

GAHC010164952023



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

**Case No. : WP(C)/4285/2023**

SHAMBU RABIDAS  
S/O- BISHWANATH RABIDAS,  
R/O- VILLAGE RANIRGHAT PART III,  
P.O- AMJURGHAT,  
P.S- SONAI,  
DIST- CACHAR, ASSAM, PIN-788119

VERSUS

THE STATE OF ASSAM AND 16 ORS  
THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,  
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT  
DISPUR, GUWAHATI- 781006.

2:THE PRINCIPAL SECRETARY  
TO THE GOVT. OF ASSAM  
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT  
PANJABARI ROAD  
JURIPAR  
GUWAHATI- 781037

3:THE DEPUTY COMMISSIONER  
CACHAR  
ASSAM  
PIN-788001

4:THE CHIEF EXECUTIVE OFFICER

CACHAR ZILLA PARISHAD  
P.O.- SILCHAR  
DIST.- CACHAR  
ASSAM  
PIN- 788001.

5:THE EXECUTIVE OFFICER

CUM BLOCK DEVELOPMENT OFFICER  
SONAI DEVELOPMENT BLOCK

P.O- KAPTANPUR PART XVII

DIST.- CACHAR  
ASSAM  
PIN- 788119

6:THE PRESIDENT

SONAI ANCHALIK PANCHAYAT  
P.O.- KAPTANPUR PART XVII  
DIST.- CACHAR  
ASSAM  
PIN- 788119.

7:THE EXECUTIVE OFFICER  
SONAI ANCHALIK PANCHAYAT  
P.O.- KAPTANPUR PART XVII  
DIST.- CACHAR  
ASSAM  
PIN- 788119.

8:THE SECRETARY  
RANGIRHAT GAON  
PANCHAYAT

P.O- AMJURGHAT

DIST.- CACHAR  
ASSAM  
PIN- 788119.

9:SHAMIM NEWAJ LASKAR  
GROUP MEMBER

RANGIRHAT GAON  
PANCHAYAT

P.O- AMJURGHAT

DIST.- CACHAR  
ASSAM  
PIN- 788119.

10:RANJAN RABIDAS  
GROUP MEMBER

RANGIRHAT GAON  
PANCHAYAT

P.O- AMJURGHAT

DIST.- CACHAR  
ASSAM  
PIN- 788119.

11:DHANJAY NATH  
GROUP MEMBER

RANGIRHAT GAON  
PANCHAYAT

P.O- AMJURGHAT

DIST.- CACHAR  
ASSAM  
PIN- 788119.

12:ABDUL KHALIQUE AHMED  
GROUP MEMBER

RANGIRHAT GAON  
PANCHAYAT

P.O- AMJURGHAT

DIST.- CACHAR  
ASSAM  
PIN- 788119.

13:MIZUK AHMED LASKAR  
GROUP MEMBER

RANGIRHAT GAON  
PANCHAYAT

P.O- AMJURGHAT  
DIST.- CACHAR  
ASSAM  
PIN- 788119.

14:ROMOLA BEGUM LASKAR  
GROUP MEMBER

RANGIRHAT GAON  
PANCHAYAT

P.O- AMJURGHAT

DIST.- CACHAR  
ASSAM  
PIN- 788119.

15:PARBIN AKTAR KHANAM LASKAR  
GROUP MEMBER

RANGIRHAT GAON  
PANCHAYAT

P.O- AMJURGHAT

DIST.- CACHAR  
ASSAM  
PIN- 788119.

16:JARIN AKTAR LASKAR  
GROUP MEMBER

RANGIRHAT GAON  
PANCHAYAT

P.O- AMJURGHAT

DIST.- CACHAR  
ASSAM  
PIN- 788119.

17:SHIKHA RANI DAS  
GROUP MEMBER

RANGIRHAT GAON  
PANCHAYAT

P.O- AMJURGHAT

DIST.- CACHAR  
ASSAM  
PIN- 788119

**BEFORE  
HON'BLE MR. JUSTICE DEVASHIS BARUAH**

For the petitioner(s) : Mr. I.H. Laskar, Advocate.

