

GAHC010059122018



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

Case No. : WP(C) 1843/2018

1: FATIK CH. BARMAN AND 24 ORS.
S/O. LT. TUNU BARMAN, RESIDENT OF VILL. JALABILA, P.O. JALABILA, P.S. BAGRIBARI,
DIST. KOKRAJHAR, BTAD, ASSAM.

2: AMZAD ALI
S/O. LT. SHOMSER ALI
RESIDENT OF VILL. TAMAKUBARI PT II
P.O. BARKANDA
P.S. BAGRIBARI
DIST. KOKRAJHAR
BTAD
ASSAM.

3: KABI BARMAN
S/O LATE HEDLA BARMAN
RESIDENT OF VILL. FALAKATA PT. I
P.O. JALABILA
P.S. BAGRIBARI
DIST. KOKRAJHAR
BTAD
ASSAM.

4: MD. SAMAD ALI SK
S/O. LT. AKBAR ALI SK.
RESIDENT OF VILL. GORUMARACHAR NO. 1
P.O. FAILAGURI
P.S. GOSSAIGAON
DIST. KOKRAJHAR
BTAD
ASSAM.

5: RATAN CH. RAY
S/O. LT. MONTESWAR RAY
RESIDENT OF VILL. NO. 1 SAPKATA
P.O. SAPKATA
P.S. GOSSAIGAON
DIST. KOKRAJHAR
BTAD
ASSAM.

6: AMIR ALI

S/O. LT. MONIR ALI
RESIDENT OF KATHALBARI
P.O. BAGRIBARI
P.S. BAGRIBARI
DIST. KOKRAJHAR
BTAD
ASSAM.

7: ABDUL JALIL SHEIKH
S/O. LT. AKABBAR ALI SHEIKH
RESIDENT OF VILL. NO. 1 BURICHATM
P.O. GOLADANGI
P.S. GOSSAIGAON
DIST. KOKRAJHAR
BTAD
ASSAM.

8: MD. JALALUDDIN SK.

S/O. LT. ABDUL BAKI MUNCHI
RESIDENT OF VILL. NO. 2 PALASHGURI
P.O. SAPKATA
P.S. GOSSAIGAON
DIST. KOKRAJHAR
BTAD
ASSAM.

9: SADEK ALI
S/O. LT. SIKANDAR ALI
RESIDENT OF VILL. BUNIYAMARI PT II
P.O. MAKRIJHORA
P.S. BOGRIMARI
DIST. KOKRAJHAR
BTAD
ASSAM.

10: MD. ANSER ALI
S/O. MOGBUL HUSSAIN
RESIDENT OF VILL. MANIPURI PT. I
P.O. MAKRIJHORA
P.S. BAGRIBARI
DIST. KOKRAJHAR
BTAD
ASSAM.

11: EYAR ALI
S/O. LT. SAHER ALI
RESIDENT OF VILL. KUWARPARA
P.O. JALABILA
P.S. BAGRIBARI
DIST. KOKRAJHAR
BTAD
ASSAM.

12: SOFIOR RAHMAN
S/O. LT. MONTAZ ALI
RESIDENT OF VILL. BOROGAON

P.O. JALABILA
P.S. BAGRIBARI
DIST. KOKRAJHAR
ASSAM.

13: EUSOB ALI MOLLAH
S/O. LT. DOROT ALI MOLLAH
RESIDENT OF VILL. ANGARKATA
P.O. BAGRIBARI
P.S. BAGRIBARI
DIST. KOKRAJHAR
BTAD
ASSAM.

14: ABDUR RAHMAN
S/O. LT. MAHIJ MUNCHI
RESIDENT OF VILL. SILBARI
P.O. JALABILA
P.S. BAGRIBARI
DIST. KOKRAJHAR
BTAD
ASSAM.

15: ALIM UDDIN SHEIKH
S/O. LT. KASEM ALI
RESIDENT OF VILL. JOYPUR PT. II
P.O. BORKANDA
P.S. BAGRIBARI
DIST. KOKRAJHAR
BTAD
ASSAM

16: ABBAS ALI
S/O. LT. KETAR ALI
RESIDENT OF VILL. SINGIMARI
P.O. BAGRIBARI
P.S. BAGRIBARI
DIST. KOKRAJHAR
BTAD
ASSAM.

17: MAJAR ALI
S/O. LT. NEPADDIN SHEIKH
RESIDENT OF VILL. SATAGURI PART-I
P.O. MAKRIJHORA
P.S. BAGRIBARI
DIST. KOKRAJHAR
BTAD
ASSAM.

18: DHAN MAMUD SHEIKH
S/O. LT. SIKANDAR ALI
RESIDENT OF KURKUTARVITA
P.O. JALABILA
P.S. BAGRIBARI
DIST. KOKRAJHAR
BTAD

ASSAM.

19: SAMAD ALI
S/O. LT. TOWAJ ALI
RESIDENT OF JANGRIKILA PART-I
P.O. MAKRIJHORA
P.S. BAGRIBARI
DIST. KOKRAJHAR
BTAD
ASSAM.

