GAHC010106682026

2026:GAU-AS:15315-DB

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

Case No. : WA/169/2026

KADAM ALI
SON OF RIAJUDDIN,
RESIDENT OF VILLAGE- GAROJAN,
P.O.-SIMLABARI, P.S.- LAKHIPUR,
DISTRICT- GOALPARA,
ASSAM, 783101

VERSUS

THE DISTRICT COMMISSIONER,
GOALPARA AND 4 ORS.
OFFICE OF THE DISTRICT COMMISSIONER,
GOALPARA, P.O. AND P.S.-GOALPARA,
DIST.-GOALPARA, ASSAM, 783101

2:THE DISTRICT RETURNING OFFICER
GOALPARA
PANCHAYAT ELECTION - 2025
P.O. AND P.S.-GOALPARA
DIST.-GOALPARA
ASSAM 783101

3:HE ADDITIONAL DISTRICT COMMISSIONER
GOALPARA
P.O. AND P.S.- GOALPARA
DIST.-GOALPARA
783101

4:THE AUTHORIZED OFFICER
PANCHYAT ELECTION- 2025
C/O OFFICE OF THE DISTRICT COMMISSIONER
P.O. AND P.S.- GOALPARA
DIST.- GOALPARA
783101

5:HAYAT ALI
SON OF MOJBUL HOQUE
R/O VILLAGE-GAROJAN
P.O.- SIMLABARI
P.S.- LAKHIPUR
DIST.- GOALPARA 78310

For the appellant : Mr. A.R. Bhuyan, Sr. Advocate
Mr. I. Hussain, Advocate

For the respondents : Ms. M. Bhattacharjee,
Addl. Sr. Govt. Advocate, Assam
For respondent Nos.1 to 4
Mr. A. Ahmed, Advocate for
Respondent No.5

– B E F O R E –

HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR

HON'BLE MR. JUSTICE KAUSHIK GOSWAMI

09-10-2026

(Ashutosh Kumar, C.J.)

We have heard Mr. A.R. Bhuyan, learned Senior Advocate for the appellant; Ms. M. Bhattacharjee, learned Additional Senior Government Advocate, Assam for the respondent Nos.1 to 4 and Mr. A. Ahmed, learned Advocate for the respondent No.5.

In the present appeal, the judgment dated 28.04.2026, passed by a learned Single Judge of this Court in WP(C) 162/2026 is under challenge.

The dispute originates from a Panchayat election held in Goalpara district, Assam for the post of Ward Member of Unit No.8, Garojan (ka) under Simlabari Gaon Panchayat.

In the initial round of polling, the appellant was getting more votes, but within no time, the tables turned and the respondent No.5 was declared winner with 365 votes in his favour and 294 votes polled in favour of the appellant.

The appellant suspected that perhaps the counting chart was wrongly prepared and there could be wrong recording of votes in the name of respondent No.5.

An election petition thus came to be filed vide EP No.01/2025 before the District Judge-cum-Panchayat Election Tribunal, Goalpara seeking recounting of votes and a declaration that the election of the respondent No.5 was invalid.

While proceeding with the election petition, the Tribunal passed an *interim* order on 23.12.2025 directing the District Commissioner, Goalpara to produce the ballot papers in sealed trunks before the Tribunal to enable recounting.

This *interim* order was challenged by the respondent No.5 vide WP(C) 162/2026, as being impermissible.

The learned Single Judge found that recounting of votes could not have been ordered at the drop of a hat. The Election Tribunal was

required to take evidence and assess the necessity of recounting of votes. In fact, the *interim* order reflected that, perhaps, the Tribunal found it to be the only convenient method of deciding the dispute by physical counting of votes. There could have been no other reason for passing such an *interim* order but for the fact that the issue in question could be decided by recounting of votes and, while recounting, an assessment could be made as to whether wrong counting chart was prepared or wrong ballots were counted in favour of the respondent No.5.

The afore-noted *interim* order thus was set aside by the learned Single Judge and the proceedings before the Election Tribunal were directed to be continued and the issue to be decided in accordance with law.

On hearing the learned counsel for the parties, it appears to us that a clarification is required to be made in the impugned judgment to the extent that although recounting of votes is not impermissible but it should be resorted to only after evidence is collected by the Election Tribunal and it is found, on the basis of such evidence, that recounting would be necessary for coming to a final conclusion.

Thus, we find that the judgment impugned is not assailable on any other count but requires only modification that after the evidence is recorded and an assessment is made that recounting is necessary, then only the ballots brought to the office of the Election Tribunal shall be recounted.

With the afore-noted modification in the judgment impugned, the appeal stands disposed off.

It is needless to mention that the ballot boxes, if brought to the Tribunal, shall be preserved to be used in case of need.

JUDGE **CHIEF JUSTICE**

Comparing Assistant