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2026:GAU-AS:15511

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

Case No. : WP(C)/5364/2026

MAJUMDAR RABHA AND ORS
SON OF LATE KAILASH RABHA,

2: RIPUNJOY RABHA
SON OF LATE KAILASH RABHA

3: NANDAN RABHA
SON OF LATE KAILASH RABHA

4: MANJOY RABHA
SON OF LATE KAILASH RABHA
ALL ARE RESIDENTS OF VILLAGEMALADHARA PART - I
POST OFFICEMALADHARA
POLICE STATIONLAKHIPUR
DISTRICT GOALPARA
ASSAM
PIN-783120.

5: DHANRAJ PANDIYA
SON OF BHANWAR LAL PANDIYA
PRESENTLY RESIDING AT GOALPARA TOWN
WARD NO. 8
POST OFFICE POLICE STATION GOALPARA
DISTRICT GOALPARA
ASSAM
PIN-783101 AND PERMANENT RESIDENT OF GANORA
POST OFFICE SUJANGARH
DISTRICT CHURU
RAJASTHAN
PIN- 33

VERSUS

THE STATE OF ASSAM AND ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM, REVENUE AND DISASTER MANAGEMENT DEPARTMENT, DISPUR, GUWAHATI-781006.

2:DISTRICT COMMISSIONER
GOALPARA DISTRICT
GOALPARA
ASSAM783101.

3:CIRCLE OFFICER
LAKHIPUR REVENUE CIRCLE
LAKHIPUR
DISTRICT GOALPARA
ASSAM-783129.

4:LAT MANDAL
NO. 15 LAT
LAKHIPUR REVENUE CIRCLE
LAKHIPUR
DISTRICT GOALPARA
ASSAM-783129

Advocate for the Petitioner : MR. DITUL DAS, MR. B J TALUKDAR

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

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

JUDGMENT & ORDER

Date : 12-10-2026

1. The petitioners, five in nos., have joined together to institute the present writ petition under Article 226 of the Constitution of India to assail an Order dated 25.05.2026 passed by the Circle Officer, Lakhipur Revenue Circle, District - Goalpara [the respondent no. 3]. By the Order dated 25.05.2026, the respondent no. 3 has rejected an application submitted by the petitioners seeking delivery of the notified public service, 'Composite Land Sale Transfer'.

2. The events leading to the Rejection Order dated 25.05.2026 can be narrated, in brief, at first.

2.1. It is stated that the petitioner nos. 1-4 are the joint owners of a plot of land measuring 1 Bigha & 1 Katha [‘the subject-plot’, for short] out of a larger parcel of land measuring 2 Bighas, covered by Dag no. 587 of Khiraj Myadi Patta no. 25, situate at Revenue Village – Maladhara Part-I, Lakhipur Revenue Circle, District – Goalpara, Assam.

2.2. As there arose a necessity for the petitioner nos. 1-4 to sell the subject-plot, they entered into an agreement for sale of land with the petitioner no. 5. To that effect, the petitioner nos. 1-4 sworn an affidavit on 16.02.2026 stating inter-alia that the subject-plot was in their possession and they would not become landless after the proposed sale.

2.3. The petitioners had thereafter, submitted an application before the respondent authorities for delivery of the notified public service, ‘Composite Land Sale Transfer’ on 17.02.2026 and the receipt of the said application was acknowledged by generating Application Reference no. NOC/03/ 37673/2026. The application was submitted on-line in the comprehensive citizen platform, *SewaSetu*.

2.4. The petitioners have further stated that while submitting the application all the requisite documents were also submitted along with it. To the knowledge of the petitioners, the respondent authorities had thereafter, commenced enquiry

for the purpose of deciding the application for delivery of the notified public service, 'Composite Land Sale Transfer'. While acknowledging the receipt of the application submitted for the notified public service, 'Composite Land Sale Transfer', it was stated that the notified public service would be provided within forty-five days and the petitioners could file an appeal if the service was not delivered within the stipulated delivery period.

