

GAHC010121892021



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

Case No. : WP(C)/4186/2021

BIJU SAIKIA
W/O- SRI DILIP SAIKIA, R/O- RAMPURKACHAJULI, WARD NO.4,
RAMPURKACHAJULI, P.O. GABHORU TUNI JAN, PIN- 784160, DIST.-
LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM AND 13 ORS
REP. BY THE SECY., PANCHAYAT AND RURAL DEVELOPMENT, DISPUR,
ASSAM, 781006

2:THE DIRECTOR OF PANCHAYAT AND RURAL DEVELOPMENT
GHY-22

3:THE DY. COMMISSIONER
LAKHIMPUR
787001

4:LAKHIMPUR ZILA PARISHAD
THROUGH THE CHIEF EXECUTIVE OFFICER
LAKHIMPUR
787031

5:THE ANCHALIK PANCHAYAT
THROUGH THE EXECUTIVE OFFICER KARUNABARI
DIST.- LAKHIMPUR
P.O. BIHPURIA
784161

6:THE UTTAR LALUK GAON PANCHAYAT
THROUGH THE SECY.
P.O. LALUK

DIST.- LAKHIMPUR
P.O. BIHPURIA
784160

7:THE BLOCK DEVELOPMENT OFFICER
KARUNABARI DEVELOPMENT BLOCK
DIST.- LAKHIMPUR
P.O. BIHPURIA
784161

8:DHARMESWAR DUTTA
S/O- LT. LABURAM DUTTA
VILL- BISHNUPUR
P.O. JORIGURI
WARD- 1 NO. BISHNUPUR
DIST.- LAKHIMPUR
ASSAM
PIN- 784160

9:SADANANDA KAWA
S/O- LT. JIBAN KAWA
VILL- BISHRAMPUR
WARD- 3 NO. BISHRAMPUR
P.O. JORIGURI
DIST.- LAKHIMPUR
ASSAM
PIN- 784160

10:BORNALI BORAH HAZARIKA
W/O- SRI JAYANTA HAZARIKA
VILL- RAMPUR KACHAJULI
P.O. GABHORU TUNIJAN
DIST.- LAKHIMPUR
ASSAM
PIN- 784160

11:BARNALI MORANG
W/O- SRI LOBO MORANG
VILL- BALIGAON
WARD- 6 NO. RANGJAN
P.O. GABHORU TUNIJAN
DIST.- LAKHIMPUR
ASSAM
PIN- 784160

12:MONISHA DEORI
D/O- SRI DIBYA DEORI
VILL- PADMAPUR

WARD- 7 NO. PADMAPUR
P.O. GABHORU TUNIJAN
DIST.- LAKHIMPUR
ASSAM
PIN- 784160

13:ADITA BORA DUTTA
W/O- JINTU DUTTA
VILL- KOROTIPAR
WARD 2 NO. BOGORI
DIST.- LAKHIMPUR
P.O. HARMOTI MERBIL
PIN- 784160

14:JAMINA AKHTAR BEGUM
D/O- MD. AKBAR ALI
VILL- GORHMUR
WARD- 10. NO. GARMUR WARD
P.O. LALUK
DIST.- LAKHIMPUR
ASSAM
PIN- 78416

Advocate for the Petitioner : MR. R P SARMAH

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

06.02.2023

Heard Shri RP Sarmah, learned Senior Counsel assisted by Shri D. Doley, learned counsel for the petitioner. Also heard Shri S. Dutta, learned Standing Counsel, P & RD Department representing the respondent nos. 1, 2, 4 to 7 whereas Shri N. Goswami, learned State Counsel for the respondent no. 3 and Shri A. Gayan, learned counsel for the private respondent nos. 8 to 14.

2. The petitioner is aggrieved by the proceeding of a meeting of No Confidence Motion against her in which the same was successfully passed removing her from the

post of President of Uttar Laluk Gaon Panchayat in the district of Lakhimpur. It is the case of the petitioner that she is the elected President of the said Gaon Panchayat. Initially, a requisition for No Confidence was initiated which resulted in a meeting dated 27.05.2020 in which the petitioner was removed from the post of President due to want of Confidence. The said decision was the subject matter of challenge in WP(C)/2329/2020. This Court after hearing all the parties had come to a finding that the petitioner was able to make out certain aberrations of the Assam Panchayat Act, 1994, more particularly, with regard to the requirement of Sections 15, 18 and 63 and therefore, after taking the consent of the parties while setting aside the said resolution had directed that a fresh No Confidence Motion meeting be held on 14.09.2020 at the Office of the Karunabari Anchalik Panchayat in the district of Lakhimpur at 10.30 A.M., which was to be held under the aegis of the Deputy Commissioner, Lakhimpur, who would depute a suitable Officer.

3. Accordingly, a fresh meeting was held on the scheduled date in which the Chief Executive Officer, Lakhimpur Zila Parishad and Executive Officer, Karunabari Anchalik Panchayat were also present, who supervised the meeting. The meeting culminated in a resolution where 7 members had voted in favour of the No Confidence and three against the Motion resulting in removal of the petitioner as President of the concerned Uttar Laluk Gaon Panchayat.

4. The learned Senior Counsel has submitted that since the initial notice was not in accordance with law, the proceedings of the meeting dated 14.09.2020 cannot be said to be legal. He submits that though this Court had directed holding of a fresh No Confidence Motion, the initiation of the same was done by a requisition notice which was in violation of the law and therefore, it is a fit case for interference and the petitioner be allowed to continue as the President of the Gaon Panchayat.

5. On the other hand, Shri Dutta, learned Standing Counsel, P & RD Department submits that the order dated 02.09.2020 by which a new meeting was directed to be

held was an order passed on consensus of the parties and therefore, the petitioner cannot turn around and challenge the proceeding of the meeting held on 14.09.2020 only because the result is against her.

6. The same view has been endorsed by Shri N. Goswami, learned State Counsel.

7. Shri Gayan, learned counsel for the private respondent nos. 8 to 14 submits that as on today all the 10 Members are against the petitioner and therefore, there is no miscarriage of justice.

8. After hearing the parties, this Court is of the considered opinion that firstly the order passed by this Court on 02.09.2020 in WP(C)/ 2329/2020 was not put to further challenge and had attained finality. In the said order, this Court while tacitly interfering with the requisition notice after noticing that majority of Members are against the petitioner, who were also contesting the case and the entire process being a number game, substantial justice would be done if an opportunity is given to the parties to prove their respective cases in which the adequate opportunity, as contemplated by the Act in question, was also given in terms of the period from the notice till holding of the meeting. In the said meeting, it is found that 7 Members of the Gaon Panchayat had voted in favour of the No Confidence Motion which is more than what is required under the law.

9. Under those facts and circumstances, this Court is of the opinion that no formidable grounds or legal tenable grounds are able to be made out for interference and accordingly, the writ petition stands dismissed.

JUDGE

Comparing Assistant