



IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM : NAGALAND : MIZORAM & ARUNACHAL PRADESH)

ITANAGAR BENCH

PIL 22(AP) of 2018

Shri Kali Bogo,
Son of Tumya Bogo,
Permanent resident of Dego Kamki village,
PO & PS, Kamba, West Slang District,
Arunachal Pradesh and presently residing at
Polo Colony, Naharlagun, PO & PS- Naharlagun,
Papumpare District, Arunachal Pradesh.

..... Petitioner.

- Versus -

1. The State Election Commission,
Arunachal Pradesh through the Secretary,
Election Commission, Arunachal Pradesh.
2. The Secretary,
State Election Commission,
Arunachal Pradesh, Itanagar.
3. The Chief Secretary,
Government of Arunachal Pradesh,
Itanagar.
4. The Secretary,
Department of Urban Development and Town Planning,
Government of Arunachal Pradesh, Itanagar.
5. The Deputy Commissioner-cum- Municipal Election Officer,
Itanagar Municipal Area, Papumpare District,
Arunachal Pradesh.
6. The Deputy Commissioner-cum- Municipal Election Officer,
Pasighat Municipal Area, East Slang District,
Arunachal Pradesh

..... Respondents.

Advocates for petitioner - Mr. D Pangling
Mr. V Jamoh,
Mr. M Noshi
Mr. D Tamuk
Mr. O Tayeng,
Mr. M Dosl,
Mr. E Perme
Mr. M Gibi

Advocates for respondent Nos.1 & 2 - Mr. A Apang, *Senior Advocate*

Mr. K Riba

Advocates for respondent Nos.3 to 6 - Mr. N Dutta,
Advocate General, Arunachal Pradesh

Mr. S Tarpin, *Senior Govt. Advocate*

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

Date of Hearing : 12.06. 2018.
Date of Judgment and Order : 28.09.2018.

Judgment and Order (CAV)

Heard Mr. D. K. Pangling, learned counsel for the petitioner and Mr. Ajin Apang learned senior counsel assisted by Mr. K. Riba, learned counsel for the respondent Nos. 1 and 2. Also heard Mr. N. Dutta, learned Advocate General, State of Arunachal Pradesh assisted by Mr. S. Tapin, learned Senior Government Advocate for the respondent Nos. 2 to 6..

2. Brief facts of the case is that in exercise of powers conferred by Section 6 of the Arunachal Pradesh Municipal Act, 2007 the Government of Arunachal Pradesh In the Department of urban Development and Town Planning, Itanagar by Notification dated 06.02.2012 notified that the areas comprising of Itanagar,

Nagarlagun, Nirjuli, Karshingsa and Banderdewa Towns and other areas Indicated therein including the boundary of the area in Schedules – I and II for the purpose of the said Act shall be called as Itanagar Municipal Area with Immediate effect.

3. Under the same provisions, the Government of Arunachal Pradesh by similar Notification dated 20.12.2012 notified that the earller comprising Pasighat Down and other areas of Pasighat indicated therein including the boundary of the area in Schedules – I and II for the purpose of the said Act shall be called as Pasighat Municipal Area with Immediate effect.

4. As Notified by the State Election Commissioner, Arunachal Pradesh, Itanagar on 16.04.2013 the first Election for 30 seats of Councillors of Itanagar Municipal Area and for 12 seats of Councillors of Pasighat Municipal Area was held on 16.05.2013, results were declared on 21.05.2013 and the first meeting of both the Municipalities was held on 31.05.2013.

5. The State Election Commissioner, Arunachal Pradesh on 20.04.2018 issued a Press Handout stating that the State Election Commission is mandated under Article 243ZA and 243U(3) of the Constitution of India and the relevant provisions of the Arunachal Pradesh Municipal Act, 2009 as well as the Arunachal Pradesh Municipal (Election) Rules, 2011 to conduct Municipality elections before the expiry of five years term and as the current term of the Municipality of Itanagar and Pasighat Municipal Area was expiring on 31.05.2018, the said State Commission scheduled the election programme of those two Municipalities as follows:

1	Date of issue of notification by the State Election Commission	01.05.2018
2	Date of issue of public notice of election by the Municipal Returning Officer	01.05.2018
3	Last Date of filing Nomination	08.05.2018
4	Date of scrutiny	10.05.2018
5	Last Date of Withdrawal of Candidatures	14.05.2018
6	Date of Poll	29.05.2018
7	Date of Counting	31.05.2018
8	Date by which election process is to be completed	07.06.2018

6. By the said Press Handout dated 20.04.2018 the State Election Commission stated that the Model Code of Conduct will come into force from date of announcement of said election and that the two observers for the Itanagar

Municipality and one observer for the Pasighat Municipality has been appointed by the Commission.