2.5. When the petitioners tracked their Application Reference no. NOC/03/37673/2026, in the comprehensive citizen platform, *SewaSetu*, the status of their application is shown on 25.05.2026 as follows :- '*The Application is rejected by Circle Officer. [Insufficient documents (Pattadar fails to submit documents even after follow-up by the CO). (As per LRA report case may be rejected)]*'.

3. I have heard Mr. D. Das, learned counsel for the petitioners; Mr. J. Handique, learned Standing Counsel, Revenue & Disaster Management Department, Government of Assam for the respondent no. 1; and Mr. B.J. Talukdar, learned Senior Counsel assisted by Mr. P.K. Medhi, learned Junior Government Advocate, Assam for the respondent nos. 2, 3 & 4.

4. Mr. Das, learned counsel for the petitioner has submitted that the service, 'Composite Land Sale Transfer' has been declared to be a notified public service under the Assam Right to Public Services Act, 2012 ['the ARTPS Act', for short] in all the districts vide a Notification bearing no. RDM-12011[17]/5/2022-LR-REV-R&DM/95 [e-file no: 234314] dated 11.11.2022. As per the said Notification, the Designated Public Servant [DPS] is the Deputy Commissioner

[presently, District Commissioner]/anyone to be nominated by the District Commissioner. As per the said Notification and the Citizen Charter annexed thereto as Annexure-I, the stipulated time limit for providing the service is forty-five working days. Referring to the Rejection Order passed by the Designated Public Servant, Mr. Das has submitted that the impugned Order is a non-speaking and cryptic one. Considering the fact that the Rejection Order passed by the Designated Public Servant under the provisions of the ARTPS Act is an appealable order, the Designated Public Servant is obligated to record the reasons while rejecting such an application. Non-recording of the reasons has made the Rejection Order an arbitrary one and the same is liable to be set aside. The learned counsel for the petitioners has referred to the provisions of Section 21A of the Registration Act, 1908, as amended by the Registration [Assam Amendment] Act, 2009, and Section 7[2] of the ARTPS Act, as amended. Mr. Das, learned counsel for the petitioner has submitted that a similar issue regarding passing of non-speaking order in a matter of delivery of notified public service has been dealt in a Judgment and Order dated 03.04.2025 passed in a writ petition, W.P.[C.] 1710/2025.

5. The learned counsel for the official respondents have submitted that since the Rejection Order is an appealable one, the petitioners instead of invoking the extra-ordinary writ jurisdiction, ought to have approached the appellate authority by preferring an appeal.

6. I have duly considered the submissions of the learned counsel for the parties and have also gone through the materials brought on record by the petitioners. I have also gone through the provisions of the Assam Right to Public

Services Act, 2012, as amended, and Section 21A of the Registration Act, 1908 as amended by the Registration [Assam Amendment] Act, 2009.

7. The Assam Right to Public Services [ARPTS] Act, 2012 has been enacted by the Assam Legislative Assembly in order to provide for delivery of notified public services to the people of the State of Assam within the stipulated time limit and for matters connected therewith and incidental thereto. The ARTPS Act received the assent of the Governor of Assam on 27.04.2012 and was notified by a notification dated 02.05.2012. The ARTPS Act has been published in the Assam Gazette in its issue dated 02.05.2012.

8. As per Section 2[h], 'Right to Public Service' means right to obtain the notified service under the ARTPS Act from time to time within the stipulated time limit as prescribed under Section 5. Section 5 of the ARTPS Act has laid down that every eligible person shall have the right to obtain the services in accordance with the ARTPS Act within the time bound period as notified under Section 4. It is the liability of the Designated Government Servant to deliver services, under Section 6 of the ARTPS Act, within the stipulated period. The stipulated time limit, as per Section 7[1], starts from the date when the application for obtaining a required notified service is submitted to the Designated Public Servant or to a person subordinate to him authorized to receive the application. It is further mentioned that such application shall be duly acknowledged.

