

GAHC010240702025



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

Case No. : WA/37/2026

SRI RAMESH DAS AND 5 ORS.

S/O- LT. BHISMA DAS,R/O VILLAGE- NO.1 NARUA,POST OFFICE-
NARUA,POLICE STATION- MUKALMUA,DISTRICT- NALBARI, ASSAM.PIN-
781138, MOBILE NO.9706712479

2: SRI DINAMANI SAIKIA

S/O- LT. RATNESWAR SAIKIA
R/O- HOUSE NO.21
WARD NO.58
BELTOLA COLLEGE ROAD
KUNDILNAGAR, NAMGHAR, BELTOLA
POST OFFICE- BASISTHA
DISTRICT- KAMRUPM, ASSAM.PIN- 781029

3: MRS JONALI DAS

D/O- SRI SIDDHESWAR DAS W/O- CHAMPAK DAS
R/O VILLAGE- MORNAI
POST OFFICE AND POLICE STATION - MORNAI
DISTRICT- GOALPARA, ASSAM.PIN- 783101.

4: SRI MUKUL BORA

S/O- LT. BOGAI RAM BORA
R/O VILLAGE- MORONGIAL
POST OFFICE- CHOTAHAIBOR
POLICE STATION- SADAR
DISTRICT- NOGAON, ASSAM.PIN- 782003

5: SMT BHANITA DAS

D/O- LT. ANANTA KUMAR DAS
R/O VILLAGE- NIZ BONGSHAR
POST OFFICE- BONGSHAR
POLICE STATION- SUALKUCHI
DISTRICT- KAMRUPR
ASSAM.PIN- 781103

6: ELIAS AHMED
S/O JAMAL UDDIN AHMED
R/O VILLAGE- KARAGURI PATHER
POST OFFICE- CHAPARBORI
POLICE STATION- BARPETA
DISTRICT- BARPETABAJALI
ASSAM.PIN- 78135

VERSUS

THE STATE OF ASSAM AND 8 ORS.
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF
ASSAM, DISPUR, JANATA BHAWAN, GUWAHATI-6.

2:THE PRINCIPAL SECRETARY
TO THE GOVERNMENT OF ASSAM
PERSONNEL DEPARTMENT
DISPUR, JANATA BHAWAN
GUWAHATI-6.

3:THE PRINCIPAL SECRETARY
TO THE GOVERNMENT OF ASSAM
DEPARTMENT OF SOCIAL JUSTICE EMPOWERMENT
DISPUR, JANATA BHAWAN
GUWAHATI-6.

4:THE PRINCIPAL SECRETARY
TO THE GOVERNMENT OF ASSAM
HEALTH FAMILY WELFARE DEPARTMENT
DISPUR, JANATA BHAWAN
GUWAHATI-6.

5:THE DIRECTOR OF SECONDARY EDUCATION
KAHILIPARA
GUWAHATI-19. ASSAM

6:THE STATE LEVEL RECRUITMENT COMMISSION FOR CLASS IV POSTS
REPRESENTED BY ITS CHAIRMAN/ SECRETARY
ASSAM ADMINISTRATIVE STAFF COLLEGE
JAWAHARNAGAR
KHANAPARA, GUWAHATI-22

7:THE MEDICAL BOARD
REPRESENTED BY THE PRINCIPAL -CUM- CHIEF SUPERINTENDANT
GAUHATI MEDICAL COLLEGE AND HOSPITAL
GUWAHATI-32
ASSAM.

8:THE CHIEF ENGINEER
PUBLIC WORKS BUILDING AND NH
DEPARTMENT
ASSAM, KRISHNA NAGAR
CHANDMARI
GUWAHATI-03.

9:THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS
FOREST DEPARTMENT
GUWAHATI-06. ASSA

For the appellant/petitioner(s) : Mr. S.K. Roy, Advocate
Mr. S. Medhi, Advocate

For the Respondent(s) : Mr. P. Nayak, Addl. AG, Assam
Mr. B. Choudhury, Advocate
Ms. A. Das, Advocate
Ms. S. Sarma, GA, Assam
Mr. D. Upamanyu, Advocate
Mr. R.M. Das, Advocate
Mr. I. Kalita, Advocate

- B E F O R E -

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

26.02.2026

(AshutoshKumar, CJ)

The appellants herein participated in a State level recruitment process held in March, 2022, for recruitment to 14,281 Grade-IV posts in various Departments of the Government of Assam.