7. However, by the Impugned Order No. AP/SEC-520/2018 dated 28.04.2018 the State Election Commissioner, Arunachal Pradesh cancelled the election schedule announced on 20.04.2018 observing that election to the Municipality of Itanagar and Pasighat stands deferred till end of monsoon season.

8. In the Impugned order dated 28.04.2018, the State Election Commission observed that by letter No.DTP/MUN-39/2010-11 dated 23.04.2018 the State Government submitted that the election had been announced during monsoon season when the chances of landslide and natural disaster are quite high and requested for deferment of said Municipal election and on such submission, the Commission sought report from the Deputy Commissioner-cum-Municipal Election Officers of Itanagar as well as Pasighat Municipalities about the holding of elections as per scheduled programme already announced.

9. In the said order, It is stated that the DC-cum-MEO Pasighat submitted that monsoon season had already set in and heavy rain and flood water caused disruption of surface communication due to which it will be difficult for movement of men and materials related to Municipal election and suggested holding of the election in between the months of November, 2018 to February, 2019.

10. The Commission in the impugned order also observed that the DC-cum-MEO Itanagar reported of high probability blockades during monsoon season due to heavy rainfall, complete engagement of the administrative machinery in managing disasters during monsoon, inability to complete the notification of reservation of seats prior to the date of filing nomination as per the scheduled programme announced by the Commission etc. and that the said authority requested the Commission to defer the Municipal election scheduled for the time being.

11. The petitioner, an Advocate by profession and involved in social activities filed this PIL for violation of the Constitutional rights of the people of Itanagar and Pasighat municipalities guaranteed under Article 342(2) of the Constitution of

India and for its enforcement and also for violation of Article 243-U(1) as well as for violation of section 36(2) of the Arunachal Pradesh Municipal Election Act, 2009 and prayed for a direction to the respondent State Election Commission to complete the election of the Itanagar and Pasighat Municipalities before 31.05.2018, the date on which the term of those two Municipalities will expire under the provisions of Article 243-U of the Constitution of India.

12. In this PIL filed on 08.05.2018 amongst others, the petitioner has also prayed for a Writ of Certiorari quashing and setting aside the said order dated 28.04.2018 issued by the Secretary, State Election Commission Arunachal Pradesh cancelling the election schedule announced for the election of Itanagar and Pasighat Municipalities and also a Writ in the nature of the Mandamus directing the State Election Commission to complete the election to the Itanagar and Pasighat Municipalities before 31.05.2018 i.e., the date on which the current term of the Itanagar and Pasighat Municipalities is going to expire.

13. Mr. Panging, learned counsel for the petitioner submits that as per the provisions of Article 243-U(1) of the Constitution of India every Municipality, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date of appointed for its first meeting and no longer and Article 243-U(3)(a) provides that an election to constitute a Municipality has to be completed before the expiry of each duration specified in Article 243-U(1). Since the current term of the Itanagar and Pasighat Municipalities was expiring on 31.05.2018, therefore, the decision of the State Election Commission dated 28.04.2018 cancelling the schedule of the election announced on 20.04.2018 is in violation of the provision of the Article 243-U(1).

14. Mr. Panging, submits that report of the DC-cum-MEO Itanagar and Pasighat are false and the Commission without making any enquiry as to the correctness of the same has mechanically cancelled the election schedule that was already announced abdicating its Constitutional responsibilities and the responsibility cast upon it or conduct elections to the Municipalities before the expiry of the terms. It is also urged before the Court that the Commission cannot put forward any excuse based on unreasonable grounds that the municipal

election cannot be completed on time and as the State Election Commission under the provisions of the Article 243-U(1) is bound to conduct the Municipal Elections to the Municipalities of Itanagar and Pasighat before the expiry of their terms.

