GAHC010215072026

2026:GAU-AS:14750

THE GAUHATI HIGH COURT

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

Case No. : WP(C)/5420/2026

ABDUL ISLAM SHEIKH

S/O LATE ABDUL MALEK, R/O BIDYAPARA PART I, WARD NO 9, PO BIDYAPARA, P.S. DHUBRI, DIST DHUBRI, ASSAM, PIN 783301

VERSUS

THE STATE OF ASSAM AND 3 ORS

REPRESENTED BY THE SECRETARY, TO THE GOVT OF ASSAM, REVENUE AND DISASTER MANAGEMENT DEPARTMENT, DISPUR, GHY 781006

2:THE DISTRICT COMMISSIONER
DHUBRI
DIST DHUBRI
ASSAM
PIN 783301

3:THE CIRCLE OFFICER
DHUBRI REVENUE CIRCLE
DHUBRI
PIN CODE 783301
DIST DHUBRI
ASSAM

4:THE SUB REGISTRAR
DHUBRI
DIST DHUBRI
ASSAM
PIN CODE 78330

Advocate for the Petitioner : MR S RAHMAN, MS. S PHUKAN

Advocate for the Respondent : GA, ASSAM, SC, REVENUE

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 05-10-2026

Heard Mr. S. Rahman, learned counsel for the petitioner; Mr. A. Bhattacharyya, learned Standing Counsel, Revenue & Disaster Management Department, Government of Assam for the respondent no. 1; and Mr. S.S. Roy, learned Junior Government Advocate, Assam for the respondent nos. 2, 3 & 4.

2. The petitioner has stated that he had purchased a plot of land measuring 9.75 Lessas, covered by Dag no. 4594 and Patta no. 982, situate at Village – Bidyapara Part – I, Dhubri Revenue Circle, District – Dhubri, Assam at an agreed sale consideration from its erstwhile owner by way of a registered Sale Deed bearing Serial no. 2430 and Deed no. 2298 on 26.08.2016.

3. After purchasing the plot of land, the petitioner submitted an application online for delivery of the notified public service, 'Mutation after Deed Registration' on 27.04.2026. The said application was received by generating Application Acknowledgement no. RTPS/MUTD/2026/4658300. As per the Application Acknowledgement, the notified public service was to be delivered within a period of sixty days. As the delivery was not made within the period of sixty days, the petitioner submitted a Representation before the Designated Public Servant, that is, the respondent no. 3 on 14.07.2026. As neither the Application dated 27.04.2026 was disposed of nor the Representation dated 14.07.2026 was given any response, the petitioner is before this Court by the present writ petition aggrieved by non-delivery of the notified public service. The petitioner has sought for a direction to the respondent authorities to

deliver the notified public service by considering his Application dated 27.04.2026.

4. Mr. Bhattacharrya and Mr. Roy, learned counsel appearing for the official respondents have conjointly submitted that as per the Application Acknowledgement dated 27.04.2026, if the service was not delivered within a period of sixty days, then the applicant has the remedy of preferring a 1st Appeal as well as 2nd Appeal under the provisions of the Assam Right to Public Services Act, 2012, as amended ['the ARTPS Act' for short].

5. The Assam Right to Public Services [ARPTS] Act, 2012 has been enacted by the Assam Legislative Assembly in order to provide for delivery of notified public services to the people of the State of Assam within the stipulated time limit and for matters connected therewith and incidental thereto. As per Section 3[h], 'Right to Public Service' means right to obtain the notified service under the ARTPS Act from time to time within the stipulated time limit as prescribed under Section 5. Section 5 of the ARTPS Act has laid down that every eligible person shall have the right to obtain the services in accordance with the ARTPS Act within the time bound period as notified under Section 4. It is the responsibility of the Designated Government Servant to deliver services, under Section 6 of the ARTPS Act, within the stipulated period. The stipulated time limit, as per Section 7[1], starts from the date when the application for obtaining a required notified service is submitted to the Designated Public Servant or to a person subordinate to him authorized to receive the application. As per Section 7[2], the Designated Public Servant on receipt of an application under sub-section [1] shall, within the stipulated time limit, provide the notified service or reject the application and in case of rejection of application, he shall record the reasons in writing and communicate to the person making the application, [i] the reasons for such rejection; [ii] the period within which an appeal against such rejection may be preferred; and [iii] the particulars of the Appellate Authority. An Order passed under Section 7[2] is an appealable order under Section 8 before the 1st Appellate Authority notified by the State Government.

6. Section 4 of the ARTPS Act has provided that the State Government may, from time to time, notify the services, Designated Public Servants, Appellate Authorities, Reviewing Authorities, User Charges, Stipulated Time Limits, and the area of the State to which the Act shall apply.

7. Attention of the Court has been drawn to a Notification no. AR.69/2011/Pt-II/98 dated 10.04.2013 of the Administrative Reforms department, Government of Assam and an Office Memorandum no. RRG.12/2012/132 dated 12.04.2013 of the Revenue and Disaster Management Department, Government of Assam.

