

GAHC010142172026



undefined

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

Case No. : WP(C)/3662/2026

TUTUMONI DEVA GOSWAMI AND 2 ORS
SON OF LATE THULESWAR DEVA GOSWAMI, HOUSE NO. 3, BYE LANE NO.
3, TRIBENI PATH, CHANDAN NAGAR, VIP ROAD, P.O. KHANAPARA, P.S.
DISPUR, GUWAHATI- 781022, KAMRUP METRO, ASSAM.

2: PALLABI BORA
W/O. HEMANTA KR. GOGOI
P.S- DISPUR
DISTRICT- KAMRUP METRO
HOUSE NO-6
DEBADARU PATH
BYE-LANE-1 NEAR RAJDHANI MASJID
GUWAHATI-6.

3: MANOJ KUMAR SARMA
S/O. LATE UPEN SARMA
RAGHUNATH CHOUDHURY PATH
NEAR MILANPUR MASJID NO. 1
WEST JYOTINAGAR
GUWAHATI-781021
ASSAM

VERSUS

STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE SECRETARY FOOD, CIVIL SUPPLIES AND
CONSUMER AFFAIR DEPARTMENT, DISPUR BLOCK-E, 1ST FLOOR,
DISPUR, JANTA BHAWAN, GUWAHATI-781006.

2: THE PRINCIPAL SECRETARY
FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIR DEPARTMENT
DISPUR
GUWAHATI-781006.

3:ASSAM PUBLIC SERVICE COMMISSION
REPRESENTED BY THE SECRETARY
APSC JAWAHAR NAGAR
KHANAPARA GUWAHATI-781022

Advocate for the Petitioner : MR. P K ROY, MR. S K CHAKRABORTY,MRS. A CHAKRABORTY,MR B DAS

Advocate for the Respondent : GA, ASSAM, SC, APSC

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 31.07.2026

Heard Mr. P. K. Roy, learned Senior Counsel assisted by Ms. A. Chakraborty, learned counsel appearing for the petitioner. Also heard Mr. D. Majumdar, learned Senior Counsel/Additional Advocate General appearing for the State respondents, assisted by Mr. R. Dhar, learned Senior Government Advocate, appearing for the respondent Nos. 1 & 2, and Mr. T. J. Mahanta, learned Senior Counsel, assisted by Ms. P. Sarma, learned counsel appearing for the respondent No. 3.

2. By way of this writ petition filed under Article 226 of the Constitution of India, the petitioners have put to challenge Advertisement No. 33/2025 dated 13.12.2025 issued by the respondent No. 3 and the Notification dated 02.07.2026 published in the English daily The Assam Tribune.

3. The primary challenge is to the impugned advertisement issued for appointment to the post of Member of the Assam State Consumer Disputes Redressal Commission (Non-Judicial) under the Consumer

Protection (Qualification for Appointment, Method of Recruitment, Procedure of Appointment, Term of Office, Resignation and Removal of the President and Members of the State Commission and District Commission) Rules, 2020 (hereinafter referred to as the "Consumer Protection Rules, 2020").

4. It is the specific contention of the learned Senior Counsel appearing for the petitioners that, notwithstanding the fact that the Apex Court in ***Ganesh Kumar Rajeswar Rao Selukar and Others v. Dr. Mahendra Bhaskar Limaye and Others***, reported in **(2025) 8 SCC 634**, had struck down certain provisions of the Consumer Protection Rules, 2020 and directed that fresh Rules be notified before the recruitment process could proceed, the impugned advertisement has been issued without any such fresh Rules having been framed. While issuing notice by order dated 22.07.2026, this Court, before considering the prayer for *interim* relief, had granted an opportunity to the learned State Counsel to apprise the Court as to whether fresh Rules had been framed pursuant to the aforesaid decision of the Apex Court.

5. Today, when the matter is taken up, Mr. D. Majumdar, learned Senior Counsel/Additional Advocate General, fairly submits that no fresh Rules have been framed till date. However, by placing reliance upon a letter dated 11.09.2025 issued by the Joint Secretary to the Government of Assam, Food, Public Distribution and Consumer Affairs Department, he submits that in exercise of the powers under Rule 6(1) of the Consumer Protection Rules, 2020 and in pursuance of the decision of the Apex Court in ***Ganesh Kumar Rajeswar Rao Selukar***

(supra), the Government of Assam has reconstituted the Selection Committee. It is, therefore, contended that the proposed selection pursuant to the impugned advertisement is in conformity with the directions issued by the Apex Court.

