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2026:GAU-AS:15412

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

Case No. : WP(C)/6601/2025

FARIDA YEASMIN
W/O NURUL ISLAM, R/O VILL- MAHGURI, P.O- SINGARI MADRASSA, P.S- JURIA, DISTRICT- NAGAON, ASSAM, PIN- 782124

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM, PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT, DISPUR, GUWAHATI, PIN- 781006

2:THE DISTRICT COMMISSIONER
NAGAON
P.O AND P.S- NAGAON
DIST- NAGAON
ASSAM
PIN- 782001

3:THE CHIEF EXECUTIVE OFFICER
NAGAON ZILLA PARISHAD
P.O AND P.S- NAGAON
DISTRICT- NAGAON
ASSAM
PIN- 782001

4:THE BLOCK DEVELOPMENT OFFICER
JURIA DEVELOPMENT BLOCK
P.O AND P.S- JURIA
DISTRICT- NAGAON
ASSAM
PIN- 782124

5:THE SECRETARY
MAGHURI GAON PANCHAYAT
P.O- SINGARI MADRASSA
P.S- JURIA
DIST- NAGAON
ASSAM
PIN- 78212

BEFORE

HON'BLE MR. JUSTICE DEVASHIS BARUAH

For the Petitioner(s) : Mr. M. K. Hussain, Advocate

For the Respondent(s) : Mr. S. Dutta, SC, P&RD
: Mr. J. Handique, Jr. GA, Assam

- Date on which Judgment was reserved : NA
- Date of Pronouncement of Judgment : **12.10.2026**
- Whether the pronouncement is of the Operative Part of the Judgment : Yes
- Whether the full Judgment has been Pronounced : NA

JUDGMENT AND ORDER (ORAL)

Heard Mr. M. K. Hussain, the learned counsel appearing on behalf of the Petitioner. Also heard Mr. S. Dutta, the learned Standing Counsel for the P&RD Department and Mr. J. Handique, the learned Junior Government Advocate, who appears on behalf of the State Respondents.

2. The petitioner herein is aggrieved by the order dated 12.11.2025 passed by the District Commissioner, Nagaon whereby

the petitioner was disqualified under Section 111(2) of the Assam Panchayat Act, 1994 (for short, 'the Act of 1994') read with Rule 62(4)(b) and (c) of the Assam Panchayat (Constitution) Rules, 1995 (for short, 'the Rules of 1995') on the ground that as per the report dated 14.08.2025 submitted by the Chief Executive Officer, Nagaon Zilla Parishad, the petitioner was a minor on the date of the marriage.

3. It has been submitted at the Bar that the issue involved in the instant writ petition is squarely covered by the judgment and order dated 23.02.2026 passed in the case of ***Aysha Khatun Vs. State of Assam & 5 Others*** reported in ***2026 (3) GLT 102***.

4. The brief facts leading to the filing of the instant case are that the petitioner contested for the post of Ward Member of Ward No. 1 of Mahguri Gaon Panchayat. The polling was held on 07.05.2025 and the counting of votes took place on 11.05.2025 following which the petitioner was declared the winning candidate having secured 410 votes.

5. It is the case of the petitioner that while functioning as an elected member of Mahguri Gaon Panchayat, the Secretary, Mahguri Gaon Panchayat-cum-Child Marriage Prohibition Officer

lodged an ejahar on 10.07.2025 before the Officer-in-Charge alleging that the petitioner solemnized a marriage with one Sri Sariful Islam on 11.09.2011, when the petitioner was a minor. Thereupon, Juria P.S. Case No. 192/2025 was registered under Sections 9/10/11 of the Prohibition of Child Marriage Act, 2006.

6. It is the further case of the petitioner that the respondent No. 2 thereafter passed the impugned order, whereby the petitioner was disqualified and removed from the post of Ward Member of Ward No. 1, Mahguri Gaon Panchayat under Juria Development Block on the alleged ground of violation of the provisions of Section 111(2) of the Act of 1994, read with Rule 62(4) (b) and (c) of the Rules of 1995. Being aggrieved, the petitioner has challenged the said order before this Court by filing the present writ petition.

7. The learned Coordinate Bench of this Court vide order dated 21.11.2025 while issuing notice directed that the impugned order dated 12.11.2025 be stayed till the returnable date. The said interim order has been extended from time to time.

8. In the backdrop of the above facts, the question that arises is whether the judgment of this Court in the case of ***Aysha Khatun***

(supra) covers the issues involved in the present writ petition.