8. By the Notification dated 10.04.2013 and the Office Memorandum dated 12.04.2013, the State Government has notified the Designated Public Servant, Appellate Authority, Reviewing Authority, stipulated time limit, user charge for delivery of notified services, which includes the Registration [Mutation] as a notified service, etc. as under :-

Notified public service	Office mutation [Registration] If no objection is filed.
Stipulated time limit for providing the service [Days]	60 days, if no objection from any person is filed during the proceeding.
Designation of Designated Public Servant	Circle Officer/ Circle Officer [Attached]
Designation of Appellate Authority	Deputy Commissioner or Additional Deputy Commissioner nominated by Deputy Commissioner [wherever applicable]
Time limit for disposal by Appellate Authority [Days]	30 days
Designation of Reviewing Authority	Commissioner of Divisions
Time limit for disposal by Reviewing Authority [Days]	30 days
Documents to be enclosed with the application	A. In case Mutation [Registration] is sought on the basis of transfer of land by way of purchase, gift, mortgage or inheritance along with the specified form with required court fee:- 1. Photocopy the Original Registered Deed/ certified copy of the deed of transfer. 2. Photocopy of up to date land revenue receipt/land revenue clearance receipt of the land for which the Mutation [Registration] is sought.

	3. A declaration stating that the Applicant does not possess land in excess of the limit laid down under the Assam Fixation of Ceiling on Land Holding Act, 1956. B. If mutation [Registration] is sought by way of inheritance. 1. Proof of death of the deceased Pattadar in whose place Mutation [Registration] is sought. 2. An affidavit [a] Swearing that the Applicant/applicants is/are the son/daughter/wife/legal heirs of the deceased pattadar. [b] Swearing that the Applicant/Applicants have not transferred the property to any one earlier nor mortgaged/nor created any charge over the property to be mutated. [c] Swearing that the person to whom the Applicants applied as successor had not transferred the property during his/her life time. 3. Copy of NOC obtained from D.C. in case of transfer of land. [Not applicable in case of prayer of mutation by inheritance].
User charge, if any [in Rupees]	Rs. 200/- in urban areas and Rs. 50/- in rural areas. [nil in case of mutation sought by way of inheritance in rural areas.]
Eligibility criteria to obtain service	Prior to land holder succeeding to any estate whether by transfer or inheritance and obtaining possession of the same, and every joint proprietor or joint land holder assuming charge of a estate or every person assuming charge of any estate of a proprietor or land holder or of any share herein as manager and every mortgagee obtaining possession of any estate of a proprietor or land holder or of any share therein shall within six months from the date of his taking possession or assumption of charge apply to the Deputy Commissioner of the district on the General Registers of which the estate is borne for registration of his name as such land-holder, proprietor, manager or mortgagee and of the nature and extend of the interest in respect of which the application is made.

9. As per sub-section [1] of Section 8 of the ARTPS Act, any person who does not get notified service within the stipulated time limit specified under Section 4 or is aggrieved by a decision of the Designated Public Servant, may, within a period of thirty days from the expiry of the stipulated period or from the date of receipt of such decision, as the case may be, prefer an appeal to the 1st Appellate Authority notified under sub-section [3] of Section 4. The proviso to sub-section [1] of Section 8 has provided that the 1st Appellate Authority may

admit the appeal after the expiry of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time. The applicant also has the right to prefer a 2nd Appeal and a 3rd Appeal under Section 8[4] and Section 8[5] of the ARTPS Act, if aggrieved by the decisions of the 1st Appellate Authority and the 2nd Appellate Authority respectively.

10. It is a settled position of law that when there is an alternative and equally efficacious statutory remedy available for relief the exercise of jurisdiction under Article 226 of the Constitution of India which jurisdiction is discretionary and extra-ordinary in nature, is ordinarily not to be exercised by bypassing the machinery created under the statute for the same remedy. When an alternative and equally efficacious remedy is open to a litigant he should be required to pursue that remedy and not to invoke the special jurisdiction of the High Court to issue a prerogative writ. It is true that the existence of a statutory remedy does not affect the jurisdiction of the High Court to issue a writ. But, the existence of an adequate legal remedy is a thing to be taken into consideration in the matter of granting writs and where such a remedy exists it will be a sound exercise of discretion to refuse to interfere in a writ petition unless there are good grounds therefor.

11. Having regard to the remedy of appeal available for non-disposal of an application submitted for delivery of the notified public service, this writ petition is disposed of by observing that the petitioner has the option of filing the statutory appeal before the 1st Appellate Authority under the provisions of Section 8[1] read with the proviso thereof of the ARTPS Act, 2012, as amended, against non-delivery of the public service, 'Mutation after Deed Registration'. It is observed that if the petitioner files a 1st Appeal, and an application seeking condonation of the period of delay in terms of the proviso to sub-section [1] of Section 8 of the ARTPS Act, 2012, within a period of 15 [fifteen] days from today, before the 1st Appellate Authority, then the 1st Appellate Authority shall condone the delay considering the fact that the petitioner submitted a Representation before the Designated Public Servant on 14.07.2026 due to non-delivery of the Notified Public Service within the stipulated period of time as mentioned in the Application Acknowledgement

dated 27.04.2026 and thereafter, shall proceed to decide the appeal on its own merits and in accordance with law.

JUDGE

Comparing Assistant