15. Mr. Pangling, from the affidavits of the respondents and the letter dated 23.04.2018 of the respondent No.4, the Secretary in the Department of Urban Development and Town Planning of Government of Arunachal Pradesh, submits that the State Government is not rendering necessary co-operation to the Commission so as to conduct the election of those two Municipalities within time in violation of the constitutional mandate and it has shown different excuses in not holding the said election after the schedule of the municipal election was announced, which clearly reflects that the ground for not holding the municipal election submitted by the State is an afterthought and unreasonable.

16. Relying on the Constitution Bench decision of the Hon'ble Supreme Court in the case of *Kishansing Tomar -Vs- Municipal Corporation of the City of Ahmedabad*, reported in (2006) 8 SCC 352, Mr. Pangling submitted that the proposition of law laid down in the said case must be complied by the respondents as in the said case the Hon'ble Apex Court made it clear that elections to the municipalities have to be conducted before the expiry of its terms and he stated that the decisions placed by the state respondents are not applicable in the present case.

17. Respondents 1 and 2, 4, 5 and 6 have filed their affidavits.

18. Appearing for the respondents 1 and 2, the State Election Commission, Mr. A. Apang learned senior counsel submitted that the election to the Municipalities of Itanagar and Pasighat though announced in a press meet on 20.04.2018 but was not notified. He stated that on 28.04.2018 the Commission deferred the said election schedule mainly on the ground of monsoon season, after collecting relevant reports from the concerned Deputy Commissioner-cum-Municipal Election Officers of Itanagar and Pasighat.

19. Mr. Apang also stated that the Commission, to conduct free and fair election, needs the co-operation of the State Government that includes fund,

manpower, security arrangement etc. He also placed before the Court that the State Government are yet to provide the required fund to the Commission during the Financial Year 2018-1019 In spite of its correspondences and that the State Government by letter dated 23.04.2018 expressed its inability to spear the concerned State Government Officials who were appointed as Election Observer for the scheduled Municipal Elections of Itanagar and Pasighat. For such reasons, Mr. Apang stated that the Commission had to defer the scheduled elections of Itanagar and Pasighat Municipalities.

20. On being enquired, Mr. Apang, on Instruction, submitted that if the State Government provides men and material and the required fund, it can hold the municipal election of Itanagar and Pasighat within a period of 30 days from the date of publication of notification by the Commission in that regard.

21. Mr. N. Dutta, learned Sr. Counsel and Advocate General for the State respondents submitted that after the general municipal election, the first meeting of the Pasighat Municipal Council was held on 31.05.2013 and under the provisions of Section 12(2) of the Arunachal Pradesh Municipal Act, 2007 the said Municipal Council completed its five years term on 30.05.2018 and as per the order under Section 12(6) of the Arunachal Pradesh Municipal Act, 2007 passed by the State Government in the Department of Town Planning and Urban Local Bodies, Itanagar dated 29.05.2018 the Pasighat Municipal Council was dissolved on 30.05.2018.

22. It is also placed that after the general municipal election, the first meeting of the Itanagar Municipal Council was held on 11.06.2013 and under the provisions of Section 12(2) of the Arunachal Pradesh Municipal Act, 2007 the said Municipal Council completed its five years term on 10.06.2018 and as per the order under Section 12(6) of the Arunachal Pradesh Municipal Act, 2007 passed by the State Government in the Department of Town Planning and Urban Local Bodies, Itanagar dated 29.05.2018 the Itanagar Municipal Council was dissolved on 10.06.2018.

23. It is also brought to the notice of the Court that by two different Notifications dated on 29.05.2018 issued under Section 12(6) of the 2007 Act, the

State Government in the Department of Town Planning and Urban Local Bodies, Itanagar appointed the Deputy Commissioner of Itanagar Capital Complex as the Administrator of the Itanagar Municipal Council w.e.f. 11.06.2018 observing that when the municipal election will be held and municipality is constituted the said Administrator would be automatically denuded of its power and responsibility.

24. Similar Notification dated on 29.05.2018 under Section 12(6) of the 2007 Act, was also issued by the State Government in the Department of Town Planning and Urban Local Bodies, Itanagar appointing the Deputy Commissioner of East Slang District, Pasighat as the Administrator of the Pasighat Municipal Council w.e.f. 30.05.2018 with similar observation.