9. It is relevant to take note of that the petitioner was disqualified vide the impugned order dated 12.11.2025 on the ground that the petitioner had incurred disqualification in terms with Section 111(2) of the Act of 1994 read with Rule 62(4)(b) and (c) of the Rules of 1995. A further perusal of the impugned order reveals that an inquiry was conducted during which it was found that the petitioner was born on 30.10.1995 and that at the time of her marriage, she was 15 years old.

10. The materials on record would show that the impugned order is in violation to the Principles of Natural Justice inasmuch as on 14.08.2025, the Chief Executive Officer, Nagaon Zilla Parishad submitted the report and the impugned order was passed.

11. Be that as it may, the question arises as to whether the respondent No. 2 at all had the jurisdiction to pass the impugned order dated 12.11.2025.

12. It is apparent from the records that the disqualification alleged existed on the date of submission of the nomination paper by the petitioner.

13. This Court, in this regard, finds it relevant to take note of another judgment passed by this Court on 13.03.2026 in the case of ***Sri Ferdaus Rahman Mazumder Vs State of Assam & 6 Others***, reported in ***2026:GAU-AS:3725*** wherein this Court had deduced the ratio laid down in the case of ***Aysha Khatun (supra)*** in conjunction with the relevant provisions of the Constitution of India, the Act of 1994 and the Rules of 1995. Paragraph No.48 of the said judgment being relevant is reproduced hereinunder:-

"*48. The following propositions may be culled out from the observations made by this Court in the case of* ***Aysha Khatun (supra)*** *read with the provisions of the Constitution, Act of 1994 and Rules of 1995.*

(A) Article 243F of the Constitution stipulates when a candidate would be disqualified for being chosen as and for being a member of the Panchayat.

(B) Section 111 of Act of 1994 however uses the expressions "elected or co-opted" and "and remain". There appears to be a reason for doing so in as much as Section 111 of the Act of 1994 not only speaks of being a Member of the Panchayat, but also to be elected or co-opted and remain as President or Vice President of Zilla Parishad, Anchalik Panchayat and Gaon Panchayat.

(C) The proposition so laid down in Aysha Khatun (supra) has to be understood in the context of as election and to remain as Member of the Panchayat that would be election and to remain as Member of Zilla Parishad, Anchalik Panchayat and Gaon Panchayat. This is so because to be chosen as a Member of the Panchayat, the person has to be elected in an election conducted by the State Election Commission constituted in terms with Article 243K of the Constitution read with

Section 114 of the Act of 1994. The bar contained in Article 243-O of the Constitution read with Section 129 of the Act of 1994 is only in respect to elections conducted by the State Election Commission.

However, election to the posts of President and Vice President of the Gaon Panchayat, Anchalik Panchayat as well Zilla Parishad are outside the purview of the State Election Commission or even the electoral process conducted by the State Election Commission.

The posts of President and Vice President of the Gaon Panchayat, Anchalik Panchayat as well as Zilla Parishad are held under the control and supervision of the District Commissioner or any officer delegated by the District Commissioner as would be apparent from a perusal of Section 6, 37 and 70 of the Act of 1994 read with Rules 46, 48 and 50 of the Rules of 1995.

(D) In the case of Aysha Khatun (supra), this Court categorically held that in respect of a disqualification which existed at the time of submission of the nomination paper, the said would come within the purview of improper acceptance of the nomination paper. This Court further held that an improper acceptance of the nomination paper whereby the election of the returned candidate have been materially effected being a ground for declaration of the election to be void, the improper acceptance of the nomination paper, being a part of the election process, the same has to be challenged by way of an election petition by presenting the same before the Election Tribunal within the period of 60 days from the date of declaration of the results of the election. This Court also held that the District Commissioner had no jurisdiction and competence to decide the question of disqualification for being a Member of Panchayat if such disqualification existed at the time of submission of the nomination."

14. Upon applying the aforementioned principles of law laid down

by this Court in the case of ***Sri Ferdaus Rahman Mazumder (supra)***, it is the opinion of this Court that as the impugned order dated 12.11.2025 related to a disqualification pertaining to Section 111(2) of the Act of 1994 read with Rule 62(4)(b) and (c) of the Rules of 1995 and the said disqualification was existing at the time of filing of the nomination paper by the petitioner, the District Commissioner, Nagaon, therefore, had no jurisdiction to decide the disqualification of the petitioner.

15. Accordingly, the writ petition stand disposed of with the following observations and directions:

(i) The impugned order dated 12.11.2025 as well as all consequential action(s) taken on the basis of the impugned order dated 12.11.2025 are set aside and quashed.

(ii) No costs.

Bijoy Saha

Digitally signed by Bijoy Saha
Date: 2026.10.16 10:49:36 +05'30'

JUDGE

Comparing Assistant