



THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

PUBLISHED BY THE AUTHORITY

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No. 476 Dispur, Tuesday, 1st July, 2025, 10th Ashadha, 1947 (S. E.)

GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR
LABOUR WELFARE DEPARTMENT

NOTIFICATION

The 25th June, 2025

ECF No.668909/10.- Whereas dispute between the Assam Hatifandi Union -VS The Registrar of the Trade Union, Assam was referred to the Presiding Officer, Labour Court, Guwahati constituted under the Industrial Dispute Act, 1947 for adjudication and whereas an Judgement has been given on the dispute by the said Labour Court in Appeal No. 01/2024. Judgement dated 6.6.2025 as shown in the Annexure hereto.

Now, therefore, in exercise of the powers conferred by Section 17(1) of the Industrial Disputes Act, 1947 (Act. XIV of 1947) as amended, the Governor of Assam, is pleased to direct that the said Judgement to publish by notifying at the Office of the Labour Commissioner, Assam, Guwahati.

(J U D G E M E N T in the Annexure)

ABHIJIT BARUAH,
Secretary to the Government of Assam,
Labour Welfare Department.

Form No. (J) 2

HEADING OF JUDGEMENT IN APPEAL

District: Kamrup (M)

IN THE LABOUR COURT OF KAMRUP(M):: GUWAHATI

Present : **Sri Lohit Kumar Saikia, M.Com, L.L.M, A.J.S,**
Presiding Officer,
Labour Court, Guwahati
06th June 2025

Appeal No. 01/2024 under Trade Union Act

1. Assam Hatifandi Union
Represented by its Secretary
Bireswar Konwar (age 64 years)
S/O: Lt. Tanuram Knowar
Resident of village Dohali
P/O: Silchang
District- Morigaon, Assam
..... **Appellant**

- Verus -

1. The Registrar of Trade Unions, Assam
Ulubari, Guwahati-16.
..... **Respondent**

This appeal coming on for final hearing on 06.06.2025
in presence of:

Learned counsel for the appellant : Sri Fazluzamman
Mazumdar

Learned counsel for the respondent: Sri Pabitra
Hazarika

And having stood for consideration to this day of 6th June 2025, this Court delivers the following judgement:

JUDGEMENT

1. This appeal under section 11 (1) (aa) of the Trade Unions Act, 1926 has been preferred by the appellant against the order of Labour Commissioner.

2. On receipt of the appeal memo, notice was issued to the Respondent/Defendant. Respondent appeared through his Ld. engaged counsel and has contested the appeal.

3. I have heard the Ld. Advocate for both the parties, gone through the Memorandum of Appeal and the case record of Appeal No. 01/2024.

4. The case of the appellant in brief is that the appellant organisation is a trade union which came into existence on 11 day of October 2021. The trade union is constituted with an object to ensure the legal right and social security of the Mahut (elephant trainer/ catcher). The trade union is functioning from its head office which is situated at village and P.O Silchang, Assam. The petitioner is represented by its President who is a citizen of India and permanent resident of the aforesaid address in the district of Nagaon, in the state of Assam and as such he is entitled to all the right and privileges guaranteed under the constitution of India and other laws of land.

It is further stated by the appellant that on 21-12-2021 application was submitted to the Registrar of

Trade Union Assam for registration of a Trade Union in the name of Assam Hati Phandi Union. The application was submitted as per the resolution No.2 adopted unanimously in the General Meeting of the organization held on 11-10-2021.

It is further contended by the appellant that after receiving the application for registration the Labour Commissioner of Assam vide letter dated 2nd March 2022 requested the Superintendent of Police to furnish police verification report of last five years of the executive committee members of the said union for necessary action.

That in pursuance of request letter for police verification the S.P of Police of Nagaon, Morigaon and Hojai has sent the police verification report of the executive committee members of the Union. In the verification report it has been candidly declared that as per the report of the enquiry office nothing adverse report found against them either criminally or politically as well as extremist link.

It has further contended that while making application for registration the petitioner organization has fulfilled all necessary condition as required by the Section 5 and 6 of the Trade Union Act, 1926.

It is further contention of the appellant that on 2nd October 2022 the Registrar of Trade Union Assam, rejected the application for registration on ground that the petitioner could not fulfil the mandate of the Section 9 (a) of the Trade Union Act. Hence, this suit.

5. On receipt of summons, the respondent contested the suit by filing written objection and submitted that the

claim is not maintainable against the O.P as the contention of the appellant petitioner not under the established law.

