

GAHC010124972023



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

Case No. : WA/207/2023

1: AKRAMUL HOQUE MONDAL AND 2 ORS.
S/O- AFJAL HUSSAIN MONDAL,
P.O. CHOTOGUMA, DIST.- DHUBRI, ASSAM.

2: FAZAL ALI SHEIKH
S/O- ABU BAKKAR SHEIKH
VILL- BINNAGURI PART-II P.O. CHOTOGUMA DIST.- DHUBRI ASSAM.

3: AYNAL HOQUE
S/O- MOHUR UDDIN SK.
VILL KAIMMATI P.O. CHOTOGUMA DIST.- DHUBRI ASSAM

VERSUS

1: BULIMA BEGUM AND 15 ORS.
W/O- SRI ANOWAR HUSSAIN, VILL AND P.O. CHOTOGUMA,
DIST.- DHUBRI, ASSAM.

2:THE STATE OF ASSAM REP. BY THE PRINCIPAL SECRETARY TO THE
GOVT. OF ASSAM PANCHAYAT AND RURAL DEVELOPMENT DEPTT.
DISPUR GUWAHATI- 781006.

3:THE DEPUTY COMMISSIONER
DHUBRI P.O. AND DIST.- DHUBRI ASSAM.

4:THE EXECUTIVE OFFICER
HATIDHURA ANCHALIK PANCHAYAT
P.O. HATIDHURA DIST.- DHUBRI ASSAM.

5:THE PRESIDENT HATIDHURA ANCHALIK PANCHAYAT
P.O. HATIDHURA DIST.- DHUBRI ASSAM PIN- 783335.

6:THE SECRETARY OF CHOTOGUMA GAON PANCHAYAT
P.O. CHOTOGUMA DIST.- DHUBRI ASSAM PIN- 783335.

7:REHENA BIBI, MEMBER CHOTOGUMA G.P.
W/O- MR. NOZRUL ISLAM
VILL- BHOLARKHASH P.O. CHOTOGUMA
DIST.- DHUBRI ASSAM PIN- 783335.

8:MONOWARA BEWA, MEMBER CHOTOGUMA G.P.
W/O- LT. SURAT ALI
VILL AND P.O. CHOTOGUMA DIST.- DHUBRI ASSAM PIN- 783335.

9:MONOWARA BIBI, MEMBER CHOTOGUMA G.P.
W/O- SRI ABDUL KADER
VILL AND P.O. CHOTOGUMA DIST.- DHUBRI ASSAM PIN- 783335

10:NITYANANDA SUTRADHAR, MEMBER CHOTOGUMA G.P.
S/O- SRI KRISHNA SUTRADHAR
VILL AND P.O. CHOTOGUMA DIST.- DHUBRI ASSAM PIN- 783335.

11:SAZEDA BIBI, MEMBER CHOTOGUMA G.P.
W/O- SRI BELLAL HUSSAIN
VILL AND P.O. CHOTOGUMA DIST.- DHUBRI ASSAM PIN- 783335.

12:BHAJANA DEBNATH, MEMBER CHOTOGUMA G.P.
W/O- SRI NARAYAN DEBNATH
VILL AND P.O. CHOTOGUMA DIST.- DHUBRI ASSAM PIN- 783335

13:AJOB ALI MONDAL, MEMBER CHOTOGUMA G.P.
S/O- SORHAB ALI MONDAL
VILL AND P.O. CHOTOGUMA DIST.- DHUBRI ASSAM PIN- 783335

14:AMIT TARAFDAR, A.P. MEMBER FROM CHOTOGUMA G.P.
S/O- LT. ANIL TAFADAR VILL AND P.O. CHOTOGUMA DIST.- DHUBRI
ASSAM PIN- 783335

15:OMMEY SALMA KHATUN, VICE PRESIDENT OF HATIDHURA A.P.
W/O- MANIK ALI VILL- TAMACHA BASJAN
P.O. TAMARHAT DIST.- DHUBRI ASSAM PIN- 783335

16:PURNIMA ADHIKARY
A.P. MEMBER OF DINGDINGA G.P.
W/O- RADHESHYAM ADHIKARI VILL- HARIPUR
P.O. DINGDINGA DIST.- DHUBRI ASSAM PIN- 78333

For the Appellants : Mr. R. Ali, Advocate.

