



THE GAUHATI HIGH COURT AT GUWAHATI
(The High Court of Assam, Nagaland, Mizoram and Arunachal Pradesh)
PRINCIPAL SEAT AT GUWAHATI

WP(C) No. 6464/2011

1. NAZMA BEGUM,
W/O FAIZUR RAHMAN,
VILL- EAST TONGIBARI, WARD MEMBER OF WARD NO.1,
RATABARI GAON PANCHAYAT.
2. AFTAB UDDIN,
SON OF LATE EKRAM ALI,
VILL- EAST TONGIBARI',
VICE PRESIDENT CUM WARD MEMBER OF WARD NO. 2,
RATABARI GAON PANCHAYAT.
3. ABDUR ROB,
SON OF LATE MUDORIS ALI,
VILL- RATABARI, MEMBER OF WARD NO. 3,
RATABARI GAON PANCHAYAT.
4. GIAS UDDIN,
SON OF LATE MONOJIR ALI,
VILL- RATABARI, MEMBER OF WARD NO. 4,
RATABARI GAON PANCHAYAT.
5. HOBIBUR RAHMAN,
SON OF YASIN ALI,
VILL- RATABARI, MEMBER OF WARD NO. 7,
RATABARI GAON PANCHAYAT.
6. AKMAL ALI,
SON OF ERAB ALI,
VILL- EAST TONGIBARI, MEMBER OF WARD NO. 8,
RATABARI GAON PANCHAYAT.
7. JAMILA BIBI,
W/O LT. ABBAS ALI,
VILL- RATABARI.
8. FAYJUN NESSA,
D/O LT. MOTACHIN ALI,
VILL- RATABARI.
9. ABDUL QUAYUM,
SON OF LT. TAYMUS ALI,
VILL- RATABARI.
10. ABDUL FATTAR,

- SON OF LT. BASARAT ALI,
VILL- RATABARI.
11. NAZMUL HOQUE,
SON OF LT. AMIR ALI,
VILL- RATABARI.
 12. MOTORUF ALI,
SON OF LT. ISHAK ALI,
VILL- EAST TONGIBARI.
 13. ABDUL SALAM,
SON OF LT. MONJIR ALI,
VILL- RATABARI.
 14. NOOR ALI,
SON OF LT. MASAID ALI,
VILL- EAST TONGIBARI.
 15. NEJAM UDDIN,
SON OF LT. MAKBUL ALI,
VILL- EAST TONGIBARI.
 16. SARIF UDDIN,
SON OF MAKRAM ALI,
VILL- EAST TONGIBARI.
 17. ROYMUN BIBI,
W/O LT. SIKANDAR ALI,
VILL- EAST TONGIBARI.
 18. TERAJAN BIBI,
D/O JUNAB ALI,
VILL- EAST TONGIBARI.
 19. SURMAN ALI,
SON OF AJMAT ALI,
VILL- EAST TONGIBARI.
 20. MUFOZZIL ALI,
SON OF ABDUL MAZID,
VILL- EAST TONGIBARI.
 21. DASARATH RABIDAS,
SON OF RAMGURI RABIDAS,
VILL- RATABARI.
 22. SULTAN UDDIN,
SON OF MAYARAB ALI,
VILL- RATABARI.
 23. JAMAL UDDIN (HANDICAPPED),
SON OF LT. EKRAM ALI,
VILL- EAST TONGIBARI.
 24. FULJAN BIBI,
W/O LT. ABDUR RAHIM,
VILL- RATABARI.

25. SAIDA BIBI,
W/O LATE - TASLIM UDDIN,
ALL ARE RESIDENTS OF P.O. RATABARI, P.S. RATABARI,
DIST. KARIMGANJ, ASSAM.

.....Petitioners.

