

GAHC040000012026



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

Case No. : WP(C)/1/2026

Smti Sangha Aniam
Wife of Sangha Roruk, a permanent resident of Village Mangio, PO Parsi Parlo, PS
Koloriang, Kurung Kumey District, Arunachal Pradesh 791118

VERSUS

The State of AP and 5 Ors
represented by the Chief Secretary, Civil Secretariat, Itanagar, Arunachal Pradesh
791111

2:The Additional Deputy Commissioner cum Returning Officer (Panchayat Raj)
Age: 0
Occupation :
6 Parsi Parlo Zilla Parishad Constituency
PO Parsi Parlo
PS Koloriang
Kurung Kumey District
Patuk
Arunachal Pradesh 791118

3:The Deputy Commissioner cum District Election Officer (Panchayati Raj)
Age: 0
Occupation :
PO Parsi Parlo
PS Koloriang
Kurung Kumey District
Arunachal Pradesh
Koloriang
791118

4:Sangha Tasong
Age: 0
Occupation :

Son of Sangha Kiopik
Ex-GPM
resident of Village Mangio under 6/2/1 Mangio-I
Sangha Gram Panchayat
PO Parsi Parlo
PS Koloriang
Kurung Kumey District
Arunachal Pradesh 791118

5:Sangha Bhai
Age: 0
Occupation :
Son of Sangha Epa
resident of Village Mangio under 6/2/1 Mangio-I
Sangha Gram Panchayat
PO Parsi Parlo
PS Koloriang
Kurung Kumey District
Arunachal Pradesh 791118

6:Smti Sangha Sinia
Age: 0
Occupation :
Wife of Haa Tai
resident of Village Mangio under 6/2/1 Mangio-I
Sangha Gram Panchayat
PO Parsi Parlo
PS Koloriang
Kurung Kumey District
Arunachal Pradesh 79111

Advocate for the Petitioner : T T Tara, Pondit Ronya,Kirmani Lollen,Terji Kamchi,Khoda
Apa,Taba Tokur,Gamken Bam

Advocate for the Respondent : GA (AP),

**BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND**

ORDER

Date : 05.01.2026

Heard Mr. T. T. Tara, learned counsel for the petitioner, Smti. Sangha Aniam. Also heard Mr. S. Tapin, learned Government Advocate, for respondents Nos. 1, 2, and 3.

2. The petitioner has filed the present application under Article 226 of the Constitution of India seeking issuance of a writ in the nature of Certiorari and Mandamus, and/or any other appropriate writ. The petitioner is aggrieved by the impugned order bearing No. PTK/PR-ELN-24/25-26, dated 19.12.2025, whereby the ADC-cum-Returning Officer of 6-Parsi Parlo Zilla Parishad, Kurung Kumey District, Patuk, has passed an order keeping the issued Certificate of Election (Form-25) in abeyance until further orders.

3. It is submitted by the petitioner that after completion of the election process and issuance of the Certificate of Election (Annexure-4), the office of Returning Officer has become functus officio and, therefore, has no jurisdiction to pass any order keeping the Certificate of Election issued in favour of the uncontested GPM, Smti. Sangha Aniam, in abeyance till further orders.

4. It is submitted that the procedure for filing nomination papers and for correcting the erroneously entered name of the petitioner, as well as all other

relevant procedures, have been duly complied with and strictly adhered to. The petitioner's name has appeared in the Electoral Rolls as a reserved candidate of Constituency 6/2/I-Mangio-I, Serial No. 36, contesting under the PPA party. Annexure-3 (series) includes the notices of nomination. The petitioner was successful in the election and was elected as GPM for the aforementioned constituency. Annexure-4 is the Certificate of Election. The same Returning Officer has, vide the impugned order dated 19.12.2025, kept the Certificate of Election in abeyance until further orders, which is beyond his jurisdiction. The order was reportedly based on a complaint lodged by persons who appear to be aliens, and who have no connection with any of the candidates contesting the election, nor any role in the election process. The complaint appears to have been filed with an ulterior motive and contains false allegations. The petitioner has relied on the documents marked as Annexure-5 series and Annexure-6 series, which clearly demonstrates that there was a misunderstanding concerning the petitioner's name and another person, namely Smti. Sangha Sinia. Annexure-5 series clarifies whether the petitioner's identity was misconstrued and whether she has been fraudulently misrepresented by Smti. Sangha Sinia.

