

GAHC010248682024



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

Case No. : I.A.(Civil)/3661/2024

JAHANARA BEGOM
W/O ABDUL BASIT, RESIDENT OF DAKSHINKUL,
PS BADARPUR, PO BHANGA BAZAR, DIST KARIMGANJ, ASSAM

VERSUS

1: THE STATE OF ASSAM AND 2 ORS REPRESENTED BY THE
COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM, PANCHAYAT
AND RURAL DEVELOPMENT DEPARTMENT ASSAM SECRETARIAT,
DISPUR 781006

2: STATE ELECTION COMMISSION REPRESENTED BY THE STATE
ELECTION COMMISSIONER GUWAHATI 06

3: THE DISTRICT COMMISSIONER
KARIMGANJ ASSAM

Linked Case :

JAHANARA BEGOM

VERSUS

THE STATE OF ASSAM AND 2 ORS

For the Applicant(s) : Mr. S.P. Choudhury, Advocate.
Mr. S. Sarkar, Advocate.

For the Respondent(s) : Mr. S. Dutta, Standing Counsel, Panchayat & Rural Development
Department for respondent 1.

: Mr. R. Dubey, Standing Counsel, Assam State Election Commission for
respondent No.2.

: Mrs. S. Sarma, Government Advocate, Assam for respondent No.3.

- B E F O R E -
HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI
HON'BLE MR. JUSTICE KAUSHIK GOSWAMI

02.12.2024

(Vijay Bishnoi, CJ)

The matter comes upon for consideration of the interlocutory application filed under Section 5 of the Limitation Act, 1963 with a prayer to condone the delay of 916 days in filing the connected appeal.

The main reason stated by the applicant/appellant for condoning the delay is that after dismissal of the writ petition filed by her by a common judgment & order dated 07.12.2021 passed in WP(C) No.7705/2019 and a bunch of writ petitions, she was not informed by her counsel about the impugned judgment and, therefore, the delay has been caused in filing the connected appeal.

Having gone through the contents of the interlocutory application, we are not satisfied that the applicant/appellant has sufficiently explained the delay of 916 days in filing the connected appeal. Otherwise also, in the writ petition, the applicant/appellant has challenged the notice dated 09.11.2018 issued by the Assam State Election Commission. The said notice is for information to the candidates, who want to contest the Panchayat Election, regarding the newly added Rule 62 in the Assam Panchayat (Constitution) Rules, 1995. The impugned notice dated 09.11.2018 speaks that in view of the insertion of Section 111(2) in the Assam Panchayat Act, 1994 and in view of the newly added Rule 62 into the Assam Panchayat (Constitution) Rules, 1995, no person who has more than 2(two) living children with single or multiple partners, can contest the election if the number of children of the said person is more than 2(two) before 19.03.2018. It further clarifies that any candidate having 2(two)

or more children before 19.03.2018 if gives birth to another child after the said date shall be considered disqualified.

In the present case, the applicant/appellant gave birth to a child on 07.09.2018.

It is to be noticed that the applicant/appellant has not challenged the validity of the new sub-section (2) of Section 111 of the Assam Panchayat Act, 1994.

The learned Single Judge has taken note of the said fact and has also taken note of the fact that validity of Rule 62 of the Panchayat (Constitution) Rules has already been upheld by the Division Bench, has dismissed the bunch of writ petitions. Looking to the above facts, we are of the view that on merits also, the applicant/appellant has no case.

In such circumstances, the interlocutory application seeking condonation of delay of 916 days in filing the connected appeal is dismissed. Consequently, the connected writ appeal, which is yet to be numbered, is also dismissed.

JUDGE

CHIEF JUSTICE

Comparing Assistant