



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

Case No. : WP(C)/71/2025

MS. MENAILIU
DAUGHTER OF LATE DAULUBO, R/O HOUSE NO. 215, OLD
MARKET, WARD 4, JALUKIE TOWN, PEREN, NAGALAND

VERSUS

STATE OF NAGALAND AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY/
COMMISSIONER, DEPT. OF MUNICIPAL AFFAIRS, KOHIMA
NAGALAND

2:MRS. ATWA MERU
INDEPENDENT CANDIDATE
ULB ELECTION 2024
OLD MARKET COLONY
WARD NO.4
JALUKIE TOWN
PEREN
NAGALAND

3:MRS. NGAUGIA IHEILUNG
(NOMINEE CANDIDATE OF MRS ATWA MERU)
OLD MARKET COLONY
WARD NO. 4
JALUKIE TOWN
NAGALAND

4:THE ELECTION TRIBUNAL
MUNICIPAL AND TOWN COUNCILS
OFFICE OF THE COMMISSIONER
NAGALAND

KOHIM

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH

For the Petitioner(s) : Ms. Esther, Advocate

For the Respondent(s) : Mr. Imti Imsong, Addl. AG, Nagaland
: Mr. C. T. Jamir, Sr. Advocate
: Mr. Toshi Jamir, Advocate

- Date on which Judgment was reserved : N/A
- Date of Pronouncement of Judgment : **26.05.2026**
- Whether the pronouncement is of the Operative Part of the Judgment : No
- Whether the full Judgment has been Pronounced : Yes

JUDGMENT AND ORDER (ORAL)

Heard Ms. Esther, the learned counsel appearing on behalf of the Petitioner and Mr. Imti Imsong, the learned Additional Advocate General appearing on behalf of the Respondent Nos. 1 and 4. I have also heard Mr. C. T. Jamir, the learned Senior counsel assisted by Ms. Toshi Jamir, the learned counsel appearing on behalf of the Respondent No.2.

2. At the outset, Mr. Imti Imsong, the learned Additional Advocate General submitted that the instant proceedings arise out of an Election Petition and under such circumstances, the

State of Nagaland or the Election Tribunal ought not to have been made parties. He therefore submitted that the names of the Respondent Nos. 1 and 4 be struck off.

3. Taking into account the well settled principle of law that in an Election Petition, it is only the returned candidate or other contesting candidates who can be made parties and not the State of Nagaland or the Election Tribunal, this Court strikes out the names of the Respondent Nos. 1 & 4.

4. The present proceedings arise out of two orders passed by the Election Tribunal in Election Petition Case No.02/2024. The said orders are the order dated 29.07.2024 as well as the order dated 18.03.2025.

5. Vide the order dated 29.07.2024, the learned Election Tribunal had issued notice upon the Petitioner herein who was the returned candidate. The order dated 18.03.2025 is on account of an order passed on an application filed by the Petitioner for dismissing the Election Petition on the ground that the said Election Petition was filed beyond the period of limitation.

6. Taking into account the above, this Court finds it relevant

to take note of the brief facts which led to the filing of the instant proceedings.

7. Vide a notification dated 29.04.2024, the Schedule for the election to the Municipal Councils and Town Councils were published. The Petitioner as well as the Respondent No.2 in the instant proceedings both contested the said election after the nomination of the Petitioner was found to be valid during the scrutiny. The declaration that the Petitioner was the returned candidate was made on 29.06.2024 and the Certificate of Election was issued to her on 29.06.2024. The Respondent No.2 thereupon filed an Election Petition on 15.07.2024 questioning the election of the Petitioner on the ground of improper acceptance of the nomination paper.

8. The question which arises in the instant proceedings is as to whether the Election Petition could have been filed on 15.07.2024 to question the election of the Petitioner who was issued the Certificate of Election on 29.06.2024.

9. This Court finds it very pertinent to take note of Article 243ZG of the Constitution which stipulates a bar to interference by the Courts in electoral matters. The said

Article 243ZG of the Constitution being relevant is reproduced herein under:

*“**243ZG.** Bar to interference by courts in electoral matters.-
Notwithstanding anything in this Constitution,-*

(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 243ZA shall not be called in question in any court;

(b) no election to any Municipality shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.”

10. A perusal of Clause (b) of Article 243ZG of the Constitution shows that no election to any Municipality shall be called in question except by way of an Election Petition presented to such authority and in such manner, as is provided for by or under any law made by the Legislature of the State.

11. The Nagaland Municipal Act, 2023 (for short 'the Act of 2023') is the law made by the State Legislature of Nagaland. Section 45 of the Act of 2023 deals with disputes regarding

election. Sub-Clause (a) of Section 45 of the Act of 2023 being relevant is reproduced herein under:

“45. Disputes regarding election:

(a) No election of a member of Municipal Council or Town Council shall be called in question except by an election petition presented to the Election Tribunal appointed by the Govt. in this behalf within 15 (fifteen) days of the date of the publication of the result of election under section 44.”

12. A perusal of the above quoted provision would show that an election of a member of Municipal Council or Town Council can only be questioned by way of an Election Petition and such Election Petition has to be presented before the Election Tribunal appointed by the Government in that behalf within 15 (fifteen) days from the date of publication of the result of election under Section 44 of the Act of 2023.

13. In the instant case, it would show that the period of 15 days from the date of declaration of the result i.e. on 29.06.2024 would end on 14.07.2024. However, it is apposite to observe that 14.07.2024 was Sunday.

14. This Court finds it relevant to take note of Section 14 of

the Nagaland Interpretation and General Clauses Act, 1978 (for short 'the Act of 1978') and the same being relevant is quoted herein under:

“14. Where, by any enactment any act or proceeding is directed allowed to be done or taken in any court or office on a certain day or within a specified period, then, if the court or office is closed on that day or the last day of the specified period, the act or proceeding shall be considered as done or taken in due time, if it is done or taken on the next day afterwards on which the court or office is open;”

A perusal of the above quoted Section would show that if a period is specified for doing any act in any Court or office, then if the Court or office is closed on that day or the last date, the act or proceedings which was required to be done shall be considered to have been done, if it is done or taken on the next date afterwards when the Court or office is reopen.

15. Applying the above principles, it is apparent that the Election Petition was required to be filed on or before 14.07.2024. The last date being 14.07.2024 which was a Sunday, the Election Tribunal was closed. Resultantly, by applying Section 14 of the Act of 1978, the Election Petition, if filed on 15.07.2024 would be within time.

16. Under such circumstances, this Court does not find the order dated 18.03.2025 passed by the Election Tribunal to be ultra vires the provisions of Section 45(a) of the Act of 2023 or the provisions of Article 243ZG of the Constitution.

17. Considering the above, this Court does not find any ground to interfere with the orders dated 29.07.2024 and 18.03.2025 for the reasons aforementioned, for which the writ petition stands dismissed.

18. Before parting with the records, this Court however observes and directs that the instant judgment so passed is only in respect to the question of limitation in filing of the Election Petition and this Court had not dealt with any other objections to the maintainability of the Election Petition which has to be decided by the Election Tribunal in accordance with law.

19. Interim order passed if any, stands vacated.

JUDGE

Comparing Assistant