

GAHC010205822023



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

Case No. : WP(C)/5510/2023

PROBIN DAS AND 6 ORS
SON OF LATE JITENDRA NARAYAN DAS,
RESIDENT OF WARD NO. 6,
IN THE DISTRICT OF BONGAIGAON, ASSAM- 783384.

2: SUSHANTA PODDAR
S/O- LATE NANI GOPAL PODDAR

RESIDENT OF WARD NO. 7

P.O. AND P.S.- ABHAYAPURI

IN THE DISTRICT OF BONGAIGAON
ASSAM- 783384.

3: SARAJU DEVI
W/O- DR. B.K. SHARMA

RESIDENT OF WARD NO. 5
ABHAYAPURI MUNICIPAL BOARD
IN THE DISTRICT OF BONGAIGAON
ASSAM- 783384.

4: PAYAL MANDAL DAS
WIFE OF SANJIB DAS

RESIDENT OF WARD NO. 9

IN THE DISTRICT OF BONGAIGAON
ASSAM- 783384.

5: MOMTAJ BEGUM
WIFE OF ASHRAFUL ALAM

RESIDENT OF WARD NO. 11

P.O. AND P.S. ABHAYAPURI

IN THE DISTRICT OF BONGAIGAON
ASSAM- 783384.

6: PRANAB KALITA
SON OF LATE PRAFULLA KALITA

RESIDENT OF WARD NO. 10

P.O. AND P.S. ABHAYAPURI

IN THE DISTRICT OF BONGAIGAON
ASSAM- 783384.

7: SOKILA YASMIN
WIFE OF SAJU HUSSAIN

RESIDENT OF WARD NO. 3

P.O. AND P.S. ABHAYAPURI (ROWMARI)

IN THE DISTRICT OF BONGAIGAON
ASSAM- 783384

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM,
URBAN DEVELOPMENT DEPARTMENT,
DISPUR, GUWAHATI- 781006, ASSAM.

2:THE DIRECTOR
MUNICIPAL ADMINISTRATION
DIRECTORATE OF MUNICIPAL ADMINISTRATION
ASSAM

GUWAHATI- 781006.

3:THE SUB-DIVISIONAL OFFICER (CIVIL)
NORTH SALMARA
ABHAYAPURI
ASSAM- 783384.

4:THE EXECUTIVE OFFICER

ABHAYAPURI MUNICIPAL BOARD
P.O. AND P.S.- ABHAYAPURI

DIST- BONGAIGAON
ASSAM- 783384.

5:RAMENDRA NARAYAN BANIKYA
S/O- LT. MADHAB CHANDRA BANIKYA

RESIDENT OF P.O. AND P.S. ABHAYAPURI
DISTRICT- BONGAIGAON
ASSAM

CHAIRMAN
ABHAYAPURI MUNICIPAL BOARD- 783384.

6:JONMONI PATHAK RABHA
W/O- KALYAN RABHA

RESIDENT OF P.O. AND P.S.- ABHAYAPURI

DISTRICT- BONGAIGAON
ASSAM

VICE CHAIRMAN
ABHAYAPURI MUNICIPAL BOARD- 783384.

7:THE ABHAYAPURI MUNICIPAL BOARD
REPRESENTED BY ITS CHAIRMAN

P.O. AND P.S.- ABHAYAPURI

DIST- BONGAIGAON
ASSAM- 783384

Advocate for the Petitioner : MR G N SAHEWALLA

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 13-10-2023

Heard Mr. G.N. Sahewalla, learned Sr. counsel assisted by Ms. K. Bhattacharyya, learned counsel for the writ petitioners. Also heard Mr. N. Goswami, learned Govt. Advocate, Assam appearing for the respondent Nos. 1 to 4.

The writ petitioners herein are the Ward Commissioners of Abhayapuri Municipal Board. They had earlier submitted a requisition for convening an emergent meeting so as to move no-confidence motion against the Chairman and the Vice-Chairman of the Abhayapuri Municipal Board, i.e. the respondent Nos. 5 and 6 respectively. However, since the request for convening the meeting made before the Sub-Divisional Officer (Civil), North Salmara, Abhayapuri, i.e. the respondent No. 3 had failed to evoke any response from the said authority, the petitioners have approached this Court by filing the instant writ petition, *inter alia*, contending that the inaction on the part of the respondent No. 3 is in clear contravention of the mandate of Section 43(3) of the Assam Municipal Act, 1956.

Mr. Sahewalla submits that once a requisition is submitted by the Ward Commissioners, the respondent No. 3 would be duty bound to examine the same and take appropriate action in the matter in accordance with Assam Municipal Act, 1956.

On instruction obtained from the concerned authority, Mr. Goswami, learned Govt. Advocate, Assam submits that the respondent No. 5, i.e. the Chairman has already tendered his resignation in the meantime and therefore, the requisition for convention of meeting insofar as the said respondent is concerned, does not survive at this point of time. Insofar as the requisition for convening a meeting to discuss the no-confidence motion proposed against the respondent No. 6 i.e. the Vice Chairman, Mr. Goswami submits that if a direction is issued by this Court, the concerned authority would take appropriate steps in the matter in accordance with law.

Mr. Sahewalla, learned Sr. counsel for the writ petitioners is also agreeable to the said recourse.

In view of the above and with the consent of the learned counsel for both the sides, this writ petition is hereby disposed of with a direction upon the respondent No. 3 to take appropriate steps in the matter as may per permissible under the Assam Municipal

Act, 1956 so as to take the requisition submitted by the petitioners for convening a emergent meeting to discuss the no-confidence motion proposed against the respondent No. 6 to its logical end.

Whatever be the proposed action, the same be initiated as expeditiously as possible, but not later than 02 weeks from the date of receipt of a certified copy of this order.

Writ petition stands disposed of.

JUDGE

GS

Comparing Assistant