

GAHC010101042020



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

Case No. : WP(C)/2996/2020

RANJAN KR. ROY AND 7 ORS.
S/O. LT. JAGAT CH. BARMAN, VILL. FAKIRAGRAM PURAN BAZAR, P.O.
AND P.S. FAKIRAGRAM, DIST. KOKRAJHAR, BTAD, ASSAM, PIN-783345.

2: AJIT KR. ROY
S/O. LT. SAILENDRA CH. BARMAN
VILL. KASHIBARI
P.O. AND P.S. FAKIRAGRAM
DIST. KOKRAJHAR
BTAD
ASSAM
PIN-783354.

3: ABUL KALAM AZAD
S/O. LT. ABDUL HAMID
VILL. KALIJHAR
P.O. AND P.S. FAKIRAGRAM
DIST. KOKRAJHAR
BTAD
ASSAM
PIN-783345.

4: HACHAN FARUK
S/O. LT. AKBAR ALI
VILL. BHADEYAGURI
P.O. AND P.S. KOKRAJHAR
DIST. KOKRAJHAR
BTAD
ASSAM
PIN-783370.

5: KRISHNA KANTA BAMAN
S/O. LT. SRIBASH CH. BARMAN
VILL. AND P.O. CHITHILA

P.S. FAKIRAGRAM
DIST. KOKRAJHAR
BTAD
ASSAM
PIN-783354.

6: JAHIRUL ISLAM
S/O. LT. ABDUL BATEN
VILL. KALJHAR
P.O. AND P.S. FAKIRAGRAM
DIST. KOKRAJHAR
BTAD
ASSAM
PIN-783345.

7: MIZNUR RAHMAN
S/O. LT. GOLAM GOFRAM
R/O. WORD NO.1
SAPATGRAM
P.O. AND P.S. SAPATGRAM
DIST. DHUBRI
ASSAM
PIN-783337.

8: SULTAN AHMED
S/O. LT. ABDUL HAMID
VILL. KALJHAR
P.O. AND P.S. FAKIRAGRAM
DIST. KOKRAJHAR
BTAD
ASSAM
PIN-783345

VERSUS

THE STATE OF ASSAM AND 7 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, REVNUUE AND
DISASTER MANAGEMENT DEPTT., DISPUR, GUWAHATI-06.

2:THE DIRECTOR OF LAND RECORDS AND SURVEYS ETC.
ASSAM
RUPNAGAR
GHY.-32.

3:THE PRINCIPAL SECRETARY
TO THE GOVT. OF ASSAM
FINANCE DEPTT.
DISPUR

GHY.-06.

4:THE PRINCIPAL SECRETARY

BTAD
KOKRAJHAR
ASSAM
PIN-783370.

5:THE REVENUE SECRETARY

BTAD
KOKRAJHAR
ASSAM
PIN-783370.

6:THE DIRECTOR OF LAND RECORDS

BTAD
KOKRAJHAR
ASSAM
PIN-783370.

7:THE DY. COMMISSIONER

KOKRAJHAR
P.O. AND DIST. KOKRAJHAR
BTAD
ASSAM
PIN-783370.

8:THE SETTLEMENT OFFICER

KOKRAJHAR AND DHUBRI
P.O. AND DIST. DHUBRI
ASSAM
PIN-783301

Advocate for the Petitioner : MD A HUSSAIN

Advocate for the Respondent : SC, FINANCE

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

29.09.2023

Heard Mr. A. Hussain, learned counsel for the petitioners. Also heard Mr. J.K. Goswami, learned Addl. Sr. Government Advocate for the State; Mr. J. Handique, learned Standing Counsel, Revenue; Mr. P. Nayak, learned Standing Counsel, Finance and Ms. R.P. Bora, learned Standing Counsel, BTC.

2. This writ petition has been filed by the petitioners who claim to be working as Additional Mandals under the amalgamated establishment of the Settlement Officer of Kokrajhar and Dhubri. The petitioners claim that they were appointed as Additional Mandals on various dates in 1992 and 1996 and have been working as such. However, in spite of their long tenure of service, they were not considered for regularization.

3. The learned counsel for the petitioners refers to the order dated 06.09.2012 passed in W.P.(C) No. 982/2011, whereby similarly situated persons made prayers for appointment and regularization. The writ petition stood disposed of with the following directions:

The petitioners, therefore, deserve to be considered for regular absorption as Mandals against the existing vacancy, if any, in Dhubri district, Hence the State respondents are directed to consider the case of the petitioners for absorption as Mandals in the establishment of the Deputy Commissioner, Dhubri, maintaining seniority and along with other additional Mandals, if any, in that district, within a period of 3(three) months from today. In the meantime, 9(nine) posts of Mandals in the establishment of the Deputy Commissioner, Dhubri, if available, shall not be filled up. It is needless to say that in the event, adequate number of regular posts of Mandal is not available, consideration for absorption of additional Mandals shall be made on seniority basis. It is also needless to say that the interim order passed earlier has merged with the final order passed."

