

GAHC010070142023



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

Case No. : WP(C)/1877/2023

NITU BORAH
S/O- BANAMALI BORAH,
R/O- NIZ KATHIATALI, TETELISORA GAON,
P.O.- TETELISORA,
DISTRICT- NAGAON,
PIN- 782426,
ASSAM.

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
REVENUE AND DISASTER MANAGEMENT DEPTT.,
ASSAM SECRETARIAT, DISPUR, DISTRICT- KAMRUP(M),
GUWAHATI 781006, ASSAM.

2:THE DEPUTY COMMISSIONER
NAGAON
DISTRICT- NAGAON
PIN- 782001.

3:MANUJ AHMED
S/O- LATE ABDUL MALIK

R/O- VILLAGE RANGALU

P.O.- JUMURMUR
P.S.- KAMPUR

DISTRICT- NAGAON
PIN- 782427

ASSAM

Advocate for the Petitioner : MR. S R GOGOI

Advocate for the Respondent : SC, REVENUE

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 03.04.2023

Heard Mr. S. R. Gogoi, learned counsel appearing for the writ petitioner. Also heard Mr. S. Dutta, 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. 3 for appointment as Gaon Pradhan in respect of Lot No.2 Rangalu Gaon/Niz Kathiatoli/Haya Grant/Bil Mati Bagisa/Sagun Bahi Gaon/Sagun Bahi Gaon Grant under Kathiatoli Mouza of Kampur Revenue Circle, Nagaon district has been put to challenge primarily on the ground that the respondent No. 3 does not meet the eligibility norms as laid down by the advertisement notice dated 05-09-2022.

3. According to Mr. S. R. Gogoi, learned counsel, the writ petitioner is the permanent resident of the said locality and therefore, the writ petitioner is qualified to be appointed as Gaon Pradhan. On the contrary, the respondent No. 3 is a member of a political party. The respondent No.3 was elected as a Ward Member of the Gaon Panchayat

from Indian National Congress (INC) and is now appointed as Vice-President of Niz Kathiatoli Gaon Panchayat, Nagaon and presently functioning as such. Therefore, he cannot be appointed as a Gram Pradhan as per the norms specified in the Advertisement dated 05-09-2022.

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. Mr. Gogoi, learned counsel submits that the petitioner may be relegated to avail the alternative remedy but some protection may be granted in the meantime.

6. After hearing the submissions of the learned counsels for the parties, this Court is of the view that the writ petition can be disposed of by granting a week's time to the petitioner to prefer an appeal under Rule 162(C) of the Executive Instruction before the Divisional Commissioner, Central Assam assailing the selection/ appointment of the respondent No. 4 as Gram Pradhan, if so desired.

7. 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. 3 as the Gaon Pradhan of Lot No.2 Rangalu Gaon/Niz Kathiatoli/Haya Grant/Bil Mati Bagisa/Sagun Bahi Gaon/Sagun Bahi Grant under Kathiatoli Mouza of Kampur Revenue Circle in the district of Nagaon. If that be true, the respondent authorities will not pass any order appointing respondent No. 3, if not already issued, till the appeal filed by the petitioner is disposed of.

9. Writ petition is accordingly disposed of.

JUDGE

Comparing Assistant