

GAHC010211542023



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

Case No. : WP(C)/5702/2023

FAIZUL ISLAM
SON OF LATE HASNOT ALI,
VILLAGE- PAKHIMORIA,
P.O.- PATHORI, P.S.- SADAR,
DISTRICT- NAGAON, ASSAM.

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY,
GOVERNMENT OF ASSAM,
REVENUE AND DISASTER MANAGEMENT (LR) DEPARTMENT,
DISPUR, GUWAHATI- 781006.

2:THE DEPUTY COMMISSIONER
NAGAON
ASSAM
PIN- 782001.

3:THE CIRCLE OFFICER
NAGAON SADAR REVENUE CIRCLE
DIST.- NAGAON
ASSAM

Advocate for the Petitioner : MR. A C SARMA

Advocate for the Respondent : SC, REVENUE

**BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

Date : 04-12-2023

Heard Mr. G.C. Borah learned counsel for the petitioner. Also heard Mr. J Handique learned counsel for the respondent No.1 and Mr.

R Dhar learned counsel appearing for respondent Nos.2 and 3.

Pursuant to an advertisement dated 20.09.2021 for filling up the post of 82 numbers of vacant post of Gaon Pradhan under different Revenue Circles under Nagaon District, the petitioner was selected for appointment for the post of Gaon Pradhan against 8 Niz Pakimoria village. It is the grievance of the petitioner that in spite of such selection, the petitioner has not been appointed till date.

This court under its order dated 29.09.2023 issued notice of motion.

Mr. Dhar learned counsel has obtained an instruction to the effect that there was a public complaint against the petitioner and therefore, his appointment order has not been issued.

Perused the materials produced before the court.

The complaint received is also produced before this court, which discloses that altogether 27 persons had filed a complaint before the Deputy Commissioner after the selection process was over, requesting him to enquire into the matter and to appoint some other person in place of the petitioner as Gaon Pradhan of the concerned gaon. The said complaint neither discloses the identity of these persons nor any

materials have been annexed with such complaint. This court is afraid that selection authority be permitted to withdraw appointment of selected candidate on the basis of allegation by persons who themselves have not disclosed their identity. Sanctity of a selection process can be questioned in the manner it has been done in the case. There is no doubt that the employer shall have a right to withdraw appointment in certain circumstances, like fraud in the selection process, candidates selected not having required qualification or non disclosure of vital materials required in terms of the advertisement or giving false information etc. However, in a situation when there are allegations by third parties, the genuineness and bonafide of such complaint is required to be ascertained and in a case, where the authority wants to proceed with such complaint, each selected candidates needs to be given a reasonable opportunity of hearing.

Be that as it may, in view of the aforesaid factum, it is directed that the respondent, Deputy Commissioner shall take a call upon the complaint filed by the aforesaid twenty seven persons dated 21.09.2022 before him and take a decision on such complaint in terms of the present order.

While completing such exercise the Deputy Commissioner shall take note that in such complaint the complainant has not disclosed their identity, their residence etc and though some allegations are made such complaint is not substantiated by any of such allegations.

Accordingly the present writ petition is disposed of.

The entire exercise should be carried out within a period of 1

month from the receipt of a certified copy of this order.

The Deputy Commissioner shall also take note that except the complaint there is no other material to withdraw the selection of the petitioner inasmuch as there is no allegation that the selection process has been vitiated by any fraud or that the petitioner has withdrawn certain necessary disclosure.

JUDGE

Comparing Assistant