25. Mr. Dutta submitted that said orders dated 28/29.05.2018 of the State Government in the Department of Town Planning and Local Bodies are not under challenge whereas, in the present PIL, the petitioner has prayed for setting aside the impugned order dated 28.04.2018 of the State Election Commission cancelling the election schedule announced on 20.04.2018 for Itanagar and Pasighat Municipalities and also prayed for direction to complete the election of those two Municipalities before 31.05.2018 and for the aforesaid reasons, such prayer of the petitioner cannot be granted being a futile Writ.

26. Mr. N. Dutta, learned Advocate General submitted that the State of Arunachal Pradesh has a long rainy season and such unprecedented rain causes havoc in the State, like landslide, mudslide, flood, break down of electric supply due to tumbling down of electric towers and posts, disruption of road communication and surface transport etc. and that during this period the government personnel, security forces of the state, medical teams are always kept in their toes so as to manage any unforeseen disaster and that even the areas of Itanagar and Pasighat are also not spared by such natural calamities and the residents of these areas are very much aware about it.

27. Mr. Dutta also submitted that the State Election Commission of Arunachal Pradesh did not notify with regard to the election of those two Municipalities, but only held a press conference and gave out press handout of the schedule of the

Municipal election of Itanagar and Pasighat and of their own appointed Observers without seeking their availability from the State Government.

28. It is stated by Mr. Dutta that the State Election Commission of their own obtained independent reports from the Deputy Commissioners-cum-Municipal Election Officers of Itanagar and Pasighat and on considering such reports the said Commission passed the impugned order dated 28.04.2018 cancelling the election schedules announced on 20.04.2018 for Itanagar and Pasighat Municipalities deferring the same and not on the whims and fancies of the State authorities.

29. It is placed before the Court that areas comprising of 117 Sectors/Colony of Itanagar (57), Naharlagun (30), Lekhi (5), Nirjuli (5), Karsingsa (7), and Bandardewa (13) vide Notification dated 06.02.2012 Itanagar Municipal Area was constituted under Section 6 of the Arunachal Pradesh Municipal Act, 2007. Similarly, by Notification dated 20.12.2012 comprising of 22 Sectors/Colony of Pasighat in an area of 10.21 square Kilometers Pasighat Municipal Area was constituted under Section 6 of said 2007 Act.

30. Mr. Dutta also placed before the Court about the provisions of Sections 3 to 7 of the of the Arunachal Pradesh Municipal Act, 2007 and stated that as per the last Census Report of 2011, Itanagar had population of 65,301; Naharlagun had of 49,106; Bandrdewa had population of 8,523 and Nirjuli had population of 4,791 and Bandrdewa had urban population of 8,523 with total of 1,27,721. He also placed that in Pasighat Town the population was about 34,000 during 2011 Census.

31. He placed before the Court that the Deputy Commissioner of Pasighat had informed the Commission that due to increase in urban population in Pasighat Municipal Area and its peripheral area, delimitation of boundary of Municipal Wards needs to be increased from the existing 12 wards to 17 by making necessary amendment under the said 2007 Act. It is also seen that said Deputy Commissioner, Pasighat informed the Commission that there are many people residing within the notified urban area of Pasighat Township which are not covered neither by Pasighat Municipal Council nor by Panchayat Raj for which those people are not getting the representatives in the matter of socio-economic

development, nor getting important documents like Birth Certificate/Death Certificate/Income Certificate/Schedule Caste Certificate etc and due to it, those section of people could not avail the benefits of social schemes under the Central and the State Government and therefore, those people are also required to be brought under the jurisdiction of Pasighat Municipal Council through proper delimitation of the municipal wards of the said Council. Mr. Dutta submits that due to much increase in urban population in Itanagar, Naharlagun, Nirjuli, Bandardewa since 2011 and as the urban areas in all these localities have been extended to wide areas, which is evident and proper delimitation of the Itanagar Municipal Council also needs to be done.

