

GAHC010000872023



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

Case No. : WP(C)/56/2023

DIPANGKI HALOI
D/O- BASANTA KUMAR HALOI,
R/O- DATALPARA, NATUNBASTI,
A.K. DEV ROAD,
P.O.- DHIRENPARA,
P.S. FATASIL AMBARI,
DISTRICT- KAMRUP(M),
PIN- 781025, ASSAM.

VERSUS

THE STATE OF ASSAM AND 9 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
IRRIGATION DEPARTMENT,
DISPUR, GUWAHATI- 781006.

2:THE SECRETARY TO THE DEPARTMENT OF IRRIGATION
GOVERNMENT OF ASSAM
DISPUR
GUWAHATI- 781006.

3:THE DEPUTY SECRETARY(E)
IRRIGATION DEPARTMENT
GOVERNMENT OF ASSAM
DISPUR
GUWAHATI- 781006

ASSAM.

4:THE CHIEF ENGINEER
IRRIGATION DEPARTMENT

GUWAHATI- 781003
ASSAM.

5:THE ASSAM PUBLIC SERVICE COMMISSION
REPRESENTED BY THE CHAIRMAN

JAWAHAR NAGAR
KHANAPARA

GUWAHATI- 781022.

6:THE SECRETARY TO THE ASSAM PUBLIC SERVICE COMMISSION
JAWAHAR NAGAR
KHANAPARA

GUWAHATI- 781022.

7:OF EXAMINATION
ASSAM PUBLIC SERVICE COMMISSION
JAWAHAR NAGAR
KHANAPARA

GUWAHATI- 781022.

8:THE UNDER-SECRETARY
ASSAM PUBLIC SERVICE COMMISSION
JAWAHAR NAGAR
KHANAPARA

GUWAHATI- 781022.

9:THE STATE COUNCIL OF TECHNICAL EDUCATION
ASSAM
REPRESENTED BY ITS SECRETARY

STATE COUNCIL OF TECHNICAL EDUCATION
ASSAM

GUWAHATI- 781019
ASSAM.

10:THE DIRECTOR OF TECHNICAL EDUCATION
KAHILIPARA
GUWAHATI- 781019
ASSAM

Advocate for the Petitioner : MR. H. BURAGOHAIN

Advocate for the Respondent : SC, IRRIGATION

**BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA**

ORDER

06.01.2023

Heard Mr. H Buragohain, learned counsel for the petitioner. Also heard Mr. N Upadhyay, learned counsel for the respondents No.1, 2, 3 and 4 being the authorities under the Irrigation Department, Government of Assam and Mr. TJ Mahanta, learned senior counsel for the respondents No.5 to 8 being the authorities under the APSC as well as Mr. K Gogoi, learned counsel for the respondents No.9 and 10 being the authorities under the Technical Education, Government of Assam.

2. The petitioner Dipangki Haloi has the qualification of three years Diploma in Engineering (Civil Engineering & Planning) from Girls' Polytechnic, Bamunimaikum, Guwahati. She participated pursuant to an advertisement dated 19.08.2020 by the APSC, amongst others, for the post of Junior Engineer (Civil Engineering Branch) under Irrigation Department, Government of Assam and as per the advertisement, the required eligibility is three years diploma course in the concerned Engineering discipline from an Institution recognized by the Government, State Council for Technical Education and further that the diploma obtained through distance mode of education will not be acceptable.

