

GAHC010041552023



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

Case No. : WP(C)/1048/2023

NIPUL DAS
S/O- LT. LOHIT DAS, R/O- VILL AND P.O. MANDIA, DIST.- BARPETA,
ASSAM, PIN- 781303

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY THE ADDL. CHIEF SECRETARY TO THE GOVT. OF ASSAM,
REVENUE AND DISASTER MANAGEMENT (L.R.) DEPTT., DISPUR, GHY-06

2:THE COMM. AND SECY. TO THE GOVT. OF ASSAM
REVENUE AND DISASTER MANAGEMENT (L.R.) DEPTT.
DISPUR
GHY-6

3:THE COMMISSIONER OF LOWER ASSAM DIVISION
PANBAZAR
GHY-1

4:THE DY. COMMISSIONER
BARPETA
DIST.- BARPETA
ASSAM
PIN- 781301

5:THE CIRCLE OFFICER
BAGHBOR REVENUE CIRCLE
MANDIA
DIST.- BARPETA
ASSAM
PIN- 781308

6:SRI DIPAK KUMAR MEDHI
S/O- LT. GIRISH CH. MEDHI
R/O- VILL AND P.O. MANDIA
DIST.- BARPETA
ASSAM
PIN- 78130

Advocate for the Petitioner : MR. I H SAIKIA

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 24.02.2023

Heard Mr. I.H. Saikia, the learned counsel appearing on behalf of the Petitioner. Mr.S. Dutta, the learned counsel appears on behalf of the Respondent Nos. 1 and 2 and Mr. S.S. Roy, the learned counsel appears for the Respondent Nos. 3, 4 and 5.

2. The Petitioner being aggrieved by the selection of the respondent No. 6 as the Gaonburah of 10 Mandia under Baghbar Revenue Circle has approached this Court by filing a writ petition i.e. W.P.(C) No. 244/2023. This Court vide an order dated 18/1/2023 issued notice and granted liberty to the petitioner to challenge the selection of the respondent No. 6 herein before the appropriate forum. Pursuant thereto the petitioner had filed an Appeal bearing Appeal No.. RR-10/23 before the Commissioner Lower Assam Division i.e. the respondent No. 3 herein. It has been submitted by the learned counsel for the petitioner that the said appeal was filed on 20/01/2023 but the respondent No. 3 have not taken up the matter. Be that as it may, on 20/2/2023 the respondent No. 5 had issued

an order whereby the In-charge, New Gaon Pradhan under the jurisdiction of Baghbor Revenue Circle including 10 Mandia wherein the petitioner is the In-charge Gaonburah was released on 18/2/2023 from their respective charges. It has been stated by the petitioner that the said order of 20/2/2023 have however not been formally served upon the petitioner, but he had come to get a copy from reliable sources.

3. Taking into account that there is already an appeal pending before the respondent No. 3, wherein there is already a challenge to the selection of the respondent No. 6 as the Goanburah of 10 Mandia under Baghbor Revenue Circle, this Court deems it proper that interest of justice would be met, if liberty is given to the petitioner to file an application for stay of the communication dated 20/2/2023 before the respondent No. 3 in the said pending appeal.

4. The learned counsel for the Petitioner have shown urgency and further submits that he would be filing an application for stay in the pending appeal before the Respondent No. 3 by Monday(27/2/2023).

5. Taking into account the same, this Court therefore directs the Respondent No. 3 to take into consideration the said stay application, if so filed as well as the appeal pending therein and pass appropriate order (s) as deemed fit.

6. It is further directed that the Respondent No. 3 shall consider the stay application forthwith and not later than 3rd of March, 2023 and shall pass such order (s) in accordance with law.

7. Mr. S. S. Roy, the learned counsel for the Respondent No. 3, 4 and 5 shall further instruct the Respondent No.5 not to given effect to the communication No. BBRC-10/2021/GB/174/89 dated 20/2/2023 if not already given effect till the consideration by the respondent No.3.

8. With the above directions and observations, the instant writ petition stands disposed off.

JUDGE

Comparing Assistant