

GAHC010106682026



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

Case No. : WA/169/2026

KADAM ALI
SON OF RIAJUDDIN,
RESIDENT OF VILLAGE- GAROJAN, P.O.-SIMLABARI,
P.S.- LAKHIPUR, DISTRICT- GOALPARA, ASSAM, 783101

VERSUS

1.THE DISTRICT COMMISSIONER, GOALPARA AND 4 ORS.
OFFICE OF THE DISTRICT COMMISSIONER, GOALPARA, P.O. AND P.S.-
GOALPARA, DIST.-GOALPARA, ASSAM, 783101

2:THE DISTRICT RETURNING OFFICER GOALPARA
PANCHAYAT ELECTION - 2025 P.O. AND P.S.-GOALPARA
DIST.-GOALPARA ASSAM 783101

3:HE ADDITIONAL DISTRICT COMMISSIONER GOALPARA
P.O. AND P.S.- GOALPARA DIST.-GOALPARA 783101

4:THE AUTHORIZED OFFICER
PANCHYAT ELECTION- 2025
C/O OFFICE OF THE DISTRICT COMMISSIONER
P.O. AND P.S.- GOALPARA DIST.- GOALPARA 783101

5:HAYAT ALI
SON OF MOJBUL HOQUE
R/O VILLAGE-GAROJAN P.O.- SIMLABARI P.S.- LAKHIPUR DIST.-
GOALPARA 78310

For the Appellant(s) : Mr. A.R. Bhuyan, Senior Advocate assisted by Mr. N.A.
Mazarbhuiya, Advocate.

For the Respondent(s) : Mr. S. Baruah, Government Advocate for respondent No.1.

- B E F O R E -

HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR

HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

03.06.2026

(Ashutosh Kumar, CJ)

We have heard Mr. A.R. Bhuyan, learned Senior Advocate for the appellant and Mr. S. Baruah, learned Government Advocate, Assam for respondent No.1.

This appeal has been filed against the judgment dated 28.04.2026 passed by a learned Single Judge of this Court in WP(C) No.162/2026.

The dispute originates from a Panchayat election held in Goalpara district, Assam for the post of Ward Member of Unit No.8, Gorajan (Ka) under Simlibari Gaon Panchayat.

The appellant was a contesting candidate along with respondent No.5.

After the polling on 07.05.2025, the counting began on 11.05.2025. The results had been formally declared on 12.05.2025, returning respondent No.5 as a successful candidate.

The appellant raised serious doubts on the counting of the ballots as during the initial-round of counting, he was reportedly winning by a large margin. However, the tables turned only after few hours and respondent No.5 was declared the winner with 365 votes against 294

votes polled in favour of the appellant.

The contention of the appellant before the authorities was that this could have happened because of wrong preparation of the counting-chart where votes cast in his favour were wrongly recorded in the name of respondent No.5.

An Election Petition vide Misc. (Election) Petition No.1/2025 was filed by the appellant before the District Judge-cum-Panchayat Election Tribunal, Goalpara, seeking re-counting of votes and a declaration that the election of respondent No.5 be held to be invalid.

The Election Tribunal passed an *interim* order on 23.12.2025, directing the District Commissioner, Goalpara to produce the ballot papers in sealed trunks before the Tribunal to enable recounting.

Aggrieved by the afore-noted direction, the respondent No.5 approached this Court vide WP(C) No.162/2026, challenging such an *interim* order as the same being impermissible. It was urged by respondent No.5 before the learned Single Judge that such an *interim* order could not have been passed by the Tribunal as the Election Petition was yet to be finally heard. He also referred to the decisions rendered by this Court in the cases of **Smti Purabi Bora Das -Vs- Smti. Kiran Saikia & Ors. (WP(C) No.6309/2016, dated 06.10.2016)** and **Taijul Islam -Vs- Enamul Hussain & Ors. (WP(C) No.4026/2025, dated 23.07.2025).**

Based on the afore-noted two decisions, the learned Single Judge set aside the *interim* order passed by the Election Tribunal. However, it was clarified by the learned Single Judge that the proceedings before the Election Tribunal shall go ahead and the issue

shall be decided in accordance with law.

This conclusion has been questioned by the appellant on the ground that recounting of votes was the only way to decide the matter at hand for ascertaining whether the result of the election was correct. Without preserving the ballot papers and its recounting, no decision could have been arrived at by the Tribunal. The *interim* order passed by the Tribunal, it has been argued, was the only way in which the issue could have been finally decided.

From the perusal of the order, we find that the objection raised on behalf of respondent No.5 was illusory in as much as only for deciding the issue by the Election Tribunal, such an *interim* order was passed, which would not have in any other way affected the prospect of the parties or would have changed the nature of the proceedings before the Tribunal. This would only have facilitated the process of decision making by the Tribunal.

The reliance on the two cases, referred to by respondent No.5, it has been argued, was misplaced as in those cases, the effect of the *interim* order was to restrain a party from taking oath as a member to the body to which he was elected.

Let notice be issued to respondent No.5, on steps being taken by the appellant within a period of one week from today by speed post as well as by usual process, returnable on 27.07.2026.

In the meantime, Mr. S. Barua, learned Government Advocate, Assam also shall also put in his response to this memo of appeal.

The ballot papers shall be preserved in the meanwhile and the Election Tribunal shall not pass the final order till the next date.

Re-notify on 27.07.2026.

JUDGE

CHIEF JUSTICE

Comparing Assistant