

GAHC010144502024



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

Case No. : WP(C)/3812/2024

UMED ALI AHMED
S/O- LATE AHMMAD ALI,
R/O- VILLAGE- PURAGAON,
P.O- CHUKRUNG BARI,
P.S- SORBHOG, DIST- BARPETA, ASSAM, PIN-781317

VERSUS

THE STATE OF ASSAM AND 2 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
REVENUE AND D.M DEPARTMENT (L.R), DISPUR, GUWAHATI-06

2:THE DISTRICT COMMISSIONER
BARPETA
ASSAM
PIN-781301

3:THE CIRCLE OFFICER
BARNAGAR REVENUE CIRCLE

P.O- BARNAGAR
P.S- SORBHOG
DIST- BARPETA
ASSAM
PIN-78131

Advocate for the Petitioner : MD S HUSSAIN, MR. S Ali

Advocate for the Respondent : SC, REVENUE, GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

31.07.2024

Heard Shri S. Hussain, learned counsel for the petitioner. Also heard Shri R. Dhar, learned State Counsel and Shri J. Handique, learned Standing Counsel, Revenue Department.

2. Considering the facts and circumstances and the nature of relief prayed for, the instant writ petition is taken up for disposal at the motion stage itself.

3. As per the facts projected, the petitioner was appointed as a Gaonburah on 17.12.2012 of the Charge No. 12 under Kharija Bijni Mouza of Barnagar Revenue Circle in the district of Barpeta. He was implicated in a criminal case wherein he was granted bail and in connection thereto, his services were placed under suspension. Subsequently, the petitioner was acquitted in the criminal case and thereafter he had submitted an appeal on 03.06.2024 which has not been disposed of. The learned counsel accordingly prays for an appropriate direction either to reinstate him or to direct the appellate authority to consider and dispose of the appeal.

4. Shri Handique, learned Standing Counsel, Revenue Department by referring to the annexure 6 of the writ petition has contended that a bare look at the said annexure which has been stated to be an appeal would show that the same was addressed to the Deputy Commissioner, Barpeta which is not the appellate authority. By drawing the attention of this Court to the notification dated 10.04.2018 by which the amendment was done to the Assam Land and Revenue Regulation 1886, reference has been made to instruction No. 162C whereby the power of the appellate authority has been vested with the Divisional Commissioner which has to be done within 60 days. This Court has

also been informed that vide a subsequent notification dated 01.02.2024, there is a change in the appellate authority and presently the Director of Land Records is the appellate authority.

5. In view of the aforesaid position of law, this Court is of the opinion that since an appellate forum is available, the petitioner should exhaust his remedies before the said authority. The communication dated 03.06.2024 addressed to the Deputy Commissioner, Barpeta cannot be construed to be an appeal under the law.

6. Accordingly, the writ petition is dismissed. However, with liberty to the petitioner to file an appeal before the appellate authority as provided by law and indicated in this order. The petitioner may also cite grounds for condonation of delay in view of the filing of the present case which would be considered by the appellate authority.

JUDGE

Comparing Assistant