

GAHC010190632024



2024:GAU-AS:11461

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

Case No. : WP(C)/4754/2024

RUPA DUTTA SAIKIA
W/O- SRI KHUKHESWAR SAIKIA, R/O- VILL.- TANTI GAON, P.O. TITABOR,
WARD NO. 1 (PURANA TITABOR) DIST. JORHAT, ASSAM, PIN- 785630.

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM,
URBAN DEVELOPMENT DEPARTMENT, DISPUR, GUWAHATI-6, DIST.
KAMRUP(M), ASSAM

2:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
URBAN DEVELOPMENT DEPARTMENT
DISPUR
GUWAHATI-6.

3:THE DIRECTOR OF MUNICIPAL ADMINISTRATION
ASSAM
DISPUR
GUWAHATI-6.

4:THE DISTRICT COMMISSIONER
JORHAT
DIST.- JORHAT
ASSAM

5:THE SUB-DIVISIONAL OFFICER (CIVIL) TITABOR
JORHAT
ASSAM

6:THE TITABOR MUNICIPAL BOARD

DIST. JORHAT
ASSAM

7:THE EXECUTIVE OFFICER
TITABOR MUNICIPAL BOARD
TITABOR
DIST. JORHAT
ASSAM

8:RASHMI BHATTACHARYYA KAKOTI
W/O- BICHITRA PRAN KAKOTI
R/O- WARD NO. 4
TITABOR TOWN
P.O. AND P.S. TITABOR
DIST. JORHAT
ASSAM
PIN- 785630

Advocate for the petitioner(s): Mr. PK Gogoi

Advocate for the respondent(s): Ms. U Das

Additional Senior Govt. Advocate, Assam

Mr. JK Goswami

For the respondent Nos.6 7 and 8

B E F O R E

HON'BLE MR. JUSTICE DEVASHIS BARUAH

ORDER

21.11.2024

Heard Mr. PK Gogoi, the learned counsel appearing on behalf of the petitioner. Mr. U Das, the learned Additional Senior Government Advocate,

Assam appears on behalf of the respondent Nos.1 to 5 and Mr. JK Goswami, the learned counsel appears on behalf of the respondent Nos.6, 7 and 8.

2. The instant writ petition has been filed challenging the minutes of the meeting held on 25.07.2024 whereby the respondent No.8 was elected as the Chairperson of the Titabor Municipal Board on the very date, on which, the petitioner was removed by the resolution from the post of Chairperson of the Titabor Municipal Board.

3. The entire writ petition was based upon infraction to Section 41(2) of the Assam Municipal Act, 1956 (for short, the Act of 1956) on the ground that without removal of the petitioner from the post of the Chairperson, there could not have been a notice issued for filling up the vacancy of the post of the Chairperson of Titabor Municipal Board.

4. Upon this writ petition being filed, this Court by an order dated 18.09.2024 issued notice and fixed the matter on 23.10.2024. However, there was no interim order passed. Be as it may, it is seen that in the meantime, during the pendency of the writ petition on 18.10.2024, a meeting was called upon by the respondent No.8 as the Chairperson of the Titabar Municipal Board for discussion of re-examination of the proposal and decision taken on 25.07.2024 in the Board Meeting of the Titabar Municipal Board regarding the election of the chairperson. A meeting thereupon was held on 21.10.2024. In the said meeting, the respondent No.8 resigned as the Chairperson of the Titabar Municipal Board and a resolution was further adopted that the election of the

respondent No. 8 as Chairperson on 25.07.2024 was null and void.

5. Under such circumstances, a question arose for filling up of the vacancy in terms with Section 41(2) of the Act of 1956 and as such, the Vice-Chairman of the Titabar Municipal Board issued a notice on 22.10.2024 calling for a meeting on 25.10.2024 for election of a new Chairperson of the Titabar Municipal Board. The record reveals that in the Board Meeting held on 25.10.2024, 8(eight) persons duly participated, however, the petitioner did not. In the said meeting, the respondent No.8 was again chosen to be the Chairperson of the Titabar Municipal Board. This resolution which was adopted on 25.10.2024 had not been put to challenge.

6. Taking into account, the facts narrated hereinabove, nothing therefore survives in the instant writ petition, *inasmuch as*, the Titabar Municipal Board in its meeting held on 21.10.2024 had already nullified the resolution adopted for appointment of the Chairperson of the respondent No.8 on 25.07.2024. Accordingly, the instant writ petition had been rendered infructuous, in view of the subsequent events, for which, the writ petition stands closed.

7. Before parting with the records, this Court, however, grants liberty to the petitioner to challenge the said minutes of the meeting dated 25.10.2024 as well as the resolutions adopted therein to appoint the respondent No.8 as the Chairperson of the Titabar Municipal Board, if it is otherwise, permissible under the law.

JUDGE

Comparing Assistant