR MUNICIPAL BOARD
SILCHAR
DIST-CACHAR (ASSAM)
PIN-788001

6:SILCHAR MUNICIPAL BOARD
SILCHAR
REPRESENTED BY ITS EXECUTIVE OFFICER
CACHAR
ASSAM

7:THE CHIEF EXECUTIVE OFFICER
CACHAR ZILLA PARISHAD
SILCHAR

8:THE BLOCK DEVELOPMENT OFFICER
BORKHOLA DEVELOPMENT BLOCK
CACHAR

For the Petitioner(s)	: Mr. H. R. A. Choudhury, Sr. Advocate
	: Mr. F. U. Barbhuiya, Advocate
	: Mr. H. I. Choudhury, Advocate
	: Mr. M. A. Choudhury, Advocate
For the Respondent(s)	: Mr. D. Saikia, Advocate General, Assam
	: Mr. D. Nath, Sr. Government Advocate
	: Ms. R. Baruah, Advocate

Date of Hearing : **24.09.2024**

Date of Judgment : **24.09.2024**

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

JUDGMENT AND ORDER (ORAL)

Heard Mr. H. R. A. Choudhury, the learned Senior counsel assisted by Mr. F. U. Barbhuiya, the learned counsel appearing on behalf of the Petitioners in the instant batch of writ petitions. I have also heard Mr. D. Saikia, the learned Advocate General, Assam assisted by Mr. D. Nath, the learned Senior Government Advocate appearing on behalf of the State of Assam and the other Respondents.

2. In the instant batch of writ petitions, the Petitioners herein have assailed the Notification dated 28.11.2022 issued by the Commissioner and Secretary to the Government of Assam, Department of Housing and Urban Affairs whereby the final notification was issued under Sub-Section (5) of Section 3 of the Assam Municipal Corporation Act, 2022 (for short 'the Act of 2022') to constitute the Silchar Municipal Corporation with wards with boundary marks annexed as Annexure-A along with a map as Annexure-B.

3. The issue involved in the instant batch of writ petitions is a legal issue as to whether the consideration of the objections in terms of Section 3 of the Act of 2022 have been done in accordance with the provisions of the said Act of 2022. The grievance of the Petitioners as have been submitted by the learned Senior counsel appearing on behalf of the Petitioners is that the

objections which were submitted by the Petitioners have been perfunctorily disposed of without showing that there has been any consideration. In addition to that, the learned Senior counsel appearing on behalf of the Petitioners have also submitted that in terms of Section 3(4) of the Act of 2022, it is only the State Government who is to decide such objections and not by the Deputy Commissioner and in the instant case it would be seen from the enclosure to the affidavit-in-opposition i.e. the communication dated 04.11.2022 issued by the Deputy Commissioner that the consideration and the decision was made by the Deputy Commissioner and the State Government did not further make any endeavor to make any further consideration.

4. To decide the questions which have been raised in the instant batch of writ petitions, this Court finds it very pertinent to take note of certain relevant provisions of the Constitution as well as the provisions of the Act of 2022.

5. Part IXA was inserted to the Constitution by the Constitution (Seventy-Fourth Amendment) Act 1992 w.e.f. 01.06.1993. In terms of the said Part, the Municipalities were granted a constitutional status. Article 243Q of the Constitution stipulates as to how the municipalities could be constituted. The said Article 243Q being relevant for the purpose of the instant dispute is reproduced herein under:

“243Q. Constitution of Municipalities.—(1) There shall be constituted in every State,-

(a) a Nagar Panchayat (by whatever name called) for a transitional area, that is to say, an area in transition from a rural area

to an urban area;

(b) a Municipal Council for a smaller urban area; and

(c) a Municipal Corporation for a larger urban area,

in accordance with the provisions of this Part:

Provided that a Municipality under this clause may not be constituted in such urban area or part thereof as the Governor may, having regard to the size of the area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit, by public notification, specify to be an industrial township.

(2) In this article, “a transitional area”, “a smaller urban area” or “a larger urban area” means such area as the Governor may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as he may deem fit, specify by public notification for the purposes of this Part.”

6. From a perusal of the above quoted Article, it would be seen that Sub-Article (2) of Article 243Q of the Constitution provides the parameters to be considered for bringing a 'transitional area', 'smaller urban area' or 'larger urban area. The parameters are the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors the Government may deem fit, specify by public notification for the purpose of the Part IXA of the Constitution.

7. The said therefore would be the parameters as constitutionally mandated to be taken into consideration for the purpose of considering as to when a transitional area or a smaller urban area or a larger urban area can

be brought within the fold of municipalities. The above parameters are also reflected in Section 3(1) of the Act of 2022. Taking into account the relevance of Section 3 of the Act of 2022, for the purpose of the instant dispute, the same is reproduced herein under:

“3. (1) The Governor may, after making such inquiry as he may deem fit, and having regard to the population of any urban area, the density of population therein, the revenue generated for the local administration of such area, the percentage of employment in non-agricultural activities in such area, the economic importance of such area, and such other factors as may be prescribed, by notification, declare such area to be a Municipal Corporation.

