

GAHC010175252023



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

WP(C)/4052/2023

MST. ROHIMA KHATUN
W/O ABDULLAH -AL- FARUK
R/O VILL-JHOWDANGA PART-II
P.O.-JHOWDANGA
DIST-SOUTH SALMARA MANKACHAR
ASSAM

VERSUS

THE STATE OF ASSAM AND 13 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF
ASSAM
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT
DISPUR
GUWAHATI-6

2:THE DISTRICT COMMISSIONER
SOUTH SALMARA MANKACHAR DISTRICT
HATSINGIMARI
P.O.-FEKAMARI
DIST-SOUTH SALMARA MANKACHAR
ASSAM
PIN-783135

3:THE MANKACHAR ANCHALIK PANCHAYAT
REPRESENTED BY ITS PRESIDENT
VILL AND P.O.-MANKACHAR
DIST-SOUTH SALMARA MANKACHAR
ASSAM
PIN-783131

4:THE BLOCK DEVELOPMENT OFFICER
MANKACHAR DEVELOPMENT BLOCK
JANGAL

VILL AND P.O.-MANKACHAR
DIST-SOUTH SALMARA MANKACHAR
ASSAM
PIN-783131
5:THE SECRETARY
NO. 15
JHALORCHAR-NAYAGAON GAON PANCHYAT
ASSAM
6:ABDUL AKHER HUSSAIN
S/O LATE ABDUL SATTAR
R/O VILL-JHOWDANGA PART-II
P.O.-JHOWDANGA
DIST-SOUTH SALMARA MANKACHAR
ASSAM
PIN-783131
7:PARMINA BEGUM
W/O ANOWAR HUSSAIN
R/O VILL-JHOWDANGA PART-II
P.O.-JHOWDANGA
DIST-SOUTH SALMARA MANKACHAR
ASSAM
PIN-783131
8:ZAKIR HUSSAIN
S/O LATE SUMMAD SK
R/O VILL-JHOWDANGA PART-II
P.O.-JHOWDANGA
DIST-SOUTH SALMARA MANKACHAR
ASSAM
PIN-783131
9:BUL BULI KHATUN
W/O SURAT ZAMAN
R/O VILL-JHOWDANGA PART-II
P.O.-JHOWDANGA
DIST-SOUTH SALMARA MANKACHAR
ASSAM
PIN-783131
10:SHAHIDA KHATUN
W/O OBIYEL HUSSAIN
R/O VILL-JHOWDANGA PART-II
P.O.-JHOWDANGA
DIST-SOUTH SALMARA MANKACHAR
ASSAM
PIN-783131
11:GOLAM MUSTAFA
S/O MONIRUL ISLAM
R/O VILL-JHOWDANGA PART-II
P.O.-JHOWDANGA
DIST-SOUTH SALMARA MANKACHAR

ASSAM
PIN-783131
12:SULTANA REZIA
W/O ABU HANIF
R/O VILL-JHOWDANGA PART-II
P.O.-JHOWDANGA
DIST-SOUTH SALMARA MANKACHAR
ASSAM
PIN-783131
13:SHAHAJJAL HOQUE
S/O LATE EKIN ALI
R/O VILL-JHOWDANGA PART-II
P.O.-JHOWDANGA
DIST-SOUTH SALMARA MANKACHAR
ASSAM
PIN-783131
14:MOLINA BEGUM
W/O CHAND MIA
R/O VILL-JHOWDANGA PART-II
P.O.-JHOWDANGA
DIST-SOUTH SALMARA MANKACHAR
ASSAM
PIN-783131

Advocate for : MR. M DUTTA
Advocate for : SC
P AND R.D. appearing for THE STATE OF ASSAM AND 13 ORS

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 14.08.2023

Heard Mr. M Dutta, learned counsel for the petitioner and Mr. N.K. Dev Nath, learned Standing Counsel, PNRD Department, Assam appearing for the respondent Nos. 2, 3, 4 and 5. Also heard Mr. N Goswami, learned Government Advocate, Assam appearing for the respondent No.1. Mr. M Ahmed, learned counsel has appeared for the private respondent Nos. 6 to 12 and 14.

2. The writ petitioner herein, who was the President of the No. 15, Jhalorchar-Nayagaon Gaon Panchayat under the South Salmara Mankachar district of Assam, has

approached this Court by filing the instant writ petition assailing the notice dated 14.07.2023 issued by the respondent No. 4 i.e. the Block Development Officer, Mankachar Development Block, Jangal convening a special meeting so as to discuss the No-Confidence Motion brought against the President as well as the Vice-President of the aforesaid Gaon Panchayat *inter-alia* contending that when a No-Confidence Motion is proposed against the President as well as the Vice-President of the Gaon Panchayat, the Block Development Officer would not have any jurisdiction to convene the meeting under Section 15 of the Assam Panchayat Act, 1994 but it would be the President of the concerned Anchalik Parishad who alone would have jurisdiction to convene such a meeting.

3. Mr. Ahmed, learned counsel representing the private respondents i.e. the requisitionist has fairly conceded that the respondent No. 4 did not have any authority or jurisdiction under the law to convene the special meeting. He, therefore, submits that he would have no objection if the writ petition is disposed of by setting aside the impugned notice dated 14.07.2023 by granting leave to the authorities to convene the special meeting by following the prescription of law.

4. Mr. Dev Nath and Mr. N Goswami have also submitted that they would have no objection if the writ petition is disposed of accordingly.

5. Responding to the above, Mr. M Dutta has argued that since the requisitionist/private respondents have conceded the ground urged by the petitioner as the writ petition be disposed of by providing that further action, if any, in the matter, be taken only in accordance with law.

6. Mr. Dutta, however, also seeks an order from this court reserving the right of his client to urge all such legal grounds, as may be available to her, in the present petition, if any subsequent writ petition, pertaining to the same subject matter.

7. Leave as prayed for is granted.

8. By taking note of the submission made at the bar and in view of the stand taken by the learned counsel for the parties, with their consent and agreement of the learned counsel, the impugned notice dated 14.07.2023 is hereby set aside. Liberty is granted to the respondents to take appropriate action in the matter by following the prescription of Section 15 of the Assam Panchayat Act, 1994, if so advised

9. Interim order passed earlier shall stand vacated.

Writ petition stands disposed of.

JUDGE

Comparing Assistant