For the respondent(s) : Mr. N.K. Debnath, SC, P&RD Deptt.  
Mr. K.P. Pathak, Advocate for R-9 to 17

Date of hearing and judgment : 14.09.2023

**JUDGMENT & ORDER**

**1.** The instant writ petition has been filed by the Petitioner challenging the No-Confidence Resolution dated 26.06.2023, whereby in the special meeting which was convened a resolution of no-confidence was passed against the Petitioner. It reveals from the record that this Court vide an order dated 28.07.2023 had issued Notice and in the interim had stayed the Resolution dated 26.06.2023 held in the special meeting of 14 Nos. Rangirghat Gaon Panchayat as well as also the communication dated 26.06.2023 issued by the Executive Officer, Sonai Anchalik Panchayat to the Deputy Commissioner, Cachar till the next date. The said interim order so passed on 28.07.2023 was directed to be continued vide an order dated 28.08.2023 and the same is in operation. This Court further finds it relevant to take note of that the private Respondents i.e. Respondent Nos.9 to 17 have also filed an application seeking vacation of the order dated 28.07.2023.

**2.** Mr. K.P. Pathak, learned counsel appearing on behalf of the private Respondents submits that the contents of the said interlocutory application be treated as the affidavit-in-opposition of the private Respondents. In the

backdrop of the above, let this Court therefore take into consideration the brief facts as well as the issues involved herein.

**3.** The case of the Petitioner as could be seen from a perusal of the writ petition is that the Petitioner was elected as the President of the Rangirghat Gaon Panchayat (for short referred to as "the Gaon Panchayat in question"). It was mentioned in the writ petition that 6 (six) numbers of members of the Gaon Panchayat in question had submitted a requisition notice before the Executive Officer, Sonai Anchalik Panchayat and the Development Block on 09.06.2023 for convening a special meeting of No-Confidence Motion against the Petitioner. It is relevant to take note of that the said requisition notice dated 09.06.2023 has been enclosed to the writ petition as Annexure-1.

**4.** It is further relevant to mention that the President of the Sonai Anchalik Panchayat decided to convene a special meeting on 26.06.2023 at his office and as such a notice dated 21.06.2023 was issued to the concerned group members. It is the allegation made by the Petitioner that such notice was not served upon the Petitioner in advance. The Petitioner however came to know about the requisition notice dated 09.06.2023 from some other sources and the Petitioner submitted a representation dated 26.06.2023 to the Secretary of the Gaon Panchayat in question, whereby the Petitioner raised his concern as regards the violation of the mandate of Section 15 of the Assam Panchayat Act, 1994 (for short "the Act of 1994"). It further reveals from the records and more particularly Annexure-III which is the impugned minutes of the special meeting of the Gaon Panchayat in question held on 26.06.2023 that out of the 9 (nine) members present all the nine members voted in favour of the No-Confidence

Motion against the Petitioner. Thereupon on the very day, the Executive Officer, Sonai Anchalik Panchayat issued a communication to the Deputy Commissioner, Cachar forwarding the resolution dated 26.06.2023 for necessary information and action.

**5.** It is on the basis of the above facts the Petitioner being aggrieved on account of the infraction of his rights under Section 15 of the Act of 1994 had approached this Court challenging the resolution dated 26.06.2023 as well as the communication dated 26.06.2023 issued by the Executive Officer, Sonai Anchalik Panchayat.

**6.** This Court further finds it relevant to take note of the application filed by the private Respondents which have been registered and numbered as I.A.(C) 2552/2023. As already noted supra, the learned counsel appearing on behalf of the private Respondents has requested this Court to treat the said application as the affidavit-in-opposition of the private Respondents and as such this Court deems it proper to deal with the pleadings contained therein. Taking into account that the instant dispute pertains to as to whether there has been any violation of the provision of Section 15 of the Act of 1994, this Court finds it relevant to limit its consideration to the extent of the dispute involved. In the interlocutory application, there are various allegations made against the Petitioner for misappropriation of funds. It has been mentioned that the private Respondents have prepared a requisition letter on 01.06.2023 and when they went to submit the said requisition to the Secretary of the Gaon Panchayat, both the President as well as the Secretary of the Gaon Panchayat were repeatedly found absent in the Gaon Panchayat office due to fear of giving explanation to

