

GAHC010134602026



2026:GAU-AS:10446

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

Case No. : WP(C)/3503/2026

KOHINUR KHATUN
W/O.- MOTIUR RAHMAN, VILL.- SHIMLABARI PART-I, P.O. RANGAPANI,
P.S. MERERCHAR, DIST-BONGAIGAON, ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM,
PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT, DISPUR,
GUWAHATI-06.

2:THE COMMISSIONER

PANCHAYAT AND RURAL DEVELOPMENT
ASSAM
JURIPAR
PANJABARI
GUWAHATI-37.

3:THE ASSAM STATE ELECTION COMMISSION
REPRESENTED BY THE SECRETARY
PANJABARI
GUWAHATI-37.

4:THE DISTRICT COMMISSIONER
BONGAIGAON
ASSAM.

5:THE CHIEF EXECUTIVE OFFICER
BONGAIGAON ZILLA PARISHAD
BONGAIGAON
ASSAM.

6:THE BLOCK DEVELOPMENT OFFICER
SRIJANGRAM DEVELOPMENT BLOCK
P.O. SRIJANGRAM
DIST- BONGAIGAON
ASSAM

B E F O R E
HON'BLE MR. JUSTICE DEVASHIS BARUAH

Advocates for the Petitioner(s) : Mr. AR Bhuyan
Mr. AM Khan

Advocates for the Respondent(s) : Mr. S. Dutta,
Standing Counsel
P & RD

Date on which judgment was reserved : NA

Date of pronouncement of judgment : **29.07.2026**

Whether the pronouncement is of the

Operative part of the judgment? : Yes

Whether the full judgment has been

pronounced? : No

JUDGMENT AND ORDER (ORAL)

Heard Mr. AR Bhuyan, the learned Senior Counsel assisted by Mr. AM Khan, the learned counsel appearing on behalf of the petitioner. Also heard Mr. S. Dutta, the learned Standing Counsel, P & RD, who appears on behalf of the respondent Nos. 1, 2 and 5 and Ms. M Barman, the learned Government Advocate, who appears on behalf of

the respondent Nos.4 and 6.

2. The petitioner herein is aggrieved by the order dated 19.06.2026 passed by the District Commissioner, Bongaigaon whereby the petitioner was disqualified under Section 111(2)(b) of the *Assam Panchayat Act, 1994* (for short, 'the Act of 1994') on the ground that as per the report of the Chief Executive Officer, Bongaigaon Zilla Parishad, wherein an enquiry was conducted as regards the educational qualification of the petitioner and further the transfer certificate purportedly issued in respect of the petitioner by the Sonabari Govt. High School could not be found in the school records as reported by the Headmaster of the said School.

3. It has been submitted at the Bar that the issue involved in the instant writ petition is squarely covered by the judgment and order dated 23.02.2026 passed in the case of ***Aysha Khatun Vs. State of Assam & 5 Others*** reported in ***2026 (3) GLT 102***.

4. The brief facts leading to the filing of the instant case, as it appears from the materials on record are that the petitioner contested for the post of Ward Member of Ward No.1, Shimlabari Part-I (East) Gaon Panchayat Constituency of 47 No. Rangapani Gaon Panchayat under Srijangram Development Block in the Bongaigaon District. The petitioner was thereafter declared to be a winning candidate.

5. It is the case of the petitioner that while functioning as an elected member of the Rangapani Gaon Panchayat under Srijangram Development Block in the Bongaigaon District on 23.06.2026, the petitioner came to know from the social media that the petitioner was disqualified from the post of Ward Member of Rangapani Gaon Panchayat by the District Commissioner Bongaigaon. Subsequently, the petitioner found a copy of the order dated 19.06.2026 passed by the respondent No.4. However, such copy of the order dated 19.06.2026 was neither served nor communicated to the petitioner by the respondents. It is also the case of the petitioner that after perusal of the order dated 19.06.2026 passed by the respondent No.4, the petitioner found that an enquiry was conducted as regards the educational qualification of the petitioner and further the transfer certificate purportedly issued by the Sonabari Govt. High School could not be found in the school records as reported by the Headmaster of the said School.

6. It is the further case of the petitioner that the respondent No. 4 thereafter passed the impugned order, whereby the petitioner was disqualified and removed from the post of Ward Member from Ward No.1, Shimlabari Part-I (East) Constituency of 47 No. Rangapani Gaon Panchayat under Srijangram Development Block in the Bongaigaon District on the alleged ground of violation of the provisions of *Section 111(2)(b) of the Act of 1994*. Being aggrieved, the petitioner has

challenged the said order before this Court by filing the present writ petition.