32. Mr. Dutta also placed before the Court that in the Assembly Session held on 15.03.2018, resolution was moved that the said Assembly is of the opinion that the State Government would take steps to initiate appropriate statutory and administrative reforms so as to ensure effective and efficient delivery of municipal service, robust accountability, better governance and improved financial management to urban local bodies and to achieve the said transformational reform the Government shall constitute a high level expert committee to suggest requisite amendments in the existing Act and Rules, delimitation of wards, if required and other systematic changes etc. He stated that the resolution was passed in the Assembly on 15.03.2018 with the direction to the Government to amend the relevant provisions in the Arunachal Pradesh Municipal Act, 2007 and rules so that a proper and well-defined structure of the Urban Local Bodies could be created for Itanagar and Pasighat town and also for a fresh election of newly constituted Urban Local Bodies in Itanagar and Pasighat should be held after bringing comprehensive reforms and the act and rules so that efficient Municipal services could be delivered. Mr. Dutta stated that the State Cabinet had already approved the said proposal and committee for the said purpose has already been constituted and that they are working on it. Mr. Dutta submitted that as both the Municipalities are in the transitional period they are under the 'special circumstances' settled by the Hon'ble Apex Court in terms of Article 243Q.

33. Mr. Dutta relied on the Judgments of the Hon'ble Supreme Court in the case of *Kishansing Tomar -Vs- Municipal Corporation of the City of Ahmedabad,*

reported in (2006) 8 SCC 352, *State of Maharashtra and Others -Vs- Jalgaon Municipal Council and Others*, reported in (2003) 9 SCC 731 and *State of West Bengal and Others -Vs- Pranoy Roy and Others*, reported in (2015) 16 SCC 248.

34. Arguments of learned counsels for the parties and the judgments cited by them are considered.

35. The Deputy Commissioners-cum-Municipal Election Officers of Itanagar and Paslghat in their respective affidavits filed in this PIL have shown the vulnerability of the areas under them during the rainy season including the forecast made by the India Meteorological Department for June-September 2018, seasonal rainfall in the area concerned with high probability of 96-104 % of LPA (Long period Average). In the affidavits, those DC-cum-MEOs have also shown the past description of various incidents that occurred up to the last rainy season that affected men and materials and the kind of natural calamities that occurred, in which people suffered from it and these facts are not denied by the petitioner.

36. It is also seen that the petitioner has not challenged the Orders dated 29.05.2018 passed by the State Government in the Department of Town Planning and Urban Local Bodies, Itanagar under Section 12(6) of the Arunachal Pradesh Municipal Act, 2007 dissolving the Paslghat Municipal Council w.e.f. 30.05.2018 and Itanagar Municipal Council w.e.f. 10.06.2018 respectively and also the orders passed by the State Government on 29.05.2018 appointing the Administrators in both the Municipalities, for Paslghat Municipal Council w.e.f. 30.05.2018 and Itanagar Municipal Council w.e.f. 11.06.2018.

37. The State respondents have produced the records in original pertaining to conversion of Itanagar Municipal Council to Itanagar Municipal Corporation, resolution adopted by Itanagar Municipal Council on 19.02.2018, resolution adopted by in the Arunachal Pradesh State Assembly on 15.02.2018, Cabinet Memorandum circulated on 26.03.2018, Cabinet decision dated 30.03.2018 and the letter of the Government of Arunachal Pradesh through Secretary in the Department of Town Planning and Urban Local Bodies, Itanagar dated 23.04.2018 to the State Election Commission. The said record with the note sheet, advice and opinion of the Advocate General of the State goes to show that since February,

2018 steps are on process to convert Itanagar Municipal Council to a Corporation and also for increasing the municipal wards in Paslghat Municipal Council, after proper delimitation.

38. In the case of *Kishansing Tomar* (supra), the Constitution Bench of the Hon'ble Supreme Court had held that *the provisions contained in Article 243-U of our Constitution are mandatory and Municipal Election should be done timely and that in no circumstances, the same should be delayed so as to cause gross violation of said mandatory provisions of Article 243-U.*

39. But in the said judgment of *Kishansing Tomar* (supra) at para 19, the Hon'ble Apex Court also held that *the State Election Commission shall not put forward any excuse based on unreasonable grounds that the Municipal Election could not be completed in time and the Commission shall try to complete the said election before the expiration of the duration of five years period as stipulated in Article 243-U(5) of the Constitution.*

40. Further, in the same Judgment [*Kishansing Tomar* (supra)], their Lordships had held as follows;

"21. It is true that there may be certain man-made calamities, such as rioting or breakdown of law and order, or natural calamities which could distract the authorities from holding elections to the municipality, but they are exceptional circumstances and under no (sic other) circumstance would the Election Commission be justified in delaying the process of election after consulting the State Government and other authorities. But that should be an exceptional circumstance and shall not be a regular feature to extend the duration of the municipality. Going by the provisions contained in Article 243-U, it is clear that the period of five years fixed thereunder to constitute the municipality is mandatory in nature and has to be followed in all respects. It is only when the municipality is dissolved for any other reason and 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 elections for constituting the municipality for such period."