6. Having heard the learned counsel for the parties on the prayer for *interim* relief and upon perusal of the materials available on record, it appears that the Apex Court in **Ganesh Kumar Rajeswar Rao Selukar** (supra) categorically affirmed the judgment of the Bombay High Court dated 20.10.2023 in Civil Appeal Nos. 9982, 9987, 9983-9985, 9989, 9990 and 9965-9967 of 2024, whereby Rules 6(1) and 10(2) of the Consumer Protection Rules, 2020 were struck down.

7. It is also apposite to refer to paragraph 105 of the said judgment, which reads as follows:

“Directions

105. *In view of the aforesaid discussion, we deem it fit to pass the following directions, in exercise of the powers conferred under Article 142 of the Constitution:-*

105.1. *The Union of India is directed to file an affidavit on the feasibility of a permanent adjudicatory forum for consumer disputes, either in the form of a Consumer Tribunal or a Consumer Court, within a period of 3 months from today, on the touchstone of the constitutional mandate. Such a forum shall consist of permanent members, including both staff and the Presiding officers. The Union of India may also consider facilitating sitting Judges to head the fora. The strength may be increased adequately.*

105.2. *In view of the submission made on behalf of the Union of India, we direct the Union of India to notify the new Rules within a period of 4 months from the date of this Judgment, strictly adhering to the following:*

105.2.1. *The earlier view of this Court in Rojer Mathew (supra), MBA - III (supra) and MBA - IV (supra), with respect to the tenure of office being five years, being both logical and necessary, must be incorporated in the new Rules to be notified.*

105.2.2. *The composition of the Selection Committee shall be such that the members from the Judiciary must constitute the majority. To achieve the same, the Selection Committee shall comprise two members from the Judiciary, one of whom shall be the Chairperson, and the third member from the Executive, all of whom shall have voting rights. However, this shall not preclude the concerned Secretary from being an ex-officio Member of the Selection Committee, without voting rights. The proposal made by the Union of India qua Rule 6(1) of the 2020 Rules, may be accordingly modified.*

105.2.3. *No written examination, followed by a viva voce, shall be required for appointment and reappointment to the posts of President of the State Commission, Judicial Members of the State Commission and President of the District Commission.*

105.2.4. *A written examination followed by a viva voce shall be required only for appointment and reappointment to the posts of Non-Judicial Members of the State Commission and Members of the District Commission.*

105.2.5. *The written examination for appointments to the State and District Commissions shall be conducted in consultation with the respective State Service Commissions.*

105.2.6. *The proposal made by the Union of India qua Rule 4(1) of the 2020 Rules, as recorded by us in Para 72 of this Judgement, that the qualification for appointment to the post of President of the District Commission, shall be restricted to either a serving or a retired District Judge, stands accepted.*

105.3. *Upon notification of the new Rules by the Union of India, all the States are directed to complete the process of recruitment under the same, within a period of 4 months from the date of the notification of the said Rules.*

105.4. *As regards the status of appointment to the posts of Presidents and Members of the State and District Commissions, we are pleased to issue the following directions:"*

8. A plain reading of paragraph 105.3 leaves no manner of doubt that the Apex Court, while exercising powers under Article 142 of the Constitution of India, specifically directed that the process of recruitment by all the States shall be undertaken only upon notification of the fresh Rules by the Union of India.

9. In the present case, admittedly, no fresh Rules have been brought on record. Prima facie, therefore, the recruitment process

appears to have been initiated under the Consumer Protection Rules, 2020, notwithstanding that Rules 6(1) and 10(2) thereof stand struck down by the Apex Court and that the States have been directed to undertake recruitment only upon notification of the fresh Rules by the Union of India.

10. In such circumstances, this Court is satisfied that the petitioners have succeeded in making out a strong *prima facie* case for grant of interim protection. The balance of convenience also lies in favour of maintaining the status quo, and denial of *interim* relief is likely to render the writ petition itself infructuous.

11. Accordingly, as an *interim* measure and until further orders, the operation of Advertisement No. 33/2025 dated 13.12.2025 and the Notification dated 02.07.2026 published in The Assam Tribune issued by the respondent No. 3 shall remain stayed.

12. It is, however, clarified that during the subsistence of the aforesaid *interim* order, the respondent No. 2 shall permit the petitioners to continue as Members of their respective District Consumer Commissions, subject, however, to their attaining the age of superannuation or until further orders of this Court, whichever is earlier.

Relist the matter on 27.08.2026.

JUDGE

Comparing Assistant