

GAHC010229622023



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

**Case No. : WP(C)/6001/2023**

HRIDAYDULAL BHATTACHARJEE AND 2 ORS  
S/O- LATE HIRONMAY BHATTACHARJEE,  
STATION ROAD, HAILAKANDI TOWN,  
WARD NO. 12, P.O- HAILAKANDI,  
DISTRICT- HAILAKANDI, ASSAM,  
PIN- 788151.

2: AJIT PAUL  
S/O- ANANTA PAUL

STATION ROAD  
HAILAKANDI TOWN

WARD NO. 12  
P.O- HAILAKANDI

DISTRICT- HAILAKANDI  
ASSAM

PIN- 788151.

3: TILAK KANGSHA BANIK  
S/O- LATE KANAI KANGSHA BANIK

STATION ROAD  
HAILAKANDI TOWN

WARD NO. 12  
P.O- HAILAKANDI

DISTRICT- HAILAKANDI  
ASSAM

PIN- 788151

VERSUS

THE STATE OF ASSAM AND 5 ORS  
TO BE REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE  
GOVERNMENT OF ASSAM,  
HOUSING AND URBAN AFFAIRS DEPARTMENT,  
DISPUR, GUWAHATI-6.

2:THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM  
HOUSING AND URBAN AFFAIRS DEPARTMENT  
DISPUR  
GUWAHATI-6.

3:THE DIRECTOR  
MUNICIPAL ADMINISTRATION DEPARTMENT  
DISPUR  
GUWAHATI-6.

4:THE ASSAM STATE ELECTION COMMISSION  
REPRESENTED BY ITS SECRETARY

ADITYA TOWER  
RUKMINI GAON

G.S. ROAD  
DISPUR  
GUWAHATI-6.

5:THE DEPUTY COMMISSIONER  
HAILAKANDI  
P.O. AND DISTRICT- HAILAKANDI

ASSAM  
PIN- 788151.

6:THE EXECUTIVE OFFICER  
HAILAKANDI MUNICIPAL BOARD  
P.O. AND DISTRICT- HAILAKANDI

ASSAM  
PIN- 788151

**Advocate for the Petitioner** : MR. P K ROYCHOUDHURY

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

**BEFORE  
HONOURABLE MR. JUSTICE SUMAN SHYAM**

**ORDER**

**Date : 13/10/2023**

Heard Mr. P.K. Roy Choudhury, learned counsel appearing for the writ petitioners. Also heard Mr. P. Nayak, learned Standing Counsel, Housing and Urban Affairs Department, Assam, appearing for the respondent nos. 1, 2 & 3, Mr. R. Dubey, learned Standing Counsel, State Election Commission, Assam, appearing for the respondent no. 4 and Ms. S. Baruah, learned Government Advocate, Assam, appearing for the respondent nos. 5 & 6.

The 3 (three) writ petitioners herein are the residents of Ward No. 12, Hailakandi Municipal Board, Hailakandi town in the district of Hailakandi. The Ward No. 12 was earlier represented by the Ward Commissioner Smt. Sampa Sengupta, who had met with a premature death on 08/08/2023, pursuant where to, the office of Ward Commissioner of the said ward had fallen vacant. However, no steps have been taken till today by the concerned authorities to hold fresh election for filling up the vacancy in the office of Ward Commissioner of Ward No. 12. Hence, this writ petition.

Alleging that delay in holding election for filling up the vacancy is causing serious inconvenience to the public of the locality, the instant writ petition has been filed seeking a Writ of Mandamus directing the authorities to hold the election by contending that as per the mandate of section 31 of the Assam Municipal Act, 1956, the authorities are under a legal obligation to fill up the vacancy by appointment or by election if any Commissioner appointed or elected is unable to enter upon nor complete his/her term in office.

In view of the order dated 11/10/2023 passed by this Court, Mr. R. Dubey, learned Standing Counsel, SEC, has obtained instruction and submits that within 03 (three) months from today, election for filling up the vacancy in the office of Ward Commissioner of Ward No. 12 of Hailakandi Municipal

Board would be held. The learned counsel, however, submits that the same would possible only if requisite fund is provided by the State Government for holding the election.

Mr. P. Nayak, learned counsel for the respondent nos. 1, 2 & 3 has assured the Court that requisite funds for holding the election will be made available to the respondent no. 4.

If that be so, nothing further survives for adjudication in this writ petition.

Mr. Roy Choudhury, learned counsel for the petitioners has also fairly agreed to the same.

In view of the above, this writ petition stands disposed of by providing that within 03 (three) months from today, election for filling up the vacancy of Ward Commissioner of Ward No. 12 of Hailakandi Municipal Board be held. For the above purpose, the concerned authorities to provide necessary support, including financial aid, to the respondent no. 4.

With the above observations, the writ petition stands disposed of.

**JUDGE**

*sukhamay*

**Comparing Assistant**