41. In the case of *State of Maharashtra -Vs- Jalgaon Municipal Council*, reported in (2003) 9 SCC 731, the Hon'ble Supreme Court has held that *there should be no interregnum or hiatus between the dissolution of the Municipal*

Council and the date of the Municipal Corporation coming into existence; for such hiatus would necessarily involve a government officer being appointed an Administrator and that will be subversive of the principles of democracy and local self-governance.

42. In the said decision of *Jalgaon Municipal Council* (supra), their Lordships have also opined that the process of conversion of an area from Municipal Council to Municipal Corporation involves a hiatus and the said hiatus is an unavoidable event which must take place in the process of conversion of a Municipal Council into a Municipal Corporation and reliance on Article 243-U in the said context is misconceived.

43. In *Jalgaon Municipal Council* (supra) at para 22 Hon'ble Apex Court observed as follows:

"The constitution of a Municipal Corporation would require notification of larger urban area and a Municipal Corporation to govern it. The area shall have to be divided into wards with the number of corporators specified and reservations made. The Corporation would need to nominate Councillors. The territorial limits may need to be altered. The State Election Commission cannot conduct election without specifying numbers and boundaries of wards. New rules, bye-laws etc. shall need to be framed and municipal tax structure may need to be recast. The statutory provisions do not contemplate a situation where the same area may be called a smaller and larger area simultaneously and process of constitution of a Municipal Corporation being commenced and completed though the Municipal Council continues to exist. Such an action would result in anomaly and confusion if not chaos."

44. In the same Judgment of *Jalgaon Municipal Council* (supra), their Lordships also laid down that-

"25. We do not see any merit in the submission that the Administrator once appointed shall continue to stretch and unreasonably extend his term of office and may be instrumental in obstructing the elections being held. The law does not permit holding of an office as an Administrator by any officer/officers beyond the first meeting of the Corporation or a period of six months from the date of specification of an area as a larger urban area. Thus, the maximum period for which an Administrator may be in office shall be six months and within this much period the State Government and the State Election Commission

shall positively bring the Municipal Corporation in existence so as to take over the administration from the Administrator."

45. In the said case of *Jalgaon Municipal Council* (supra) at para 37, Hon'ble Apex Court have held as follows:

"37. The statement accompanying the Ordinance spells out the need for its promulgation. General elections to four (including Jalgaon) out of the seven Municipal Councils were scheduled to be held in the first week of December 2001. The term of those Municipal Councils was coming to an end in the month of December 2001 itself. The new Municipal Councils were mandatorily required to be constituted before the expiry of the term of the existing Councils. If the proposal of the Government to establish Municipal Corporations in those four areas was not finalized before the expiry of the said term of the existing Councils the State Government would have been required to undertake the elections which would have involved substantial expenditure of public money and wastage of time and energy of government machinery — all avoidable. It was this consideration of public interest which persuaded the State Government to curtail the period of two months to such period not being less than 30 days so that decision on constitution of a Municipal Corporation, either way but finally could be taken earlier and at an appropriate time and to proceed thereafter either with the Municipal Council elections or the process of constituting a Municipal Corporation consistently with the decision taken. One of the principles of good governance in a democratic society is that smaller interest must always give way to larger public interest in case of conflict. The amendment resulting in curtailing of the period appointed for inviting objections though restricted the period, by shortening it to the extent necessary in the then circumstances, it was done only for achieving larger public interest. No fault can be found therewith. The period allowed for inviting objections conforms to the statutory provision and is not shown to have caused any prejudice to anyone."