4. Pursuant thereto, several notifications were issued laying down the criteria for absorption. Subsequently, in the year 2013, the Government in the appropriate department by an Office Memorandum No. RLR.92/95/Pt.I/104

dated 23rd, September, 2013, notified that the issue regarding absorption of additional Mandals was considered at the appropriate level in the Government and a set of guidelines were issued. As per the said Office Memorandum, vacancies of Mandal/Padwari when they arise in a district, the competent authority, namely the Deputy Commissioner or the Appointing Authority will call for applications to fill up the same as per the existing Rules and Procedure. The learned counsel for the petitioner submits that their cases have not been considered in spite of the long service rendered as additional Mandals. It is submitted that similarly situated persons like the petitioners who are from other districts of the State have been duly considered for regularization. But the petitioners have not been given the benefit of regularization of this services inspite of rendering long years of service.

5. Mr. J. Handique, learned Standing Counsel, Revenue submits that an affidavit has been filed and it is as per the OM dated 23rd, September 2013 that the procedure for absorption of additional Mandals are taken up by the Government depending on the vacancies that arise.

6. Ms. R.B. Bora, learning Standing counsel, BTC submits that in so far as the BTC is concerned, the absorption will be restricted to those additional Mandals who are appointed or working within the BTC area, as it is a 6th scheduled area.

7. The learned counsels have been heard. Pleadings on record have been carefully perused.

8. The petitioners are aggrieved that inspite of their long services rendered as Additional Mandals under the respective Deputy Commissioners, their cases have not been considered for regularization as Lot Mandals. The petitioners also claim parity with other similarly situated persons who according to them have been considered and regularized. In spite of several representations made by

the petitioners praying for regularization of their services, their services have not yet been considered for regularization. The petitioners will shortly reach their superannuation age and they will lose any opportunity of being regularised.

9. The issue regarding regularization of Additional Mandals have been dealt with by a Co-ordinate Bench of this Court and several orders have been passed. However, the Office Memorandum dated 23rd, September, 2013, which has been brought on record by the Department of Revenue, reflects that the various directions passed by this Court from time to time have been taken note of and thereupon, the Office Memorandum lays down certain Guidelines. By the said Office Memorandum it is provided that in view of the Guidelines laid down by the said Office Memorandum dated 23rd, September, 2013, earlier Guidelines issued are treated to be cancelled.

10. A careful perusal of the Office Memorandum reveals that as per the Guidelines, the vacancies of Mandals/Patwaris will be filled up by calling for applications as per the existing Rules and Procedures. The Guidelines also prescribe that due weightage and preference will be given by the Selection Committee to the services rendered as Additional Patowaries/Mandals. There is also a provision for relaxation for condonation of the upper age limit. The Guidelines also prescribe that there is a provision for protection of pay of the Additional Mandal or Patowary on being appointed as Mandal or Patowary in the permanent establishment. Under such circumstances, we find that the claim of the petitioner seeking a direction for regularization of their services cannot be issued dehors procedure prescribed by the said Office Memorandum dated 23rd September, 2013. This particular Office Memorandum is not under challenge in the present proceedings. It is further not the case of the petitioner that this

Office Memorandum is in conflict with the Rules or Regulations prevalent in respect of appointment of or regularization of Mandals. It is also not the pleaded case of the petitioner that the competent authority had on earlier occasions taken a partisan view in regularizing similarly situated persons and/or rejecting the cases of the petitioner.

11. Under such circumstances, we find that ends of justice will suffice if we close this writ petition with a direction to the respondent authorities to look into the grievances of the petitioners and in the event, the Department proceeds to fill up the vacancies available for Mandal and Patowari and/or absorb the Additional Patowaries or Mandals as regular Mandals or Patowaries, the claims of the petitioners will not be overlooked. On the other hand, the petitioners are also at liberty to approach the Government by filing representations for consideration of their claims in terms of the Office Memorandum dated 23rd, September 2013. The respondent No. 1, Commissioner and Secretary to the Government of Assam, Revenue & Disaster Management Department will address and look into the grievances of the petitioners and who will thereupon consider that the claims of the petitioners and dispose of their applications by passing a speaking order.

12. The directions contained in this order shall be carried out within a period of 60 days from the date of receipt of a certified copy of this order.

13. With the above observations, the writ petition stands disposed of.

JUDGE

Comparing Assistant