



**IN THE GAUHATI HIGH COURT**

(HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH)

**WRIT APPEAL No.378 OF 2022**

Masuma Khatun,  
Wife of Sayed Tarif Aziz,  
Resident of Village and PO: Bajiagaon,  
District: Nagaon, Assam.

**.....Appellants**

**-Versus-**

1. The State of Assam, represented by the Commissioner & Secretary to the Government of Assam, Panchayat & Rural Development Department, Dispur, Guwahati – 6.
2. The Principal Secretary to the Government of Assam, Panchayat & Rural Development Department, Dispur, Panjabari Road, Juripar, Guwahati – 37.
3. The Deputy Commissioner, Nagaon, PO and District: Nagaon, Assam, PIN – 782001.
4. The Executive Officer, Nagaon Zilla Parishad, Nagaon, Assam, PIN – 782001.
5. The Block Development Officer-cum-Executive Officer, Bajiagaon Development Block, PO: Bajiagaon, District: Nagaon, Assam, PIN – 782001.
6. The President, Bajiagaon Anchalik Panchayat, Village and PO: Bajiagaon District: Nagaon, Assam, PIN – 783140.

7. The Secretary, Bajiagaon Gaon Panchayat, Village and PO: Bajiagaon District: Nagaon, Assam, PIN – 783140.

8. Shri Uttam Saikia, Group Member No.1 of Bajiagaon Gaon Panchayat, Son of Late Tarun Saikia, Resident of Village and PO: Bajiagaon District: Nagaon, Assam, PIN – 783140.

9. Anuwara Khatun, Group Member No.2 of Bajiagaon Gaon Panchayat, Wife of Md. Kuddus Ali, Resident of Village and PO: Bajiagaon, District: Nagaon, Assam, PIN – 783140.

10. Samsun Nehar, Group Member No.3 of Bajiagaon Gaon Panchayat, Wife of Ajijul Haque, Resident of Village and PO: Bajiagaon, District: Nagaon, Assam, PIN – 783140.

11. Alban Ali, Group Member No.4 of Bajiagaon Gaon Panchayat, Son of Muslim Uddin, Resident of Village and PO: Bajiagaon, District: Nagaon, Assam, PIN – 783140.

12. Monuwara Begum, Group Member No.5 of Bajiagaon Gaon Panchayat, Wife of Abdul Latif, Resident of Village and PO: Bajiagaon, District: Nagaon, Assam, PIN – 783140.

13. Jebin Begum, Group Member No.6 of Bajiagaon Gaon Panchayat, Wife of Amrul Haque, Resident of Village: Bhagamur, PO: Kaimari, District: Nagaon, Assam, PIN – 783140.

14. Dilwara Begum, Group Member No.7 of Bajiagaon Gaon Panchayat, Wife of Bilal Uddin, Resident of Village: Bhagamur, PO: Kaimari, District: Nagaon, Assam, PIN – 783140.

15. Harun Rashid, Group Member No.8 of Bajiagaon Gaon Panchayat, Son of Mirjali, Resident of Village: Bhagamur, PO: Kaimari, District: Nagaon, Assam, PIN – 783140.

16. Asmina Begum, Group Member No.9 of Bajiagaon Gaon Panchayat, Wife of Samsul Hoque, Resident of Village: Bhagamur, PO: Kaimari, District: Nagaon, Assam, PIN – 783140.

17. Dilwara Begum, Group Member No.10 of Bajiagaon Gaon Panchayat, Wife of Suruj Ali, Resident of Village: Bhagamur Pachim, PO: Kaimari, District: Nagaon, Assam, PIN – 783140.

**.....Respondents**

**- B E F O R E -**  
**HON'BLE THE CHIEF JUSTICE**  
**HON'BLE MRS. JUSTICE MITALI THAKURIA**

For the Appellant : Mr. N. Haque, Advocate.  
For the Respondents : Mr. K. Konwar, Standing Counsel,  
Panchayat & Rural Development  
Department.  
: Ms. S. Konwar, Junior Government  
Advocate, Assam.  
: Mr. A.I. Uddin, Advocate for  
respondent Nos.8 to 17.

Date of Judgment & Order : **28<sup>th</sup> April, 2023.**

**JUDGMENT & ORDER**

**[Sandeep Mehta, C.J.]**

The instant writ appeal is directed against the judgment & final order dated 25.11.2022 passed by the learned Single Judge disposing of WP(C) No.6853/2022 preferred by the appellant/writ petitioner with a direction to re-convene the meeting of the Bajiagaon Gaon Panchayat for considering the no-confidence motion initiated by 10(ten) Members of the said Gaon Panchayat against the

appellant/writ petitioner being the elected President of the said Gaon Panchayat.

**2.** It may be mentioned here that the meeting in pursuance of the requisition dated 13.05.2022 was held on 28.07.2022 and the resolution of no-confidence was passed. The appellant/writ petitioner challenged the resolution on the ground that the same was undertaken in gross violation of the provisions of Section 15 of the Assam Panchayat Act, 1994 (hereinafter referred to as "the Act") inasmuch as, requisition notice was not served upon the appellant/writ petitioner, i.e. the President, who would then be required to call the meeting within 18(eighteen) days. Since the notice under Section 15 of the Act was never served upon the appellant/writ petitioner, the no-confidence motion was assailed.