The appellants, who are claiming eligibility under the category reserved for Persons with Benchmark Disabilities (PwBD), were selected

and recommended on merit for appointment against the afore-noted advertised posts. However, when no appointment orders were issued to them, they preferred a writ petition before this Court, which was disposed of by the Bench, which had heard the matter, without expressing any opinion on the merits, with a direction that the authorities would communicate the decision, in writing, regarding each of the applicant's individual disability status and their resultant claim for appointment.

It appears that in compliance with the afore-mentioned direction of this Court, the appellants were communicated about their individual disability status, but the communication clearly implied that, perhaps, the appellants would be subjected to some form of re-verification or assessment regarding their disability, to ascertain whether they had crossed the benchmark stage/limit of disability.

Thus, fresh writ petitions were filed challenging the communication issued by the respondents with regard to the assessment/re-verification of the appellants' disability percentage.

The contention of the appellants is that such writ petitions were dismissed at the motion stage itself, relying on the judgment of the Supreme Court in ***State of Uttar Pradesh and Others vs. Ravindra Kumar Sharma and Others, (2016) 4 SCC 791***, which dealt with the issue of fraudulent Disability Certificates under the old Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (hereinafter referred to as "Act of 1995"); simultaneously upholding the validity of the application of the Office Memorandum dated 21.05.2022, issued by the Government of Assam permitting re-verification of the Disability Certificates, including assessment of the percentage of disability

by authorized medical Board at Guwahati Medical College Hospital, etc. It was, thus, held by the learned Single Judge that if the re-verification revealed disability percentage 40% below the benchmark, then the appellants would not be entitled for the reservation benefits.

This was challenged by the appellants by filing writ appeals, but the appeals were later withdrawn with liberty to prefer review petition before the learned Single Judge.

The review petitions filed by the appellants were also dismissed for the reason of the appellants attempting at re-hearing of the case on the same set of facts and law, which was not permitted in the review jurisdiction.

The present appeal, thus, questions the opinion of the learned Single Judge based on the application of the ratio of **Ravindra Kumar Sharma** (supra), which actually involved fraud under the repealed Act of 1995, to the facts of the present case, which, according to the appellants, should have been governed by the provisions of Rights of Persons with Disabilities Act, 2016 (hereinafter referred to as "Act of 2016").

A question, therefore, has been raised in this appeal, viz whether the Government of Assam's O.M. dated 21.05.2022 permitting assessment and re-verification of disability percentage, which could potentially alter the eligibility for selection, is sustainable in law.

The further question that has been raised is whether such decision would be in teeth of the provisions contained under Section 34 and 101 of the Act of 2016, which is a Central Act.

The appellants have also attempted to argue that such re-verification, which can alter the disability benchmark, is, in fact, an

attempt to change the rules of the recruitment after the selection has been effected.

A reference has also been made by the appellants to the judgment of the Supreme Court in **Recruitment of Visually Impaired in Judicial Services [Suo Motu Writ Petition (Civil) No. 2 of 2024], (2025) 4 SCR 222**, guarding against discrimination through backdoor.

Issue notice.

Notice to respondent Nos. 1 and 2 is accepted by Ms. S. Sarma, learned Government Advocate; Mr. R.M. Das, learned Advocate accepts notice on behalf of respondent No. 3; Notice to respondent No. 4 & 7 is accepted by Mr. D. Upamanyu, learned Advocate; Notice to respondent No. 5 is accepted by Ms. A. Das, learned Advocate; Mr. B. Choudhury, learned Advocate accepts notice on behalf of the respondent No. 6; Mr. P. Nayak, learned Additional Advocate General, Assam, accepts notice on behalf of respondent No. 8, and Mr. I. Kalita, learned Standing Counsel, Forest Department, accepts notice on behalf of respondent No. 9.

The learned counsel for the respondents shall respond to this Memo. of Appeal by filing their respective affidavits by the next date.

Re-notify on **30.04.2026**.

JUDGE

CHIEF JUSTICE

Comparing Assistant