GAHC010201382025

2026:GAU-AS:13047

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

Case No. : WP(C)/5276/2025

FARIDA BARBHUIYA AND ORS
MEMBER GOBJNDAPUR ALGAPUR AP CONSTITUENCY D/O SAMSUL ISLAM BARBHUIYA VILL ALGAPUR PART II PS SILCHAR SADAR DIST CACHAR ASSAM

2: RAJIA BEGUM
MEMBER CHIRIPAR MONIPUR AP CONSTITUENCY W/O ZAKIR HUSSAIN VIL TOLENGRAM PS LAKHIMPUR DIST CACHAR ASSAM

3: AMIR HUSSAIN LASKAR
MEMBER SONABARIGAHTY AP CONSTITUENCY S/O AFTAB UDDIN LASKAR VILL SONABARIGHAT PS LAKHIPUR DIST CACHAR ASSAM

4: NURJAHAN MAZUMDER
MEMBER WEST SINGERBOND AP CONSTITUENCY W/O ANAMUL HOQUE MAZUMDER VILL SINGARBOND PART III PS LAKHIPUR DIST CACHAR ASSAM

5: RUMI ARA BEGOM MOZUMDER
MEMBER SHIBPUR AP CONSTITUENCY W/O ZUHAB AHMED MAZUMDER VILL SHIBPUR PART II PS LAKHIPUR DIST CACHAR ASSA

VERSUS

THE STATE OF ASSAM AND ORS
REP BY THE ADDITIONAL CHIEF SECRETARY TO THE GOVT OF ASSAM PANCHAYAT AND RURAL DEVELOPMENT DEPTT DISPUR GUWAHATI PIN 7871006

2:THE DISTRICT COMMISSIONER
CACHAR
PO AND PS SILCHAR DIST CACHAR ASSAM PIN 788001

3:THE CHIEF EXECUTVE OFFICER

CACHAR ZILLA PARISHAD PO AND PS SILCHAR DIST CACHAR ASSAM PIN 788001

4:THE EXECUTIVE OFFICER
BANSKANDI ANCHALIK PANCHAYAT PO BANSKANDI DIST CACHAR ASSAM PIN 788101

5:THE AUTHORIZED OFFICER
FIRST MEETING HELD ON 30.07.2025 OF BANSKANDI PANCHAYAT C/O O/O THE DISTRICT COMMISSIONER CACHAR PO AND PS SILCHAR DIST CACHAR ASSAM 788001

6:SABINA HABIB BARBHUIYA
MEMBER SATKORAKANDI AP CONSTITUENCY C/O O/O THE BANSKANDI ANCHALIK PANCHAYAT PO BANSKANDI DIST CACHAR ASSAM PIN 788101

7:SULTANA BEGUM MAZUMDAR
MEMBER NEAIRGRAM BAGPUR AP CONSTITUENCY C/O O/O THE BANSKANDI ANCHALIK PANCHAYAT PO BANSKANDI DIST CACHAR ASSAM PIN 788101

8:FAROOQ AHMED CHOUDHURY
MEMBER GOBINDAPUR BANSKANDI AP CONSTITUENCY C/O O/O THE BANSKANDI ANCHALIK PANCHAYAT PO BANSKANDI DIST CACHAR ASSAM PIN 788101

9:ANJUMANARA NAAJ LASKAR
MEMBER KRISHNAPUR AP CONSTITUENCY C/O O/O THE BANSKANDI ANCHALIK PANCHAYAT PO BANSKANDI DIST CACHAR ASSAM PIN 788101

10:RIDWAN SAKEEL MAZUMDAR
C/O O/O THE BANSKANDI ANCHALIK PANCHAYAT PO BANSKANDI DIST CACHAR ASSAM PIN 78810

Advocate for the Petitioner : MR. M K HUSSAIN, MRS. S Y AHMED,MS. F H AHMED,MR. M ALOM

Advocate for the Respondent : GA, ASSAM, SC, P AND R.D.,FOR CAVEATOR,MR. T A CHOUDHURY,J NABI

BEFORE
HONOURABLE MR. JUSTICE RAJESH MAZUMDAR

ORDER

Date : 08.09.2026

Heard Mr. M.K. Hussain, learned counsel for the petitioners. Also heard Ms. M. Barman, learned counsel appearing for the Respondent Nos. 2 and 5; Ms. P.Thapa, learned counsel appearing on behalf of Mr. S. Dutta,learned counsel for the Respondent Nos. 1, 3 and 4; Mr. T.J. Mahanta, learned senior counsel assisted by Mr. T.A. Choudhury, learned counsel appearing for the Respondent Nos. 6 to 9.