the applicants/private Respondents about unauthorized withdrawal and misappropriation of the Gaon Panchayat funds for which the private Respondents could not submit the said requisition notice. Ultimately finding no alternative on 09.06.2023, the private Respondent Nos.9, 10, 11, 13, 16 and 17, who are six in number submitted a requisition notice to the Executive Officer, Sonai Anchalik Panchayat and Development Block for convening a special meeting of the No-Confidence Motion against the Petitioner which falls under the Sonai Anchalik Panchayat. It was further mentioned that on receipt of the said requisition notice the Executive Officer, Sonai Anchalik Panchayat forwarded the same to the Secretary of the Gaon Panchayat in question for taking necessary action in that regard. This aspect can be seen from Annexure-D to the said application. It was further mentioned that on 12.06.2023 the Secretary of the Gaon Panchayat in question was found available in his office and in response to the said letter dated 09.06.2023 issued by the Executive Officer, Sonai Anchalik Panchayat, the Secretary to the Gaon Panchayat vide a communication dated 12.06.2023 informed the Executive Officer, Sonai Anchalik Panchayat that he had no communication with the Petitioner for more than 1(one) month because the Petitioner neither received his call nor called him back. It was further mentioned that the Secretary of the Gaon Panchayat have tried to contact the Petitioner for taking approval under Section 15(1) of the Act of 1994 to conduct a meeting but failed to contact the Petitioner.

**7.** The further perusal of the said application shows that thereupon the President of the Sonai Anchalik Panchayat issued a notice on 21.06.2023 for holding the no-confidence meeting against the Petitioner on 26.06.2023 giving intimation to all concerned including the Petitioner. It was further mentioned

that on 26.06.2023 the No-Confidence Motion was held under the Chairmanship of the President of the Sonai Anchalik Panchayat and the voting was held by secret ballot and in the said meeting 9 (nine) members of the Gaon Panchayat had cast their votes in favour of the No-Confidence Motion and the writ Petitioner was hence removed from the post of the Gaon Panchayat in question. It was further mentioned that pursuant to the said resolution so adopted on 26.06.2023, the Executive Officer of the Sonai Anchalik Panchayat had informed the Deputy Commissioner, Cachar about the resolution dated 26.06.2023. This was followed by another communication on 21.07.2023, whereby the Chief Executive Officer of the Cachar Zilla Parishad forwarded the proceedings of the resolution adopted against the Petitioner on 26.06.2023 to the Deputy Commissioner, Cachar with a request to allow the Vice-President of the Gaon Panchayat in question to discharge the powers and functions of the President of the Gaon Panchayat in question as per the provisions of Section 13(2) of the Act of 1994. However, the Deputy Commissioner, Cachar did not take any steps in terms with the communication dated 26.06.2023 of the Executive Officer, Sonai Anchalik Panchayat as well as also the communication dated 21.07.2023 of the Chief Executive officer of the Cachar Zilla Parishad.

**8.** I have heard the learned counsel for the parties and perused the materials on record.

**9.** The dispute which is involved in the instant writ petition are twofold. First, as to whether the resolution so adopted in the meeting on 26.06.2023 was in accordance with Section 15 of the Act of 1994. Secondly, as to what relief the parties herein are entitled to.

**10.** For the purpose of deciding the first issue, this Court finds it relevant to take note of Section 15 of Act of 1994. In terms with Section 15(1) of Act of 1994, it is clear that every President or the Vice President shall be deemed to have vacated the Office forthwith when the resolution expressing want of confidence in him is passed by a majority of two third of the total number of members of the Gaon Panchayat. The manner of holding the meeting has been stipulated in the first paragraph of Sub-Section (1) of Section 15 of the Act of 1994. It stipulates that such a meeting shall be specially convened by the Secretary of the Gaon Panchayat with the approval of the President of the Gaon Panchayat and such meeting shall be presided over by the President if the Motion is against the Vice-President and by the Vice-President if the motion is against the President. It is also a clear stipulation that in case such a meeting is not convened within a period of 15 (fifteen) days from the date of receipt of the notice, the Secretary of the Gaon Panchayat shall within 3 (three) days thereafter refer the matter to the President of the concerned Anchalik Panchayat, who shall convene the meeting within 7 (seven) days from the date of receipt of the information from the Secretary of the Gaon Panchayat and preside over such meeting. Therefore the words "within a period of fifteen days from the date of receipt of the notice" means that the said notice has to be served upon the President of the Gaon Panchayat and the right of the Secretary of the Gaon Panchayat to refer the matter to the President of the concerned Anchalik Panchayat will only arise after the expiry of the period of fifteen days from the date of receipt of the notice by the President.