46. A Constitution Bench of the Hon'ble Supreme Court in the case of *Manoj Narula -Vs- Union of India*, reported in (2014) 9 SCC 1 upheld the said decision of *Jalgaon Municipal Council* (supra) and held that-

"82. In a democracy, the citizens legitimately expect that the Government of the day would treat the public interest as the primary one and any other interest secondary. The maxim salus populi suprema lex, has not only to be kept in view but also has to be revered. The faith of the people is embedded in the root of the idea of good governance which means reverence for citizenry rights, respect for fundamental rights and statutory rights in any governmental

action, deference for unwritten constitutional values, veneration for institutional integrity, and inculcation of accountability to the collective at large. It also conveys that the decisions are taken by the decision-making authority with solemn sincerity and policies are framed keeping in view the welfare of the people, and including all in a homogeneous compartment. The concept of good governance is not a Utopian conception or an abstraction. It has been the demand of the polity wherever democracy is nourished. The growth of democracy is dependent upon good governance in reality and the aspiration of the people basically is that the administration is carried out by people with responsibility with service orientation."

47. It is to be noted herein that the Constitution Bench of the Hon'ble Supreme Court in the case of *Kishansing Tomar* (supra), had held that-

"27. Article 243-K(3) also recognises the independent status of the State Election Commission. It states that upon a request made in that behalf the Governor shall make available to the State Election Commission "such staff as may be necessary for the discharge of the functions conferred on the State Election Commission by clause (1)". It is accordingly to be noted that in the matter of the conduct of elections, the Government concerned shall have to render full assistance and cooperation to the State Election Commission and respect the latter's assessment of the needs in order to ensure that free and fair elections are conducted.

28. Also, for the independent and effective functioning of the State Election Commission, where it feels that it is not receiving the cooperation of the State Government concerned in discharging its constitutional obligation of holding the elections to the panchayats or municipalities within the time mandated in the Constitution, it will be open to the State Election Commission to approach the High Courts, in the first instance, and thereafter the Supreme Court for a writ of mandamus or such other appropriate writ directing the State Government concerned to provide all necessary cooperation and assistance to the State Election Commission to enable the latter to fulfill the constitutional mandate.

29. Taking into account these factors and applying the principles of golden rule of interpretation, the object and purpose of Article 243-U is to be carried out."

48. With regard to the case in hand the occurrence of natural calamities during the time of scheduled municipal election in Itanagar and Pasighat as reported by the Deputy Commissioners-cum-Municipal Election Officers of Itanagar and Pasighat, which would have also not been objected by the petitioner, cannot

be ruled out and this Court is of the opinion that the same is not an unreasonable ground for which the State Election Commission could not complete the proposed municipal election in time and the Commission had to defer the Municipal Election of Itanagar and Pasghat by the Impugned order dated 28.04.2018.

49. For the reasons above, the prayers made by the petitioner in this PIL being devoid of merit stands rejected.

50. However, it is seen that in the meanwhile, pursuant to the Orders of the State Government dated 29.05.2018, Municipal Councils of Pasghat and Itanagar have already been dissolved w.e.f. 30.05.2018 and 10.06.2018 respectively and the State Government vide orders dated 29.05.2016 have appointed the Administrators who have already taken over the administration of the Municipalities of Pasghat and Itanagar w.e.f. 30.05.2018 and 10.06.2018 respectively. -

51. It is not brought to the notice of the Court whether the State Government, during pendency of the case, issued any notice for conversion of Itanagar Municipal Council to Corporation or it has increased the municipal wards of Itanagar and/or Pasghat Municipal Councils, after proper delimitation.

52. It is to be noted herein that in this PIL there is no interim order in force restraining the Government either from converting the Itanagar Municipal Council to Corporation or from delimitation of the wards of both the municipalities of Itanagar and Pasghat during the pendency of this case.

53. As held by the Hon'ble Supreme Court in the case of *Jalgaon Municipal Council* (supra) that "the maximum period for which an Administrator may be in office shall be six months, the period within which the State Government and the State Election Commission should positively bring the Municipality in existence so as to take over the administration from the Administrator", the respondents i.e. the State Election Commission of Arunachal Pradesh and the Government of Arunachal Pradesh are directed to complete the process of Municipality of Itanagar and Pasghat within six months from the date of taking over the administration by the Administrators as noted above.

54. As observed by the Constitution Bench in the case of *Kishansing Tomar* (supra), it is directed that the Government of Arunachal Pradesh shall render full assistance and cooperation to the State Election Commission, Arunachal Pradesh and respect its assessment of the needs in order to ensure and conduct free and fair elections of both the Municipalities of Itanagar and Paslghat so as to enable the said Commission to fulfill the constitutional mandate.

55. With the above observations and directions, this PIL stands disposed off.

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JUDGE

gunajit