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**(1972) 04 GAU CK 0002**  
**In the Gauhati High Court**  
**Case No : Civil Rule No. 397 of 1970**

Sunil Ranjan De

APPELLANT

Vs

The State of Assam and others

RESPONDENT

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**Date of Decision :** 17-04-1972

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation :** AIR 1972 Guw 50

**Hon'ble Judges :** P.K. Goswami, C.J.; R.S. Bindra, J

**Bench :** Division Bench

**Advocate :** M.S. Rahman, for the Appellant; A.M. Mazumdar, Jr. Govt. Advocate, R.C. Choudhuri and T. Bora for Respondents 6 to 12, for the Respondent

**Final Decision :** Dismissed

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## Judgement

P.K. Goswami, C.J.—This application under Art. 226 of the Constitution of India is directed against the order of the Governor made in the notification dated 23-9-1969 u/s 334(4) of the Assam Municipal, Act, 1956, hereinafter referred to as "the Act". The Governor by this impugned order declared certain area specified in the earlier notification of 18-4-1969 to be a notified area termed as Dhing Small Town in the District of Nowgong.

2. It appears from a perusal of the impugned notification, and it is not denied by the petitioner, that there was the first notification dated 18-4-1969 inviting objections to the Constitution of the Small Town u/s of the Act. It is stated by the petitioner that the inhabitants of Dhing Town submitted various representations objecting to the Constitution of the Small Town. He, however, has not stated in his petition that he had submitted any objection as required under the law within the time provided for u/s 334(3). Besides u/s 334(3) only the inhabitants of the specified area can submit written objections. Although the petitioner claims to be a resident of the specified area, the Respondents have denied this assertion. We are therefore, unable to investigate this question of fact and come to a conclusion whether the petitioner is a resident of the specified area enabling him

under the law to submit written objection u/s 334. Apart from that Mr. Rahman, the learned counsel appearing on behalf of the petitioner, could not show that in fact the petitioner had submitted any written objection. That being the position, the petitioner has no locus standi to move this Court on the Writ side challenging the impugned order.

3. Faced with this position. Mr. Rahman submitted that, at any rate, the notification is without jurisdiction in view of the fact that a part of Batadrova Anchalik Panchayat has been included within the notified area of the Town. The learned Counsel draws our attention to Sections 3 and 5 of the Panchayat Act and also the Section 1(2) of the said Act. We need not consider Sections 3 and 5 in this case as those sections authorise establishment and constitution of Gaon Sabha and Anchalik Panchayat. Section 3 provides for notification declaring any area to be a Gaon Sabha and Section 5 makes provision for declaration of an Anchalik Panchayat. In view of the submission made by Mr. Rahman, we should read Section 1(2):

(2) Subject to the provisions of subsection (3) it shall extend to the whole of the State of Assam except the Autonomous Districts under the Sixth Schedule of the Constitution of India and any area which has been or hereafter may be included in a Municipality or a Town Committee or a Cantonment constituted under the Assam Municipal Act, 1956 and the Cantonments Act, 1924 respectively or by any other Act: Provided that the State Government may, at their discretion, exclude any area which they consider to be predominantly industrial or otherwise unsuitable to be so included:

Provided further that the area so excluded may be administered directly by the Anchalik Panchayat for the purpose of this Act.

Mr. Rahman submits that there should be an appropriate notification u/s 1(2) excluding the particular area from the area constituted as Town Committee. We are unable to accede to this submission. The word "hereafter" in subsection (2) quoted above is clearly significant. It presupposes that there may be already some Anchalik Panchayats which are constituted and it takes note of the possibility of some portion of such area being included later in a Town Committee. Once a Town Committee is constituted in accordance with law even including an erstwhile portion of the Anchalik Panchayat, that area gets automatically excluded from the Anchalik Panchayat in view of the provisions of Section 1(2) of the Act. There is no necessity for another notification excluding the area from the Anchalik Panchayat. The absence of a second notification excluding a particular area from the Panchayat is therefore not fatal to the constitution of the Town Committee in this case. The submission of the learned Counsel is therefore of no avail.

4. In the result, the application fails and is accordingly dismissed. We will however, make no order as to costs.

R. S. Bindra, J.

5. I agree.

Application dismissed.