For the Respondents : Mr. B.C. Das, Senior Advocate, assisted by Mr. M. Islam, Advocate for the
respondent No.1/Caveator.
: Mr. K. Konwar, SC, Panchayat & Rural Development Department.
: Ms. M. Bhattacharjee, Additional Senior Government Advocate, Assam.

- B E F O R E -
HON'BLE THE CHIEF JUSTICE
HON'BLE MRS. JUSTICE MITALI THAKURIA

09.06.2023

[Sandeep Mehta, C.J.]

This intra-Court writ appeal is directed against the judgment & final order dated 25.05.2023 passed by the learned Single Judge, whereby WP(C) No.6551/2022 filed by the respondent No.1 Smti. Bulima Begum was accepted and the proceedings of the Special Meeting held at 11:00 AM on 17.09.2022 in the Office of Hatidhura Anchalik Panchayat to discuss a motion of no confidence brought against the respondent No.1/writ petitioner was interfered with and set aside. A further direction was given to convene a fresh meeting in the Anchalik Panchayat to discuss the said motion on 12.06.2023.

The instant writ appeal has been instituted by three out of eight Members of the Gram Panchayat, who had moved the original motion of no confidence.

We have heard and considered the submissions advanced by the learned counsel for the appellant and the learned counsel representing the respondents and have gone through the impugned order.

We find that the appellants and their peers initiated a motion of no confidence against the petitioner vide requisition notice dated 18.07.2022, which was carried through but was interfered with by this Court vide order dated 22.08.2022 passed in WP(C) No.5362/2022 on the ground that the motion was proceeded with by putting the signatures of the members present and without resorting to the mandatory secret ballot process. However, liberty was granted to the Members of the Gram Panchayat to hold a fresh no confidence motion meeting in the Office of the Hatidhura Anchalik Panchayat and the Deputy

Commissioner, Dhubri was directed to depute an official under whose supervision the meeting would be held.

A perusal of the impugned judgment and the documents annexed with the appeal would reveal that the Vice President and the two Members of the jurisdictional Anchalik Panchayat were unauthorizedly present and took part in the pre meeting discussions held at the Anchalik Panchayat for discussing the motion of no confidence. The affidavits of the parties would further indicate that a pre-vote meeting before the process of voting by secret ballot was held, wherein these three elected representatives of the jurisdictional Anchalik Panchayat discussed and explained the procedure of voting through secret ballots with the Ward Members of the Gram Panchayat.

In this background, we are of the firm view that the proceeding of the no confidence motion meeting dated 17.09.2022 held at the Anchalik Panchayat was tainted on account of presence and influence of unauthorized persons therein. The sanctity of a meeting to discuss the no confidence motion has to be maintained by adopting a secret ballot procedure in a watertight environment so that the process is fair and uninfluenced by extraneous pressures and interference.

Thus, we are of the firm view that the learned Single Judge was perfectly justified in accepting the writ petition vide judgment & order dated 25.05.2023 and interfering in the no confidence motion meeting held at the Anchalik Panchayat Office, because the possibility of undue influence by the presence and participation of the Vice President and two members of the Anchalik Panchayat could not be ruled out. Needless to say that the interference was made on account of a technical procedural irregularity and the motion itself has not been allowed to lapse. A fresh chance has been given to consider the

same in an influence free atmosphere by maintaining appropriate measures of secrecy. Hence, we find no justification so as to interfere in the well reasoned judgment dated 25.05.2023 rendered by the learned Single Bench. Consequently, the writ appeal fails and is dismissed as being devoid of merit. No order as to costs.

JUDGE

CHIEF JUSTICE

Comparing Assistant