

GAHC010258642023



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

Case No. : WP(C)/6761/2023

NURMAHAMMAD MULLAH
SON OF LATE ABDUL HAQUE @ ABDUL HAQUE MULLAH,
RESIDENT OF VILLAGE- BALAPARA,
P.O.- BARGHOL, P.S.- TARABARI,
DISTRICT- BARPETA, ASSAM, PIN -781301.

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE ADDL. CHIEF SECRETARY TO THE GOVERNMENT
OF ASSAM,
REVENUE AND DISASTER MANAGEMENT (L.R.) DEPARTMENT,
DISPUR, GUWAHATI-6.

2:THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM
GENERAL ADMINISTRATION (B) DEPARTMENT
DISPUR
GUWAHATI-6.

3:DISTRICT COMMISSIONER (ERSTWHILE DEPUTY COMMISSIONER)
BARPETA
P.O. AND P.S. BARPETA
PIN- 781301.

4:ADDITIONAL DEPUTY COMMISSIONER
(OFFICE OF THE DISTRICT COMMISSIONER)

BARPETA
PIN- 781301

For the petitioner (s) : Mr. S. K. Das, Advocate

MR. D. Barman, Advocate

For the respondent (s) : Mr. J. K. Goswami, Govt. Advocate

Mr. S. Dutta, Advocate

Mr. B. Gogoi, Advocate

BEFORE

HON'BLE MR. JUSTICE DEVASHIS BARUAH

05.01.2024

Heard Mr. S. K. Das, the learned counsel for the petitioner and Mr. S. Dutta, the learned counsel appearing on behalf of the respondent No.1. Also heard Mr. B. Gogoi, the learned counsel appearing on behalf of the respondent No.2 as well as Mr. J. K. Goswami, the learned Government Advocate appearing on behalf of the respondent Nos.3 & 4.

2. The instant writ petition has been filed by the petitioner challenging the selection made by the respondent authorities in respect to the post of Gaon Pradhan of Charge No.3, Mouza-Chenga under Chenga Revenue Circle on the ground of not fulfilling Clause 8 of the advertisement as there were two criminal cases against the selected candidate and also seeking a mandamus directing the District Commissioner, Barpeta to transmit the case record of Appeal Case No.RR7/2023 before the Principal Secretary, General Administrative Department to conclude the hearing of the said Appeal within a timeframe.

3. The facts as can be discernable from the writ petition is that the petitioner had participated in an advertisement issued by the Office of the Deputy Commissioner, Barpeta for the vacant post of Gaon Pradhan in the

area of Barpeta, Kalgachia, Baghbar, Barnagar, Chenga and Sarthebari under the respective Circles. The petitioner specifically applied for the post of Gaon Pradhan in respect of Charge No.3 of Chenga Mouza. Pursuant to the said advertisement, the petitioner along with two other candidates had duly participated in the said selection process. Out of the two candidates, one Mokbul Hussain (since deceased) was selected as the Gaon Pradhan in respect of Charge No.3 of Chenga Mouza vide the order dated 03.01.2023 issued by the Deputy Commissioner, Barpeta. This order was put to challenge by the petitioner by filing an appeal under Rule 162 (B) read with Rule 162 (C) of the Executive Instructions framed under the Assam Land and Revenue Regulation, 1886 which was registered as Appeal Case No.RR7/2023. It is relevant to mention that the said appeal was filed before the Lower Assam Commissioner on 12.01.2023. The petitioner thereupon again approached this Court during the pendency of the said Appeal by filing a writ petition which was registered and numbered as WP(C) No.1523/2023. The said writ petition was disposed of vide an order dated 27.03.2023 with a direction that the appeal preferred by the petitioner be heard and disposed of as expeditiously as possible but not later than 60 days from the date of receipt of the certified copy of the order. It was also mentioned that if the selected candidate was not appointed till 27.03.2023, the same shall not be issued without proper verification of the allegation made by the petitioner. Thereupon, during the pendency of the said Appeal, the selected candidate expired on 06.08.2023 and this aspect of the matter could be seen from Annexure-12 to the writ petition. It is under such circumstances that the petitioner has approached this Court seeking the reliefs as already stated herein above.

4. I have heard the learned counsels for the parties and also perused the materials on record. The fact that the selected candidate Mokbul Hussain had expired, in the opinion of this Court, has rendered the select list dated 03.01.2023 in so far as Charge No.3 of Chenga Mouza redundant taking into account that the selected candidate had already expired. The consequential effect therefore would be that the Appeal which has been filed by the petitioner and pending before the Appellate Authority had also become redundant as the selection in respect of Charge No.3 of Chenga Mouza to the post of Gaon Pradhan no longer remains.

5. Under such circumstances, the question of passing a direction upon the Appellate Authority to decide the Appeal being Appeal No.RR7/2023 does not arise. Further to that, the question of issuance of a direction to the respondent authorities to select the petitioner, in the opinion of this Court also cannot be given taking into account that the select list dated 03.01.2023 only stipulated the name of Late Mokbul Hussain as the selected candidate in respect of Charge No.3 of Chenga Mouza. Therefore, the question of issuance of a mandamus directing the respondent authorities to select the petitioner in the opinion of this Court cannot be issued.

6. Consequently, the only direction which at best can be passed is a direction to the respondent authorities to take appropriate recourse for issuance of a fresh advertisement if deems fit for the purpose of selection to the vacant post of the Gaon Pradhan of Charge No.3 of Chenga Mouza.

7. Accordingly, this Court, therefore, disposes of the instant writ petition directing the respondent authorities to take a call as regards filling up of the post of the Gaon Pradhan of Charge No.3 of Chenga Mouza as per the

Executive Instructions so framed under the Assam Land and Revenue Regulation, 1886.

JUDGE

Comparing Assistant