**3.** The learned Single Judge, while entertaining the writ petition, passed an *interim* order, whereby the effect and operation of the no-confidence resolution was stayed. While finally deciding the writ petition, the learned Single Judge passed the impugned order, whereby the fresh no-confidence meeting was directed to be held in accordance with Section 15 of the Act. It is to be noted that the order impugned in this appeal passed by the learned Single Judge, does not clearly indicate that the original resolution dated 28.07.2022 had been quashed. Be that as it may. By deemed effect of the impugned order, this position can be presumed. The appellant/writ petitioner has questioned the

validity of the decision rendered by the learned Single Judge to the extent, a fresh meeting was directed to be convened on the ground that the initial motion having failed on account of non-adherence to the mandatory procedure prescribed under Section 15 of the Act, the fresh no confidence motion would not be held before expiry of 6(six) months.

**4.** Mr. N. Haque, learned counsel representing the appellant/writ petitioner, referred to the provisions contained in Section 15(1) of the Act and urged that the direction given by the learned Single Judge to hold a fresh meeting is invalid in the eyes of law, because the requisition dated 13.05.2022 has been interfered with by the learned Single Judge and thus, as on the date of the decision of the writ petition, there was no valid requisition pending so as to warrant holding of a fresh meeting. He thus, implored the Court to accept the appeal and stay/reverse the direction given by the learned Single Judge to the extent, it was ordered to hold a fresh meeting to consider the no-confidence proceedings initiated against the appellant/writ petitioner.

**5.** Per contra, Mr. K. Konwar, learned standing counsel, Panchayat & Rural Development Department; Ms. S. Konwar, learned Junior Government Advocate, Assam and Mr. A.I. Uddin, learned counsel representing the respondent Nos.8 to 17 opposed the submissions advanced by the learned counsel for the appellant.

6. Attention of the Court was drawn by the learned counsel representing the respondents to a Full Bench decision of this Court in the case of ***Forhana Begum Laskar -Vs- State of Assam & Ors.***, reported in **2009 (3) GLT 575** and it was contended that the view taken by the Full Bench in the said judgment, covers the controversy to the hilt inasmuch as, as the initial meeting of the no-confidence was interfered on account of procedural flaws, the bar not to initiate such a motion within next 6(six) months as imposed by second proviso to Section 15(1) of the Act would not apply because the motion was not lost. It was interfered only on account of a technical/procedural flaw. The learned counsel for the respondents thus, urged that the learned Single Judge was perfectly justified in directing that the no-confidence motion shall be carried forward as per the provisions of Section 15(1) read with Section 18 of the Act. They thus implored this Court to dismiss the appeal and affirm the order passed by the learned Single Judge.

7. We have considered the submissions advanced by the learned counsel appearing for the parties and have gone through the impugned order and the material available on record.

8. There is no dispute *qua* the fact that the no-confidence proceedings initiated against the appellant/writ petitioner was interfered on account of the fact that the requisition notice was not served on the President, i.e. the

appellant herein. The no-confidence resolution was passed on 28.07.2022 but the same was stayed. The learned Single Judge held that the fresh no-confidence motion meeting should be held in accordance with Section 15 of the Act. It is our firm opinion that the controversy involved herein is squarely covered by the following observations made by the Full Bench in the case of **Forhana Begum Laskar** (supra):-

*“..... The bar against the permissibility of initiation of such a motion within next six months after it is lost in the first venture, in our opinion is decisively redolent of this view. The quintessence of the proviso, according to us, is to sanction a temporary reprieve to the President or the Vice-President of the Gaon Panchayat, in case the no-confidence motion brought against him/her stands defeated on merit so as to relieve him/her of a fresh ordeal of suffering the same exercise in quick successions. The legislative intendment as discernible is thus that a no-confidence motion brought against the President or the Vice-President of the Gaon Panchayat is lost within the meaning of 2<sup>nd</sup> proviso to Section 15(1) of the Act, if either it is rejected on due deliberations in a meeting duly convened as enjoined therein or if the motion fails for cause or causes other than procedural defects or irregularities in convening the meeting be it for the violation of the time frame or uncalled for or unauthorized intervention of any authority not contemplated in the scheme statutorily delineated for adherence. Whereas, such an infringement of the time schedule prescribed for the successive stages, or interferences of authorities not envisaged depending on the extent and the nature of the impairment caused thereby, may render an ongoing process vitiated thereby, the inescapable consequence thereof need not necessarily be that the motion would be lost as comprehended in the 2<sup>nd</sup> proviso to Section 15(1) of the Act. Such a consequence is also neither discernible nor deductible from Section 15(1). We, thus, cannot lend our concurrence to the plea that each and every non-compliance of the*

*procedural essentials for prosecuting the process of no-confidence motion would, inexorably imply that it (motion of no-confidence) would be lost.”*

**9.** In view of the above exposition of law by the Full Bench of this Court, we are of the firm opinion that the view taken by the learned Single Judge, directing the processing of the no-confidence motion afresh, is absolutely justified and does not warrant interference in this intra-Court writ appeal. Hence, the appeal fails and is dismissed as being devoid of merit.

**10.** No order as to costs.

**JUDGE**

**CHIEF JUSTICE**

**Comparing Assistant**