

GAHC010109222026



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

**Case No. : WP(C)/2906/2026**

SRI TARUN CHANDRA DAS  
SON OF SRI MUNTA RAM DEKA, RESIDENT OF VILLAGE- BHERUA P.O.  
DUNI, DISTRICT -DARRANG, ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS  
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT  
OF ASSAM, REVENUE DEPARTMENT, DISPUR, GUWAHATI -781006

2:THE DIRECTOR OF LAND RECORDS AND SURVEYS  
GOVT OF ASSAM  
RUPNAGAR GUWAHATI 781032

3:THE DISTRICT COMMISSIONER  
DARRANG  
MANGOLDOI

4:SRI BAKUL KALITA  
SON OF LATE NABIN CHANDRA KALITA  
RESIDENT OF VILLAGE- BHERUA  
P.O. DUNI  
DISTRICT- DARRANG  
ASSAM PIN- 78414

**Advocate for the Petitioner** : MR. K N CHOUDHURY, MR. R M DEKA, N GAUTAM, MS S BORA, MR. TANUZ KASHYAP, MR. ADREET HAZARIKA

**Advocate for the Respondent** : GA, ASSAM, SC, REVENUE AND DISASTER MANAGEMENT DEPT

**BEFORE  
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

**ORDER**

**03.06.2026**

Heard Mr. KN Choudhury, learned Senior Counsel assisted by Mr. RM Deka, learned counsel for the petitioner. Also heard Mr. J Handique, learned Standing Counsel, Revenue Department and Ms. S Baruah, learned State Counsel, Assam.

2. The petitioner is aggrieved by the impugned order dated 22-05-2026 passed by the Appellate Authority i.e. the Director of Land Records & Survey in Appeal Case No.180/2025 filed by the private respondent no.4, whereby the Appellate Authority allowed the appeal and interfered with, set aside and quashed the order dated 02.05.2023, whereby the petitioner was appointed as a Gaon Pradhan of village Bherua Lot No.9 under Patharighat Revenue Circle, Darrang and directed the District Commissioner, Darrang, Mangaldai to take necessary action accordingly.

3] The Learned Senior Counsel for the petitioner submits that this proposition is contrary to the law laid down by this Court and also by the Apex Court. It is submitted that the question of preference, which the First Appellate Authority held had not been granted in favour of private respondent No. 4, would arise only if the marks obtained by both the candidates, namely the petitioner and

private respondent No. 4 (the appellant before the First Appellate Authority), were equal. Where the marks allotted are not found to be equal, the question of applicability or the question of applying the preference will not arise. In support of his contention, learned Senior Counsel for the petitioner has referred to the judgment of the Division Bench of this Court rendered in *Rajeswar Das vs. state of Assam and Others* reported in 2006 (4) GLT 925 as well as the Judgment and Order dated 30.08.2024 passed in WP(C) No.6774/2022 [Md. Raja Ali vs. the State of Assam and Other] by the Coordinate Bench of this Court which was upheld by the Judgment and Order dated 28.02.2025 passed in WA No.353/2024. He, therefore, submits that the order of the First Appellate Authority be interfered with by the Court and, till the matter is disposed of, adequate interim protection be granted to the petitioner. It is further submitted that as on date the petitioner is holding the charge as the Gaon Pradhan of village Bherua Lot No.9 under Patharighat Revenue Circle, Darrang.

4] Mr. J Handique, learned Standing Counsel, Revenue Department, on the other hand, submits that the allotment of marks is as per the decision taken by the Revenue Department and therefore, there is no infirmity in the order passed by the Appellate Authority as in the column for allotment of marks in respect of candidates who belong to the Gaon Pradhan family or relatives of the Gaon Pradhan, no marks were allotted to the private respondent when on facts there

is no dispute that the private respondent does belong to the family of Gaon Pradhan or is a relative of Gaon Pradhan.

5] Under such circumstances, the First Appellate Authority interfered with the order of appointment of the writ petitioner and the Deputy Commissioner, Darrang is directed to take appropriate action. He submits that the judgement of *Rajeswar Das* (supra) rendered by the Division Bench was assailed before the Apex Court and the Apex Court by the judgment and order rendered in *Kandarpa Sarma vs. Rajeswar Das and Others* reported in (2011) 14 SCC 752 has interfered with the order of the Division Bench and also the order passed by the first Appellate Authority therein and remitted the matter to the Department for a fresh decision. He submits that it is pursuant to the Judgement and Order rendered by the Apex Court in *Kandarpa Sarma* (supra) that the Department has taken a policy decision to allot marks in respect of claims made by candidates that they belong to the Gaonburah's family or is a relative of a Gaonburah. He therefore submits that under Regulation 162D there is a provision for filing a review against the impugned order dated 22-05-2026 passed by the First Appellate Authority. It is therefore submitted that the petitioner be relegated to file a review and the writ petition be dismissed.

6] Having heard the learned counsel for the parties and upon perusal of the

judgments pressed into service, it is seen that in Rajeswar Das (supra), the Division Bench had categorically held that preferential marks are to be allotted when other conditions or other things are equated. Although the Apex Court in *Kandarpa Sarma* (supra) had interfered with the decision of the Division Bench in respect of the finding of marks not being allotted to the appellant therein, *prima facie*, the matter was ultimately remanded back to the authorities. In addition thereto, the Judgment and Order of the Coordinate Bench passed in WP(C) No. 6774 of 2022 on 30.08.2024 has also been upheld by the Division Bench of this Court in WA No.353 of 2024 by Judgment and Order dated 28.02.2025.

7] Under such circumstances, *prima facie* it appears to this Court that the conclusion of the First Appellate Authority that preferential marks are required to be mandatorily given to the private respondent no.4 will require examination by the Court. The other argument raised by the learned Standing Counsel, Revenue Department that alternative remedy being available in the form of a review under Regulation 162D of the Executive Instructions will not be a bar at this stage in view of the fact that the questions raised in the writ petition will require interpretation in view of the judgments of this Court as also the Apex Court

- 8] Under such circumstances, issue Notice, returnable by 15.07.2026.
- 9] Since Mr. J Handique, learned Standing Counsel, Revenue Department appears and accepts notice on behalf of the respondents no.1 & 2 and Ms. S Baruah, learned State Counsel appears and accepts notice on behalf of the respondent no.3, notices are waived in respect of the respondents no. 1 to 3. Extra copies be furnished to them within 1 (one) week from today.
- 10] Learned counsel for the petitioner shall take steps for service of notice upon the respondent no.4 by speed post within 3 (three) working days from today.
- 11] List the matter again on 15.07.2026.
- 12] Till then, the impugned order dated 22-05-2026 passed by the Appellate Authority i.e. the Director of Land Records & Survey in Appeal Case No.180/2025 shall remain stayed.

**JUDGE**

**Comparing Assistant**