(2) The Notification about the constitution of a Corporation shall be published in the Official Gazette and in at least two leading newspapers, at least one of which shall be in vernacular language intelligible to the inhabitants of the local area concerned.

(3) A copy of the notification shall also be pasted in a conspicuous place in the office of the Deputy Commissioner of the district and, where there is a Municipal Board, also in the office of the Municipal Board, and such other public places as the State Government may direct.

(4) Any inhabitant of the city, town or Panchayat area in respect of which a notification has been published under sub-section (2) of Section 3 of the Act may, if he objects to anything contained in the notification, submit his objection in writing within fifteen days of the publication of notification to the State Government, through the Deputy Commissioner of the District and the State Government shall take such objection into consideration.

(5) On the expiry of one month from the date of publication of the notification and after consideration of all or any of the objection which may be submitted, the Governor, may by notification constitute such city, town or any specified part thereof as a Municipal Corporation.”

8. A perusal of the above quoted Section would show that Sub-Section (1) of Section 3 of the Act of 2022 mandates what are the parameters of the inquiry to be taken into consideration to declare an area to be a municipal corporation. The parameters stipulated in Sub-Section (1) of Section 3 of the Act of 2022 appears to be in consonance with Sub-Article (2) of Article 243Q of the Constitution of India. Sub-Section (2) of Section 3 of the Act of 2022 stipulates the mode of publication to be carried out prior to issuance of the final notification in terms of Section 3(5) of the Act of 2022. The process has to be initiated with the publication of a declaration in the form of a notification in the Official Gazette and in two leading newspapers of which at least one shall be in vernacular language intelligible to the inhabitants of the local area concerned. In addition to that, it is also mandated in terms with Sub-Section (3) of Section 3 of the Act of 2022 that the said notification be pasted in a conspicuous place in the Office of the Deputy Commissioner of the District and where there is a Municipal Board; also in the Office of the Municipal Board and such other places as the State Government may direct. The publication of the declarations in the instant case is not in dispute.

9. Sub-Section (4) of Section 3 of the Act of 2022 stipulates the manner in which the consideration of the objections which have been called on the basis of a notification issued under Sub-Section (2) of Section 3 is to be considered. The said objections are to be filed within 15 days from the date of publication of the notification to the State Government through the Deputy Commissioner of the District and the State Government shall take such objection(s) into consideration.

10. Sub-Section (5) of Section 3 stipulates that on the expiry of one month

from the date of publication of the notification, i.e. the notification under Section 3(2) and after consideration of all or any of the objections which may be submitted, the Governor may by notification constitute such city, town or any specified part thereof as a Municipal Corporation. In the instant case, the impugned notification dated 28.11.2022 is the notification which is issued in terms of Section 3(5) of the Act of 2022.

11. In the instant case, the dispute revolves around Sub-Section (4) of Section 3 of the Act of 2022 which stipulates the manner in which the objections are required to be considered. The grounds on which the impugned notification dated 28.11.2022 have been challenged have already been mentioned herein supra. The question which therefore arises is that whether the said grounds merit.

12. This Court upon perusal of the materials on record as well as hearing the learned counsels including the learned Advocate General of the State of Assam had sought for the records on the basis of which the consideration was made by the State Government. In pursuance thereto, the records were produced and the relevant note sheets were also placed before this Court. The copy of the note sheet which was produced is kept on record and marked with the letter "X".

13. In the instant batch of writ petitions, the objections which were raised by the Petitioners were:

(i) In WPC No.595/2023, the Petitioners objected as regards the inclusion of Dudhpatil Part VI and VII in the proposed Silchar Municipal Corporation Area.

(ii) In WPC No.605/2023, the Petitioners objected to the inclusion of Kanakpur Part-I Area in the proposed Silchar Municipal Corporation area.

(iii) In WP(C) No.606/2024, the Petitioners have raised objection to the inclusion of Tupkhana GP in the proposed Silchar Municipal Corporation Area.

(iv) In WP(C) No.3477/2023, the Petitioners have raised objections to the inclusion of Uttarkrishnapur Part-I to the proposed Silchar Municipal Corporation area.

(v) In WP(C) No.3892/2023, the Petitioners have filed objection to the inclusion of Dudhpatil Part IV (Aforbasti and Masughat) in the proposed Silchar Municipal Corporation Area.

14. It is the contentions of the learned Senior counsel appearing on behalf of the Petitioners that in the communication issued by the Deputy Commissioner to the Commissioner and Secretary to the Government of Assam, Department of Housing and Urban Affairs, the said objections have been rejected merely by stating that the objections are not tenable. It is the further case of the Petitioners that in respect to the exclusion of Dudhpatil Part IV, which is the subject matter in WP(C) No.3892/2023, the Petitioners had objected to the inclusion of Dudhpatil Part VI and VII also, but there is no reference to the same in the communication dated 04.11.2022 and in the said communication, it has been mentioned that Dudhpatil Part IV was not included in the proposed Silchar Municipal Corporation Area.

