

(1982) 11 GAU CK 0013
In the Gauhati High Court
Case No : Civil Rule No. 269 of 1979

Chakradhar Das & Another	Vs	APPELLANT
Karuna Kanta Pathak & Others		RESPONDENT

Date of Decision : 06-11-1982

Acts Referred:

Citation : (1983) 2 GLR 171

Hon'ble Judges : K.Lahiri, J and T.C.Das, J

Bench : Division Bench

Advocate : D.N.Deka, P.N.Goswami, Advocates appearing for Parties

Judgement

Lahiri, J.—In Assam, a Gaonburah acts as the mouth piece of the locality where he lives. So, leadership is one of the precondition or qualification of a Gaonburah he is also to assist the Mouzadar in collecting land revenue and help the Mandal while making annual correction of village maps, etc. He is also to discharge his duties under Section 45 of the Criminal Procedure Code, as village headman, and to report crime to the Police. Further, he is obliged to look after the health and sanitation of villagers. Glimpses of his duties and obligations can be gathered from the Executive Instruction No.164 of the Assam Land Revenue Manual. In view of the nature of the duties of Gaonburah the choice to find out a suitable person has been exclusively conferred on the Deputy Commissioner and the SubDivisional Officer. These facts are not disputed by the learned counsel for the petitioner. The best persons to know the intrinsic qualities of leadership and the requisite abilities of a Gaonburah to perform the duties connected with the collection of land revenue, etc. as well as his capacity to assist the Police are the Sub Deputy Collector, Officerincharge of the Police Station and Mazumdar. Therefore, in the instant case, the SubDivisional Officer called for exhaustive reports from these officers and on scrutiny of the reports he concluded that the petitioner was the most suitable person to be appointed as Gaonburah in respect of No. 10 Hathinapur village.

2. It will be seen from the reports received from the SubDeputy Collector,

Officer in charge of the local Police Station, Mouzadar of Hastinapur Mouza that Respondent No. 1, Sri Karuna Kanta was found by them to be most suitable person for appointment as Gaonburah. Executive Instruction No. 162 confers "a discretionary power" in the authority to appoint Gaonburah as it says that Gaonburahs shall be appointed by the officer "whom he considers most suitable for the post." Therefore, on perusal of the reports of the officers, the Subdivisional Officer held Respondent No. 1 to be most suitable person as Gaonburah. But the petitioners have questioned the validity of the order of appointment as violation of Executive Instruction No. 162

3. We have perused the reports but do not find that the discretion was wrongly exercised nor is there any trace of violation of the Instructions. Having perused the reports of the responsible officers we find that the petitioners are sons of the former Gaonburah. This aspect of the matter finds place in the reports but there are other discouraging factors against them in the reports, which we propose not to set forth herein.

4. There are certain considerations which need consideration by the appointing authority and one of them is the claim of the family of the late Gaonburah. However, this is not a hereditary post. It is a post in which a suitable person should fit in. To adjudge the suitability the appointing authority is the only person who can exercise the discretion. This Court cannot interfere with the discretion reasonably exercised by the authority. Therefore, the claims of the family of the late Gaonburah was considered, the views of the Mouzadar were taken into consideration, reports of the S.D.C. the Chief Revenue Officer responsible for the Mouza was also taken into account as well as the report of the Officer in charge of the Police Station was also perused and thereafter the appointment was made on due consideration of these reports. Not a single villager has a second opinion about the legitimacy of the appointment or that it was against the wishes of the villagers. Therefore, the appointee is acceptable person of the village. The views of the Mouzadar the Officer in charge of the Police Station and the S.D.C. were all one that Respondent No. 1 was the most suitable candidate for appointment as Gaonburah.

5. In view of the nature and qualities of the public duties that a Gaonburah is to perform for the village and the villagers we reject the claims of the petitioners who had claimed to this public office merely because they happened to be sons of the deceased Gaonburah. The said quality may be a good consideration but it cannot supersede the claim of the most suitable person having the intrinsic qualities required of a Gaonburah. The claim of the petitioners did not outbalance the requisite qualities of Respondent No. 1 which the petitioners lacked. We are of the firm opinion that the SubDivisional Officer made a correct selection and the discretionary power was used to uphold the public interest and public cause. As such, we hold that the impugned order is valid and made in due compliance with the Executive Instruction.

6. For the foregoing reasons we do not find any merit in the application and the

same is dismissed. However these will be no order as to cost.