**11.** In the present case, it would be seen that the said requisition notice dated

09.06.2023 was not served upon the Petitioner. It is further seen from the requisition itself that it was addressed to the Executive Officer, Sonai Anchalik Panchayat and Development Block. The Executive Officer, Sonai Anchalik Panchayat upon receipt of the said requisition on the very day issued a communication to the Secretary of the Gaon Panchayat in question with a copy to the Vice President of the said Gaon Panchayat. It is not known as to when the said communication dated 09.06.2023 issued by the Executive Officer of the Sonai Anchalik Panchayat containing the requisition dated 09.06.2023 was served upon the Secretary of the Gaon Panchayat in question. However one can assume that as on 12.06.2023, the Secretary of the Gaon Panchayat in question had noticed about the requisition notice dated 09.06.2023. In the communication dated 12.06.2023 issued by the Secretary of the Gaon Panchayat in question had mentioned that the said Secretary had no communication with the Petitioner for more than a month. This clearly shows that till 12.06.2023, the requisition notice dated 09.06.2023 was not served upon the Petitioner. It is however relevant to take note of that the Secretary of the Gaon Panchayat in question did not wait for a period of fifteen days even from the date of receipt of the requisition notice dated 09.06.2023 which was forwarded by the Executive Officer of the Sonai Anchalik Panchayat but on 12.06.2023 itself informed the Anchalik Panchayat that the Secretary could not serve the notice upon the Petitioner. The issuance of the notice on 12.06.2023 by the Secretary was in clear violation to Section 15(1) of the Act of 1994, inasmuch as the Secretary ought not to have referred the non holding of the no-confidence meeting to the Anchalik Panchayat in question, inasmuch as per the mandate of Section 15(1) of the Act of 1994 only after the completion of fifteen days from the date of receipt of the notice by the President, the Secretary ought

to have referred. Taking into account the same, which as per the well settled principles of law is mandatory in nature, the reference so made to the Anchalik Panchayat by the Secretary of the Gaon Panchayat is bad in law and consequently any action taken on the basis thereof also becomes nullity.

**12.** In the backdrop of the above, let this Court therefore take into consideration the second point for determination as to what reliefs can be granted to the parties herein. As already observed hereinabove as the reference made by the Secretary on 12.06.2023 was in violation to Section 15(1) of the Act of 1994 the convening of the special meeting by the Sonai Anchalik Panchayat and the consequent resolution adopted on 26.06.2023 as well as other communications issued by the authorities are nothing but *non-est* in law for which the impugned resolution dated 26.06.2023 as well as the communication dated 26.06.2023 issued by the Executive Officer, Sonai Anchalik Panchayat to the Deputy Commissioner, Cachar are set aside and quashed.

**13.** Be that as it may, this Court also finds it relevant to take note of that there is a requisition being made by six members of the Gaon Panchayat in question for a special meeting to discuss the no-confidence against the Petitioner. As already stated hereinabove, the Petitioner had enclosed the requisition as Annexure-1 to the writ petition and as such the Petitioner has due notice of the said requisition. Under such circumstances, it can be deemed that the Petitioner has notice of the requisition dated 09.06.2023 as on today i.e. 14.09.2023. Therefore, the Petitioner is given the liberty to grant permission within fifteen days from today i.e. by 30.09.2023 for convening the special meeting for discussing the No-Confidence Motion against the Petitioner in terms with the

requisition made on 09.06.2023. It is made clear that if the Petitioner does not exercise the liberty so granted by this Court within the time stipulated above i.e. by 30.09.2023, the Secretary of the Gaon Panchayat in question who is the Respondent No.8 herein shall do the needful in terms with the provisions of Section 15 of the Act of 1994.

**14.** Accordingly, the instant writ petition therefore stands disposed off with the following observations and directions:

- (i) The impugned resolution adopted on 26.06.2023 in the special meeting held at the office of the President of Sonai Anchalik Panchayat as well as the communication dated 26.06.2023 issued by the Executive Officer, Sonai Anchalik Panchayat to the Deputy Commissioner, Cachar are set aside and quashed.
- (ii) The Petitioner is given the liberty to grant permission for convening the meeting requisitioned vide the requisition letter dated 09.06.2023 within 30.09.2023. It is made clear that if the Petitioner fails to grant the permission within 30.09.2023, the Secretary of the Gaon Panchayat in question i.e. the Respondent No.8 shall do the needful in accordance with Section 15 of the Act of 1994.

**15.** With the above, the instant writ petition stands disposed off.

**JUDGE**

**Comparing Assistant**