2. The present petition under Article 226 of the Constitution of India has been preferred by the petitioners, praying before this Court the following relief:-

"*(i) Writ of Certiorari shall not be issued setting aside and quashing the impugned resolution dated 30.07.2025 so far it relates to the election of the respondent no 6 as the President of Banskandi Anchalik Panchayat in total violation of law;*

(ii) Writ of Certiorari shall not be issued setting aside and quashing the impugned election in the first meeting held on 30.07.2025 of Banskandi Anchalik Panchayat so far it relates to the election of the respondent no 6 as the President as the same was done by the respondent nos 6 and 10 by tempering and cancelling two secret ballots casted in favour of the petitioner no 1;

(iii) Writ in the Mandamus shall not be issued directing the respondent no 2 (The District Commissioner, Cachar) to consider and decide the representation dated 31.07.2025 in a time bound manner; and/or

(iv) Cause or causes being shown and after hearing the parties Your Lordships would be pleased to make the rule absolute and or such order further as may deem fit and proper."

3. The learned counsel for the petitioners has submitted that pursuant to the elections held in that regard, the petitioners were elected as Anchalik Panchayat Members of Baskandi Anchalik Panchayat in the year 2025.

4. The learned counsel for the petitioners submits that the first meeting of the Anchalik Panchayat Members had been called for by order dated 30.06.2025 by the office of the Chief Executive Officer, Cachar Zila Parishad, Silchar, by fixing 14.07.2025 as the date of the meeting.

5. The responsibilities on the members were to administer oath/affirmation to the newly elected members, to conduct a free and fair election to the post of President and Vice-President, to ensure the quorum as per Rule, and to submit the election results to the competent authorities within a period of three days.

6. The order dated 30.06.2025 had also authorised and designated the Authorized Officer in the case of the particular Baskandi Anchalik Panchayat to be **Sri Phulalngir Chorei,**, ACS, Assistant Commissioner, Cachar.

The venue of the proceedings was fixed at the Baskandi Development Block Office.

7. The aforesaid meeting had been rescheduled by another order issued by the Chief Executive Officer, Cachar Zila Parishad, Silchar, by order dated 09.07.2025 to be held on 17.07.2025 with the same responsibility and agenda.

8. The Block Development Officer, Baskandi Development Block, thereafter by an order dated 17.07.2025, rescheduled the meeting for undertaking the selection of the President and the Vice-President of the Baskandi Anchalik Panchayat to 24.07.2025, scheduling the same to be held from 11:30 A.M. at the Baskandi Development Block Office.

9. By another order dated 20.07.2025, the BDO, Baskandi Development Block, rescheduled the meeting to be held on 31.07.2025 at 11:30 A.M. at the Baskandi Anchalik Panchayat, Baskandi Development Block Office.

10. The election process held on 31.07.2025 saw the petitioners to remain present. Petitioner No. 1 put up candidature for the post of President and petitioner No. 2 put up candidature for the post of Vice-President. The other petitioners supported the aforesaid two petitioners.

11. During the election process held, petitioner Nos. 1 and 2 were declared not elected to their aforesaid posts and respondent Nos. 6 and 7 were declared elected to the post of President and Vice-President respectively. Assailing the meeting dated 30.07.2025, the petitioners are before this Court.

12. An affidavit has been filed by respondent Nos. 6, 7, 8 and 9, wherein, the assertion has been made that the election for the posts of President and Vice-President of the Baskandi Anchalik Panchayat was conducted strictly in accordance

with the provisions of the Assam Panchayat Act, 1994 and the Assam Panchayat Constitution Rules, 1995, as amended.

13. Certain other allegations regarding misrepresentation in the writ petition have been levelled in the affidavit-in-opposition. However, these do not necessarily need to be decided since the matter would now be decided on the point of law raised by the learned Senior Counsel appearing for respondent Nos. 6, 7, 8 and 9.

14. The learned counsel petitioners had submitted that the orders dated 17.07.2025 and 28.07.2025 passed by the BDO, Baskandi Development Block, are orders which have been passed beyond the jurisdiction of the appropriate BDO and, as per the requirement of law, only the Authorised Officer nominated by the Chief Executive Officer, Zila Parishad, was authorised to have issued the notice calling for the meetings.

15. The learned counsel for the petitioners has submitted that the proceedings of the meeting dated 31.07.2025 be interfered with by this Court and the respondent authorities be directed to hold a fresh meeting to elect the President and Vice-President of the Anchalik Panchayat.

16. The learned counsel for the petitioner has placed reliance on paragraphs 17 and 18 of the judgment of the Hon'ble Supreme Court delivered on 17.12.2019 in Civil Appeal No. 9482 of 2019, to impress upon the Court that in all cases mere participation in a proceeding could not disentitle a petitioner from assailing the result thereof.