5. The petitioner has further relied on the decision of the Supreme Court in ***Krishna Ballabh Prasad Singh Vs. Sub-Divisional Officer Hilsa-cum-***

Returning Officer and Others, reported in ***(1985) 4 SCC 194***, wherein it has been observed that :-

4) The process of election set forth in the Representation of the People Act, 1951 consists of several stages and towards the end it requires a declaration of the result of the election. Section 66 of the Act provides that when the counting of votes has been completed the Returning Officer must declare forthwith the result of the election "in the manner provided in this Act or the Rules made thereunder" Thereafter, under Section 67 the result of the election is reported by the Returning Officer to the authorities specified therein and the declaration is published in the Official Gazette. It may be mentioned that according to Section 67-A of the Act the date on which the candidate is declared by the Returning Officer under Section 66 to be elected is regarded as the date of election of that candidate. Now, as contemplated by Section 66 the declaration of the result of the election must be in the manner provided by the Act or the Rules made thereunder. The procedure for declaring the result of the election is set forth in Rule 64 of the Conduct of Elections Rules, 1961. Rule 64 provides:

64. Declaration of result of election and return of election.-The returning officer shall, subject to the provisions of Section 65 if and so far as they apply to any particular case, then-
(a) declare in Form 21-C or Form 21-D, as may be appropriate, the candidate to whom the largest number of valid votes has been given, to be elected under Section 66 and send signed copies thereof to the appropriate authority, the Election Commission and the chief electoral officer; and

(b) complete and certify the return of election in Form 21-E and send signed copies thereof to the Election Com-mission and the chief electoral officer.

It is plain that the declaration envisaged by the law that a candidate has been elected is the declaration in Form 21-C or Form 21-D. The declaration in Form 21-C is made in a general election and the declaration in Form 21-D is made when the election is held to fill a casual

vacancy. It is now settled law that the right to vote, the right to stand as a candidate for election and the entire procedure in relation thereto are created and determined by statute. Accordingly, when Section 66 of the Representation of the People Act, 1951 provides that the result of the election shall be declared in the manner provided by the Act or the Rules made thereunder, the declaration can be effected in that manner only. The manner is clearly expressed in Rule 64 of the Conduct of Elections Rules, 1961. There is no other manner. There must be a declaration in Form 21-C or Form 21-D. The announcement by the Returning Officer that the petitioner had been elected has no legal status because the declaration in Form 21-C had not yet been drawn up. Even the grant of the certificate of election in Form 22 to the petitioner cannot avail him because Rule 66 contemplates the grant of such certificate only after the candidate has been declared elected under Section 66, which refers us back to Rule 64 and therefore to Form 21-C. There having been no declaration in Form 21-C at the relevant time, the grant of the certificate of election in Form 22 to the petitioner was meaningless.

5. We are of opinion that the process of election came to an end only after the declaration in Form 21-C was made and the con-sequential formalities were completed. The bar of clause (b) of Article 329 of the Constitution came into operation only thereafter and an election petition.

6. The learned counsel for the petitioner has also relied upon the decision of this Court in **Siraj Ahmed vs. State Election Commission & Others**, reported in **1999 (3) GLT 308**, wherein it has been held that-

5) It is true that where an Act confers a jurisdiction, it impliedly also grants the power of doing all such Acts, or employing such means as are essentially necessary to its execution. At this stage, I hereby recalled the legal maxim namely, "'cuijurisdictio data est, ea quoque concessa esse videntur, sine quibus jurisdictio explicari non potest meaning thereby, to whom

so ever a jurisdiction is given, those things also are supposed to be granted, without which the jurisdiction cannot be exercised. The grant of jurisdiction implies the grant of all powers necessary to its exercise. Here, in the instant case, the Election Tribunal can "deal with Election dispute and any other Election matter by borrowing or applying the required procedure available in the Code of Civil procedure while dealing with an Election petition and it should be noted mat the word "procedure" shall never be interpreted and it shall also cannot make the inclusion of the powers or provisions which are not specifically conferred upon the Tribunal under the related Acts and Rules as discussed above. The power for grant of temporary injunction or not to grant of it are not essentially necessary while deciding an Election petition on its merit in as much as such power or inherent powers are not provided in the related acts and Rules and over and above this, the Election Tribunal do not possess common law power and that the grant of those powers as discussed above are not necessary to its exercise or to its execution.

(6) The Manipur Panchayati Raj Act and rules provides for only one remedy, that remedy being an Election petition to be presented after the Election is over and as such there is no remedy provided at any intermediate stage. In this regard, a reference can be made to a decision of the Apex Court rendered in N. P. Ponnuswami-Appellant v. Returning officer, Namakkal and ors-Respds reported in AIR 1952 SC 64 wherein the Apex court held thus:

"It is now well-recognized that where a right or liability is created by a statute which gives a special remedy for enforcing it, the remedy provided by that statute only must be availed of. This rule was stated with great clarity by Willes J. in Wolver-Hampton New Water works Co. V. Hawkesford, (1859) 6 C. B. N. S)336 at P. 356 in the following passage:

"There are three classes of cases in which a liability may be established founded upon statute. One is where there was a liability existing at common law, and that liability is affirmed by a statute which gives a special and peculiar form of remedy different from the remedy which existed at common law, there, unless the Statute contains words which