3. As the petitioner has the qualification in Diploma in Engineering (Civil Engineering & Planning), instead of Diploma in Civil Engineering her candidature stood rejected. Being aggrieved WP(C)No.6121/2022 was instituted which was given a consideration by the order dated 19.09.2022 requiring the Secretary APSC to take up the matter with the Commissioner and Secretary in the Government of Assam in the Technical Education Department and arrive at a mutually acceptable conclusion as to whether the qualification of Diploma in Civil Engineering and Planning can also be an acceptable qualification in a situation where the advertisement dated 19.08.2020 requires the qualification of Diploma in Civil Engineering. In compliance thereof, the order dated 06.10.2022 has been passed by the Secretary APSC, which is extracted as below:

“Whereas in connection with the recruitment to the post of Junior Engineer (Civil) under Irrigation Department, the Hon’ble High Court vide order dated 19.9.2022 passed in WP(C) no. 6121/2022 (Miss Dipangki Haloi vs State of Assam & others) disposed of the writ petition with a direction to the Secretary, APSC (respondent no.5) to take up the matter with the Technical Education Department and arrive at a mutually acceptable conclusion as to whether the qualification of Diploma in Civil Engineering and Planning can also be an acceptable qualification in a situation where as per the advertisement dated 19.08.2020 the required qualification is Diploma in Engineering,

Whereas in view of the aforesaid order of the Hon’ble High Court, the Commission held a meeting on 28.9.2022 with the official of the Technical Education Department, Government of Assam to arrive at a mutually acceptable conclusion,

Whereas the matter was discussed in the meeting and it was observed that as per the advertisement no. 06/2020 dated 19.08.2020, the requisite qualification for the said post is that a candidate must have passed three years diploma course in the concerned Engineering discipline from an Institution recognized by the Government, SCTE(State Council for Technical Education), Diploma obtained through distance mode of education will not be acceptable

Now, in pursuance of the conclusion of the meeting, it was decided that while the relevant advertisement stipulated the educational qualification as Diploma in the concerned Engineering subject (i.e Civil, Mechanical and Electrical), the equivalent qualification Diploma in Civil Engineering & Planning is not eligible as per the advertisement. It was further decided to act upon the selection result already available vide no.98PSC/CON/Exam-52/2019-2020 dated 19.7.2022 in compliance of the order of the Hon’ble Court dated 19.9.2022.

Inform all concerned accordingly."

4. A reading of the afore-extracted order of the Secretary APSC makes it discernible that although a consultation was made with the Technical Education Department, but the view of the Technical Education Department is that as the advertisement itself provides for the qualification of Diploma in Civil Engineering, therefore, the qualification of Diploma in Engineering (Civil Engineering & Planning) would be unacceptable. We are of the view that the aforesaid manner in which the conclusion is arrived at is not an adequate compliance and requirement of the order dated 19.09.2022 in WP(C)No.6121/2022. When we required the Secretary APSC to have a consultation with the Commissioner and Secretary to the Government of Assam in the Technical Education Department as to whether the qualification of Diploma in Engineering (Civil Engineering & Planning) would also be an acceptable qualification, what we meant is that the two authorities will sit together and make a qualitative assessment as to whether substantially the two qualifications are same or in other words, whether the qualification of Diploma in Engineering (Civil Engineering & Planning) also covers the requirement of the qualification of Diploma in Civil Engineering. As the aforesaid exercise had not been undertaken, we require both the authorities namely, the Secretary APSC and the Commissioner and Secretary to the Government of Assam in the Technical Education Department to again meet and arrive at a definite conclusion as to whether the two qualifications i.e. Diploma in Engineering (Civil Engineering & Planning) and Diploma in Civil Engineering are inter-changeable, meaning thereby that whether the qualification of Diploma in Engineering (Civil Engineering & Planning) would meet the requirement of Diploma in Civil

Engineering or the two qualifications i.e. Diploma in Engineering (Civil Engineering & Planning) and Diploma in Civil Engineering are substantially in form different from each other. In other words, the course particulars of the two courses i.e. Diploma in Engineering (Civil Engineering & Planning) and Diploma in Civil Engineering are to be taken into consideration while arriving at their conclusion as to whether substantially the two courses are same or different.

5. The above requirement be done within a period of seven days from the date of receipt of a certified copy of this order. Upon such conclusion that may be arrived, the respondents may further process with the selection process pursuant to the advertisement dated 19.08.2020.

6. Writ petition stands disposed of in the above terms.

JUDGE

Comparing Assistant