

GAHC010214462021



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

Case No. : WP(C)/166/2022

SURAT JAMAN AND 39 ORS
S/O LT. NIBED ALI, VILL-CHAIBARI, P.O.-GOURNAGAR, P.S.-LAKHIPUR,
DIST-GOALPARA, ASSAM, PIN-783132

2: SAHAJAMAL @ SAHAJAMAL HAQUE
S/O LATE NIBED ALI
VILL-CHAIBARI
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

3: NUR ISLAM @ NURICHALAM
S/O LATE NIBED ALI
VILL-CHAIBARI
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

4: AJUR UDDIN @ AJIRUDDIN SHEIKH
S/O CHABED ALI
VILL-CHAIBARI
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

5: PAYNAL HAQUE
S/O LATE MAIJUDDIN
VILL-CHAIBARI

P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

6: ALEYA KHATUN
W/O NUR JAMAL HAQUE
VILL-CHAIBARI
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

7: ROHIMA BIBI
W/O MOZAFAR ALI
VILL-CHAIBARI
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

8: MAJED BEWA @ MAJIDA BEWA
W/O LATE MEHER ALI
VILL-CHAIBARI
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

9: SORBANU BIBI
W/O SAMDULLAH SK
VILL-CHAIBARI
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

10: MOMIRUL HOQUE @ MONIRUL HOQUE
S/O LATE TACHUR UDDIN
VILL-CHAIBARI
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA

ASSAM
PIN-783132

11: MOZAMMIL HOQUE @ MOJAMIL HAQUE
S/O SUBULYA SHEIKH
VILL-CHAIBARI
MUSLIMPARA
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

12: SAMAD ALI @ CHAMED ALI
S/O CHANDULYA
VILL-CHAIBARI
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

13: MOZIYAM BEWA @ MAJIJAM BEWA
W/O TORIFKHA
VILL-CHAIBARI
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

14: JAKIR MOLLAH
S/O SOBAHAN MOLLAH
VILL-CHAIBARI
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

15: AKIR MOLLAH @ AKIR MOLLAH
S/O LATE SOBAHAN MOLLAH
VILL-CHAIBARI
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

16: AJMAT ALI
S/O LATE SUBULLAH SHEIKH
VILL-CHAIBARI
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

17: AMIRUL HAQUE
S/O JABBAR ALI
S/O LATE SUBULLAH SHEKH
VILL-CHAIBARI
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

18: NOSOR UDDIN
S/O LATE NACHU SK @ NUSUBULLYA
VILL-CHAIBARI
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

19: TOFIZ UDDIN MOLLAH @ TAFIJUDDIN MOLLAH
S/O KHOKA MOLLAH
VILL-CHAIBARI
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

20: AMIRUL AKAND @ AMINUL AKAND
S/O SOLEMAN AKAND
VILL-CHAIBARI
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

21: MOJILLA HOQUE

S/O SHER ALI
VILL-CHAIBARI
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

22: SHER ALI
S/O JAMATULLAH SHEIKH
VILL-SHALBARI
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

23: SAHAB UDDIN SK @ SAHAB UDDIN SHEKH
S/O TARA SHEKH
VILL-CHAIBARI
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

24: AFZAL KHA @ AFJAL KHA
S/O SHORBOL KHA
VILL-SALBARI PT-I
CHAIBARI
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

25: BAHALAJAN BIBI
W/O SIDDIQUE ALI
VILL-CHAIBARI
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

26: EMDADUL HOQUE @ EANJADUL HAQUE
S/O JABED ALI
VILL-CHOWKATOLA

P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

27: OPIDUL HOQUE @ OPIDUL HAQUE
S/O ABDUL LATIF
VILL-CHOWKATOLA
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

28: ALI HUSSAIN
S/O AZAD ALI
VILL-CHOWKATOLA
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

29: MOZAMMIL HOQUE @ MOJAMMIL HOQUE
S/O NUR ISLAM
VILL-CHAIBARI
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

30: TOZZAMMEL HOQUE
S/O LATE SUBULLA SHEIKH
VILL-CHAIBARI
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

31: MOZMUL HOQUE @ MAJAMUL HAQUE
S/O LATE SAHIDA BIBI
W/O LATE NUR ISLAM
VILL-CHAIBARI
P.O.-GOURNAGAR
P.S.-LAKHIPUR

DIST- GOALPARA
ASSAM
PIN-783132

32: REYAZ UDDIN @ YAJ UDDIN
S/O FAZAR SHEIKH
VILL-CHAIBARI
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

33: SANOWAR HUSSAIN
S/O MOHIR UDDIN
VILL-CHAIBARI
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

34: SAKIBUL ISLAM @ SABIKUL HAQUE
S/O AJIYAL HAQUE
VILL-CHAIBARI
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

35: BARAKAT ALI @ BARKAT ALI
S/O ILIMUDDIN
VILL-CHOWKATOLA
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

36: BAHAR ALI
S/O IMAN ALI
VILL-CHOWKATOLA
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

