GAHC010142282025

2026:GAU-AS:11692

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

Case No. : WP(C)/3795/2025

MD. NIZAMUDDIN CHOUDHURY
S/O. LT. SIDDIQUE ALI @ SIDDIK ALI, VILL. DHARAMUKH, P.S. KAMPUR,
P.O. BAJBATAMARI, DIST. NAGAON, ASSAM, PIN 782425.

VERSUS

THE STATE OF ASSAM AND 5 OTHERS
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM, DEPARTMENT OF REVENUE, DISPUR GUWAHATI - 06.

2:THE DISTRICT COMMISSIONER
NAGAON
ASSAM
PIN 782001.

3:THE A.D.C (GAON BURHA) NAGAON
ASSAM
PIN 782001.

4:CIRCLE OFFICER OF RAHA REVENUE CIRCLE
P.O. RAHA
DIST. NAGAON
ASSAM
PIN 782103.

5:MAJIBUR RAHMAN CHOUDHURY @ MAJIBUR RAHMAN
S/O. MD. RAMJAN ALI
R/O. VILL. DHARAMUKH
P.O. BAJBATAMARI
P.S. KAMPUR
DIST. NAGAON
ASSAM

PIN 782425.

6:DIRECTOR OF LAND RECORDS AND SURVEYS
ASSAM
RUPNAGAR
GUWAHATI - 781032

Advocate for the Petitioner : MD. M H CHOUDHURY, MR MONZUR K CHOUDHURY,MR. S N AHMED,TANZIM L. CHOUDHURY,R. BARUAH

Advocate for the Respondent : GA, ASSAM, MS. A BEGUM(R-5),MR. M S ALAM(R-5),MD. S ALOM (R-5),SC, REVENUE AND DISASTER MANAGEMENT DEPT

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

17.08.2026

Heard Mr. M K Choudhury, learned counsel for the petitioner. Also heard Mr. S Dutta, learned Standing counsel, Revenue Department; Mr. R Dhar, learned Government Advocate for the respondent Nos. 2, 3 & 4 as well as Mr. S Alom, learned counsel for the respondent No. 5.

2. By way of this petition under Article 226 of the Constitution of India, the petitioner assails the selection dated 25.02.2021, the appointment of respondent No. 5 dated 12.05.2022 and the order dated 11.06.2025 passed in Appeal No. 113/2024, renumbered from RR (CAD) 7/2022, by the Director of Land Records and Surveys, Assam, Guwahati.

3. The brief facts of the case are that the father of the writ petitioner was serving as the Government Gaonburha of Baj Batmari and Dharmukh village and died while in service. The petitioner claims that during the period when his father was bedridden, he had performed the duties of Gaonburha in his place and thereby, acquired the requisite experience and familiarity with the duties attached to the post. Upon an

advertisement dated 07.09.2018 (15.09.2018) being issued inviting applications from interested candidates for appointment to the post of Government Gaonburha of Lat No. 8 Baj Batmari and Dharmukh Kissamat under Jarabari Mouza of Raha Revenue Circle, the petitioner, along with other eligible candidates, including respondent No. 5, submitted his application. Upon completion of the selection process, respondent No. 5 came to be appointed to the said post. Aggrieved thereby, the petitioner preferred an appeal before the Appellate Authority, which came to be dismissed by order dated 11.06.2025. Hence, the present writ petition.

4. Mr. Choudhury, learned counsel for the petitioner submits that the petitioner secured only four marks less than respondent No. 5. It is contended that being the son of the erstwhile Government Gaonburha and having performed the duties of his father during the latter's illness, the petitioner possessed the requisite experience and familiarity with the duties of the post. It is further submitted that the petitioner had passed the Higher Secondary examination, whereas respondent No. 5 had passed only Class-X. According to the learned counsel, the petitioner was, therefore, more suitable for appointment to the post and ought to have been preferred over respondent No. 5. It is accordingly submitted that the appointment of respondent No. 5 warrants interference by this Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India.

5. Per contra, Mr. Dutta, learned Standing Counsel for the Revenue Department submits that respondent No. 5 was duly selected upon securing higher marks than the petitioner. It is contended that in the absence of any arbitrariness or illegality in the selection process, no case for interference by this Court is made out.

6. Mr. Alam, learned counsel appearing for respondent No. 5, while adopting the submissions of the learned Standing Counsel, submits that respondent No. 5, having secured higher marks than the petitioner in the selection process, was rightly selected. It is further submitted that the mere fact that the petitioner is the son of the erstwhile

Gaonburha does not confer upon him any preferential right to appointment, particularly when the appointment was pursuant to an open advertisement. Respondent No. 5, having participated in the selection process, fulfilled the prescribed eligibility criteria and secured higher marks than the petitioner, his appointment, according to the learned counsel, does not warrant interference.

7. Mr. Dhar, learned Government Advocate appearing for respondent Nos. 2, 3 and 4 similarly submits that for the petitioner to claim any preferential treatment in the selection process, he must first establish that he stood on an equal footing with respondent No. 5. In the present case, however, the petitioner having secured lesser marks than respondent No. 5, cannot claim any such preference.

