

GAHC010140102023



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

Case No. : WP(C)/3766/2023

SAMAYOUN ALI
S/O BABAR ALI, R/O VILL-DHAKUA, P.O.-DHAKUA, MOUZA-BARPETA,
P.S.-BARPETA, DIST-BARPETA, ASSAM, PIN-781309

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE ADDL. CHIEF SECRETARY TO THE GOVERNMENT
OF ASSAM, REVENUE AND DISASTER MANAGEMENT (L.R.)
DEPARTMENT, DISPUR, GUWAHATI-6

2:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
REVENUE AND DISASTER MANAGEMENT DEPTT.
DISPUR
GUWAHATI-6

3:THE COMMISSIONER
LOWER ASSAM DIVISION
PANBAZAR
GUWAHATI-1

4:THE DEPUTY COMMISSIONER
BARPETA
P.O. AND P.S.-BARPETA
PIN-781301

5:ADDITIONAL DEPUTY COMMISSIONER
BARPETA
PIN-781301

6:CIRCLE OFFICER

BARPETA
PIN-781301

7:SHAHIDUL ISLAM
S/O LATE HAZARAT ALI
R/O VILL-MAILKUCHI
P.O.-DHOKUA
DIST-BARPETA
ASSAM
PIN-78130

Advocate for the Petitioner : MR. S K DAS

Advocate for the Respondent : SC, REVENUE

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 28-06-2023

28-06-2023

Heard Mr. S.K. Das, learned counsel for the writ petitioner.

The petitioner herein had submitted his application pursuant to the advertisement notice dated 03-09-2022 for appointment in the post of Gram Pradhan in respect of Charge No. 13, Mouza Barpeta under Barpeta Revenue Circle. The petitioner along with other candidates had also appeared in the interview process. However, on conclusion of the selection process, the list of selected candidates was published wherein the name of the respondent No. 7 found place for appointment as Gram Pradhan of Charge No. 13 of Barpeta Mouza under Barpeta Revenue Circle.

Aggrieved by the selection of the respondent No. 7, the petitioner had submitted an appeal under Rule 162(C) of the Executive Instructions framed under Assam Land and

Revenue Regulation, 1886, *inter alia* on the ground that due to pendency of a criminal case against him, the respondent No. 7 cannot be appointed as Gram Pradhan.

According to Mr. Das the appeal was preferred on 03-03-2023. However, till date no hearing has been held in the appeal, as a result of which, the petitioner has been compelled to approach this Court by filing the instant writ petition with a prayer for interim relief.

Mr. T.C. Chutia, learned Addl. Sr. Govt. Advocate, Assam as well as Mr. S. Dutta, learned standing counsel, Revenue Department, Assam have fairly submitted that since a statutory appeal has already been preferred, the same ought to be decided on merit. However, due to lapse of time, no interim order be passed at this stage.

There is no doubt or dispute about the fact that a statutory appeal questioning the selection of the candidate for appointment in the post of Gram Pradhan is permissible under the law and in this case, the petitioner has also preferred an appeal before the respondent No. 3. If that be so, the appeal is required to be considered on merit and appropriate order(s) ought to be passed in the matter, which has apparently not been done till today.

Moreover, if an allegation is brought against the respondent No. 3 by filing an appeal, his appointment cannot be processed until the issue is answered by the statutory authority either by an interim order or a final order.

In view of the above and considering the facts and circumstances of the case in its entirety, this writ petition is being disposed of at the stage of motion hearing by providing

that the appeal preferred by the petitioner be considered on merit and disposed of as expeditiously as possible, but not later than 60 days from the date of receipt of a certified copy of this order.

Until such time, no order of appointment shall be issued in favour of the respondent No. 7, if not already done.

Writ petition stands disposed of accordingly.

JUDGE

GS

Comparing Assistant