

GAHC010106582022



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

Case No. : WP(C)/3735/2022

ANSER ALI AND 5 ORS.
(GAONBURAH OF VILLAGE MONIPUR PT-I), S/O- LATE MOKBUL SK., R/O-
VILL.- MONIPUR PT-I, P.O. MAKRIJHORA, P.S. BAGRIBARI, DIST.
KOKRAJHAR, BTR, ASSAM, PIN- 783349.

2: ALIM UDDIN SHEIKH
(GAONBURAH OF VILLAGE JOYPUR PT.-II)
R/O- VILL.- JOYPUR PT-II
P.O. BARKANDA
P.S. BAGRIBARI
DIST. KOKRAJHAR
BTR
ASSAM
PIN- 783348.

3: EUSOB ALI MOLLAH @ USUP ALI MOLLAH
(GAONBURAH OF VILLAGE ANGARKATA PT.-III)
S/O- LATE DOROT ALI MOLLAH
R/O- VILL.- ANGARKATA PT.-III
P.O. AND P.S. BAGRIBARI
DIST. KOKRAJHAR
BTR
ASSAM
PIN- 783349.

4: ABDUR RAHMAN
(GAONBURAH OF VILLAGE SILBARI)
S/O- LATE MAHIJ UDDIN
R/O- VILL.- SILBARI
P.O. JALABILA
DIST. KOKRAJHAR
BTR
ASSAM
PIN- 783349.

5: KHUSIMON BARMAN
(GAONBURAH OF VILLAGE SATAGURI)
S/O- LATE SUWARA BARMAN
R/O- VILL.- SATAGURI PT.-I
P.O. MAKRIJHORA
PS. BAGRIBARI
DIST. KOKRAJHAR
BTR
ASSAM
PIN- 783349.

6: SAMAD ALI
(GAONBURAH OF VILLAGE- JANGIRKILLA PT.-I)
S/O- LATE TOWAJ ALI
R/O- VILL.- JANGIRKILLA PT.-I
P.O. MAKRIJHORA
P.S. BAGRIBARI
DIST. KOKRAJHAR
BTR
ASSAM
PIN- 783349

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, REVENUE DEPARTMENT, ASSAM, 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 SURVEYS ETC.
ASSAM
RUPNAGAR
GUWAHATI-32.

4:THE BODOLAND TERRITORIAL COUNCIL
REPRESENTED BY THE PRINCIPAL SECRETARY
BTC
KOKRAJHAR
ASSAM

P.O. AND DIST. KOKRAJHAR
ASSAM
PIN- 783370.

5:THE DIRECTOR

LAND RECORDS AND SURVEYS
BTC
KOKRAJHAR
ASSAM
P.O. AND DIST. KOKRAJHAR
BTC
ASSAM
PIN- 783370.

6:THE DEPUTY COMMISSIONER
KOKRAJHAR
P.O. AND DIST. KOKRAJHAR
BTC
ASSAM
PIN- 783370

Advocate for the Petitioner : MD J ALOM

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

20.06.2022

Heard Ms. P. Baruah, learned counsel for the petitioners.

2. It is the case of the petitioners that they were appointed as honorary Gaonburahs in different villages in the district of Kokrajhar as per resolutions taken by the villagers and have been working for more than 15 years. In the year, 2016, an amendment was made to the Assam Land and Revenue Regulations, 1886 whereby the prescribed age for appointment of Gaonburah was fixed from 21 to 40 years and minimum educational qualification was fixed as Matriculation. As the petitioners did not meet such criteria, they had earlier filed a writ petition being WP(C)/2054/2017 in

which this Court vide an order dated 05.04.2017 had clarified in paragraph 5 that the petitioners would get the benefit of the relaxation Clause under 2(II) of the Notification dated 06.01.2006. The judgment in paragraph 9 had also directed the petitioners to submit representation within a particular date, which the petitioners claim to have done. However, instead of considering the case of the petitioners, the petitioners could learn that so far as the BTC is concerned, the only upper age limit was raised to 50 years which is not the object and purport of the clarification made by this Court in the aforesaid judgment. The learned counsel however submits that the process is presently at a halt.

3. Issue Notice, returnable by 4(four) weeks.

4. Shri J. Handique, learned Standing Counsel, Revenue Department accepts notice on behalf of the respondent nos. 1 and 3 whereas Shri A. Chaliha, learned Standing Counsel, Finance Department accepts notice on behalf of the respondent no. 2; Shri SR Rabha, learned Standing Counsel, BTC accepts notice on behalf of the respondent nos. 5 & 6 and Shri TC Chutia, learned Additional Senior Government Advocate, Assam accepts notice on behalf of the respondent no. 6. Extra copies of the writ petition be served upon the learned counsel for the respondents by tomorrow.

5. Shri Handique, learned Standing Counsel, Revenue Department however submits that Amendment Notification dated 06.01.2016 has been stayed on some litigation which are pending. He further submits that as admitted by the petitioners themselves, they were recruited as Gaonburah as per resolution by the villagers which is not the prescribed mode of normal recruitment of Gaonburah. He further submits that in the district of Kokrajhar, prior to the Amendment, there was no concept of Gaonburah and therefore the period in which the petitioners had rendered service will be of no consideration.

6. This Court, however, is of the *prima facie* opinion that since this Court in the earlier round of litigation vide the judgment dated 05.04.2017 had clarified regarding

the eligibility of the petitioners, whether the points raised by the learned Standing Counsel, Revenue Department would warrant consideration would be a matter of debate.

7. At this stage, Ms. Barua, learned counsel for the petitioners prays for some interim protection.

8. Since the entire recruitment process has been stated to be at a halt, it is directed that in case recruitment process is taken up for consideration, the case of the petitioners would be considered at par with other candidates.

9. List this case after 4(four) weeks.

JUDGE

Comparing Assistant