8. I have given my thoughtful consideration to the submissions advanced by learned counsel for the parties and have also perused the materials available on record.

9. The selection and appointment of respondent No. 5 being the subject matter of challenge, this Court is conscious of the limited scope of judicial review in matters relating to selection and appointment. Interference is warranted only where the selection process is shown to be vitiated by illegality, material irregularity, arbitrariness, mala fides or violation of the prescribed procedure. Keeping the aforesaid parameters in mind, the facts of the present case may now be considered.

10. It appears from the affidavit-in-opposition filed by respondent No. 6 that as per the marks awarded by the Selection Committee, the petitioner secured a total of 50 marks, whereas respondent No. 5 secured 54 marks. Respondent No. 5, therefore, secured four marks more than the petitioner and was accordingly placed higher in the merit assessment. In such circumstances, the question of extending any preference to the petitioner over respondent No. 5 does not arise.

11. The contention of the learned counsel for the petitioner that the petitioner is the son of the erstwhile Gaonburha also cannot be accepted. The post of Gaonburha

is not a hereditary post. Appointment to the post is required to be made on the basis of the suitability of eligible candidates, as assessed in accordance with the terms of the advertisement and the applicable Government guidelines. The fact that the petitioner's father had earlier held the post or that the petitioner may have assisted his father during the latter's illness, by itself, does not confer any right to preferential appointment upon the petitioner.

12. The relevant portion of the advertisement dated 07.09.2018 (15.09.2018) reads as under:

"*Government of Assam*

OFFICE OF DEPUTY COMMISSIONER: NAGAON
(ASSAM)
Land Revenue Branch

No. N.R.K 14/2018/11629 *Date 07-09-2018*
15-09-2018

Advertisement

It is information to all concerned that applications are invited from interested candidates for the post of Government Gaonburha of Lat No. 8 Baj Batmari and Dharmukh Kissamat under Jarabari Mouza of Raha Revenue Circle. Last date of submission of application to the office of Circle Officer Is 24-09-2018. Along with application 2 copy passport size photo, educational testimonials and age proof certificate is to be submitted. As per Government order dated 10-04-2018 No. NRL 187/2007/39 following are the necessary qualifications of candidates.

1. Candidate must be Indian Citizen.
2. Minimum age should be 35 years.
3. Should has passed class X examination.
12th pass -
4. Should be in good health.
5. There should not be any Bakijai case or government debt against the candidate.
6. Candidate should not be government employee.
7. Candidate should be permanent resident of aforesaid locality.
8. Candidate cannot be member of any political party.

Sd/ eligible
Additional Deputy Commissioner, Nagaon
Dated 07-09-2018
15-09.2018"

13. It is thus evident from the advertisement that the prescribed educational qualification for appointment to the post of Gaonburha was passing the Class-X examination. Admittedly, respondent No. 5 had passed the Class-X examination and was, therefore, educationally qualified for consideration. The fact that the petitioner had passed the Higher Secondary examination, which is a qualification higher than the prescribed minimum qualification, does not, by itself, confer upon him any preferential right over a candidate who otherwise fulfilled the prescribed eligibility criteria. The relevant consideration in the selection was the overall assessment made by the duly constituted Selection Committee, in which respondent No. 5 secured higher marks than the petitioner.

14. It is well settled that it is not the function of a writ Court to sit in appeal over the decision of a Selection Committee or to undertake a comparative assessment of the relative merits of the candidates. The question as to whether a candidate is suitable for a particular post is primarily within the domain of the duly constituted Selection Committee, which possesses the requisite expertise to make such assessment. The decision of the Selection Committee may be interfered with only on limited grounds, such as illegality, patent material irregularity in the constitution of the Committee or in the procedure adopted by it, or established mala fides affecting the selection. Reference in this regard may be made to ***Dalpat Abasaheb Solunke -Vs.- B.S. Mahajan,*** reported in ***1990 (1) SCC 305.***

15. In the present case, no such infirmity has been demonstrated. The petitioner essentially seeks a re-assessment of the relative merits of himself and respondent No. 5 on the basis of their educational qualifications and the petitioner's alleged

experience in assisting his father. Such an exercise is clearly beyond the permissible scope of judicial review. This Court cannot substitute its own assessment for that of the Selection Committee, particularly when respondent No. 5 was otherwise eligible and secured higher marks in the selection process.

16. Having regard to the materials on record and the submissions advanced, this Court finds no material to suggest that the selection process was arbitrary, unfair or vitiated by any illegality or procedural irregularity. Respondent No. 5, having fulfilled the prescribed eligibility criteria and having secured higher marks than the petitioner, was duly selected and appointed. The appointment of respondent No. 5, therefore, cannot be said to be arbitrary or illegal so as to warrant interference by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India.

17. In view of the foregoing discussion, the instant writ petition is devoid of merit and is, accordingly, dismissed.

18. There shall be no order as to costs.

JUDGE

Comparing Assistant