20: BAJRUL HOQUE
S/O. LT. MAHMMAD ALI
RESIDENT OF VILL. ANGARKATA PART-II
P.O. BAGRIBARI
P.S. BAGRIBARI
DIST. KOKRAJHAR
BTAD
ASSAM

21: JOWAHEY ALI
S/O. MD. JOMSER ALI SK.
RESIDENT OF VILL. NO. 1 BHOMRABIL
P.O. GOLADANGI
P.S. GOSSAIGAON
DIST. KOKRAJHAR
BTAD
ASSAM.

22: KHUSIMON BARMAN
S/O. LT. SUWARA BARMAN
RESIDENT OF SATAGURI
P.O. MAKRIJHORA
P.S. BAGRIBARI
DIST. KOKRAJHAR
BTAD
ASSAM.

23: GOLBAR ALI
S/O. LT. MOKSED ALI
RESIDENT OF JANRIKILA PART-II
P.O. MAKRIJHORA
P.S. BAGRIBARI
DIST. KOKRAJHAR
BTAD
ASSAM.

24: KASHEM ALI
S/O. LT. KARIMUDDIN MUNCHI
RESIDENT OF VILL. KHORAGHAT
P.O. BORKHANDA
P.S. BAGRIBARI DIST. KOKRAJHAR
BTAD
ASSAM.

25: ABDUL JALIL KHAN
S/O. LATE ASHRAF ALI KHAN

RESIDENT OF VILL. NO. 2 BHOMRABIL
P.O. HARAPUTA
P.S. GOSSAIGAON
DIST. KOKRAJHAR
BTAD
ASSAM

VERSUS

1:THE STATE OF ASSAM AND 8 ORS.
THROUGH THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM, REVENUE
(L.R.) DEVELOPMENT DEPARTMENT, DISPUR, GUWAHATI-6

2:THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM
FINANCE (ESTT.-A) DEPARTMENT
DISPUR
GUWAHATI-6.

3:THE DIRECTOR
LAND RECORDS AND REVENUE DEVELOPMENT
GUWAHATI
GUWAHATI.

4:THE BODOLAND TERRITORIAL COUNCIL
REPRESENTED BY SECRETARY
LAND RECORDS AND SURVEY
BODOLAND TERRITORIAL COUNCIL
KOKRAJHAR
ASSAM.

5:THE DIRECTOR
LAND RECORDS AND SURVEYS
BODOLAND TERRITORIAL COUNCIL
KOKRAJHAR
ASSAM.

6:THE DEPUTY COMMISSIONER
KOKRAJHAR
P.O.
P.S. AND DIST. KOKRAJHAR
ASSAM.

7:THE SUB-DIVISIONAL OFFICER (C)
KOKRAJHAR
P.O.
P.S. AND DIST. KOKRAJHAR
ASSAM.

8:THE SUB-DIVISIONAL OFFICER (C)
GOSSAIGAON
PO AND P.S. GOSSAIGAON
DIST. KOKRAJHAR
ASSAM.

9:THE SUB-DIVISIONAL OFFICER (C)
PARBATJHORA
P.O. AND P.S. PARBATJHORA

DIST. KOKRAJHAR
ASSAM

Advocate for the Petitioner : MR. A A R KARIM

Advocate for the Respondent : GA, ASSAM

BEFORE
HON'BLE MR. JUSTICE HRISHIKESH ROY
ORDER

02-04-2018.

The 25 petitioners are serving as *Gaonburha* in the Kokrajhar District under the Bodoland Territorial Council (BTC) jurisdiction. They want to offer their candidatures for the 317 newly created posts of *Gaonburhas*, for which advertisement was issued on 2.2.2017 (Annexure-8). But because of the *eligibility* requirement of *matriculation* and the upper age limit upto 45 years, the serving *Gaonburhas* are *ineligible* to offer their candidature.

2. Earlier the present group alongwith others, filed the WP(C) No.2054/2017 and that case was disposed of on 5.4.2017 (Annexure-10), with direction to consider *relaxation* of the age and academic qualification. However, under the communication dated 23.6.2017 (Annexure-12), the petitioners have been informed that those without *matriculation* and above 50 years, are *ineligible* to apply for the post of *Gaonburha*.

3. The learned counsel, Mr. AAR Karim refers to *Clause 2(ii)* (page-119) of the Govt. Notification dated 6.1.2016 (Annexure-7), to contend that the alteration of the *eligibility criteria* brought upon by amendment of *Clause 160(1)(A)*, inserted by *Clause 161A*, in the *Assam Land Revenue Regulation, 1886*, can apply prospectively but should not impact those *Gaonburhas*, who are serving before the amendments were brought into force.

4. On the changed *eligibility criteria*, Mr. Karim submits that like direction(s), as was given by this Court on 8.11.2017 (Annexure-14), in the WP(C) No.6727/2017, should be granted for the serving *Gaonburhas*, as this might be the only opportunity for them, to be appointed as regular *Gaonburhas*.

5. In view of above, let notice returnable in 4 weeks, be issued. Mr. D. Nath, the learned Addl. Sr. Govt. Advocate, accepts notice for respondent Nos.1, 3 and 6—9. The learned standing counsel for the BTC, Ms. B. Bhuyan accepts notice for respondent Nos.4 and 5 and Mr. B. Gogoi, the learned

standing counsel for the Finance Department, accepts notice for respondent No.2. Necessary extra copies be furnished to all three lawyers.

6. The Registry should reflect the names of the standing counsel for the BTC and the standing counsel for the Finance Department, in the cause list and in the case records.

JUDGE

Comparing Assistant