

GAHC010009762024



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

**Case No. : WP(C)/302/2024**

ABU SAYED ALI AND 9 ORS  
S/O HOBIBOR RAHMAN, R/O VILL-KACHUMARA, P.S.-KACHUMARA, DIST-  
BARPETA, PIN-781127

2: NUR UDDIN  
S/O DUHA SHEIKH  
R/O VILL-KACHUMARA  
P.S.-KACHUMARA  
DIST-BARPETA  
PIN-781127

3: SURUP VANU NESA  
C/O JOYNAL ABDIN  
R/O VILL- MOIRADIA  
P.S.-KACHUMARA  
DIST- BARPETA  
PIN-781127

4: JOHIRON NESA  
C/O NOZMUL HOQUE  
R/O VILL-KACHUMARA NC  
P.S.-KACHUMARA  
DIST-BARPETA  
PIN-781127

5: ROBIUL HUSSAIN  
S/O MOHEJ UDDULIN  
R/O VILL-KACHUMARA  
P.S.-KACHUMARA  
DIST-BARPETA  
PIN-781127

6: NOOR ALOM  
S/O NOWSHER ALI AKAND

R/O VILL-MOIRADIA  
P.S.-KACHUMARA  
DIST-BARPETA  
PIN-781127

7: MOIDUL HAJORIKA  
S/O NASIR UDDIN  
R/O VILL-KACHUMARA NC  
P.S.-KACHUMARA  
DIST-BARPETA  
PIN-781127

8: BABUL HASAN  
S/O ABDUS SALAM  
R/O VILL-KACHUMARA NC  
P.S.-KACHUMARA  
DIST-BARPETA  
PIN-781127

9: SIDDIQUR RAHMAN  
S/O HABEL UDDIN  
R/O VILL-KACHUMARA NC  
P.S.-KACHUMARA  
DIST-BARPETA  
PIN-781127

10: ZAKARIA HUSSAIN  
S/O HABEL UDDIN  
R/O VILL-KACHUMARA NC  
P.S.-KACHUMARA  
DIST-BARPETA  
PIN-78112

VERSUS

THE STATE OF ASSAM AND 4 ORS  
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF  
ASSAM, PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT, DISPUR,  
GUWAHATI-6

2: THE CHIEF EXECUTIVE OFFICER  
ZILA PARISHAD  
BARPETA  
PIN-781301

3: THE BLOCK DEVELOPMENT OFFICER  
CHENGA DEVELOPMENT BLOCK  
BARPETA

ASSAM  
PIN-781305

4:THE PRESIDENT  
21 NO. KACHUMARA GAON PANCHAYAT  
P.O.-KACHUMARA  
DIST-BARPETA  
ASSAM  
PIN-781127

5:THE SECRETARY  
21 NO. KACHUMARA GAON PANCHAYAT  
P.O.-KACHUMARA  
DIST-BARPETA  
ASSAM  
PIN-78112

**Advocate for the Petitioner** : MR. I H SAIKIA

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

**BEFORE**  
**HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

**ORDER**

**Date : 22-01-2024**

Heard Mr. I.H. Saikia, learned counsel for the petitioners and Mr. S. Dutta, learned Standing Counsel, Panchayat & Rural Development [P&RD] Department for the respondent nos. 1, 2, 3 & 5.

2. The petitioners, 10 [ten] in nos., have joined together to institute the present writ petition under Article 226 of the Constitution of India stating that they have a common cause of action to espouse. The petitioner no. 1 – 4 have stated that they are elected members of 21 no. Kachumara Gamba Panchayat and the petitioner nos. 5 – 10 are inhabitants of areas within the territorial jurisdiction of 21 no. Kachumara Gaon Panchayat [‘the Gaon Panchayat’, for short]. They have stated that they have preferred the instant writ petition in representative capacity.

3. It has been stated that the State Government has allocated an amount of Rs. 21,38,000/-

each towards the 1<sup>st</sup> installment and the 2<sup>nd</sup> installment for the Financial Year : 2022-2023 for the Gaon Panchayat, which is under Senga Development Block. The said installment amounts have, however, not been released yet in favour of the Gaon Panchayat.

