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2026:GAU-AS:14879

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

Case No. : WP(C)/5391/2026

SRI RUHUL AMIN
S/O. SRI ABDUL HUSSAIN, R/O. VILLAGE- 2 NO. SANMILLAN, P.O. RAKSHASMARI, DISTRICT- SONITPUR, ASSAM.

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM, PANCHAYAT RURAL DEVELOPMENT DEPARTMENT, DISPUR, GUWAHATI-781006.

2:THE CO-DISTRICT COMMISSIONER
DHEKIAJULI CO-DISTRICT
DHEKIAJULI
DISTRICT- SONITPUR
ASSAM. PIN-784110.

3:THE SECRETARY
RAKSHASMARI GAON PANCHAYAT

P.O. RAKSHASMARI
DISTRICT- SONITPUR
ASSAM. PIN-784507.

4:THE RAKSHASMARI GAON PANCHAYAT
REPRESENTED BY ITS PRESIDENT
P.O. RAKSHASMARI
DISTRICT- SONITPUR
ASSAM. PIN- 784507

Advocate for the Petitioner : MR. D A KAIYUM, MR. M S MONDAL,SWEETY PARBIN

Advocate for the Respondent : GA, ASSAM, SC, P AND R.D.

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 05-10-2026

Heard Mr. D.A. Kaiyum, learned counsel for the petitioner; Mr. S. Dutta, learned Standing Counsel, Panchayat and Rural Development Department for the respondent nos. 1 & 3; and Mr. B.J. Talukdar, learned Senior Counsel assisted by Mr. P.K. Medhi, learned Junior Government Advocate, Assam for the respondent no. 2.

2. It is the case of the petitioner that he was running a poultry [broiler] firm at his owned parcel of land measuring 4 Bighas 3 Kathas 4 Lessas, covered by Dag nos. 430 and 431 within periodic patta no. 106, at Village – No. 2 Sanmillan [New] / No. 2 Chariali [Old] under Dhekiajuli Revenue Circle, District – Sonitpur, Assam. The jurisdictional Gaon Panchayat is Rakshasmari Gaon Panchayat. It is stated that the poultry [broiler] firm is bounded on three sides by residents of other private individuals.

3. The petitioner has approached this Court by the instant writ petition stating that by a Notice dated 23.06.2026, the jurisdictional Gaon Panchayat ordered the petitioner to close down the poultry [broiler] firm at the present site and to shift it within a period of three days therefrom. In the Notice, it is mentioned that the poultry [broiler] firm has polluted the environment in the nearby locality and due to bad smell emanating from the poultry [broiler] firm, there is possibility of sufferance of the nearby population from various diseases.

It is mentioned that there were written complaints from the inhabitants near the poultry [broiler farm].

4. Mr. Kaiyum, learned counsel for the petitioner has submitted that aggrieved by the closure of the poultry [broiler] firm by the Notice dated 23.06.2026, the petitioner has preferred an appeal under Section 137 of the Assam Panchayat Act, 1994, as amended, before the Secretary to the Government of Assam, Panchayat & Rural Development Department on 01.09.2026. As the said appeal has not yet been disposed of, the petitioner has approached this Court seeking a direction to the appellate authority to consider and dispose of the appeal as expeditiously as possible, as the petitioner's livelihood is dependent upon the outcome of the appeal.

5. Mr. Dutta, learned Standing Counsel, Panchayat and Rural Development Department appearing for the respondent nos. 1 & 3 has submitted that as the petitioner has stated that the appeal is pending before the appellate authority, the writ petition can be disposed of with a direction to the appellate authority to consider and dispose of the appeal on in its own merits in accordance with law.

6. Section 137 of the Assam Panchayat Act, 1994, as amended, has provided that a person aggrieved by any order or act of Panchayat institution may file an appeal within fifteen days from the date of receipt of such order or performance of such Act to the Government, whose decision in this regard will be final.

7. Having regard to the broad consensus arrived at by the learned counsel for the parties in the afore-stated manner, and considering the fact that the appeal, stated to have been filed by the petitioner under Section 137 of the Assam Panchayat Act, 1994, as amended, filed on 01.09.2026 is pending before the

appellate authority, this Court is of the considered view that instead of keeping the writ petition pending and without making any observation as regards the merit of the appeal, the writ petition can be disposed of with a direction to the appellate authority to take the appeal on board and thereafter, to dispose of the said appeal on its own merits and in accordance with law. It is accordingly ordered. It is further observed that since the petitioner's livelihood is dependent on the outcome of the decision taken on the appeal by the appellate authority, the appellate authority shall dispose of the appeal after affording an opportunity of hearing to the petitioner and other stakeholders, preferably within a period of one month from the date of submission of a certified copy of this Order at his office by the petitioner.

JUDGE

Comparing Assistant