-Versus-

1. THE STATE OF ASSAM,
REP. BY THE COMMISSIONER AND SECRETARY, PANCHAYAT AND
RURAL DEPARTMENT, DISPUR, GUWAHATI- 781006.
2. THE DIRECTOR,
PANCHAYAT AND RURAL DEVELOPMENT, ASSAM,
PANJABARI, JURIPAR, GUWAHATI- 781034, ASSAM.
3. THE DEPUTY COMMISSIONER,
KARIMGANJ, P.O. & DIST. KARIMGANJ, ASSAM, 788710.
4. THE PROJECT DIRECTOR,
DISTRICT RURAL DEVELOPMENT AGENCY,
KARIMGANJ, ASSAM, 788710.
5. THE CHIEF EXECUTIVE OFFICER,
KARIMGANJ ZILLA PARISHAD, KARIMGANJ, ASSAM, 788710.
6. THE BLOCK DEVELOPMENT OFFICER, (BDO)
DULLAVCHERRA DEVELOPMENT BLOCK, DULLAVCHERRA,
KARIMGANJ, ASSAM.
7. SRI ABDUL MATIN TALUKDAR,
PRESIDENT, RATABARI, GAON PANCHAYAT,
P.O. RATABARI, DIST. KARIMGANJ, ASSAM.
8. THE SECRETARY,
RATABARI GAON PANCHAYAT,
P.O. RATABARI, P.S. RATABARI,
DIST. KARIMGANJ, ASSAM.
9. THE BRANCH MANAGER,
ASSAM GRAMIN VIKASH BANK,
BAZAR GHAT BRANCH, P.O. BAZARGHAT,
DIST. KARIMGANJ, ASSAM.

.....Respondents.

**BEFORE
THE HON'BLE MR. JUSTICE HRISHIKESH ROY**

For the Petitioners:

Mr. A.K. Talukdar,
Mr. F.K.R. Ahmed,
Mr. Z. Rahman.

.....Advocates.

For the Respondents:

Mr. D. Nath, GA, Assam.

.....Advocate.

Date of Hearing & Judgment : **14th December, 2017**

JUDGMENT AND ORDER (ORAL)

Heard Mr. A.K. Talukdar, the learned counsel appearing for the petitioners. The State authorities are represented by Mr. D. Nath, the learned Addl. Sr. Govt. Advocate, Assam. However there is no representation from the respondent Nos.7, 8 and 9.

2. The matter pertains to selection of beneficiaries for the year 2009-2010 under the *Indira Awas Yojana* (IAY) Scheme in the *Ratabari Gaon Panchayat* in Karimganj district. The first 6 petitioners were the members of the *Ratabari G.P.*, where the President was *Abdul Matin Talukdar* (respondent No.7). The remaining petitioner Nos.7—25, claim themselves to be the selected beneficiaries and together with the 6 G.P. members, they question the legal validity of the G.P. meeting, held on 05.11.2011 (Annexure-G), where 34 other beneficiaries were selected. The impugned list is signed by both the President and Secretary of the *Ratabari G.P.*

3. Earlier, the G.P. President *Abdul Matin Talukdar* (respondent No.7) was absconding in a criminal case and accordingly the G.P. meeting that was held on 28.04.2010, was presided over by the Vice President. In that meeting, 34 beneficiaries were selected. But the G.P. President prepared a separate list of 38 beneficiaries on 17.04.2010. When the Project Director on 29.10.2010 ordered release of fund to the beneficiaries selected in the meeting held on 28.04.2010 presided by the Vice President, the elected President *Abdul Matin Talukdar* (respondent No.7) filed the WP(C) No.6347/2010.

4. The beneficiaries who were selected on 28.04.2010 were arrayed as respondent Nos.7—46 in the writ proceeding and they projected that the 28.04.2010 meeting presided over by the Vice President was validly held whereas the other meeting of 17.04.2010 was a meeting only on paper. But the G.P. President forced the Secretary to sign the minutes of the so called meeting held on 17.04.2010.

5. The learned Judge noted the rival contention as well as the infighting between the two groups in the *Ratabari G.P.* The futility of approving either of the selection (made on 28.04.2010 and 17.04.2010) was recorded by the High Court and it was observed that the best course would be to direct the BDO to convene another meeting for the purpose of selection of beneficiaries under the IAY scheme, pertaining to the year 2009-2010. Thus the writ petition was disposed of on 05.09.2011 (Annexure-C) with direction for completing the exercise of selection of beneficiaries, within two months from the Court order.

