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

Case No. : WP(C)/1656/2026

NURUL HASAN MOZUMDER
SON OF- GULE AHMED MAZUMDER, RESIDENT OF HOUSE NO. 245,
KANAKPUR PART-I, SONAI ROAD, DISTRICT- CACHAR, ASSAM, PIN-
788006.

VERSUS

THE STATE OF ASSAM AND ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF
ASSAM, COOPERATION DEPARTMENT, DISPUR, GUWAHATI-06.

2:THE REGISTRAR OF CO- OPERATIVE SOCIETIES
ASSAM
KHANAPARA
GUWAHATI-781022.

3:THE ZONAL JOINT REGISTRAR OF COOPERATIVE SOCIETIES
CACHAR
SILCHAR
ASSAM.

4:THE DEPUTY REGISTRAR OF COOPERATIVE SOCIETIES
CACHAR
SILCHAR
ASSAM.

5:THE ASSISTANT REGISTRAR OF COOPERATIVE SOCIETIES
DHUBRI
ASSAM

Advocate for the Petitioner : MR. J M A CHOUDHURY, K G CHOWDHURY,L P BORAH

Advocate for the Respondent : GA, ASSAM, SC, CO OP

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

23.03.2026

Heard Mr. JMA Choudhury, learned counsel for the petitioner. Also heard Mr. G Bordoloi, learned Standing Counsel, Co-operation Department and Mr. C.K.S Baruah, learned Government Advocate for the respondents.

2. The petitioner before this court is aggrieved by the impugned order of transfer dated 15.03.2026 whereby the petitioner was transferred from the district of Cachar to Dhubri. His name appears at serial number 11. The petitioner is serving as Senior Inspector/Auditor in the office of Deputy Registrar of Cooperative Societies in Cachar (Silchar) and by the impugned order, he has been transferred to the office of Assistant Registrar of Cooperative Societies in Dhubri in the same capacity.

3. The counsel for the petitioner submits that the petitioner is a person with benchmark locomotor disability and therefore he is required to be exempted from routine transfers. The learned counsel has referred to an office memorandum dated 02.02.2024 issued by the Department of Personnel and Training, Government of India, whereby it is stated that persons with disability may be exempted from rotational transfer / transfer policy and may be allowed to continue in the same job where they would have achieved the desired performance.

4. Upon instructions being permitted to be obtained by the learned Standing counsel, for the Co-operation department it is submitted by the Standing

counsel that the impugned Transfer Order is not a rotational or a routine transfer, but a transfer which is effected pursuant to the ECI guidelines or standing orders. He submits that as per the ECI guidelines, all persons who satisfy the criteria specified in the said guidelines or office memorandum are required to be transferred. The petitioner's home district being Cachar and this being one of the criteria for effecting the transfer, the petitioner is transferred out of the said district.

5. At the request of the Court, the learned counsel appearing for the ECI has appeared before the court.

6. Ms. S. Katak, learned Standing Counsel, ECI has submitted before the court that while the transfers are effected in terms of the criteria specified in Clause 3 of the said office memorandum, however, at Clause 5 there is a provision for consideration of specific cases in cases of any difficulties. However, such cases will have to be referred to the Commission through the CEO, and thereafter necessary directions, if required, will be passed by the Commission.

7. The learned Standing counsel for Cooperation Department, further submits on instructions that although in the impugned order of transfer, there is no reference to the ECI notification requiring transfer, but the order dated 15th of March of 2026 impugned in the present writ petition has been issued only in terms of the ECI notification.

8. The learned counsel for the parties have been heard. The pleadings available on record have been perused.

9. As per the Government of India notification issued by the Personnel, Public Grievances and Pensions Department dated 2nd February 2024, by this OM, guidelines were issued in respect of persons with disability who are employed in

the government for efficient performance of their duties. Clause 'H' of the said Office Memorandum reads as under:

“H Preference in transfer/posting

As far as possible, the persons with disabilities may be exempted from the rotational transfer policy/transfer and be allowed to continue in the same job, where they would have achieved the desired performance. Further, preference in place of posting at the time of transfer/promotion may be given to the persons with disability subject to the administrative constraints.

The practice of considering choice of place of posting in case of persons with disabilities may be continued. To the extent feasible, they may be retained in the same job, where their services could be optimally utilized.”

10. The petitioner claims to be a person with benchmark locomotor disability, and he has a disability certificate dated 05.01.2005 which has been issued to the petitioner. Although the ECI notification dated 09.02.2026 does not specifically exempt persons with disability, the fact remains that the appropriate department in the Government of India has issued notifications exempting persons with disability from routine transfers keeping in view the spirit and the mandate of the Act.

11. In Clause 5 of the ECI notification dated 09.02.2026, it is provided that the mandate of transfer as notified by the ECI notification dated 09.02.2026, may be exempted in specific cases subject to the same being forwarded to the Commission through the CEO with specific reasons there for.

12. Under such circumstances, this court is of the view that ends of justice will be met if the petition is closed at this stage without issuing notice, directing the co-operation department to forthwith forward the case of the petitioner in terms of the representation dated 16th of March 2026, filed before the Secretary to the Government of Assam Co-operation Department, Dispur, Guwahati ventilating his grievances. The department will forward the representation to the Commission through the CEO, along with the reasons, if found to be justified for exempting the petitioner from routine transfer or transfers in terms of the ECI notification in view

of the exemptions already notified by the Government of India, Ministry of Personnel, Public Grievances and Pension Department, by the notification dated 2nd February 2024.

13. Let this representation be forwarded to the ECI in terms of Clause 5 of the notification dated 9th February 26th within 2 days from the date of this order and the ECI authorities will thereafter pass appropriate orders within a further period of 7 days and pass appropriate speaking order therein.

14. Needless to say, any order that is passed copies thereof shall be served on the petitioner. The interim order dated 20.03.2026 stands extended till 31st March 2026 or till disposal of the representation.

JUDGE

Comparing Assistant