37: KHOKA MOLLAH
S/O MOYJUDDIN MOLLAH
VILL-CHAIBARI
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

38: JALAL UDDIN
S/O MANIK ALI
VILL-CHAIBARI
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

39: SAHAJALAL @ SHAHJALLAL SHEIKH
S/O TAHER ALI SHEIKH
VILL-CHOWKATOLA
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783132

40: MAJIDA KHATUN
D/O MAYFAL BIBI
VILL-CHOWKATOLA
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-78313

VERSUS

THE UNION OF INDIA AND 8 ORS
REPRESENTED BY THE SECRETARY, MINISTRY OF HOUSING AND URBAN
POVERTY ALLEVIATION, NEW DELHI-01

2:THE STATE OF ASSAM
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM
DISPUR
GUWAHATI-6

3:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT
DISPUR
GUWAHATI-06

4:THE DEPUTY COMMISSIONER
GOALPARA
ASSAM
PIN-783101

5:THE PROJECT DIRECTOR
DRDA
GOALPARA
P.O. AND P.S.-GOALPARA
ASSAM
PIN-783101

6:THE BLOCK DEVELOPMENT OFFICER
JALESWAR DEV. BLOCK
P.O.-JALESWAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783129

7:THE BLOCK DEVELOPMENT OFFICER
LAKHIPUR DEV. BLOCK
P.O. AND P.S.-LAKHIPUR
DIST-GOALPARA
ASSAM
PIN-783129

8:THE SECRETARY OF GOURNAGAR GAON PANCHAYAT
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-783129

9:THE SECRETARY OF JOYRAMKUCHI GAON PANCHAYAT
P.O.-GOURNAGAR
P.S.-LAKHIPUR
DIST- GOALPARA
ASSAM
PIN-78312

Advocate for the Petitioner : MR. A F N U MOLLAH

Advocate for the Respondent : ASSTT.S.G.I.

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

26.09.2023

Heard Mr. A.F.N.U. Mollah, learned counsel for the writ petitioners. Also heard Ms. M. Barman, learned Govt. Advocate, Assam appearing for the respondent Nos.2, 4 and 5. Mr. N. K. Devnath, learned Standing Counsel, P & RD Department, Assam is present on behalf of respondent Nos.3, 6, 7, 8 and 9. None has appeared for the respondent No.1.

2. The writ petitioners herein, numbering 40 in total, claim to be the ordinary residents of villages coming under the Gaurnagar Gaon Panchayat, of Jaleswar Development Block. According to the petitioners they had not received earlier benefits under any of the Government sponsored housing schemes and therefore, were entitled to allotment of dwelling houses under the Pradhan Mantri Awas Yojana - Gramin (PMAY-G) Scheme which had commenced with effect from 1st April, 2016. While the petitioners were expecting that their names would be included in the list of beneficiaries, they were surprised to find that their names were deleted from the list forwarded by the Secretary of the Joyramkuchi Gaon Panchayat falling under the Lakhipur Development Block. Aggrieved thereby, the instant writ petition has been filed.

3. On receipt of notice, the respondents have appeared. The respondent No.5 i.e. the Project Director, DRDA has also filed counter-affidavit contesting the claim of the petitioners.

4. From the materials available on record, it appears that the stand of the

departmental authorities is to the effect that as per the Socio Economic and Caste Census-2011 (SECC), the names of the petitioners were not found to be included in the list of beneficiaries under the Gournagar Gaon Panchayat coming within the Jaleswar Development Block. That is the reason why their names were not included in the list of beneficiaries.

5. Responding to the above, Mr. Mollah, learned counsel for the writ petitioners submits that the names of his clients are included in the list of beneficiaries for the adjoining Gaon Panchayat i.e. Joyramkuchi Gaon Panchayat coming under the Lakhipur Development Block but the petitioners are the ordinary residents of Gournagar Gaon Panchayat. This discrepancy, according to Mr. Mollah, has occurred during the preparation of list of the beneficiaries during the socio-economic and caste census-2011 for reasons not known to the petitioners. However, submits Mr. Mollah, the petitioners cannot be deprived of the benefits under the PMAY-G Scheme merely on such technical grounds since they had no fault in inclusion of their names in the adjoining Gaon Panchayat. Mr. Mollah has further submitted that his clients are genuine villagers who are entitled to receive dwelling houses under the PMAY-G scheme and therefore, if an order is not passed by this Court protecting their interest in the matter, then the same would result in serious prejudice being caused to the petitioners.