6. The meeting of the *Ratabari G.P.* was then held on 05.11.2011, which according to the minutes, was attended by 120 people and 34 IAY beneficiaries were selected. The validity of the meeting and the selection made on 05.11.2011 is questioned in this case.

7. The learned counsel Mr. A.K. Talukdar submits that the High Court directed the BDO to convene the meeting, but here the G.P. Secretary took the initiative to convene the meeting, that was held on 05.11.2011. The counsel further submits that the requisite notice of 15 days prescribed by *Section 4(4)* of the *Assam Panchayat Act*, was not provided for the scheduled meeting. The petitioners contend that the meeting dated 05.11.2011 was illegal and the same cannot lend validity to the selection of beneficiaries, made in that meeting.

8.1 On the other hand, Mr. D. Nath, the learned Addl. Sr. Govt. Advocate refers to the counter affidavit filed on 14.05.2012 by the Project Director, DRDA, Karimganj to contend that the meeting of the *Gaon Sabha* was duly held on 05.11.2011 and the Extension Officer, Panchayat was present as the observer in that meeting attended by around 120 people of the *Ratabari* locality. The Govt. advocate refers to the Annexure-4 document to highlight that the list of the 34 beneficiaries contains the signature of both the President and Secretary of the *Ratabari G.P.*

8.2 The Govt. advocate projects that cheques for the selected beneficiaries were disbursed and it is further averred that construction of the IAY houses commenced after delivery of the cheques.

9. The *Section 4(4)* of the *Panchayat Act* requires that the meeting of the *Gaon Sabha* should be convened by the G.P. Secretary in consultation with the BDO. In the present case, the meeting was convened as per the High Court's order dated 05.09.2011 in the WP(C) No.6347/2010. The process for convening the meeting started with the letter dated 14.10.2011 addressed to the BDO by the Project Director, DRDA, Karimganj. Then the BDO under his 01.11.2011 letter, directed the G.P. Secretary to convene the meeting for selection of the IAY beneficiaries. Eventually the meeting was held on 05.11.2011.

10. The *Gaon Sabha* meeting which was convened on 05.11.2011 was ordered to be held within two months of the Court's order dated 05.09.2011 and this may be the reason for the truncated notice period for that meeting, where the IAY beneficiaries were selected. Therefore, the absence of 15 days gap between the notice and the meeting should not in my view, invalidate the meeting particularly when, all the stakeholders were part of the proceeding in the WP(C) No.6347/2010. The presence of 120 members of public of the Ratabari area also reflects that wide publicity was given for the meeting organized on 05.11.2011.

11. The list of 34 beneficiaries selected in the meeting of 05.11.2011 are not before the Court, but what is more important is that the prepared list was signed by both the President and the Secretary of the *Ratabari G.P.* Therefore, it is reasonable to conclude that the selection meeting was held with adequate public notice and the beneficiaries were shortlisted through due process. With this perception, I am disinclined to interfere with the selection made on 05.11.2011 particularly when, the cheques for the selected beneficiaries were already issued, as has been averred in the counter affidavit filed by the Project Director, DRDA, Karimganj.

12. The Panchayat functionaries who were at the helm of affairs during 2009-2010, must have demitted office and now different functionaries are at the helm of the G.P. The petitioner Nos.7—25 belong to the BPL category and their names were included in the list of IAY beneficiaries but their aspiration for the IAY house didn't fructify although they were shortlisted in the 28.04.2010 G.P. meeting presided over by the then Vice President. Since the IAY scheme continues under a new name i.e. *Pradhan Mantri Gramin Awas Yojana (PMGAY)*, it is clarified that

today's verdict will not mean extinguishment of the right of these litigants to be considered for IAY houses in future. Consequently, even while approving the selection of beneficiaries in the G.P. *meeting* held on 05.11.2011, I deem it appropriate to observe that this decision will not disentitle the petitioners from being considered for govt. sponsored houses as per eligibility, under *the PMGAY scheme*. It is ordered accordingly.

13. With the above order, the case stands disposed of. No cost.

JUDGE

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