

GAHC010271872023



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

Case No. : WP(C)/7157/2023

CHINTAMANI BOL
W/O JAY KRISHNA BOL, R/O VILL- SAIDARIA, P.O.-SAIDARIA, P.S.-
RUAPHIHAT, DIST- NAGAON (ASSAM), PIN-782125

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, PANCHAYAT AND RURAL DEVELOPMENT DEPTT, DISPUR,
GUWAHATI-781006

2:THE DEPUTY COMMISSIONER
NAGAON
P.O. AND P.S.-NAGAON
DIST-NAGAON (ASSAM)
PIN-782001

3:THE NAGAON ZILLA PARISHAD
REPRESENTED BY THE CHIEF EXECUTIVE OFFICER
P.O. AND P.S.-NAGAON
DIST-NAGAON (ASSAM)
PIN-782001

4:THE PRESIDENT
RUPAHIHAT ANCHALIK PANCHAYAT
P.O.-RUPAHI
P.S.-RUPAHIHAT
DIST-NAGAON (ASSAM)
PIN-782125

5:THE EXECUTIVE OFFICER
RUPAHIHAT ANCHALIK PANCHAYAT

P.O.-RUPAHI
P.S.-RUPAHIHAT
DIST-NAGAON (ASSAM)
PIN-782125

6:THE SECRETARY
SAIDARIA GAON PANCHAYAT
P.O.-SAIDARIA
P.S.-RUPAHIHAT
DIST-NAGAON (ASSAM)
PIN-78212

Advocate for the Petitioner : MR A A DEWAN

Advocate for the Respondent : SC, P AND R.D.

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

20.12.2023

Heard Mr. A.A. Dewan, learned counsel for the petitioner; Mr. P. Handique, learned counsel representing Mr. K. Konwar, learned Standing Counsel, Panchayat & Rural Development [P&RD] Department for the respondent nos. 1, 3, 5 & 6; and Mr. N. Goswami, learned Junior Government Advocate, Assam for the respondent no. 2.

2. The petitioner has instituted the instant writ petition under Article 226 of the Constitution of India seeking two reliefs, firstly, a direction to the respondent authorities to cause an enquiry in respect of the financial anomalies allegedly committed by the Secretary and the Vice-President of Saidoria Gaon Panchayat; and, secondly, a direction to the respondent authorities to sanction and release the remuneration to the petitioner for the period from 09.01.2023 till the reinstatement of the petitioner as the President of Saidoria Gaon Panchayat.

3. The factual matrix of the case, in brief, can be stated as follows :-

3.1. The petitioner was directly elected as the President of Saidoria Gaon Panchayat under Rupahihat Anchalik Panchayat and Nagaon Zilla Parishad as per the provisions of Section 6[1] [b] of the Assam Panchayat Act, 1994 in the General Panchayat Election held in the year 2018. During the continuance as the President of Saidoria Gaon Panchayat, a requisition notice was submitted by 8 [eight] nos. of Ward Members of the Gaon Panchayat expressing want of confidence in the petitioner to continue as the President of the Gaon Panchayat. A special meeting was convened and held on 09.01.2023 to discuss the motion of no confidence brought against the petitioner. A resolution was adopted in the said special meeting after the voting process for the motion of no confidence was completed against the petitioner and as a result, the petitioner stood removed from the post of President of Saidoria Gaon Panchayat in terms of the provisions of Section 15 of the Assam Panchayat Act, 1994. The resolution adopted in the special meeting dated 09.01.2023 and the consequent removal of the petitioner from the post of President of the Gaon Panchayat were challenged by the petitioner in a writ petition, W.P.[C] no. 368/2023. After hearing the parties, the writ petition, W.P.[C] no. 368/2023 was allowed by an order dated 12.09.2023 recording findings that the procedure required to be adopted in convening the special meeting under the provisions of the Assam Panchayat Act, 1994 were not followed. The impugned resolution dated 09.01.2023 was set aside and the petitioner was directed to be reinstated in the office of the President of Saidoria Gaon Panchayat forthwith.

3.2. After the order dated 12.09.2023 passed in the writ petition, W.P.[C] no. 368/2023, the petitioner had been reinstated in the office of the President of Saidoria Gaon Panchayat. With the contention that the petitioner was illegally removed from the office of the President of the Gaon Panchayat on and from 09.01.2023 till her reinstatement in the office by virtue of the order dated 12.09.2023, a Representation was submitted by the petitioner before the respondent authorities to sanction and release the remuneration eligible to be received by the petitioner as the President of a Gaon Panchayat for the said period.

4. From [i] the Communication dated 20.06.2023 [Annexure-3] of the Secretary, Saidoria Gaon Panchayat to the Block Development Officer, Rupahihat Development Block; [ii] the

Communication dated 10.10.2023 [Annexure-4] of the Block Development Officer, Rupahihat Development Block to the Chief Executive Officer, Nagaon Zilla Parishad; and [iii] the Communication dated 11.10.2023 [Annexure-5] of the Chief Executive Officer, Nagaon Zilla Parishad to the Commissioner, Panchayat and Rural Development, Assam, it transpires that the matter regarding sanction and release of remuneration of the petitioner for the period from 09.01.2023 till her reinstatement has been considered at different levels and finally, the matter has been forwarded to the Commissioner, Panchayat & Rural Development, Assam on 11.10.2023, for a final decision.

5. As the matter regarding sanction and release of the remuneration of the petitioner has not proceeded further, the petitioner has preferred the writ petition seeking the reliefs, indicated above.

6. In so far as the direction sought for by the petitioner to cause an enquiry into the alleged illegalities committed by the Secretary and the Vice-President of the Gaon Panchayat is concerned, it is noticed that the petitioner has not represented about such alleged illegalities committed by the Secretary and the Vice-President before any authority in the Panchayat & Rural Development Department at any earlier point of time. In such view of the matter, the relief sought for in the form of a direction to cause an enquiry into the alleged illegalities cannot be countenanced. The petitioner is, however, at liberty to agitate such grievances before the appropriate authority.

7. In so far as the direction sought for regarding sanction and release of the remuneration to the petitioner on and from 09.01.2023 till her reinstatement as the President of Saidoria Gaon Panchayat, after the order dated 12.09.2023 passed in the writ petition, W.P. [C] no. 368/2023, is concerned, it is noticed that the matter regarding sanction and release of the remuneration to the petitioner has been under consideration of the Commissioner, Panchayat & Rural Development, Assam. In such view of the matter, this Court is of the considered view that it would be appropriate to direct the Commissioner, Panchayat & Rural Development, Assam to take a final decision as regards sanction and release of the remuneration to the petitioner as the President of Saidoria Gaon Panchayat for the aforesaid

period within a period of 1 [one] month from the date of receipt of a certified copy of this order from the petitioner at his office. It is accordingly ordered. It is observed that the final decision so taken by the Commissioner, Panchayat & Rural Development, Assam shall thereafter be communicated to the petitioner forthwith.

8. With the observation made and the direction given above, the writ petition is disposed of. No cost.

JUDGE

Comparing Assistant