

GAHC010062092023



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

Case No. : WP(C)/1750/2023

ISRAFIL ALAM
S/O- LATE NUR ISLAM, VILL- 4 NO . BHURBANDHA,
P.O- B/ SAPMARI, MAUZA- LAUKHOWA,
P.S- RUPOHIHAT,
PIN-782120, DIST- NAGAON, ASSAM

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, REVENUE DEPARTMENT, DISPUR, GUWAHATI-6

2:THE DEPUTY COMMISSIONER

NAGAON
P.O.-NAGAON
DIST-NAGAON (ASSAM)
PIN-782002

3:THE ADDITIONAL DEPUTY COMMISSIONER (REVENUE)

NAGAON
P.O.-NAGAON
DIST-NAGAON (ASSAM)
PIN-782002

4:SELECTION COMMITTEE FOR THE SELECTION OF GAON PRADHAN
IN 4 NO BHURBANDHA
UNDER SAMAGURI REVENUE CIRCLE
NAGAON
ASSAM

5:THE SUB-DIVISIONAL OFFICER
KALIABOR (REVENUE BRANCH)
DIST-NAGAON
ASSAM

6:THE CIRCLE OFFICER

KALIABOR REVENUE CIRCLE
DIST-NAGAON
ASSAM

7:SAHABUDDIN AHMED
S/O- LATE SAN MIYA
VILL- 4 NO . BHURBANDHA

P.O- B/ SAPMARI
MAUZA- LAUKHOWA

P.S- RUPOHIHAT

PIN-782120
DIST- NAGAON
ASSA

Advocate for the Petitioner : MS. G BORAH

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 05.04.2023

Heard Ms. G. Borah, learned counsel appearing for the writ petitioner. Also heard Mr. J. Handique, learned standing counsel, Revenue & Disaster Management, Assam appearing for the respondent No. 1 and Mr. H. Sarma, learned Additional Senior Govt. Advocate, Assam representing respondent No. 2.

2. By filing this writ petition, the selection of respondent No. 7

for appointment as Gaon Pradhan in respect of 4 No. Bhurbandha under Samaguri Revenue Circle, Nagaon district has been put to challenge primarily on the ground that the respondent No. 7 does not meet the eligibility norms as laid down by the advertisement notice dated 20.09.2021.

3. According to Ms. G. Borah, learned counsel, the writ petitioner is the son of the erstwhile Gaon Pradhan of 4 No. Bhurbandha village and therefore, the writ petitioner is qualified to be appointed as Gaon Pradhan. On the contrary, there is a criminal case against respondent No.7, which is pending before the JMFC, Kaliabor bearing PRC No.29/2021 registered under Section 448/294/506/34 of IPC arising out of an FIR being Rupahihat Police Station case No. 50/2020 dated 06.02.2020 upon the charge-sheet having been submitted against the respondent No.7. Therefore, he cannot be appointed as a Gram Pradhan as per the norms specified in the Advertisement dated 20.09.2021.

4. Mr. H. Sarma, learned Additional Senior Govt. Advocate, Assam, submits that there is a statutory remedy available to the petitioner under Rule 162(C) of the Executive Instruction framed under Assam Land & Revenue Regulation, 1886 and therefore, the petitioner be directed to avail the alternative remedy.

5. Ms. Borah, learned counsel submits that the petitioner has availed the alternative remedy by approaching the office of the Deputy Commissioner, Nagaon, but till date no order has been passed by the Deputy Commissioner, Nagaon.

6. After hearing the submissions of the learned counsels for the parties, it is seen that there is a provision for filing an appeal before the Divisional Commissioner, which is the Appellate Authority. This Court is of the view that the writ petition can be disposed of by directing the petitioner to prefer an appeal under Rule 162(C) of the Executive Instruction before the Divisional Commissioner, assailing the selection/appointment of the respondent No. 7 as Gram Pradhan.

7. Accordingly, if such an appeal as directed is preferred, within a week by annexing a certified copy of this order, the appellate authority will hear the matter and dispose of the same within sixty (60) days therefrom, by a reasoned order.

8. It is submitted by the learned counsel for the petitioner that till now no appointment has been made by the respondents in the post of Gaon Pradhan, appointing respondent No. 7 as the Gaon Pradhan of 4 No. Bhurbandha under Samaguri Revenue Circle in the district of Nagaon. If that be true, the respondent authorities will not pass any order appointing respondent No. 7, if not already issued, till the appeal filed by the petitioner is disposed of.

9. Writ petition is accordingly disposed of.

JUDGE

Comparing Assistant