It has been further submitted by the respondent that the appellant has filed application before the Registrar of Trade Union, Assam for registration of their Union under Trade Union Act, 1926. However, on being inquired about the authenticity of the documents through a officer, it came to the knowledge of the Registrar that the mandates fixed by the Trade Unions Act were not fulfilled by the Union, specially under Section 9 A and 2 (h) of the Trade Union Act as such the application filed for registration of the union was rejected. On being aggrieved by the same the appellant/ petitioner filed a writ petitioner before Hon'ble Guahati High Court. Hence, the petition.

6. Being highly aggrieved by the order of the Labour Commissioner the appellant/ Plaintiff has preferred this instant appeal on the following amongst other grounds:

- (i) The appellant had submitted list of 11 executive member/office bearers along with their application for registration. The said list shows that out of 11 executive committee members 4 members are working as mahut one member as Jugali and remaining 6 members are working as phandi.
- (ii) On 2nd March 2022 the Labour office Morigaon requested the Superintendent of Police to furnish verification report for last 5 years of the executive committee members so that necessary action may be taken against the application trade union. But the

verification report confirmed nothing adverse found against them meaning thereby information provided by the executive committee members regarding their occupation found authentic and correct.

(iii) The Registrar of Trade Union cannot ignore the validity and authenticity of the certificates issued by the Gaonbura. Because law is well settled the registrar is not a quasi judicial authority and cannot therefore decide any disputed question of act or law.

7. From the grounds of appeal and the pleadings of parties following point for determination emerges in this appeal is:-

1. Whether there is cause of action for the suit?

2. Whether the order passed by the Registrar of Trade Unions on 2nd October 2022 is illegal or void?

8. I have heard the argument forwarded by learned counsels of both the sides. Also perused the impugned order and other materials available on record to arrive at a decision on points.

9. Decision & Reasons thereof:

Point No.1

Whether there is cause of action for the suit?

The term “Cause of Action” refers to a set of facts or allegation that make up the grounds for filing a lawsuit. In the instant suit, it is the contention of the appellant that on 2nd October 2022 the Registrar of Trade Unions by speaking order has rejected the application of the appellant on ground that the appellant could not fulfill the mandate of the section 9A of the Trade Unions Act. The respondent has stated that the order passed by the Registrar of Trade Union

is as per the mandate of law. These set of facts in my considered opinion make up a ground for filing this suit. Hence, this issue is decided in affirmative.

Point No.2

Whether the order passed by the Registrar of Trade Unions on 2nd October 2022 is illegal or void?

It is the contention of the appellant that on 21-12-2021 application was submitted to the Registrar of Trade Union Assam for registration under name and style Assam Hatiphandi Union as per resolution adopted in a general meeting of the organization held on 11.10.2021. The application was submitted for registration along with the particulars/ documents as required by Section 5(1) of the Trade Union Act 1926. After receiving the application the Labour Commissioner asked the Superintendent of Police to furnish verification report of the members of the executive committee. Accordingly Superintendent of Police of the Nogaon, Morigaon, Karbi Anglong and Hojai District submitted verification report confirming nothing found adverse against the members.

Learned counsel for the appellant has laid stress on section 9A of the Trade Union Act which stipulates the minimum membership requirement for a registered trade union. It mandates that a registered trade union of workmen must, at all times, have not less than 10% or one hundred of the workmen, whichever is less, subject to a minimum of seven, engaged or employed in the establishment or industry with which it is connected.

On perusal of materials available on record it is found that as per the report submitted by the Labour Officer, Morigaon it was revealed that except three members of the appellant Trade Union i.e., namely Maniram Kalita, Nomal Barua and Bhakaliya Gaur at present working as Mahut in Tezpur, Kajiranga and Dabaka all other 104 numbers of enlisted as the members of trade unions have been working in different fields since the year 1980.

Further, perusal of the case record shows that the appellant has annexed the identities of the members of the union in the form of certificate issued by the Gaonburah in spite of Section 5 of the act of the Elephant Preservation Act, 1879 the power of issuing certificates for those professions are entrusted upon the district collector or to the deputy commissioner of the district.

In view of the above discussions, I am of the considered opinion that the appellant has failed to establish its claim against the respondent.

So, from the aforesaid version of the plaintiff itself it is crystal clear that the version of the appellant in the pleadings is erroneous.

Hence, I decide this issue in negative.

Accordingly, in the backdrop of above discussion, I am of the considered opinion that the Registrar of Trade Unions had rightly rejected the application of the appellant and in view of that the order dated 2nd October 2022 passed by the Registrar of Trade Union is hereby upheld and consequently appeal is dismissed with cost.

Send back the record of Labour Commissioner
being number LTR.61/2021.

Given under my hand and seal of this Court on
this 6th June, 2025 at Kamrup (M), Guwahati.

Dictated and corrected

L. K. SAIKIA,
Presiding Officer,
WAKF Tribunal, Kamrup (M).