*expressly or by necessary implication exclude the common law remedy. the party suing has his Election to pursue either that or the statutory remedy. The second class of cases is, where the statute gives the right to sue merely, but provides no particular form of remedy; there, the party can only proceed by action at common law. But there is a third class, viz., where a liability not existing at common law is created by a statute which at the same time gives a special and particular remedy for enforcing it. The remedy provided by the statute must be followed, and it is not competent to the party to pursue the course applicable to cases of the second class. The form given by the statute must be adopted and adhered to. " The rule laid down in this passage was approved by the House of Lords in *Neville v London Express Newspaper Ltd.* (1919)A. C. 368 and has been reaffirmed by the Privy council in *Attorney General of Trinidad and Tabago v Gordon Grant and Co.*, 1935 A. C. 532 and *Secretary of State vs Mark and Co.*, 44 Cal. W. N. 709; and it has also been held to be equally applicable to enforcement of rights (see *Hurdutral V. off. Assignee of Calcutta*, 52 Cal. W. N. 343, at p. 349. That being so, I think it will be a fair inference from, the provisions of the Representation of the People act to State that the Act provides for only one remedy, that remedy being by an Election petition to be presented after the Election is over, and there is no remedy provided at any intermediate stage. "*

(7) Inherent powers are of a Court and an Election Tribunal is not a Court as they are created by the statute to decide certain disputes and are bound to decided them strictly according to law after following the prescribed procedure and have jurisdiction to do only that they are expressly empowered to do. Only those Courts which have general jurisdiction to do justice under the common law are competent to pass any order that have considered necessary in the interest of justice, even though they are not covered by express provision of the law of procedure by invoking its inherent powers/jurisdiction. Reference had already been made to the decision of the Apex court reported in AIR 1958 SC 687 and AIR 1958 SC 698, which explain the nature of Election Tribunal. In my considered view, it would be proper exercise of discretion by the high Court either under Article 226 or 227 of the

Constitution of India to decline to interfere with the impugned order as the impugned order is not an order passed by the Election tribunal, Manipur without jurisdiction and rather it is a reasoned order.

7. The petitioner has thus submitted that respondent No. 2 had no jurisdiction whatsoever to pass the impugned order. It is well settled law that once the Returning Officer declares the result and issues the Certificate of Election (Form-25), he becomes functus officio and ceases to have any authority to review, recall, or suspend the election result.

8. Per contra, the learned Government Advocate, Mr. S. Tapin laid stress in his argument that it is amply clear that the name of the petitioner in the Electoral Rolls reflects that she is not the same person as her husband's name is shown as Sangha Tasuk. The electoral roll finally published clearly depicts the name of the candidate, while the impugned order was passed by the learned returning officer. It is further submitted that the petitioner has now prayed for an Interim Order in the garb of a final order. A writ court ought not deal with disputes after the election. Any dispute arising after the election lies before the Election Tribunal. It is therefore submitted that the present petition is liable to be dismissed, as it is not maintainable.

9. The learned Government Advocate has also relied on the decision of the Hon'ble Supreme Court in ***State of U.P. and Others vs. Ram Sukhi Devi***, arising out of ***Civil Appeal No. 6510 of 2004***, wherein, vide order dated

05.10.2004, it has been held that—

“To say the least, approach of the learned Single Judge and the Division Bench is judicially unsustainable and indefensible. The final relief sought for in the writ petition has been granted as an interim measure. There was no reason indicated by learned Single Judge as to why the Government Order dated 26.10.1998 was to be ignored. Whether the writ petitioner was entitled to any relief in the writ petition has to be adjudicated at the time of final disposal of the writ petition. This Court has on numerous occasions observed that the final relief sought for should not be granted at an interim stage. The position is worsened if the interim direction has been passed with stipulation that the applicable Government Order has to be ignored. Time and again this Court has deprecated the practice of granting interim orders which practically give the principal relief sought in the petition for no better reason than that of a prima facie case has been made out, without being concerned about the balance of convenience, the public interest and a host of other considerations. See Assistant Collector of Central Excise, West Bengal v. Dunlop India Ltd. (1985 (1) SCC 260 at P.265), State of Rajasthan v. M/s Swaika Properties (1985 (3) SCC217 at P. 224/0, State of U.P. and Ors. V. Visheshwar (1995 Supp (3) SCC.”

10. I have considered the submissions made at the Bar with circumspection. It is also submitted that, owing to a subsequent development, the petitioner has prayed for interim protection, as she is willing to offer her candidature for the post of Chairperson of the Gram Panchayat, and the last date for filing nomination is 07.01.2026. The impugned order was passed on 19.12.2025, and immediately thereafter the winter vacation commenced, as a result of which the

petitioner was unable to approach this Court immediately after the impugned order was passed.

11. The learned Government Advocate has raised a serious objection, contending that it is clear from the pleadings in the petition that no relief has been sought in relation to the nomination or election to the office of Chairperson of the Gram Panchayat.

12. I have also considered the submission of the learned Government Advocate that an interim order may appear to operate as a final order of this Court. In view of the foregoing discussion, at this juncture, I deem it appropriate to stay the operation of the impugned order until the next date of listing, when the matter shall be taken up for final disposal.

13. Issue notices to the other respondents returnable on 22.01.2026. Meanwhile, the Impugned Order No. PTK/PR-ELN-24/25-26, passed by the learned ADC-cum Returning Officer, 6-Parsi Parlo ZP, Kurung Kumey District on 19.12.2025 is stayed till 22.01.2026.

JUDGE

Comparing Assistant