15. On the other hand, Mr. D. Saikia, the learned Advocate General however submitted although in the communication dated 04.11.2022, it was mentioned at Serial No.24 that Dudhpatil Part IV is not included in the

proposed Municipal Corporation Area, but later on, upon deliberation it was brought with the Silchar Municipal Corporation Area taking into account that the population density of the area was also increasing and the construction of the two bridges have been completed and work of the approached road is going on.

16. This Court has also taken note of that pursuant to the communication dated 04.11.2022 being submitted before the Commissioner and Secretary to the Government of Assam, Housing and Urban Affairs Department, the State Government upon perusal of the claims and objections as well as the letter dated 04.11.2022 requested the Deputy Commissioner, Cachar to submit detailed specific observations against each of the 46 numbers of claims and objections. Pursuant thereto, the Deputy Commissioner, Cachar had submitted a communication on 14.11.2022 providing detailed observations against each of the 46 numbers of claims and objections.

17. For the purpose of the instant batch writ petitions, it may be relevant to incorporate the specific observations of the Deputy Commissioner, Cachar insofar as the objections which touches on the instant writ petitions and the same are incorporated herein under:

Sl No.	Name of the Petitioner	Subject of Petition	Specific Observation of DC, Cachar
3	Nazim Uddin Laskar & 19 Others	Objection against inclusion of Dudhpatil Part VI & VII in proposed SMC	The Petitioner were present. Their objection was to exclude Dudhpatil Pt. VI and part of Dudhpatil, Pt-VII from the proposed SMC area.

			The said areas of Dudhpatil are already included under Draft Silchar Development Authority Master plan 2045. The population density of these areas is also increasing. Construction work of two numbers of bridges have been completed in these areas and the work of approach is going for these two bridges which will connect these areas to Annapurna Ghat ward No.24 and Karatigram Ward No.5. Thus, their objection to exclude Dudhpatil Part-VI & part of Dudhpatil, Pt-VIII from proposed SMC area is not justified.
21	Mustafa Ahmed Choudhury & 816 Others	Objection against inclusion of Kanakpur Part-I area in the proposed GMC	The petitioners were present. Their objection is against inclusion of Kanakpur Part-I area in the proposed SMC area. The said area Kanakpur Part-I is included under Draft Silchar Development Authority Master plan 2045 and is just adjacent to the Ward No.14 and 15 of present day SMB. The population density of Kanakpur Part-I is increasing and that area is mostly dependent on non-agricultural activities. Thus, the objection of the petitioner is not justified.
24	Pranojit Das & 41 others, Aforbasti & Masughat, Dudhpatil Part-IV Cachar	Claim for exclusion of Dudhpatil Part-IV (Aforbasti & Masughat) from proposed SMC	The petitioners were present. They claimed for exclusion of Dudhpatil Part-IV (Aforbasti & Masughat) from proposed SMC area. The said areas of Dudhpatil are already included under Draft Silchar Development Authority Master plan 2045. The population density of the area is also increasing and construction work of two bridges have been completed and the work of

			approach road is going on. These two bridges will connect Anapurna Ghat Ward No.24 and Karatigram Ward No.5. Thus, their claim to exclude Dudhpatil Pt IV is not justified.
25	Mia Khan & 4 Others	Claim for exclusion of Tupkhana GP from the proposed SMC area	The petitioners were present. The petitioner requested for exclusion of Tupkhana GP from proposed SMC area. Since there is a Census Town and major portion of Tupkhana, Pt-I and entire Tupkhana, pt-II are adjacent to the railway line having increasing population density and non-agricultural activities for which the area has been included in the draft SMC area. Thus, their claim is not justified.
26	The President No.6 Uttarkrishnapur GP, Cachar	Claim for exclusion of Uttarkrishnapur Part-I from the proposed SMC	The petitioners were present. The Petitioner requested for exclusion of Uttarkrishnapur, Pt-I from the proposed SMC area. As Uttarkrishnapur, Pt-I is a Census Town and also in view of the population density, proposed revenue generation, commercial activities, non-agricultural activities of the area, it has been included in the proposed SMC area. Thus, the claim is not justified.

18. The records further reveal that the said observations were duly considered by the Commissioner and Secretary to the Government of Assam, Housing and Urban Affairs Department on 17.11.2022 and a decision was taken to reject the objections as they were found to be without merit and accordingly directions were issued that the final notification of the Silchar Municipal Corporation be approved subject to vetting of the Legislative Department. It would also be seen that thereupon the matter was placed

before the concerned Minister In-charge who had also approved the same on 26.11.2022. It is on the basis thereof, the notification dated 28.11.2022 have been issued.

19. In view of the above materials as well as the records being perused, the question therefore arises as to whether the State Government had duly considered the objections or not. The answer has to be in the affirmative taking into account the materials on record and what have been observed hereinabove. Apart from that the observations so made by the Deputy Commissioner which was duly considered in the opinion of this Court is in consonance with the provisions of Section 3(1) with Sub-Article (2) of Article 243Q of the Constitution.

20. Accordingly, this Court finds no grounds to interfere with the impugned notification dated 28.11.2022 for which the instant batch of writ petitions stands dismissed.

21. Interim orders passed earlier stands vacated.

JUDGE

Comparing Assistant