

GAHC010122302025



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

Case No. : WP(C)/3298/2025

EKRAMUL HUSSAIN
S/O LATE ABDUL BAREQUE
VILL- BHEHUGURI
P.S. MIKIRBHETA
DIST.MORIGAON, ASSAM
PIN-782123

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, REVENUE AND DISASTER MANAGEMENT DEPARTMENT (L.R.)
DISPUR, GUWAHATI-06.

2:THE DIRECTOR OF LAND RECORDS AND SURVEYS ETC.
ASSAM
RUPNAGAR
GUWAHATI-32.

3:THE DISTRICT COMMISSIONER

MORIGAON
P.O.AND DIST. MORIGAON
ASSAM

4:THE CIRCLE OFFICER

MIKIRBHETA REVENUE CIRCLE

DIST. MORIGAON
ASSAM

5:RASIDUL HOQUE
S/O ABDUL JALIL
VILL- BHEHUGURI
P.O. AND P.S. MIKIRBHETA
DIST. MORIGAON
ASSAM
PIN-78212

Advocate for the Petitioner : MR. H ALI, B BARMAN

Advocate for the Respondent : GA, ASSAM, A KASHYAP (R-5),MR SISHIR DUTTA(R-5),MR S DUTTA(R-5),MR. U DUTTA (R-5),SC, REVENUE

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

16.03.2026

Heard Mr. H. Ali, learned counsel for the petitioner, Mr. U. Dutta, learned counsel for the private respondent, Mr. S. Dutta, learned Standing Counsel for the Revenue, Mr. R. Dhar, learned Additional Senior Government Advocate for Respondent No. 3 and 4.

2. The petitioner before the Court has assailed the order dated 05.03.2025, passed by the Respondent No. 2 in Appeal No. 98/2024, which was filed by the petitioner putting a challenge to the selection of the private respondent as a Gaon Bura by the Deputy Commissioner in pursuance to the selection undertaken in terms of the advertisement issued dated 07.07.2022 before the appellate authority. The petitioner as the appellant therein has raised several grounds including pendency of criminal cases against the private respondent at the time of selection and that the selection was made solely on political consideration and not on merit and further that the petitioner was a defaulter of loan and therefore his selection is hit by the conditions prescribed in the

advertisement dated 07.07.2022. The matter was contested by the appellant vide impugned order dated 05.03.2025, the appellate authority dismissed the appeal filed by the petitioner. Being aggrieved, the present writ petition has been filed.

3. Notice in the matter was issued on 13.06.2025.

4. Mr. U. Dutta, learned counsel appearing for the private respondent submits that although they were on caveat, however by the time when the matter was listed before the Court a notice was issued and the caveat has expired, therefore they were not notified. His appearance is recorded by subsequent order dated 12.11.2025.

5. Mr. U. Dutta, learned counsel for the respondent, before this court has urged that this writ petition should be dismissed on the ground of availability of alternative remedy and he has pressed into service the order dated 10.12.2025 passed by this Court in WP(C) No. 7059/ 2025.

6. The learned counsel for the petitioner submits that the writ petition should not be dismissed and the petitioner should be relegated to filing a new application as prescribed under Executive Instructions 162 D under the Executive appended to the Assam Land and Revenue Regulation, 1886.

6. Mr. S. Dutta, learned Standing Counsel for the Revenue also supports the contentions of the learned counsel for the private respondent that an alternative efficacious remedy exists in terms of Executive Instructions 162 D. Similar submission are also made by Mr. R. Dhar, learned Additional Senior Government Advocate.

7. While it is correct that an alternative remedy is exists in terms of the Executive Instructions 162 D which permits a review to be filed against any orders filed by the appellate authority, the fact remains that the impugned order

passed by the appellate authority was on 05.03.2025. Any review required to be filed sought to have been filed within 90 days as prescribed under the Executive Instructions 162 D. Although objections is raised on the ground of maintainability filed by the learned private respondent, it is seen that pursuant to notice being served on private respondent No. 5 and the learned counsel entering appearance on 12.11.2025, several orders have been passed in presence of the learned counsel and no objections has been shown to be recorded in respect of the private respondents towards availability of efficacious alternative remedy for the petitioner and for which reason the writ petition ought not to be entertained in the present forum.

8. Mr. U. Dutta, learned counsel attempted to persuade the Court that such submissions were indeed raised but were not recorded in the order. If that be so, according to the Court, the learned counsel ought to have been taken steps to bring it to the notice of the Court that the objections raised by the private respondent were not recorded in the orders passed by the Court.

9. Be that as it may, as on date there is nothing in any of the orders passed by the Court to reflect that any such objections on the ground of alternative remedy is placed that however would not barred the petitioner from raising the objection for the first time today. However, what is to be seen is that the appellate order have been passed on 05.03.2025, the period of 90 days for preferring the review as contemplated under Executive Instructions 162 D has since been elapsed. Although, there is a provision for condonation of delay available before the review authorities, this Court is of the considered view that ends of justice will not be made if the writ petition is rejected today on the ground of alternative remedy when the notices in the matter were issued as far back as 13.06.2025. In the event, the delay is not condoned by the review

authorities then the petitioner may be left without any remedy.

10. Under such circumstances, this Court declines to accept the contentions of the learned counsel for the respondent that the writ petition at this stage should be dismissed on the ground of maintainability.

11. Coming to the merits of the case, at this stage before the Court, the learned counsel for the petitioner submits that although several objections were raised before the appellate authority in the present proceedings, the only ground raised against the writ petitioner is non-clearance of his loan amount/ financial dues which he had undertaken from the Assam Gramin Bank, Habibarangabari Branch, Morigaon District.

12. The learned counsel for the petitioner has placed before the Court a certificate purportedly issued by the Assam Gramin Bank dated 09.02.2026 is reflected that the loan clearance certificate which was shown to have been issued on 10.05.2022 was not issued by the Former Branch Manager, Sri Sanjay Das. This clarification regarding loan clearance certificate has been given by Sanjay Das (Manager) through letter dated 23.12.2025. Under such circumstances, it is seen that if this certificate is accepted by the Court, then the effect would be that the certificate placed by the private respondent at the time of the selections showing the clearance of the loan amount would be a document, which have not been issued by the bank. Therefore, the Court permits the petitioner to take steps to array Assam Gramin Bank as a party and also directs the Respondent No. 5 to place all relevant documents available towards the clearance of the loan amount which he undertaken from the Assam Gramin Bank.

13. Let the learned counsel for the petitioner to file necessary application within 1 week.

14. Accordingly, list this matter after one week.

JUDGE

Comparing Assistant