

GAHC010266162023



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

Case No. : WP(C)/6955/2023

KAHIR UDDIN MAZUMDER
S/O- IBADUR RAHMAN MAZUMDER,
RESIDENT OF VILL- ITOR KANDI PART-I,
P.O.- RATAKANDI,
P.S. AND DISTRICT- HAILAKANDI,
PIN- 788152, ASSAM.

VERSUS

THE STATE OF ASSAM AND 9 ORS
TO BE REPRESENTED BY THE PRINCIPAL SECRETARY TO THE
GOVERNMENT OF ASSAM
REVENUE AND DISASTER MANAGEMENT DEPARTMENT,
DISPUR, GUWAHATI-6.

2:THE INSPECTOR GENERAL OF REGISTRATION ASSAM CUM PRESIDENT
PERMANENT COMMITTEE
FOR APPOINTMENT OF MMR AND KAZI
ASSAM

RUPNAGAR
GUWAHATI-781019.

3:THE ASSTT. INSPECTOR GENERAL OF REGISTRATION ASSAM
RUPNAGAR GUWAHATI- 78101

4:THE DISTRICT REGISTRAR CUM DISTRICT COMMISSIONER
HAILAKANDI
P.O. AND P.S. AND DIST.- HAILAKANDI

ASSAM.

5:THE A D C
REVENUE CUM CHAIRMAN OF THE INTERVIEW BOARD HAILAKANDI
P.O. AND P.S. AND DIST.- HAILAKANDI

ASSAM.

6:MD. JUBAIR AHMED CHOUDHURY
S/O- LATE SIRAJUL HOQUE CHOUDHURY

VILL- DAUDH PUR
P.O.- BALIURA

P.S. AND DIST.- HAILAKANDI
ASSAM

PIN- 788151.

7:ABU NASAR MD NAZIBUZZAM LASAKAR
S/O- MOULANA TAJUDDIN LASKAR
VILL- GANGPAR DUMKOR
P.O.- GANGPAR DUMKOR
P.S. AND DISTRICT- HAILAKANDI
ASSAM
PIN- 788152.

8:IMRAN HUSSAIN LASAKAR
S/O- LT. TAFAZZUL ALI LASKAR
VILL.- ALGAPUR (V)
P.O.- KALIBARI BAZAR
P.S.- ALGAPUR AND DISTRICT- HAILAKANDI
ASSAM
PIN- 788152.

9:TOIBUR RAHMAN LASKAR
S/O- LT. SAMSUDDIN LASKAR.
VILL- NITAYANAGAR PT (III)
P.O.- NITAYANAGAR
P.S. AND DISTRICT- HAILAKANDI
ASSAM
PIN- 788152.

10:ABUL HUSSAIN LASKAR
S/O- MOSADDAR ALI LASKAR
VILL- ALGAPUR (V)
P.O.- KALIBARI BAZAR
P.S.- ALGAPUR AND DISTRICT- HAILAKANDI
ASSAM
PIN- 788152

Advocate for the Petitioner : MR. K A MAZUMDER

Advocate for the Respondent : SC, REVENUE

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

ORDER

Date : 04-12-2023

1. Heard Mr. K A Mazumder learned counsel for the petitioner. Also heard Mr. J Handique learned standing counsel appearing for respondent Nos.1, 2 and 3 and Mr. T Chutia learned counsel for respondent Nos.4 and 5.
2. As agreed to by the learned counsel for the parties, the present petition is taken for final disposal at the motion stage itself.
3. The grievance of the petitioner is that the Deputy Commissioner, Hailakandi has sent a panel of names for nomination as MMR & Kazi under the Assam Moslem Marriages and Divorces Registration Rules, 1935.
4. According to Mr. Mazumder, learned counsel for the petitioner, in terms of Rules 2 and 3 of the aforesaid Rules, 1935, the Deputy Commissioner's duty is to send the name to the Inspector General of Registration after proper verification and thereafter, the Inspector General of Registration is to consider such applications and take a final call on the applications.
5. The apprehension of the petitioner is that while sending the names to the IGR, the Deputy Commissioner, Hailakandi has

prepared a list on merit giving different marks under different heads and according to the learned counsel for the petitioner such course of action is not permissible under the Rules 1935.

6. Per contra, Mr. Handique submits that the defect in sending the names by the Deputy Commissioner to the IGR shall have no effect upon the IGR inasmuch as the IGR will take a final call on the names already sent on the basis of the Assam Moslem Marriages and Divorces Registration Rules, 1935 and therefore, the present writ petition is filed only on the basis of apprehension without there being any cause of action.

7. Mr. Handique, learned standing counsel is correct that in terms of the Rules of 1935, the Deputy Commissioner cum District Registrar is having a role under the Rules of 1935 to send the names of the applicants to the IGR and the role of District Registrar is confined to sending the nomination along with documents under Rule 3 and the final call is to be taken by the IGR in terms of Rule 4.

8. That being the position, this writ petition is closed providing that the IGR shall consider the case of the petitioner and other applicants on their respective merit in terms of the Rules of 1935 and not solely on the basis of the recommendation made by the District Registrar inasmuch as the aforesaid Rules has not empowered the Deputy Commissioner to prepare a list on merit. In fact Rule 6 empowers the permanent committee even to reject the recommendation or nomination sent by the District Registrar.

9. Accordingly, with the aforesaid observations this Writ Petition stands closed with a liberty to the IGR and the permanent

committee to exercise their jurisdiction in terms of the Rules of 1935. Needless to say that liberty shall always be with the petitioner, to raise his grievance before appropriate forum if he is aggrieved by any action of the IGR or permanent committee.

JUDGE

Comparing Assistant