

GAHC010197402023



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

Case No. : WP(C)/5241/2023

ANJUWARA BEGUM
W/O AHAMMAD ALI, R/O VILL NO. 2, BHATIAKHALI, P.O.-KATHPARA
BAZAR, DIST- NAGAON, ASSAM, PIN-782120

VERSUS

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

2:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM
FINANCE DEPARTMENT
ASSAM
DISPUR
GUWAHATI-6

3:THE COMMISSIONER
PANCHAYAT AND RURAL DEVELOPMENT
ASSAM
PANJABARI
JURIPAR
GUWAHATI-37

4:THE DEPUTY COMMISSIONER
NAGAON
P.O.-NAGAON
DIST-NAGAON
ASSAM
PIN-782001

5:THE CHIEF EXECUTIVE OFFICER
NAGAON ZILLA PARISHAD
NAGAON
P.O. AND DIST- NAGAON
ASSAM
PIN-782001

6:THE SINGIMARI ANCHALIK PANCHAYAT
REPRESENTED BY EXECUTIVE OFFICER CUM BLOCK DEVELOPMENT
OFFICER
LAWKHUWA DEVELOPMENT BLOCK
P.O.-KATHPARA BAZAR
DIST-NAGAON
ASSAM

7:THE NO. 21 BHATIAKHALI GAON PANCHAYAT
REPRESENTED BY THE SECRETARY
BHATIAKHALI GAON
PANCHAYAT
KATHPARA BAZAR
DIST- NAGAON
ASSAM
PIN-78212

Advocate for the Petitioner : MD M ISLAM

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

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

Date : 27-05-2024

Heard Mr. M. Hossain, the learned counsel for the petitioner and Mr. P. Nayak, the learned Standing Counsel for the Finance Department as well as Mr. P. Handique, the learned Standing Counsel, P&RD Department.

2. The dispute in the instant writ petition relates to non-payment of the remuneration dues of the PRI member, whose term ended in March, 2018.

3. The learned counsel for the petitioner submits that sections 12 (2), 39 (2) and 71 of the Assam Panchayat Act, 1994 (for short, the Act of 1994) that the Presidents, Vice Presidents and other members of the Gaon Panchayat, Anchalik Panchayat and Zilla Parishad respectively are entitled to receive certain allowances as may be prescribed in terms with the same and by virtue of Section 141 of the Act of 1994, the Assam Panchayat (Administrative) Rules, 2002 (for short, the Rules of 2002) was made by the State Government. In terms with Rules 13, 14 & 15 of the Rules of 2002, the Presidents, Vice-Presidents as well as each members of the Zilla Parishad, Anchalik Panchayat and Gaon Panchayat have been held to be entitled to certain monthly remuneration and sitting allowances. Relevant however to mention that in terms with Rules 13, 14 & 15 of the Rules of 2002, the remuneration to be paid to the Presidents, Vice-Presidents as well as the members of the Zilla Parishad, Anchalik Panchayat and Gaon Panchayat were to be made out of their own resources. 4. At this stage, if this Court takes note of Section 24 (1) of the Act of 1994, it stipulates that every Gaon Panchayat shall have a fund bearing the name of the Gaon Panchayat. Similarly, Section 56 (1) of the Act of 1994 stipulates that every Anchalik Panchayat shall also have a fund bearing the name of the Anchalik Panchayat. Section 91 is in respect to the Zilla Parishad fund which every Zilla Parishad shall have. The Gaon Panchayat fund, Anchalik Panchayat fund as well as the Zilla Parishad fund would comprise of the various amounts as have been mentioned in various subclauses of Section 24 (1), Section 56 (1) and Section 91 of the Act of 1994. The learned counsel for the petitioner submits that the matter is covered by the common judgment and order dated 04.01.2023 passed in WP(C) 3662/2018.

4. Taking into consideration of the submission made by both the parties, this writ petition can also be disposed of with the similar direction passed in common judgment and order dated 04.01.2023 passed in WP(C) 3662/2018.

5. Accordingly, this writ petition is disposed of with a direction to the Commissioner and Secretary to the Government of Assam, Finance Department shall also do the needful so that the entitlements of the petitioner are paid by according necessary approval and releasing funds. It is made clear that the directions passed herein are directions upon the State

Government to pay dues to the petitioner in the batch of writ petitions. It shall be the collective responsibility of the State Government to see to it that the dues of the petitioner are released to them within the time stipulated herein under.

6. Taking into account the decision taken in the review meeting on 06.06.2021 by the Chief Minister of Assam, the Government of Assam would be at liberty to pay the entitlement to the petitioner at one go or in installments as per the administrative and financial convenience.

7. It is, however, made clear that the entire exercise has to be done by the State Government in its Departments to make payment to the petitioner within a period of 6 (six) months from the date copy of the instant judgment is served upon the Principal Secretary to the Government of Assam, Panchayat and Rural development Department and the Commissioner & Secretary to the Government of Assam, Finance Department with their respective claims.

8. With the above observations and directions, this writ petition stands disposed of.

JUDGE

Comparing Assistant