9. As per Section 7[2], the Designated Public Servant on receipt of an application under sub-section [1] shall, within the stipulated time limit, provide

the notified service or reject the application and in case of rejection of application, he shall record the reasons in writing and communicate to the person making the application, [i] the reasons for such rejection; [ii] the period within which an appeal against such rejection may be preferred; and [iii] the particulars of the Appellate Authority.

10. Section 8 of the ARTPS Act has provided for an appeal before the Appellate Authority and also for a review before the Reviewing Authority. As per sub-section [1] of Section 8 any person, whose application is rejected under subsection [2] of section 7 or who has not been provided the notified service within the stipulated time limit, may file an appeal to the Appellate Authority within thirty days from the date of rejection of application or the expiry of the stipulated time limit.

11. The first proviso to sub-section [1] of Section 8 has provided that theAppellate Authority may admit the appeal after the expiry of the period of thirty days but in no case beyond sixty days or the expiry of the stipulated time limit for delivery of that particular notified service, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time. The second proviso to sub-section [1] of Section 8 has provided further that in case of rejection of an application for a notified service for which any other law for the time being in force prescribes remedy, the applicant shall follow the process under such law for the time being in force.

12. It may also be apposite to refer to the relevant provisions of the Registration Act.

13. Entry 6 of List III [Concurrent List] of Seventh Schedule to the Constitution of India has provided for 'Registration of Deeds and Documents'. The Registration Act, 1908 is a Central Act and the States are empowered, because of Entry 6 of List III, to make amendments in the Registration Act, 1908. A nos. of States have made a number of amendments in the Registration Act, 1908. The State of Assam has also made a number of amendments in the Registration Act, 1908.

14. The Registration Act, 1908 came to be amended by the Registration [Assam Amendment] Act, 2009 with the insertion of Section 21A and again by the Registration [Assam Amendment] Act, 2021. After those amendments, Section 21A of the Registration Act, 2009 reads as under :-

> **21A. No registration of non-testamentary instruments with no objection certificate.**
>
> Notwithstanding anything contained in any other provision of this Act, no non testamentary instrument relating to immovable property. except for house, flat, residential apartment, commercial building or any construction or structure erected on a plot of land, shall be accepted for registration, unless the Deputy Commissioner of the concerned district issues a No Objection Certificate containing the description of such immovable property to be transferred and also such other No objection Certificates, which are required to be issued by the Deputy Commissioner or any other Authority under any law for the time being in force or under any Executive Instruction, Order etc. issued by the State Government from time to time;

> Provided that all such No Objection Certificates shall be issued within a period of thirty days from the date of the receipt of application and in case No Objection Certificate is not issued within the stipulated period of thirty days, a speaking order with reasons thereof shall be issued to the applicant within the said stipulated period.

15. The main enacting part of Section 21A, quoted above, is with a non-obstante clause. It has provided that no non-testamentary instrument relating to immovable property shall be accepted for registration unless the Deputy Commissioner of the concerned district issues a No Objection Certificate containing the description of such immovable property to be transferred and also such No Objection Certificates, which are required to be issued by the Deputy Commissioner or any other Authority under any law for the time being in force or under any Executive Instruction, Order, etc. issued by the State Government from time to time.

16. In the proviso to Section 21A of the Registration Act, 1908, it is provided that all such No Objection Certificates shall be issued within a period of thirty days from the date of receipt of application and in case No Objection Certificate is not issued within the stipulated period of thirty days, a speaking order with reasons thereof shall be issued to the applicant within the said stipulated period.

17. The provisions of Section 7[2] of the Assam Right to Public Services Act, 2012, as amended, and the proviso to Section 21A of the Registration Act, 1908, as amended by the Registration [Assam Amendment] Act, 2009, have cast obligation respectively on the District Commissioner and the Designated Public

Servant to record the reasons in the event it decides he does not issue the No Objection Certificate with a period of thirty days or he rejects an application for a notified public service.

