

GAHC010243272024



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

Case No. : WP(C)/6645/2024

RAMESH BHUYAN
S/O- LATE DANDESWAR BHUYAN,
R/O- VILLAGE NO-1 BOGORI,
P.O- BORBIL,
P.S- LALUK, DIST-LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM, REVENUE
AND DISASTER MANAGEMENT DEPARTMENT
ASSAM SECRETARIAT, DISPUR, GUWAHATI-06.

2:THE DISTRICT COMMISSIONER

NORTH LAKHIMPUR
DISTRICT- LAKHIMPUR
ASSAM
PIN- 787001.

3:THE CIRCLE OFFICER

BIHPURIA REVENUE CIRCLE
DISTRICT- LAKHIMPUR
ASSAM
PIN- 783301.

4:SAMEL BARLA

S/O- LATE NATHNEL BARLA

R/O- VILLAGE NO-1 BOGORI

P.O- BORBIL

P.S- LALUK
DIST-LAKHIMPUR
ASSA

Advocate for the Petitioner : MR. B CHOWDHURY,

Advocate for the Respondent : SC, REVENUE AND DISASTER MANAGEMENT DEPT,

**BEFORE
HONOURABLE MR. JUSTICE NELSON SAILO**

ORDER

11.12.2024

Heard Mr. B. Choudhury, learned counsel for the petitioner and Mr. J. Handique, learned counsel for the respondent No. 1 and Mr. C.K.S. Baruah, learned counsel for the respondent Nos. 2 & 3. Having regard to the nature of the case projected by the petitioner, the writ petition is taken up for disposal at the motion stage itself.

[2.] This is the second time the petitioner is before this Court. The earlier writ petition being WP(C) No. 5690/2023 was filed by the petitioner challenging the appellate order of the Divisional Commissioner, North Cachar Division dated 15.07.2023 passed in Appeal No. 40/2022. The appeal was preferred by the instant respondent No. 4 who was also the respondent No. 4 in the said writ petition, challenging the appointment of the petitioner as Gaon Pradhan. The appeal was allowed by the Appellate Authority by interfering with appointment of the petitioner and directing fresh selection for filling up the said post. The writ petition came to be disposed vide order dated 27.09.2023 by directing the petitioner to file a Review Petition before the Divisional Commissioner in terms of executive instructions under Clause 162D of the Assam Land & Revenue Regulations, 1886 within a period of 90

days.

[3.] The petitioner therefore filed his Review Petition which however was time barred and the respondent No. 1 vide Order dated 03.04.2024 declined to entertain the Review Petition on merit since the review was not filed within the prescribed period of 90 days. However, liberty was granted to the petitioner to submit an application for condonation of delay, if so advised. So the petitioner submitted an application for condonation of delay but the appeal was not condoned and the order dated 19.09.2024 came to be passed.

[4.] The learned counsel submits that the application for condonation of delay was not considered in the correct perspective since it was on account of the medical condition of the petitioner, supported by a Doctor Certificate that he could not submit the Review Petition on time. He therefore submits that the authority concerned may be directed to re-consider the Review Petition of the petitioner on merit.

[5.] I have heard the submissions made by the learned counsels for the rival parties and I have perused the materials available on record. The petitioner by filing Misc. application sought for condonation of 14 days delay in filing the Review Petition. The reason for the delay was that the petitioner was suffering from Hypertension, Malaria and type 2 Diabetic and Melena and for which, he had to undertake long term treatment.

[6.] Considering the grounds taken, this Court is of the view that the delay of 14 days deserves to be condoned. Accordingly, the Order dated 19.09.2024 is set aside and the respondent No. 1 shall consider the Review Petition filed by the petitioner as one filed on time and take a decision on merit within a period of two (2) months from the date of receipt of a certified copy of this Order. It is further

provided that the respondent No. 1 in considering the Review Petition shall give opportunity to the respondent No. 4 before taking a final decision. Till disposal of the Review petition as directed herein above, the respondent authority shall not have fresh selection.

[7.] Writ petition stands disposed of.

JUDGE

Comparing Assistant