4. The Petitioners have referred to a Notification bearing no. PDA.149/2020/33 dated 23.11.2020 of the Panchayat & Rural Development [P&RD] Department to contend that the State Government has thereby, laid down comprehensive guidelines for implementation of 15<sup>th</sup> Finance Commission Grant [‘the 15<sup>th</sup> FC Grant’, for short] in respect of a Gaon Panchayat. The petitioners have contended that a Gaon Panchayat is required to prepare a cogent development plan in the form of GPDP [Amar Gaon Amar Achoni] for utilization of 15<sup>th</sup> Finance Commission Grant. Any scheme under the 15<sup>th</sup> FC Grant is to be selected by abiding the GPDP guidelines and one of the requirements is that the GPDP is to be approved by the concerned Gaon Sabha. Another contention of the petitioners is that in so far as 21 no. Kachumara Gaon Panchayat is concerned, the schemes are being prepared by the President and the Secretary of the Gaon Panchayat without approval of the concerned Gaon Sabha. The petitioners have further contended that the President and the Secretary of 21 no. Kachumara Gaon Panchayat in clear disobedience of the comprehensive guidelines framed by the Notification dated 23.11.2020, have constituted a Construction Committee by including persons of their choice, whereas, as per the guidelines, the Construction Committees are to be constituted in a meeting of a Gaon Sabha. The petitioners have also drawn attention to the provision contained in the Notification which states that the schemes in the GPDP are to be approved by the Gaon Sabha and in case the schemes are not approved by the Gaon Sabha, the Block Level Advisory - cum - Monitoring Committee cannot include any scheme which is not approved by the Gaon Sabha. The petitioners have also alleged that the alleged irregularities have been brought to the notice of the respondent no. 2 by submitting two Representations – [i] Representation dated 21.11.2023 by the petitioner nos. 5 – 10; and [ii] Representation dated 28.11.2023 by the petitioner nos. 1 – 4. According to petitioners, the respondent no. 2 has not given due consideration to the said two Representations, wherein, the alleged irregularities committed by the committed by the President and the Secretary of 21 no. Kachumara Gaon Panchayat have been brought to light. Aggrieved by such alleged inaction, the petitioners have preferred the instant writ petition.

5. Mr. Dutta, P&RD Department has submitted that since the two Representations referred above, stated to have been submitted by the petitioners, are pending for consideration and to find out as to whether such alleged irregularities were committed or not might require cause fact-finding exercise, this writ petition may be disposed of with a direction to the respondent authorities, more particularly, the respondent no. 2 to take the two Representations on board and thereafter, to dispose of the same by a speaking order after ascertaining the veracity of the allegations made by the petitioners in the said two representations.

6. Mr. Saikia, learned counsel for the petitioners has not opposed the above submissions of the learned State Counsel.

7. On perusal of the said two Representations, dated 21.11.2023 & dated 28.11.2023, it is noticed that the petitioners have already indicated the alleged irregularities in the implementation of the schemes in respect of the Grant sanctioned to 21 no. Kachumara Gaon Panchayat by way of 2 [two] installments under the 15<sup>th</sup> Finance Commission Grant for the Financial Year : 2022-2023. As the alleged irregularities indicated therein as well as in the writ petition might require a fact finding exercise, this Court in view of broad consensus arrived at by the learned counsel for the parties in the afore-stated manner, is of a considered view that instead of keeping this writ petition pending, the same can be disposed of with a direction to the respondent authorities, more particularly, the respondent no. 2 to take the said two Representations, dated 21.11.2023 & dated 28.11.2023, stated to have been submitted by the petitioners before him, on board and thereafter, to examine the same vis-à-vis the comprehensive guidelines laid down by the State Government in the Notification dated 23.11.2020. The respondent no. 2 shall also examine the aspects as to whether there has been approval of the Gaon Sabha in respect of the schemes prepared under the GPDP [Amar Gaon Amar Achoni] by the concerned Gaon Sabha and as to whether the Construction Committees for implementation of the schemes have been newly constituted in strict compliance of the procedure prescribed in the said Notification. In order to pass the speaking order, the respondent no. 2 may cause an enquiry, if found necessary. It is accordingly ordered. It is further observed that the respondent no. 2 shall dispose of the said two Representations by passing a speaking order as expeditiously as possible, but within an outer limit of 6 [six] weeks from the date of receipt of a certified copy of this order from the petitioner at his office. After passing of the speaking order, if the petitioner is found themselves to be

aggrieved in any manner, it will be open for the petitioners to avail appropriate remedy permissible under the law.

**JUDGE**

**Comparing Assistant**