7. The learned Coordinate Bench of this Court, vide order dated 25.06.2026, issued notice in the instant case.

8. In the backdrop of the above facts, the question that arises is as to whether the judgment of this Court in the case of ***Aysha Khatun (supra)*** covers the issues involved in the present writ petition.

9. It is relevant to take note of that the petitioner was disqualified vide the impugned order dated 19.06.2026 on the ground that the petitioner had incurred disqualification in terms with *Section 111(2) (b) of the Act of 1994*. A further perusal of the impugned order reveals that an enquiry was conducted, during the course of which it was found that the petitioner's transfer certificate was not found on the school records.

10. The materials on record would show that the impugned order is in violation to the *Principles of Natural Justice inasmuch as* the petitioner was neither put to notice, nor the report so submitted was served upon the petitioner.

11. Be that as it may, the question arises as to whether the respondent No. 4 at all had the jurisdiction to pass the impugned order dated 19.06.2026.

12. It is apparent from the records that the disqualification alleged existed on the date of submission of the nomination paper by the petitioner.

13. This Court, in this regard, finds it relevant to take note of another judgment passed by this Court on 13.03.2026 in the case of ***Sri Ferdaus Rahman Mazumder Vs State of Assam & 6 Others***, reported in ***2026:GAU-AS:3725*** wherein this Court had deduced the ratio laid down in the case of ***Aysha Khatun (supra)*** in conjunction with the relevant provisions of the Constitution of India, the Act of 1994 and the Rules of 1995. Paragraph No.48 of the said judgment being relevant is reproduced hereinunder:-

"48. The following propositions may be culled out from the observations made by this Court in the case of Aysha Khatun (supra) read with the provisions of the Constitution, Act of 1994 and Rules of 1995.

(A) Article 243F of the Constitution stipulates when a candidate would be disqualified for being chosen as and for being a member of the Panchayat.

(B) Section 111 of Act of 1994 however uses the expressions "elected or co-opted" and "and remain". There appears to be a reason for doing so in as much as Section 111 of the Act of 1994 not only speaks of being a Member of the Panchayat, but also to be elected or co-opted and remain as President or Vice President of Zilla Parishad, Anchalik Panchayat and Gaon Panchayat.

(C) The proposition so laid down in Aysha Khatun (supra) has to be understood in the context of as election and to remain as Member of the Panchayat that would be election and to remain as Member of Zilla Parishad, Anchalik Panchayat and Gaon Panchayat. This is so because to be chosen as a Member of the Panchayat, the person has to be elected in an election conducted by the State Election Commission constituted

in terms with Article 243K of the Constitution read with Section 114 of the Act of 1994. The bar contained in Article 243-O of the Constitution read with Section 129 of the Act of 1994 is only in respect to elections conducted by the State Election Commission.

However, election to the posts of President and Vice President of the Gaon Panchayat, Anchalik Panchayat as well Zilla Parishad are outside the purview of the State Election Commission or even the electoral process conducted by the State Election Commission.

The posts of President and Vice President of the Gaon Panchayat, Anchalik Panchayat as well as Zilla Parishad are held under the control and supervision of the District Commissioner or any officer delegated by the District Commissioner as would be apparent from a perusal of Section 6, 37 and 70 of the Act of 1994 read with Rules 46, 48 and 50 of the Rules of 1995.

(D) In the case of Aysha Khatun (supra), this Court categorically held that in respect of a disqualification which existed at the time of submission of the nomination paper, the said would come within the purview of improper acceptance of the nomination paper. This Court further held that an improper acceptance of the nomination paper whereby the election of the returned candidate have been materially effected being a ground for declaration of the election to be void, the improper acceptance of the nomination paper, being a part of the election process, the same has to be challenged by way of an election petition by presenting the same before the Election Tribunal within the period of 60 days from the date of declaration of the results of the election. This Court also held that the District Commissioner had no jurisdiction and competence to decide the question of disqualification for being a Member of Panchayat if such disqualification existed at the time of submission of the nomination."

14. Upon applying the aforementioned principles of law laid down by this Court in the case of ***Sri Ferdaus Rahman Mazumder (supra)***, it is the opinion of this Court that as the impugned order dated 19.06.2026 related to a disqualification pertaining to Section 111(2)

(b) of the Act of 1994 and the said disqualification was existing at the time of filing of the nomination paper by the petitioner, the District Commissioner, Bongaigaon therefore, had no jurisdiction to decide the disqualification of the petitioner.

15. Accordingly, the writ petition stand disposed of with the following observations and directions:

(i) The impugned order dated 19.06.2026 as well as all consequential action(s) taken on the basis of the impugned order dated 19.06.2026 are set aside and quashed.

(ii) No costs.

JUDGE

Comparing Assistant