18. In the case in hand, the application submitted by the petitioners for the notified public service, 'Composite Land Sale Transfer' has been rejected by the respondent no. 3 citing the following reason : '*The Application is rejected by Circle Officer. [Insufficient documents (Pattadar fails to submit documents even after follow-up by the CO). (As per LRA report case may be rejected)]*'.

19. The Notification dated 11.11.2022 is on the subject :- 'Declaration of Service under Revenue & DM Department as per provision of the Assam Right to Public Services Act, 2012 in all Districts [except sixth scheduled Districts] of Assam. The notification has been issued with a view to provide delivery of public service to eligible citizens within the stipulated time limit and others as under :-

Subject: Declaration of Service under Revenue & DM Department as per provision of the Assam Right to Public Services Act, 2012 in all Districts [except sixth scheduled Districts] of Assam

With a view to provide the delivery to Public Service to eligible citizens within stipulated time limit, Revenue & DM Department in continuation of earlier Notification No. RSS.203/2022/1 dated 6th May 2022 has notified the below service under the Assam Right to Public Services Act, 2012.

Service Name : Composite Land Service Transfer

An important service provided by the Deputy Commissioner regarding Land Sale permission is 'NoC for Transfer of Immovable Property' under section 21[A] of the Indian Registration Act, 1908. However once NoC is issued by the O/o the

Deputy Commissioner, applicant has to apply for Registration of the Scheduled land in Sub Registrar Office following separate applications for Mutation, Partition, Jamabandi etc. in the concerned Circle Office.

'Composite Land Sale Transfer' intends for issuing No Objection Certificate for the Transfer of Immovable property at O/o Deputy Commissioner followed by Registration of Property at the Sub Registrar Office followed by auto mutation and auto Composite Land Sale Transfer Service with 'Auto Mutation' or 'Auto Mutation along with Partition' at the time of submitting the Application form.

Eligibility criteria :

Anyone in whose name figures in Jamabandi/Record of Rights or his/her legal heir/successor or his/her registered power of attorney holder is eligible to avail the service online.

Designated Public Servant [DPS]:

Deputy Commissioner/to the nominated by Deputy Commissioner.

20. The Notification has also provided for procedural steps to be followed by the authorities involved in providing the notified public services. As per the Citizen Charter annexed to the Notification as Annexure-I, for the notified public service 'Composite Land Sale Transfer', the Deputy Commissioner or the authority to be nominated by the Deputy Commissioner is the Designated Public Servant and the stipulated time limit for providing the service is mentioned as forty-five days. In the Citizen Charter, the Commissioner of Divisions has been mentioned as the appellate authority.

21. It is submitted by Mr. Handique, learned Standing Counsel, Revenue & Disaster Management Department that the office of the Commissioner of

Divisions has been abolished in the meantime and presently, by another notification dated 16.11.2023, the Revenue & Disaster Management Department has been made the appellate authority.

22. On perusal of the impugned Rejection Order, it is evidently clear that the impugned order is not in conformity with Section 7[2] of the ARTPS Act and Section 21A of the Registration Act, 1908 as amended by the Registration [Assam Amendment] Act, 2009.

23. A speaking order is one which expressly states the reasons for the decision. In other words, a speaking order speaks for itself by assigning the reasons behind the conclusion. If an order is passed without giving a reason by the concerned authority, more particularly, when the authority is statutory authority then the order is a non-speaking one. Non-speaking order is one which does not provide a clear reason for its decision. The authority exercising the statutory power must record reasons for its decision, unless such obligation is not expressly or impliedly dispensed with. It is implicit in the principles of natural justice and fair play that an authority which has been vested with the power to decide the matter should record reasons as it is part of fair procedure, more particularly, when the decision is likely to affect the person concerned. In the case in hand, the right of the applicant is also traceable to Article 300A of the Constitution. Though the right provided in Article 300A is not fundamental right, but it is still a constitutional and human right. Recording of reasons is also *prima facie* suggestive of conscious application of mind on the part of the authority. The obligation to record reasons is a possible check against arbitrary action on the part of the authority invested with the statutory power to take a

decision which is likely to affect the right of the person concerned. When the statute itself contains a prescription to record reasons in the decision, absence of reasons in the decision falls short of prescription and would be in violation of the prescription and thus, illegal.

