

GAHC010191912023



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

Case No: REP/1/2021

SAYAL AHMED BARBHUIYA
S/O- LATE SAJIR UDDIN BARBHUIYA
R/O- VILL.- UTTAR KRISHNAPUR PART-II
P.O. UTTAR KRISHNAPUR
P.S. SILCHAR
PIN- 788006
DIST.- CACHAR
ASSAM

VERSUS

AMINUL HAQUE LASKAR AND 12 ORS.
S/O LATE ALA UDDIN LASKAR
R/O BERENGA PART-II
P.O.-BERENGA
P.S.-SILCHAR
DIST-CACHAR
ASSAM

2:KARIM UDDIN BARBHUIYA
S/O LATE RAHIM UDDIN BARBHUIYA
R/O DHONEHARI PART-II
P.O.-SILDUBI
P.S.-SONAI
DIST-CACHAR
PIN-788112
3:M. SANTI KUMAR SINGHA
S/O KALEN SINGHA
R/O DHANEHARI PART-III
LAMARGRAM KHUNON
P.O.-KAZIDAHAR
P.S.-SONAI

DIST-CACHAR
ASSAM
PIN-788115
4:ANJAN KUMAR CHANDA
S/O LATE PULIN BIHARI CHANDA
R/O VILL-KABIURA UTTER KRISHNAPUR PART-I
P.O.-MEHERPUR
P.S.-SILCHAR
DIST-CACHAR
ASSAM
PIN-788015
5:ANWAR HUSSAIN LASKAR
S/O LATE TAIMUS ALI LASKAR
R/O VILL-UTTAR KRISHNAPUR PART-II
P.O.-UTTAR KRISHNAPUR
P.S.-SILCHAR
DIST-CACHAR
ASSAM
PIN-788001
6:ABDUL MATLIB LASKAR
S/O LATE REJAK ALI LASKAR
R/O UTTAR KRISHNAPUR
P.O. AND P.S.-SILCHAR
DIST-CACHAR
ASSAM
PIN-788006
7:ASHISH HALDAR
S/O ASHUTOSH HALDAR
R/O VILL-DORGAKONA
P.O.-ASSAM UNIVERSITY
SILCHAR
P.S.-SILCHAR
DIST-CACHAR
ASSAM
PIN-788011
8:ANAMUL HAQUE
S/O LATE MUDASSIR AHMED LASKAR
R/O VILL-DHONEBARI PART-II
P.O.-SILDUBI
P.S.-SONAI
DIST-CACHAR
ASSAM
PIN-788001
9:KARIM UDDIN BARBHUIYA
S/O LATE FOZIZUR RAHMAN BARBHUIYA
R/O VILL AND P.O.-JHANJARBALI
P.S.-SONIA
DIST-CACHAR

ASSAM
PIN-788119
10:DILIP KUMAR DAS
S/O SRI DARSHAN DAS
R/O VILL-BABUTILLA BHORAKHAI GRANT
P.O.-NIT
P.S.-SILCHAR
DIST-CACHAR

ASSAM
PIN-788010
11:MD NAZRUL ISLAM LASKAR
S/O LATE SANUHAR ALI LASKAR
R/O VILL-GANGANAGAR PART-I
P.O.-SAINT KATHERINE
P.S.-KACHUDARAM
DIST-CACHAR

ASSAM
PIN-788099
12:BIJON PAUL
S/O LATE BADOL PAUL
R/O GHUNGHUR
NEAR SILCHAR MEDICAL COLLEGE
P.O.-GHUNGHUR
P.S.-SILCHAR
DIST-CACHAR

ASSAM
PIN-788114
13:SHUKUMAR SONAR
S/O SHRI RAM BIKASH SONAR
R/O VILL-FAKIRTILLA
BHORAKHAI GRANT
P.O.-NIT
SILCHAR
P.S.-SILCHAR
DIST-CACHAR

ASSAM
PIN-788010

Advocate for : MR G J SAIKIA
Advocate for : appearing for AMINUL HAQUE LASKAR AND 12 ORS.

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 01.05.2024

None appears on call for the recrimination petitioner or for the opposite party nos.3 to 13. However, Mr. N.M. Mazarbhuiya, learned counsel for the opposite party no.1 (petitioner in El.Pet. 1/2021); and Mr. K.P. Pathak, learned senior counsel, assisted by Mr. I. Kalita, learned counsel for the opposite party no.2 are present.

2. The learned senior counsel for the opposite party no.2 has produced a copy of judgment dated 08.04.2024, passed by the Supreme Court of India in Civil Appeal No. 6282/2023. By the said judgment, this election petition was dismissed. A copy of the said order has been made a part of the record of the connected El.Pet. 01/2021.

3. Accordingly, it is submitted that unless the election petition succeeds by a declaration that the election of the return candidate is void, the recrimination petition cannot be allowed. It is submitted that as the Supreme Court of India has dismissed the connected El.Pet. 1/2021, the recrimination petition would not survive and therefore, prayer is made to close this recrimination petition.

4. He has also referred to the provision of Section 101 of the Representation of Peoples Act, 1951, wherein it is expressly provided that after declaring election of the return candidate to be void, the declaration of the petitioner or other candidate to have been duly elected can be passed.

5. As the election petition is dismissed by the Supreme Court of India, the cause of action to pass an order for declaring any other candidate to have

been duly elected cannot arise.

6. Accordingly, on the prayer made by the learned senior counsel for the opposite party no.2, having not been objected to by the learned counsel for the opposite party no.1 stands allowed.

7. Resultantly, this recrimination petition stands closed as infructuous in view of the dismissal of the election petition.

JUDGE

Comparing Assistant