

GAHC010003682021



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

Case No. : WP(C)/349/2021

ESMITARA BEGUM
D/O MD. LOOKMAN HEKIM, PERMANENT R/O VILL. DHINGARATI, P.O.
AND P.S. LAHORIGHAT, DIST. MORIGAON

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECY. TO THE GOVT. OF
ASSAM, DEPTT. OF SOCIAL WELFARE, DISPUR, GUWAHATI 781006

2:THE DIRECTOR OF SOCIAL WELFARE
ASSAM
UZAN BAZAR
GUWAHATI
DIST. KAMRUP
ASSAM.

3:THE CHILD DEVELOPMENT PROJECT OFFICER

LAHARIGHAT
I.C.D.S. PROJECT
P.O. LAHARIGHAT
ASSAM.

4:THE DIST. SOCIAL WELFARE OFFICER

MORIGAON
DIST. MORIGAON
ASSAM.

5:SHAJIDA KHATUN
W/O KHAJAL UDDIN

R/O VILL. DHINGARATI
P.O. AND P.S. LAHARIGHAT
PIN 782127
DIST. MORIGAON
ASSAM.

6:THE SELECTION COMMITTEE

PRESIDED OVER BY THE CHILD DEVELOPMENT PROJECT OFFICER
LAHORIGHAT PROJECT CENTRE
MORIGAON DIST.
ASSAM

Advocate for the Petitioner : MR. T N SRINIVASAN

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 13-06-2023

Heard Mr. T.N. Srinivasan, learned counsel for the writ petitioner. Also heard Mr. A. Chakraborty, learned Govt. Advocate, Assam appearing for the respondent Nos. 1 to 4 and 6 as well as Mr. R. Islam, learned counsel representing respondent No. 5.

The facts of the case, in a nutshell, are that on 11-02-2019, the Child Development Project Officer, Lahorijan, had issued an advertisement notice inviting applications for appointment of Anganwadi Helpers in as many as 06 (six) Anganwadi Centres coming under his jurisdiction. In response to the said advertisement, the writ petitioner had submitted her application for appointment as Anganwadi Helper in respect of Dhingorati-I Anganwadi Centre. According to the petitioner, selection process was held but thereafter,

the respondents did not publish any select list. Notwithstanding the same, the respondent No. 5 had been appointed in the post of Anganwadi Helper in respect of Dhingorati-I Anganwadi Centre. Aggrieved thereby, the present writ petition has been filed.

Taking note of the case of the petitioner, this Court had passed order dated 01-02-2021, issuing notice upon the respondent and in the meantime, *status quo* as regards the post of Anganwadi Helper in the No. 125, Dhingorati-I Anganwadi Centre was directed to be maintained.

The CDPO Lahorighat i.e. respondent No. 3 has filed counter affidavit contesting the case of the petitioner *inter alia* contending that as she was a regular student, hence, the petitioner was not eligible to participate in the selection process as per the terms and conditions of the advertisement notice dated 11-02-2019. The respondent No. 5 has also contested the petitioner's case by filing a separate counter affidavit.

Since a categorical allegation has been made by the petitioner's counsel stating that the respondents have not published any select list, this Court had directed the respondents to produce the select list. Accordingly, the select list dated 11-11-2020 was produced before this Court a copy whereof, was also furnished to the petitioner. The aforesaid select list does not contain the name of the petitioner. From the above, it is apparent that the respondents had published a select list of the successful candidates but the petitioner's name did not figure therein. The select list dated 11-11-2020 is not under challenge. Moreover, it is the specifically pleaded stand of the departmental authorities that the petitioner was a regular student. As such, in view of Clause- 2 of the advertisement notice dated 11-02-2019, which does not permit a regular student to take

part in the selection process, the petitioner was not eligible to participate in the selection process. In the rejoinder affidavit filed by the petitioner, the said averment has not been traversed nor has the statement been denied by her.

Mr. Srinivasan has made an attempt to overcome the deficiency in the rejoinder affidavit filed by the petitioner by relying upon the statement made in paragraph 2 of the writ petition wherein the petitioner has stated that she had passed her HSLC examination in the year 2016 and due to adverse circumstances could not pursue her studies any further.

Be that as it may, the fact of the matter is that there was a selection process conducted by the respondent in terms of the advertisement notice dated 11-02-2019, where-after a select list was published. The petitioner, despite being aware of the select list, did not take steps to challenge the same. In view of the above, this Court cannot now go into the validity of the select list. The aforesaid aspect of the matter when viewed in the light of the stand taken by the department that the petitioner was not eligible to take part in the selection process due to Clause- 2 of the advertisement notice, which allegation not having been controverted by the writ petitioner in the rejoinder affidavit, this Court is of the opinion that there is no scope for making further enquiry in the matter.

Apart from that, it also appears that the authorities have already issued appointment order in favour of the successful candidates. Therefore, there is no scope for this Court to interfere with the aforesaid appointment order in the facts and circumstances of the case.

For the reasons stated hereinabove, this writ petition is held to be devoid of any merit and the same is, accordingly, dismissed.

JUDGE

GS

Comparing Assistant