

GAHC010187242025



2026:GAU-AS:771

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

Case No. : WP(C)/2786/2025

SIRAJUL ISLAM
S/O KHALILUR RAHMAN R/O VILL. SONARIGAON
P.O-- SONARIGAON P.S-- DHING
DISTRICT- NAGAON
ASSAM PIN-782123

VERSUS

THE STATE OF ASSAM AND 5 ORS.
TO BE REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVT. OF ASSAM
REVENUE AND DISASTER MANAGEMENT (LAANDL) DEPARTMENT
ASSAM SECRETARIAT (CIVIL)
DISPUR
GUWAHATI-781006

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

3:THE DISTRICT COMMISSIONER

NAGAON
ASSAM
PIN 782001

4:THE OFFICE OF THE COMMISSIONER OF CENTRAL ASSAM DIVISION

NAGAON
REPRESENTED BY ITS COMMISSIONER
NAGAON ASSAM
PIN-782001

5:THE CIRCLE OFFICER
DHING REVENUE CIRCLE
DIST. NAGAON
ASSAM
PIN- 782123

6:MD AKTAR HUSSAIN
SON OF LATE KHASNUR ALI ALIAS MASNUR ALI
RESIDENT OF VILLAGE SONARIGAON
DHING
NAGAON
ASSAM
PIN-782123

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH

For the Petitioner(s) : Mr. D. Ullah, Advocate
For the Respondent(s) : Mr. S. Dutta, SC, Revenue
: Mr. D. Bora, Government Advocate
: Mr. N. H. Borbhuiya, Advocate

- Date on which Judgment was reserved : N/A
- Date of Pronouncement of Judgment : **22.01.2026**
- Whether the pronouncement is of the Operative Part of the Judgment : No
- Whether the full Judgment has been Pronounced : Yes

JUDGMENT AND ORDER (ORAL)

Heard Mr. D. Ullah, the learned counsel appearing on behalf of the Petitioner and Mr. S. Dutta, the learned Standing counsel appearing on behalf of the Respondent Nos. 1, 2 and 5. I have also heard Mr. D. Bora, the

learned Government Advocate appearing on behalf of the Respondent Nos. 3 and 4 and Mr. N. H. Barbhuiya, the learned counsel appearing on behalf of the Respondent No.6.

2. The present writ petition has been filed challenging the order dated 17.02.2025 passed by the Secretary to the Government of Assam, Revenue and Disaster Management Department which was digitally signed on 15.05.2025.

3. For the purpose of deciding the legality or validity of the impugned order dated 17.02.2025, it is relevant to take note of the brief facts which led to the filing of the instant writ petition.

4. Pursuant to an advertisement dated 02.05.2017 for appointment of Gaon Pradhan of village Sonari Kissam, the Petitioner as well as the Respondent No.6 participated in the said selection process. The Respondent No.6 secured 44 marks and the Petitioner secured 36 marks. Under such circumstances, the Respondent No.6 was appointed as a Gaon Pradhan on 29.07.2017. The Petitioner herein being aggrieved, preferred an appeal before the Commissioner of the Central Assam Division, Nagaon in terms with Section 162(C) of the Executive Instructions under the Assam Land and Revenue Regulation, 1886. The said appeal was registered and numbered as Case No. RR(CAD)39/2017. Vide an order dated 20.08.2021, the Commissioner, Central Assam Division, Nagaon allowed the appeal holding inter alia that the Respondent No.6 was physically challenged person and not fit to carry out his works smoothly. The Commissioner, Central Assam Division, Nagaon further observed that though the Petitioner did not qualify

in the interview, but being the son of Ex-Gaon Burah having experienced and physically fit for better service in the public and Government. The appointment order of the Respondent No.6 issued by the Deputy Commissioner, Nagaon was accordingly set aside with a direction given to the Deputy Commissioner, Nagaon to consider the case of the Petitioner afresh within 30 (thirty) days from the date of receipt of the order.

5. Pursuant to the said order dated 20.08.2021, the Deputy Commissioner, Nagaon vide an order dated 25.11.2021 temporarily appointed the Petitioner to the post of Government Gaon Pradhan with the stipulation that if there is a complaint against the Petitioner who is appointed temporarily in the post of Government Gaon Pradhan, it would lead to immediate dismissal from duty without giving any notice.

6. Being aggrieved, the Respondent No.6 preferred a Review Application under Executive Instruction No. 162(D) before the Principal Secretary to the Government of Assam, Revenue and Disaster Management Department.

7. Vide the impugned order dated 17.02.2025 which was digitally signed on 15.05.2025, the Secretary to the Government of Assam, Revenue and Disaster Management Department had set aside the order dated 20.08.2021 passed by the Commissioner, Central Assam Division, Nagaon and with a further direction to the District Commissioner, Nagaon to take steps for appointment strictly in accordance with the provisions of the Executive Instructions against the vacant situation of the Gaon Pradhan of Village Sonari Kissam under Dhing Revenue Circle after assessing the physical and

mental fitness of the review Petitioner as required in accordance with the Executive Instructions. It is under such circumstances, the Petitioner being aggrieved has approached this Court by filing the present writ petition.

8. The record reveals that this Court vide an order dated 26.05.2025 while issuing notice had stayed the impugned order dated 17.02.2025 which was digitally signed on 15.05.2025. The record further reveals that the Respondent No.6 being aggrieved by the continuation of the interim order had filed an application seeking vacation/modification/alteration of the order dated 26.05.2025. Today, the matter has been fixed before this Court for consideration of the stay vacating application.

9. It is the opinion of this Court that any order passed in the said proceedings would have to be dealt on merit and taking into account the above, this Court therefore has taken up the instant proceedings for final disposal.

10. I have heard the learned counsel appearing on behalf of the Petitioner as well as the learned Standing counsel appearing on behalf of the Revenue and Disaster Management Department and the Respondent No.6.

11. From a perusal of the materials on record, it is apparent that in pursuance to the advertisement dated 02.05.2017, the Respondent No.6 herein having secured more marks than that of the Petitioner was selected and appointed as the Gaon Pradhan of Sonari Kissam Village. An appeal thereagainst was filed by the Petitioner in terms with Section 162(C) of the

Executive Instructions.

12. This Court has duly taken note of the order dated 20.08.2021 passed by the Commissioner, Central Assam Division, Nagaon. The power of the Appellate Authority to set aside the order of appointment or the selection under no circumstances can be doubted. But the question arises as to whether after the appointment of the Respondent No.6, can the recruitment process be said to continue to enable the Appellate Authority to direct the District Commissioner to appoint the Petitioner who failed in the selection process. The answer has to be in the negative inasmuch as with the appointment of the Respondent No.6, the recruitment process had come to an end. The only permissible power that the Appellate Authority could have exercised is to set aside the appointment and direct filling up the post as per law. In the opinion of this Court, the Commissioner, Central Assam Division have far exceeded his jurisdiction.

13. The record further reveals that the Secretary, Revenue and Disaster Management Department of the Government of Assam had duly taken note of the said aspect of the matter and have passed the impugned order which in the opinion of this Court is in consonance with the settled principles of law.

14. Under such circumstances this Court does not find any ground for interfering with the impugned order dated 17.02.2025 which was digitally signed on 15.05.2025.

15. In that view of the matter, the writ petition therefore stands dismissed.

16. Interim order passed on 26.05.2025 stands vacated.

JUDGE

Comparing Assistant