

GAHC010067182023



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

Case No. : WP(C)/1813/2023

DIBYA JYOTI SHARMA
S/O- GOLAP CHANDRA SHARMA, VILL.- BHERBHERI, P.O. HALOWAGAON,
P.S. SAMAGURI, DIST. NAGAON, PIN- 782141.

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, REVENUE (REGISTRATION) AND D.M.
DEPARTMENT, DISPUR, GUWAHATI-781006.

2:THE DEPUTY COMMISSIONER
NAGAON
ASSAM

3:THE SELECTION BOARD
OFFICE OF THE DEPUTY COMMISSIONER
NAGAON
REPRESENTED BY THE DEPUTY COMMISSIONER
NAGAON.

4:JUN MONI BORA
S/O- LATE PRABHAT BORA
P.O. HALOWAGAON
P.S. SAMAGURI
LAT- 2 NO. DEURIGAON
DIST. NAGAON
PIN- 782141

Advocate for the Petitioner : MR. A K BARUAH

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

31.03.2023

Heard Mr. A. K. Baruah, learned counsel appearing for the writ petitioner. Also heard Mr. S. Dutta, learned standing counsel, Revenue & Disaster Management, Assam appearing for the respondent No. 1 and Mr. A. Chakraborty, learned Govt. Advocate, Assam representing respondent No. 2.

2. By filing this writ petition, the selection of respondent No. 4 for appointment as Gaon Pradhan in respect of 2 No. Bherbheri village under Chalchali Mouza of samaguri Revenue Circle, Nagaon district has been put to challenge primarily on the ground that the respondent No. 4 does not meet the eligibility norms as laid down by the advertisement notice dated 05-09-2022.

3. According to Mr. Baruah, learned counsel, the writ petitioner is a permanent resident of the said locality in respect of which he seeks appointment and is qualified to be appointed as Gaon Pradhan. On the contrary, the respondent No. 4 is a member of a political party. Therefore, he cannot be appointed as a Gram Pradhan as per the norms specified in the Advertisement dated 05-09-2022.

4. Mr. A. Chakraborty, learned Govt. Advocate, Assam, submits that there is a statutory remedy available to the petitioner under Rule 162(C) of the Executive Instruction framed under Assam Land & Revenue

Regulation, 1886 and therefore, the petitioner may be directed to avail the alternative remedy.

5. Mr. Baruah submits that his client would avail the alternative remedy but some protection may be granted in the meantime.

6. After hearing the submission of the learned counsel for the parties and in view of the facts and circumstances of the case, this Court is of the view that the writ petition can be disposed of by granting a week's time to the petitioner to prefer an appeal under Rule 162(C) of the Executive Instruction before the Divisional Commissioner, Central Assam assailing the selection/ appointment of the respondent No. 4 as Gram Pradhan, if so desired.

7. If such an appeal is preferred, within a week, by annexing a certified copy of this order, the appellate authority will hear the matter and dispose of the same within sixty (60) days therefrom, by a reasoned order.

8. It is submitted that till now no appointment has been made by the respondents in the post of Gaon Pradhan, appointing respondent No. 4 as the Gaon Pradhan of 2 No. Bherbheri village under Chalchali Mouza of samaguri Revenue Circle in the district of Nagaon. If that be true, the respondent authorities will not pass any order appointing respondent No. 4, if not already issued, till the appeal filed by the petitioner is disposed of.

9. Writ petition is accordingly disposed of.

JUDGE

Comparing Assistant