GAHC010220742025

2026:GAU-AS:5756

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

Case No. : WA/63/2026

THE STATE OF ASSAM AND ORS.
REPRESENTED BY CHIEF SECRETARY TO THE GOVERNMENT OF ASSAM, DISPUR, GUWAHATI 781006.

2: THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM
PERSONNNEL (A) DEPARTMENT
DISPUR
GUWAHATI-781006

3: THE SECRETARY TO THE GOVERNMENT OF ASSAM
PERSONNEL (A) DEPARTMENT
DISPUR
GUWAHATI-78100

VERSUS

PRABIR CHANDRA KAKATI AND ORS.
SON OF LATE SIBA CHANDRA KAKATI, RESIDENT OF SAGARIKA PATH, P.O- ZOO ROAD, PS- GITANAGAR, DISTRICT- KAMRUP (M), ASSAM, PIN-781024.

2:THE UNION OF INDIA
REPRESENTED BY THE SECRETARY
MINISTRY OF PERSONNEL
PUBLIC GRIEVANCES AND PENSIONS
NEW DELHI-110011

3:UNION PUBLIC SERVICE COMMISSION
REPRESENTED BY THE SECRETARY
UPSC
DHOLPUR HOUSE
NEW DELHI-110069

4:J.B. EKKA

PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM
PANCHAYAT AND RURAL DEVELOPMENT
DISPUR
GUWAHATI-781006

5:TONMOY PRATIM BORGOHAIN
IAS
SECRETARY TO THE GOVERNMENT OF ASSAM
PERSONNEL DEPARTMENT
DISPUR
GUWAHATI-781006

6:SMT. PANCHALI KAKATI
ACS
JOINT SECRETARY TO THE GOVERNMENT OF ASSAM
PERSONNEL DEPARTMENT
DISPUR
GUWAHATI-78100

Advocate for the Petitioner : DIPANKAR NATH, SR. GOVT. ADVOCATE,

Advocate for the Respondent : MS J SARMAH, MR. N K NEOG, FOR CAVEATOR,DR ANKIT TODI,DY.S.G.I.,SC, UPSC,MR. S B LASKAR(R1),MR. H A LASKAR(R1)

– B E F O R E –

HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR
HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

27.04.2026

(Arun Dev Choudhury, J)

1. The present writ appeal calls in question the judgment and order dated 25-06-2024, passed by the learned Single Judge in WP(C) 367/2022, whereby the writ petition was allowed.

2. The adverse remarks recorded in the Annual Confidential Report of the Respondent Officer for the year 2017-18, together with the consequential order rejecting his representation, were interfered with, relegating the matter to the employer to do the needful in terms of an office memorandum.

3. The principal challenge laid by the appellant is that the learned Single Judge transgressed certain limits of judicial review in matters of confidential assessment and erroneously treated the appraisal process as vitiated on the ground of non-adherence to the procedure laid down in the Office Memorandum dated 31.05.2007, which, according to the appellants, was inconsequential and no prejudice has been caused to the respondent.

4. It is argued on behalf of the appellants that the learned Single Judge attached undue significance to the Office Memorandum dated 31-05-2007.

5. According to the appellants, the said memorandum was only an administrative arrangement identifying the reporting, reviewing and accepting authorities in respect of Chief Executive Officers of a Zilla Parishad, and any deviation therefrom in the absence of demonstrable prejudice could not render the ACR non-est.

6. It is contended that the reporting authority was not bound to mechanically depend upon outside inputs and could independently evaluate the officer on the basis of his own knowledge and supervision.

7. Per contra, the learned counsel appearing for the respondent officer supports the judgment under appeal and submits that the interference made by the learned Single Judge was not directed against the merits of assessment simpliciter but against the process adopted, which is fundamentally flawed in law.

8. It is contended that the respondent was serving as Chief Executive Officer, Morigaon, Zilla Parishad during the relevant period and therefore his case was squarely governed by the special procedure laid down under the Office Memorandum dated 31-05-2007.

9. We have considered the rival submissions and perused the materials placed on record.

10. The Office Memorandum dated 31-05-2007 clearly reveals that it was issued after noting that no specific provision existed under the Assam Services (Confidential Rolls) Rules, 1990, regarding the recording, reviewing, and accepting authorities in respect of the Chief Executive Officer of the Zilla Parishad.

11. The Government accordingly prescribed that the Commissioner and Secretary, P&RD Department would be the Reporting Authority, the Chief Secretary, the Reviewing authority and the Minister, P&RD Department as the Accepting Authority.

12. Significantly, the memorandum further stipulated that before writing the report, the Reporting Authority shall obtain a special report for the period under assessment from the concerned Divisional Commissioner and also from the president of Zilla Parishad.

13. The Office Memorandum dated 31-05-2007, in our opinion, is not an empty formality. It was framed precisely to fill an acknowledged procedural gap concerning officers holding the post of Chief Executive Officer of Zilla Parishad.

14. Once the Government consciously evolved a special mechanism for appraisal of such officers, the authorities were bound to follow the same administrative instruction intended to secure objectivity and fairness. The requirement for such informed decision-making cannot be ignored by authorities required to act under it.

15. The requirement to obtain a special report, as mandated in the Office Memorandum dated 31.05.2007, in our opinion, has an evident rationale.

16. A Chief Executive Officer discharges functions at the intersection of governmental administration and elected local self-government. His day-to-day functioning, leadership, conduct, coordination, responsiveness and trustworthiness would necessarily be best observed by those institutions.

17. The memorandum, therefore, ensures that the reporting authority does not proceed upon unilateral perception or incomplete material while making an assessment having serious service consequences.

18. Admittedly, there is non-compliance with the aforesaid requirement. No special report from the concerned Divisional Commissioner or from the president of Zilla Parishad was obtained before the recording of the ACR.

19. On the contrary, the stand reflected in the communication dated 28.12.2021, whereby the representation of the respondent was rejected, is that there was no standing instruction to take views of the Zilla Parishad regarding integrity, character or trustworthiness. Such findings run directly contrary to the express language of the Office Memorandum dated 31-05-2007. Therefore, such a stand cannot be sustained.

20. We are unable to accept the submission that the breach was merely technical.

21. Where a prescribed procedure is designed to ensure fairness and objectivity in the making of an assessment capable of affecting promotion and future prospects, disregard for that procedure strikes at the root of the decision-making process.

22. The observation regarding reliability and consequential grading cannot be divorced from the procedural safeguards meant to inform and legitimize such a conclusion.

23. The learned Single Judge, in our opinion, did not substitute an administrative assessment with a judicial one. The court merely examined whether the impugned action was arbitrary, procedurally informed and unsupported by governing norms; such scrutiny lies squarely within the ambit of judicial review and calls for no appellate correction.

24. In fact, the learned Single Judge directed the respondents to reconsider the case of the petitioner by taking into consideration the applicable rules and Office Memorandum and to take a consequential decision.

25. Therefore, we are of the opinion that no case has been made out demonstrating that the findings of the learned Single Judge are perverse or based on any erroneous principle of law.

26. On the contrary, the judgment under appeal reflects a correct appreciation of the legal effect of the Office Memorandum dated 31-05-2007 and the consequences following from its breach.

27. Consequently, the Writ Appeal fails and stands dismissed.

28. There shall be no order as to cost.

JUDGE **CHIEF JUSTICE**

Comparing Assistant