6. Ms. M. Barman, learned Government Advocate, Assam and Mr. Devnath, learned Standing Counsel, P & RD Department, Assam have submitted in tandem that after the list of beneficiaries was published, the aggrieved persons had 15 days time to raise objection under the provisions of the Scheme but the petitioners have remained silent in the matter. As such, their

claims cannot be considered at this distant point of time. The learned Departmental counsel have, however, submitted that as and when any future benefits are announced for the residents of the Gournagar G.P., the petitioners' claim will be considered. It is also the submission of Ms. Barman, learned Govt. Advocate that from the resolution No.5 adopted by the Joyramkuchi Gaon Panchayat in its meeting held on 30.06.2016, it is clear that the petitioners were not identified as the residents of the Gaon Panchayat and therefore, it was observed that their names had been unauthorisedly included in the list of beneficiaries. It was on such count the names of the writ petitioners were deleted from the list of beneficiaries.

7. The aforesaid stand of the learned Government Advocate is found to be wholly unacceptable. The fact remains that inclusion of names of beneficiaries in the list is a matter for the authorities to decide based on realistic inputs received from the Gaon Panchayat level. If the petitioners are the residents of Gournagar Gaon Panchayat, which fact is apparently borne out from the communication dated 21.11.2020 issued by the Block Development Officer, Jaleswar Development Block (Annexure-4), then it is not understood as to why, their names could not have been included either in the list of beneficiaries of the Gournagar Gaon Panchayat or Joyramkuchi Gaon Panchayat.

8. Be that as it may, since there is no controversy about the fact that the petitioners are otherwise eligible for receiving the benefits under the PMAY-G Scheme, this Court is of the opinion that they cannot be denied of such benefit merely on a technical ground, as projected by the respondents. Although Ms. Barman has submitted that having failed to raise any objection within 15 days from publication of the list, the petitioners' claim stood extinguished, I find that

the stand of the departmental authorities is very technical in nature. The petitioners are mostly poor and illiterate villagers and therefore, their claim for receiving benefits under the PMAY-G Scheme cannot be obliterated merely on a technical ground that the petitioners had failed to raise objection to the non-inclusion of their names in the list of beneficiaries within 15 days of its publication.

9. The framework for implementation of the PMAY-G Scheme lays down certain criteria for identification and selection of beneficiaries. Clause-4.0 and 4.1 of the Scheme are relevant for the purpose of this case and therefore, are being reproduced herein below for ready reference :-

“4.0 Fairness and transparency in identification and selection of beneficiaries is the cornerstone for realising the goal of 'Housing for All'. To ensure that assistance is targeted at those who are genuinely deprived and that the selection is objective and verifiable, the housing deprivation parameters in the SECC data will be used for identifying households and then verified by the Gram Sabhas.

4.1 Universe of Eligible Beneficiaries

Moving away from BPL list, the universe of eligible beneficiaries under PMAY (G) will include all the houseless and households living in zero, one or two room houses with kutcha wall and kutcha roof as per SECC data, subject to the exclusion process described in Annexure-I.”

10. From a reading of Clause- 4.2, which deals with Prioritisation within the Universe, this Court finds that priority is to be assigned on the basis of parameters reflecting housing deprivation in each category including SC/ST, Minorities and Others. Clause-4.2.1 further clarifies that persons in the category of SC/ST, Minorities and other households which are houseless or living in houses with

lower number of rooms shall not be ranked below households living in houses with higher number of rooms. From the materials available on record, it is not clear as to whether the respondents have followed these criteria while finalising the list of beneficiaries.

11. It is to be borne in mind that the benefits under the PMAY-G Scheme is meant for the poorest of the poor people in the society who do not have the requisite means to construct a proper dwelling house for themselves. Bearing in mind the benevolent object of the scheme, the respondents will, therefore, have to ensure that the deserving persons, who come within the ambit of the scheme are not deprived of any benefit merely on a technical ground as such an approach would not only be violative of the principles of equality enshrined under Article 14 of the Constitution of India but would also run counter to the object of the Scheme.

12. Situated thus, this writ petition is being disposed of with a direction upon the respondent Nos.3, 4 and 5 to verify the claims of the petitioners. Upon such verification, if it is found that the petitioners are the genuine residents of Gaurnagar Gaon Panchayat and are similarly situated as the other beneficiaries of the Gaon Panchayat, then in that event, necessary steps for inclusion of their names in the list of beneficiaries in respect of the Gaurnagar Gaon Panchayat be initiated. Upon completion of the said process, the claim of the petitioners for extending the benefit under the PMAY-G Scheme be also considered and processed in accordance with law. So as to enable the official respondents to carry out the aforesaid exercise, petitioners to furnish certified copy of this order before the respondent Nos.3, 4 and 5 within a week. The exercise, as directed by this order, be carried out and completed, as

expeditiously as possible but not later than six months from the date of receipt of a certified copy of this order, but within the period of validity of the PMAY-G Scheme.

With the above observation, this writ petition stands disposed of.

JUDGE

Comparing Assistant