

GAHC010187072021



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

**Case No. : WP(C)/5985/2021**

HITENDU RUDRAPAUL  
S/O. LT. HARENDRA CHANDRA RUDRAPAUL, VILL. AND P.O. MAIZGRAM,  
DIST. KARIMGANJ, ASSAM, PIN-788712.

VERSUS

THE STATE OF ASSAM AND 15 ORS.  
TO BE REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM,  
PANCHAYAT AND RURAL DEVELOPMENT DEPTT., DISPUR, GUWAHATI.

2:THE PRINCIPAL SECRETARY  
TO THE GOVT. OF ASSAM  
PANCHAYAT AND RURAL DEVELOPMENT DEPTT.  
DISPUR  
PANJABARI ROAD  
JURIPAR  
GUWAHATI-37.

3:THE DEPUTY COMMISSIONER

KARIMGANJ P.O. AND DIST. KARIMGANJ  
ASSAM  
PIN-788710.

4:THE CHIEF EXECUTIVE OFFICER

KARIMGANJ ZILLA PARISHAD  
P.O. AND DIST. KARIMGANJ  
ASSAM  
PIN-788710.

5:THE EXECUTIVE OFFICER CUM BLOCK DEVELOPMENT OFFICER

NORTH KARIMGANJ DEV. BLOCK

P.O. GARDHARASHI  
DIST. KARIMGANJ  
ASSAM  
PIN-788709.

6:THE PRESIDENT

NORTH KARIMGANJ ANCHALIK PANCHAYAT  
P.O. GARDHARASHI  
DIST. KARIMGANJ  
ASSAM  
PIN-788709.

7:THE SECRETARY

MAIZGRAM GAON PANCHAYAT  
P.O. MAIZGRAM  
DIST. KARIMGANJ  
ASSAM  
PIN-788712.

8:HUSNA BEGUM

GROUP MEMBER NO.1 OF MAIZGRAM GAON PANCHAYAT  
W/O. ABDUL MALIK  
VILL. AND P.O. MAIZGRAM  
PIN-788712.

9:SHIKHA RANI SUKLABAIDHYA

GROUP MEMBER NO.2 OF MAIZGRAM GAON PANCHAYAT  
W/O. SANKU SUKLABAIDHYA  
VILL. AND P.O. MAIZGRAM  
DIST. KARIMGANJ  
ASSAM  
PIN-788712.

10:RAKHI RANI DAS

GROUP MEMBER NO.3 OF MAIZGRAM GAON PANCHAYAT  
W/O. NIKHIL DAS  
VILL. AND P.O. MAIZGRAM  
DIST. KARIMGANJ  
ASSAM  
PIN-788712.

11:TAPAN RUDRAPAUL

GROUP MEMBER NO.4 OF MAIZGRAM GAON PANCHAYAT  
S/O. BABUL RUDRAPAUL  
VILL. AND P.O. MAIZGRAM  
DIST. KARIMGANJ  
ASSAM  
PIN-788712.

12:PRANABANANDA CHAKROBORTY  
GROUP MEMBER NO.5 OF MAIZGRAM GAON PANCHAYAT  
S/O. LT. PADA RANJAN CHAKROBORTY  
VILL. AND P.O. MAIZGRAM  
DIST. KARIMGANJ  
ASSAM  
PIN-788712.

13:GONESH DEB

GROUP MEMBER NO.6 OF MAIZGRAM GAON PANCHAYAT  
S/O. DIPU DEB  
VILL. TAIZPUR  
P.O. AYLABARI  
DIST. KARIMGANJ  
ASSAM  
PIN-788712.

14:MALINA DEY  
GROUP MEMBER NO.7 OF MAIZGRAM GAON PANCHAYAT  
D/O. LT. GOPIKA RANJAN DEY  
VILL. SUPNARGOOL  
P.O. MAIZGRAM  
DIST. KARIMGANJ  
ASSAM  
PIN-788712.

15:MOMOTA KHANAM  
GROUP MEMBER NO.9 OF MAIZGRAM GAON PANCHAYAT  
W/O. MUSTAK UDDIN  
VILL. BISKUT  
P.O. AYLABARI  
DIST. KARIMGANJ  
ASSAM  
PIN-788712.

16:HAMIDA KHATUN  
GROUP MEMBER NO.10 OF MAIZGRAM GAON PANCHAYAT  
W/O. ABDUL HANNAN  
VILL. BISKUT

P.O. AYLABARI  
DIST. KARIMGANJ  
ASSAM  
PIN-788712

**Advocate for the Petitioner** : DR. B AHMED

**Advocate for the Respondent** : GA, ASSAM

**BEFORE  
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

**JUDGMENT AND ORDER(ORAL)**

**Date : 29.05.2023**

Heard Mr. P.K. Roy Choudhury, the learned counsel appearing on behalf of the petitioner. Mr. S.Dutta, the learned counsel appears on behalf of the respondent Nos. 1, 2, 4, 5 & 7, Mr. S. R. Baruah, the learned counsel appears for the respondent No. 3.

2. The case of the petitioner herein is that on 31/08/2021, nine members of the Maizgram Gaon Panchayat had submitted a requisition to the Secretary of the said Gaon Panchayat for conveying and arranging the special meeting for no-confidence against the petitioner who was the President of Maizgram Gaon Panchayat.

3. It appears from the records that on 7/9/2021, the xerox copy of the said requisition was handed over to the petitioner who was the President. At this stage, it is relevant to take note of that Section 15 (1) of the Assam Panchayat Act, 1994 (for short 'the Act of 1994') specifically mandates that in case such meeting is not conveyed within a period of 15 days from the date of receipt of the notice, the Secretary of the Gaon Panchayat shall within three days, shall

refer the matter to the President of the concerned Anchalik Panchayat who shall convey the meeting within 7 days from the date of receipt of the information from the Secretary of the Gaon Panchayat and preside over such meeting.

