

GAHC010175622023



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

Case No. : WP(C)/4561/2023

RINKUL ISLAM
S/O LT. FAIZUL HOQUE R/O VIL. BATABARI P.O. SONARIGAON DIST
NAGAON ASSAM

VERSUS

THE STATE OF ASSAM AND 6 ORS
TO BE REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF
ASSAM REVENUE AND DISASTER MANAGEMENT DEPTT. DISPUR
GUWAHATI 6

2:THE DEPUTY COMMISSIONER
NAGAON
DIST. NAGAON ASSAM

3:THE ADDITIONAL DEPUTY COMMISSIONER
NAGAON
DIST. NAGAON
ASSAM

4:THE CIRCLE OFFICER
DHING REVENUE CIRCLE
P.O. DHING DIST NAGAON ASSAM

5:THE SELECTION COMMITTEE
TO BE REP. BY THE DEPUTY COMMISSIONER NAGAON DIST. NAGAON
ASSAM

6:THE DIVISIONAL COMMISSIONER
CENTRAL DIVISION
ASSAM
PANBAZAR GUWAHATI 1

7:AMULYA DEKA
S/O JOGEN CH. DEKA R/O BARUATI P.O. SONARIGAON DIST. NAGAON
ASSAM PIN 78212

Advocate for the Petitioner : MR. MAI HUSSAIN

Advocate for the Respondent : GA, ASSAM

BEFORE
HON'BLE MR. JUSTICE SOUMITRA SAIKIA
ORDER

11.08.2023

Heard Mr MAI Hussain, learned counsel for the petitioner and Mr R Dhar, learned Additional Senior Government Advocate for respondent Nos. 2 to 6. Also heard Mr J Handique, learned counsel for the respondent No. 1.

2. This writ petition has been filed by the petitioner challenging the selection of private respondent No. 7, Amulya Deka, who was selected for being appointed to the post of Gaon Pradhan of Lot No. 2, Bauati, Batadrava Mouza under Dhing Revenue Circle, Nagaon District.

3. Learned counsel for the petitioner submits that the respondent No. 7 does not satisfy the required criteria of owning landed property in his name within the lot area. However, merely on the ground that he is related to former Gaon Pradhan, his selection was considered, overlooking the candidature of the petitioner. The petitioner satisfies all the requirements specified for being appointed as Gaon Pradhan. He owns land within the lot area.

4. In the selection conducted by the authorities, which is stated to have been published on 11.03.2023, the name of the private respondent No. 7 was shown to have been selected. The writ petitioner approached the appellate authority, i.e., the Divisional Commissioner, Central, Assam, under Rule 162 (C) of the Executive Instruction, appended to the Assam Land and Revenue Regulations, however, the appeal which was

preferred have remained pending.

5. Aggrieved, the petitioner is before this Court.

6. Mr J Handique, learned counsel appearing for the respondent No. 1 and Mr R Dhar, learned Additional Senior Government Advocate, appearing for respondent Nos. 2 to 6, submits that there is a change in respect of the appellate authority prescribed under Rule 162 (c). The notification vide, E-File No. 304149/1 dated 17.07.2023 has been issued by the Principal Secretary to the Government of Assam, General Administration Department, whereby the statutory powers and administrative powers as exercised by the Divisional Commissioner are now being exercised by the Commissioner and Secretary/Principal Secretary, of General Administration Department. The notification reads as under:-

“NOTIFICATION

Dated, Dispur the 17th of July, 2023

e-file No. 304149/1:- *For administrative convenience and in the interest of public service and in order to bring administration closer to the people by providing adequate power and authority to the Deputy Commissioner of the District and in the interest of public service, the Governor of Assam is pleased to abolish the offices of Divisional Commissioners in the State with immediate effect.*

The assets of the existing Divisional Commissioners' establishment and the employees will come under the establishment of the district in which the headquarter of the Divisional Commissioner is at present located.

The statutory powers and administrative powers as exercised by Divisional Commissioner at present will henceforth be exercised by the Commissioner and Secretary/Principal Secretary of General Administration Department.”

7. In that view of the matter this writ petition is closed with a direction to the respondent No. 6 as well as the respondent No. 2 to place the appeal(s) stated to have been preferred by the petitioner before the prescribed authority in terms of notification, being e-file No. 304149/1 dated 17th July, 2023. The Principal Secretary to the Government of Assam, General Administration Department will thereafter decide the appeal preferred by the petitioner on 08.05.2023 and which is stated to have been

received by the competent authority on the said date, within a period of 60 days from the date of receipt of the certified copy of this order. The appeal will be disposed of by a speaking order and that order shall be served upon the petitioner. Since it is submitted that the appointment order(s) in respect of respondent No. 7 have not yet been issued, the same shall not be issued, if not already issued till the appeal as directed is finally decided and disposed of by the Principal Secretary to the Government of Assam, General Administration Department.

8. The writ petition stands disposed of in terms of the above directions.

JUDGE

Comparing Assistant