Paragraphs 17 and 18 of the aforesaid judgment are quoted herein below for ease of reference:-

" *17.It is well settled that the principle of estoppel prevents a candidate from challenging the selection process after having failed in it as iterated by this Court in a plethora of judgements including* ***Manish Kumar Shahi v. State of Bihar****, observing as follows:*

"16. We also agree with the High Court that after having taken part in the process of selection knowing fully well that more than 19% marks have been earmarked for viva voce test, the appellant is not entitled to challenge the criteria or process of selection. Surely, if the appellant's name had appeared in the merit list, he would not have even dreamed of challenging the selection. The appellant invoked Jurisdiction of the High Court under Article 226 of the Constitution of India only after he found that his name

does not figure in the merit list prepared by the Commission. This conduct of the appellant clearly disentitles him from questioning the selection and the High Court did not commit any error by refusing to entertain the writ petition."

The underlying objective of this principle is to prevent candidates from trying another shot at consideration, and to avoid an impasse wherein every disgruntled candidate, having failed the selection, challenges it in the hope of getting a second chance.

18. However, we must differentiate from this principle insofar as the candidate by agreeing to participate in the selection process only accepts the prescribed procedure and not the illegality in it. In a situation where a candidate alleges misconstruction of statutory rules and discriminating consequences arising therefrom, the same cannot be condoned merely because a candidate has partaken in it. The constitutional scheme is sacrosanct and its violation in any manner is impermissible. In fact, a candidate may not have locus to assail the incurable illegality or derogation of the provisions of the Constitution, unless he/she participates in the selection process."

17. The learned Senior Counsel, Mr. T.J. Mahanta, has submitted that the fact that the meetings were called for by the BDO was well within the knowledge of the petitioners. He has submitted that once the petitioners had not only participated in the said meetings, but had also contested the elections for the posts of President and Vice-President respectively, and the other petitioners had supported their cause during the proceedings, the petitioners would now be estopped from challenging the outcome of the said proceedings.

18. Mr. T.J. Mahanta, learned Senior Counsel appearing for respondent Nos. 6, 7, 8 and 9, has placed reliance on the case of ***Padmini Singha and Others Vs. State of Assam and Others***, reported in ***(2018) 10 SCC 561***, to submit that in similar circumstances where the proceedings of a meeting had been assailed, the Apex Court had held that the ultimate result could be valid even if the requirement or condition imposed by the relevant provision of law had not been performed, in the event the person assailing such result had waived the requirement or condition.

In the case of Padmini Singha, the Apex Court at paragraph 13 had held as follows:-

"*13. From the foregoing, it is quite vivid that the meeting was held to discuss the motion of no-confidence. Respondent 6 who was a beneficiary attended the meeting and voting had taken place. It is well settled in law that a mandatory provision of law*

requires strict compliance but there are situations where even if a provision is mandatory, non-compliance would not result in nullification of the act. There are certain exceptions. One such exception is, if a certain requirement or condition is provided in a statute for the benefit or interest of a particular person, the same can be waived by him if no public interest is involved. The ultimate result would be valid even if the requirement or condition is not performed. We are disposed to think that in the obtaining fact situation, no public interest was affected. The BDO presided over the meeting and everyone knew that the meeting was called for passing a resolution either in favour of or against the no-confidence motion. Respondent 6 knowing fully well participated in the meeting and the resolution was passed against her. After losing in the voting process, the assail was made to the procedure of calling the meeting. We are inclined to think, had Respondent 6 not participated in the meeting, the matter would have been absolutely different. Having participated, it has to be held that Respondent 6 had waived the condition precedent."

19. This Court has noticed that the petitioner did not object to the postponement of the meeting by the Block Development Officer on 17.07.2015 and 28.07.2015, rather, the petitioner had participated in the proceedings held on 30.07.2015. Two of the petitioners had given their candidature for the post of President and Vice-President and only after the results were not palatable to the petitioners, they have turned to challenge the proceedings on the ground that it was initiated by an unauthorized person.

20. The very act of the petitioners in participating in the proceedings of the meeting, in the considered opinion of this Court, discloses that the petitioners did not have any grievance at the time of participating and forwarding their candidatures for the post of President and Vice-President and therefore, in the considered opinion of this Court, the act of the petitioner is to be read as an act of waiver of the requirement of an authorized officer to call for the meeting.

21. It is not the case of the petitioners that they would have assailed the result of the meeting even in the event that they had succeeded to the post of President and Vice-President.

22. In the above view of the matter, I do not find any merit in the challenge made in the present petition and it is accordingly dismissed.

Parties are, however, to bear their own costs.

JUDGE

Comparing Assistant