4. It is the specific case of the petitioner that as would be seen from the materials on record that on 7/9/2021 only the xerox copy of the requisition so made by the nine members of the Gaon Panchayat in question was handed over to the petitioner. However, before the expiry of 15 days, on 15/9/2021 the Secretary of the Gaon Panchayat in question had written to the President of the North Karimganj Anchalik Panchayat and on the basis thereof a special meeting was held on 28/9/2021. A valuable right which in terms with Section 15(1) of the Act of 1994 was violated.

5. It is further seen from the records that in the said meeting it was resolved against the petitioner thereby the no-confidence motion was approved. It is also relevant to take note of that on 28/9/2021 at 11.50 AM, the petitioner submitted his resignation to the Deputy Commissioner, Karimganj and this aspect could be seen from the minutes of the special meeting of no-confidence.

6. It further appears from the records, that on 7/10/2021, the petitioner withdrew the said resignation letter dated 28/9/2021. However, the same was not accepted and the Deputy Commissioner, Karimganj had passed an order on 8/10/2021 thereby approving the special resolution adopted in the special meeting on 28/9/2021 and accepting the resignation of the petitioner.

7. The petitioner therefore being aggrieved had approached this Court under Article 226 of the Constitution.

8. Mr. S. Dutta, the learned appearing on behalf of the official respondents had placed on record the materials which led to the resolution being adopted on

28/9/2021 as well as also the records pertaining to the acceptance of the no-confidence motion.

9. This Court have heard the learned counsels for the parties and perused the materials on record.

10. From a perusal of the records, so produced by Mr. S. Dutta, it appears that the requisition was made by nine members of the Gaon Panchayat in question on 31/8/2021 which was received by the Secretary of the said Gaon Panchyat at 1.30 PM on the same date. It further appears that there is a office note pertaining to no confidence wherein the signature of the petitioner is there. In the said office note, it has been mentioned that the xerox copy of the petition was received by the petitioner on 7/9/2021. The petitioner put an endorsement on 7/9/2021 asking the Secretary of the Gaon Panchayat in question with the remark "please wait". Although the records so produced does not contain the communication dated 15/9/2021 as enclosed as Annexure-C to the writ petition but from a perusal of the said document, it is apparent that the Secretary of the Gaon Panchayat in question have categorically mentioned that on 7/9/2021 the President was served a xerox copy of the requisition so made by nine members as regards the special meeting of no-confidence against the President.

11. Now if this Court takes into account the provisions of Section 15(1) of the Act of 1994, it would be apparent that a period of 15 days has been given from the date of receipt of the requisition to the President for conveying the special meeting for no-confidence and upon the failure of the President to do so, the Secretary would be within its jurisdiction to issue a letter to the President of the Anchalik Panchayat to take appropriate steps in the matter. However, in the instant case, it is apparent that the Secretary of the Gaon Panchayat in question have issued a communication to the President of the North Karimganj Anchalik

Panchayat on 15/9/2021 thereby the period of 15 days from the date of receipt of the requisition by the President was not over. It further appears that thereupon the North Karimganj Anchalik Panchayat took appropriate steps for calling of the special meeting and the meeting was called on 28/9/2021. Prior to the said meeting at 11.50 AM, the President tendered his resignation to the Deputy Commissioner which is reflected in the minutes of the special meeting held on 28/9/2021. The resolution thereupon was passed taking into consideration the resignation of the petitioner and expressing no-confidence upon the petitioner.

12. It further appears from the record that on 7/10/2021, the petitioner withdrew his resignation thereby submitting a communication on 7/10/2021 itself to the Deputy Commissioner, Karimganj. The various endorsement made in the said communication appears that the said communication was received by the Office of Deputy Commissioner on 7/10/2021 itself. There has been no materials placed on record by the respondents to show otherwise.

13. Be that as it may, the Deputy Commissioner had vide the order dated 8/10/2021 approved the resolution adopted in the special meeting on 28/9/2021 and has also accepted the resignation of the petitioner. As there is no denial to the effect that the requisition was not submitted on 7/10/2021, this Court finds it relevant at this stage to refer to Section 14(2) of the Act of 1994 that every resignation under sub-clause (1) of Section 14 of the Act of 1994 shall take effect on the expiry of 15 days from the date of receipt by the Authority unless within the period of 15 days he/she withdraws such resignation by writing under his hand, addresses to the Deputy Commissioner in the case of the President and President of the Gaon Pachayat in the case of the Vice President.

14. Taking into account the same, as the resignation of the petitioner was on

28/9/2021 and his withdrawal of the resignation was made prior to 15 days as mandated under Section 14(2) of the Act of 1994, the Deputy Commissioner ought not to have accepted his resignation vide the order dated 8/10/2021.

15. In that view of the matter, taking into account that the special meeting held on 28/9/2021 is contrary to Section 15(1) of the Act of 1994 and the acceptance of the resignation on 8/10/2021 was also contrary to Section 14(2) of the Act of 1994, this Court therefore interferes with the resolution so adopted in the said special meeting held 28/9/2021, the order dated 8/10/2021 whereby the Deputy Commissioner accepted the resolution adopted on 28/9/2021 as well as the resignation of the petitioner.\_

16. In consequence thereof, this Court further directs that the official respondents shall take appropriate steps so that the petitioner is in a position to discharge his function as the President of the Gaon Panchayat in question. However, this Court grants the liberty to the members of the Gaon Panchayat in question to take such steps as is available under the Act of 1994.

17. The records so produced is returned herewith.

18. Pending applications, if any, stands disposed of.

**JUDGE**

**Comparing Assistant**