

GAHC010260452024



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

Case No. : WP(C)/6586/2024

CHENGA MUSALMAN GAON UNNAYAN SAMITTEE AND 3 ORS
REP. BY ITS MANAGING SECRETARY , CHENGA, TARABARI, DIST-
BARPETA, PIN-781301

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE CHIEF SECRETARY TO THE GOVERNMENT OF ASSAM,
DISPUR, GUWAHATI-06

2:THE COMMISSIONER
TO THE GOVT. OF ASSAM
COMMISSIONERATE OF PANCHAYAT AND RURAL DEVELOPMENT
ASSAM
PANJABARI
GUWAHATI- 781037

3:THE ADDL. CHIEF SECRETARY
TO THE GOVT. OF ASSAM

PANCHAYAT AND RURAL DEVELOPMENT
ASSAM
PANJABARI
GUWAHATI- 781037

4:THE ELECTION COMMISSION OF INDIA
REP. BY THE PRINCIPAL SECRETARY

NIRVACHAN SADAN
ASHOKA ROAD
SANSAD MARG AREA
NEW DELHI-110001

5:THE UNION OF INDIA

REP. BY THE SECRETARY O/O THE HONOURABLE PRESIDENTS
SECRETARIAT

RASHTRAPATI BHAVAN
NEW DELHI- 110001.

6:THE DISTRICT COMMISSIONER
BARPET

Advocate for the Petitioner : DR R C BORPATRA GOHAIN, MS P.HAZARIKA,MR. S AHMED,MR. R D PHUKAN,MR. S P SHARMA,MRS. S BORPATRA GOHAIN

Advocate for the Respondent : GA, ASSAM, DY.S.G.I.,SC, ECI,SC, P AND R.D.

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 09.12.2024

Heard Dr. R. C. Borpatra Gohain, learned senior counsel assisted by Mr. S. P. Sarma, learned counsel for the petitioner; Ms. M. Barman, learned counsel for the respondent nos. 1 & 6; Mr. S. Dutta, learned counsel for the respondent nos. 2 & 3; Ms. P. Barua, learned counsel for the respondent no. 4; and Mr. R. K. Dev Choudhury, learned counsel, DSGI for the respondent no. 5.

2. The petitioners claimed to be permanent residence of Chenga Musalman Gaon under the Chenga Block in the District of Barpeta. The petitioner is the Chenga Musalman Gaon Unnayan Samittee represented by petitioner no. 2, claims to be engaged in development and betterment of the people of the jurisdiction of the Chenga Assembly Constituency. The petitioner refers to the resolution adopted in the Samittee proposing to file the present writ petition.

3. The basic grievance of the writ petitioners is that by the notification dated 19.10.2024 issued by the Department of Panchayat and Rural Development, Dispur, Government of Assam, the village in which the petitioners reside which is the Chenga Musalman Para,

which was earlier under the Chenga Block was shown to be placed under Gomaphulbari Block. The petitioners claimed that the members of the petitioner Samittee as well as other permanent residents of the Chenga Musalman Para are aggrieved that this process of shifting their village and placing it under a different block, which is stated to be around 40 kms has been done contrary to the provisions of the Panchayat Act, 1994 as well as in contravention of the Assam Panchayat Constitution Rules, 1995.

4. Learned senior counsel referring to the Section 5 (2) of the Assam Panchayat Act, 1994 submits that the Act mandates the consultation process which was never adapted to by the respondent department and thereby the impugned order dated 19.10.2024 which was issued, is contrary to the provisions of Section 5(2) of the Assam Panchayat Act, 1994.

5. The learned senior counsel has also referred to Rule 6(1) of the Assam Panchayat (Constitution) Rules, 1995 and submits that the said provision has also been violated. The further submission of the learned senior counsel is that a representation has been filed by the petitioner on 05.03.2024 before the District Commissioner, Barpeta ventilating their grievances.

6. The learned senior counsel submits that similar representations have been submitted before the Office of the Chief Minister's Secretariat as well as the Governor's Secretariat, State of Assam however, no steps have been taken to ameliorate the grievances of the petitioners which has been projected by the said representation.

7. Ms. P. Barua, learned counsel appearing for ECI as well as Mr. S. Dutta, appears for the Panchayat and Rural Development; Ms. M. Barman, learned counsel for State respondent.

8. After submitting at some length learned senior counsel submits that at this stage the limited prayer of the writ petitioners is a direction to the District Commissioner, Barpeta to redress the grievances of the petitioner projected in their representation dated 05.02.2024, by disposing of the same by a speaking order.

9. The District Commissioner should be directed to redress the grievances within a time

bound period.

10. The prayer made by the learned senior counsel is not objected to by the learned standing counsel for the Election Commission of India/Panchayat & Rural Development as well as the Government Advocate.

11. Accordingly, upon hearing the counsel of the petitioners and upon perusal of the representation dated 05.02.2024, this writ petition stands closed with a direction to the District Commissioner, Barpeta to verify the claims raised by the petitioner and pass appropriate orders thereon. If any such order is passed, copies thereof shall be served on the petitioners.

12. The entire exercise be completed within a period of 1 (one) month from the date of the receipt of the certified copy of this order.

13. Writ petition is accordingly stands disposed of in terms of the above.

JUDGE

Comparing Assistant