

PIL 74/2007
BEFORE
HON'BLE THE CHIEF JUSTICE
AND
HON'BLE MR. JUSTICE B.K. SHARMA

By means of this application, the Assam State Election Commission has prayed for extension of time limit fixed by this Court vide order dated 15.7.2008 passed in Misc. Case No. 1641/2008. By the said order, the time limit for holding the election to the Barpeta Municipality was extended upto 31.10.2008, although in terms of the order dated 27.8.2007 passed in the related PIL No. 74/2007, the election was to be conducted within a period of 90 days from the date of the order of this Court.

Although, an application being Misc. Case No. 3927/2007 was filed by the State praying for some more time to conduct the election, same was rejected by order dated 16.10.2007. Then came the turn of the State Election Commission to pray for extension of time on the ground that the Commission was not a party to the proceeding. On the basis of the categorical ascertain made by the Commission that the election would be conducted on or before 31.10.2008, this Court was inclined to extend the time limit for holding the election upto 31.10.2008.

Now by filing the instant application, the Commission has prayed for further time upto 31.12.2008 to hold the election in respect of the Barpeta Municipality.

We have heard Mr. M.U. Mahmud, learned counsel representing the Election Commission as well as Mr. S.K. Medhi, learned counsel representing the petitioner in the PIL proceeding. We have also heard Ms. B. Goyal, learned State Counsel.

We are not happy by way the matter has been dealt with by both the State Government as well as Election Commission. It is on record that the term of the elected body expired way back in 2002 and thus for the last 6 years, there is no elected body to run the affairs of the Barpeta Municipality. At the first instance, it was the State Government, which prayed for extension of time vide Misc. Case No. 3927/2007 and the same was rejected by order dated 16.10.2007.

Second time, it was on the basis of solemn undertaking to conduct the election by 31.10.2008, the Election Commission was provided with further time by order dated 15.7.2008 in Misc. Case No. 1641/2008.

Upon a reference to Annexure-15 letter dated 26.9.2008 addressed to Mr. Mahmud, learned counsel appearing for the applicant/Election Commission by the Secretary of the Commission, he submits that the grounds assigned in the letter are sufficient for extension of time upto 31.12.2008. Most of the grounds assigned were in existence, when the earlier order dated 15.7.2008 was passed. Nothing is discernible as to what steps the State Government as well as the Commission took to overcome the difficulties purportedly faced by them. According to the Commission, the Deputy Commissioner of the district was at fault in causing serious anomalies and creating the situation forcing the Commission to pray for further time.

On being asked, it is submitted by the learned counsel for the parties that the affairs of the municipality presently being run by an adhoc body consisting of some individual persons. Mr. Medhi, learned counsel for the petitioner submits that any extension of time will benefit the adhoc body to continue with the affairs of the municipality and the same will not be in the interest of the people.

Adhocism cannot be order of the day. As noticed above, the term of elected body of the municipality expired in 2002 and for the last 6 years there is no elected body. In such circumstances, we are of the considered opinion that till a regular elected body is formed, the affairs of the municipality should be run by a Government officer to be nominated by the State Government and the said officer shall replace the adhoc body immediately.

Although, we are not impressed with the grounds assigned praying for further extension of time, but considering the matter in its entirety and as agreed to by the learned counsel for the parties, we pass the following orders

(1) The election to Barpeta Municipality should now be held

on or before 30.11.2008, meaning thereby the time limit fixed earlier vide order dated 15.7.2008 in Misc. Case No. 1641/2008, which is 31.10.2008 stands extended upto 30.11.2008.

(2) The municipality shall be run by a Special Officer to be deputed by the State Government and not by any adhoc body. Let the officer be nominated/deputed immediately.

(3) In case of failure to hold the election on or before 30.10.2008, the matter will be viewed seriously and the consequence thereof will follow.

With the above directions, Misc. Case stands disposed of.

Let copies of this order be furnished to the learned counsel for the parties immediately.