

GAHC010220272021



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

Case No. : WP(C)/6594/2021

MUNJIRA KHATUN
W/O ABDUL MAJID
VILL. KATHURI
P.O. RAJMITA
P.S.LAKHIPUR
DIST. GOALPARA
ASSAM
PIN 783129

VERSUS

THE STATE OF ASSAM AND 14 ORS
REPRESENTED BY THE COMMISSIONER AND SECY. TO THE GOVT. OF
ASSAM
PANCHAYAT AND RURAL DEVELOPMENT DEPTT.
DISPUR
GUWAHATI 06

2:THE DEPUTY COMMISSIONER

GOALPARA
ASSAM 783101
3:THE GOALPARA ZILLA PARISHAD

REPRESENTED BY CHIEF EXECUIVE OFFICER
GOALPARA
ZILLA PARISHAD
DIST. GOALPARA
ASSAM
PIN 783101
4:THE CHIEF EXECUTIVE OFFICER

GOALPARA ZILLA PARISHAD AT GOALPARA

ASSAM
5:THE JALESWAR ANCHALIK PANCHAYAT

REPRESENTED BY ITS PRESIDENT
P.O. JALESWAR
P.S. LAKHIPUR
DIST. GOALPARA
ASSAM
PIN 783129
6:THE EXECUTIVE OFFICER

JALESWAR ANCHALIK PANCHAYAT
P.O. JALESWAR
DIST. GOALPARA
ASSAM
PIN 783129
7:THE SECY.

NO. 13 KATHURI GAON PANCHAYAT
P.O. RAJMITA
P.S. LAKHIPUR
DIST. GOALPARA
ASSAM
PIN 783129
8:HALIMA KHATUN

W/O ABDUS SOBAHAN
VILL. 1 NO. KATHURI
P.O. TAKIMARI
P.S. LAKHIPUR
DIST. GOLAPARA
ASSAM
PIN 783129
9:ROMEZ UDDIN

S/O MOHIR UDDIN
VILL. 2 NO. PUB KATHURI (KHA)
P.O. TAKIMARI
P.S. LAKHIPUR
DIST. GOALPARA
ASSAM
PIN 783129
10:OMOR ALI

S/O JOYNUDDIN
VILL. 3 NO. PASCHIM KATHURI (KA) P.O. RAJMITA
P.S. LAKHIPUR
DIST. GOALPARA

ASSAM
PIN 78319
11:MOFIDUL ISLAM

S/O LT. ELAHI BOXO
VILL. 8 NO. BODBODI (GERAPURI)
P.O. RAJMITA
P.S. LAKHIPUR
DIST. GOALPARA
ASSAM
PIN 783129
12:SOBJALUR RAHMAN

S/O LT. AMIR ALI
VILL. 5 NO. SAPTIBARI
P.O. RAJMITA
P.S.LAKHIPUR
DIST. GOALPARA
ASSAM
PIN 783129
13:ALIMON NESSA

W/O AINUDDIN
VILL. 6 NO. KARAIBARI
P.O. RAJMITA
PS. LAKHIPUR
DIST. GOALPARA
ASSAM
PIN 783129
14:SHAHANARA BEGUM

W/O MERAJUL HOQUE
VILL. NO. GERAPURI
P.O. RAJMITA
P.S. LAKHIPUR
DIST. GOALPARA
ASSAM
PIN 783129
15:SOBURA KHATUN

W/O SORMAN ALI
VILL. 9 NO. FETENGAPARA (K)
P.O. RAJMITA
P.S. LAKHIPUR
DIST. GOALPARA
ASSAM
PIN 783129

Advocate for : MR. M U MAHMUD
Advocate for : SC
P AND R.D. appearing for THE STATE OF ASSAM AND 14 ORS

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
O R D E R

05.06.2023

Heard Mr. M. U. Mahmud, the learned counsel for the petitioner and Mr. S. Dutta, the learned counsel appearing on behalf of the respondent Nos.1, 3, 4, 6 & 7. Also heard Mr. N. Goswami, the learned counsel appearing on behalf of the respondent No.2 as well as Mr. J. Ahmed, the learned counsel appearing on behalf of the respondent No.8.

2. The instant writ petition has been filed by the petitioner challenging the resolution so adopted in the No Confidence Motion against the petitioner on 18.10.2021 as well as also the order dated 25.11.2021 whereby the Office of the Chief Executive Officer of the Goalpara Zilla Parishad has accepted the resolution passed in the special meeting of No Confidence Motion against the petitioner and empowered the Vice-President of the Gaon Panchayat to exercise all powers and perform all functions and discharge all duties of the President on removal of the petitioner as the President of the Gaon Panchayat.

3. The learned counsel for the petitioner raised two contentions. The first of such contention is on the basis of Section 15 (1) of the Assam Panchayat Act, 1994 (for short, 'the Act of 1994') to the effect that from a perusal of the resolution adopted on 18.10.2021, it is seen that only 7

members have voted against the petitioner. The learned counsel for the petitioner, therefore, submitted that as there are 13 members of the said Gaon Panchayat, and as such, the mandate in terms with Section 15 (1) of the Act of 1994 which requires 2/3rd majority for passing the resolution was not done.

4. On the other hand, Mr. S. Dutta, the learned counsel appearing on behalf of the P&RD Department submits that the concerned Gaon Panchayat has only 10 members. Taking into account the same, as 7 members have passed the resolution in favour of the No Confidence Motion, this Court is of the opinion that the mandate of Section 15 (1) of the Act of 1994 was duly complied with.

5. The second contention which has been raised by the learned counsel for the petitioner is that Section 15 (3) of the Act of 1994 mandates that the President has to be given an opportunity to explain. However, the petitioner was not given the opportunity for which the resolution so adopted on 18.10.2021 was in contravention to Section 15 (3) of the Act of 1994.

6. It appears from the records that the meeting was held on 18.10.2021 on the basis of an order passed by this Court dated 20.09.2021 in WP(C) No.2513/2021. It further appears from the resolution adopted on 18.10.2021, the petitioner chose to remain absent in the meeting.

7. Under such circumstances, this Court is therefore of the opinion that the question of contravention of Section 15 (3) of the Act of 1994 is misconceived.

8. Considering the above, the instant writ petition stands dismissed.
9. Pending applications, if any, stands dismissed.

JUDGE

Comparing Assistant