24. It has been canvassed on behalf of the official respondents that the petitioners have approached this Court by filing the instant writ petition in order to invoke the extra ordinary remedy instead of availing an alternative statutory remedy which is adequate and efficacious. It is settled law that even in presence of an alternative, efficacious and statutory remedy of appeal, a writ petition under article 226 of the Constitution of India is maintainable on the ground :- [i] where the writ petitioner seeks enforcement of any of the fundamental rights; or [ii] where there is failure of principles of natural justice; or [iii] where the orders or proceedings are wholly without jurisdiction; or [iv] where the vires of an Act is challenged. In these circumstances, an alternative remedy does not operate as a bar.

25. The recording of reasons in the order passed by the Designated Public Servant who deals with the matter at the first stage, is necessary. The responsibility to record reasons is higher when the order to be passed by the original authority at the first stage by the Designated Public Servant is an appealable order. An order which affects the right of a citizen or a person, requires recording of reasons as the reasons recorded would aid the appellate authority to see whether the original authority concerned has acted fairly and reasonably to the aggrieved person. The recording of reasons in the order, more particularly, when the adverse order has the possibility of impacting a citizen or

a person adversely is necessary as then only the person aggrieved can have the knowledge of the reasons as to why the order has been passed and he can have a proper opportunity to demonstrate before the appellate authority that the reasons which impelled the Designated Public Servant to pass the adverse order against him, are erroneous, arbitrary, untenable or unjust.

26. In the case in hand, the Designated Public Servant has only mentioned that the application has been rejected on the ground of non-submission of sufficient documents without mentioning anything about the documents, which were not submitted with the application to enable the petitioner to meet the deficiencies, if there is any, and to submit a fresh application or to prefer an appeal.

27. The petitioners have alleged violation of the principles of natural justice. The Designated Public Servant while deciding their applications for the notified public service, by not passing a reasoned and speaking order has violated the principles of natural justice.

28. In view of the above fact situation, this Court is of the considered view that when the incident of vulnerability of the Rejection Order on the touchstone of not meeting the statutory prescription of recording reasons and violation of principles of natural justice is considered against the point canvassed by the official respondents regarding non-filing of appeal it is the vulnerability of the Rejection Order passed in the application which would far outweigh the other reason regarding the petitioners not approaching the appellate forum.

29. In the above obtaining fact situation, the Court finds it apposite to refer to the following observations made in the decision in Mohinder Singh Gill and another vs. Chief Election Commissioner, New Delhi and others, [1978] 1 SCC 405 :-

> "8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose J. in *GordhandasBhanji* :
>
> > Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to effect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself.
>
> Orders are not like old wine becoming better as they grow older."

30. Thus, from every stand point, the impugned Rejection Order dated 25.05.2026 is not a speaking order as such, the impugned order dated 25.05.2026 is found to be one which is passed without any application of mind. For the afore-stated reasons, the impugned Rejection Order dated 25.05.2026 cannot stand the scrutiny of law and is, therefore, liable to be set aside. It is accordingly, set aside.

31. As the order of rejection has been set aside, it is now the obligation of the Designated Public Servant to consider the application submitted by the petitioners for the notified public service,'Composite Land Sale Transfer' strictly in compliance of the provisions of Section 7[2] of the Assam Right to Public Services Act, 2012, as amended, the proviso to Section 21A of the Registration Act, 1908, as amended by the Registration [Assam Amendment] Act, 2009; and the Notification dated 11.11.2022; and to pass a speaking and reasoned order within the period of forty-five days from the date of submission of a copy of this order by the petitioner at the office of the Designated Public Servant.

32. With the observations made and directions given above, the writ petition stands allowed to the extent indicated above. There shall, however, be no order as to cost.

JUDGE

Comparing Assistant

Simanta Das

Digitally signed by Simanta Das
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Date: 2026.10.13 17:21:32 +05'30'