

GAHC010008002012



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

Case No. : WP(C)/4165/2012

MISS SHARIBUL NESSA
W/O MD. ABDUL HOQUE VILL- DAKHAIN UDALI P.O. LACHIT PATHAR, P.S.
LANKA DIST. NAGAON, ASSAM.

VERSUS

THE STATE OF ASSAM AND ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
SOCIAL WELFARE DEPARTMENT, DISPUR, GUWAHATI-6.

2:THE DIRECTOR OF SOCIAL WELFARE
ASSAM
UZANBAZAR
GUWAHATI-781001.

3:THE DISTRICT SOCIAL WELFARE OFFICER
NAGAON
ASSAM
PIN- 782001.

4:THE CHILD DEVELOPMENT PROJECT OFFICER
CDPO UDALI ICDS PROJECT
DIST. NAGAON
ASSAM
PIN- 782001.

5:MUSSTT. NARUN NEHAR BEGUM
W/O ABDUL KALAM AZAD
VILL- DAKHAIN UDALI P.O. LACHIT PATHAR
P.S. LANKA
DIST. NAGAON
ASSAM.

6:THE DEPUTY/ADDITIONAL COMMISSIONER
NAGAON
DIST. NAGAON
ASSAM

Advocate for the Petitioner : MR.S AHMED

Advocate for the Respondent :

BEFORE
HON'BLE MR. JUSTICE BUDI HABUNG

O R D E R

23.11.2023.

Heard Mr. G. Uddin, learned counsel for the petitioner. Also heard Mr. T.C. Chutia, learned Addl. Senior Govt. Advocate, Assam appearing for the respondent authorities. None appears on behalf of the private respondent despite service of notice.

2. Earlier, the petitioner filed another Writ Petition being WP(C) No.575/2010 before this Court challenging the selection and appointment of the respondent No.6 (respondent No.5 in this Writ Petition) as the Anganwadi Worker in No.33, the Dakhin Udali Hussania L.P. School, situated at Dakhin Udali Village in Ward No.3, under the Udali ICDS Project in Nagaon District.

3. The aforesaid WP(C) No.575/2010 was disposed of on 03.06.2011, with the following directions:-

“1) In the event of making any representation furnishing the details of the allegations relating to the residential status of the private respondents by the petitioners involved in this writ petition within 20.06.2011, the Director of Social Welfare, Assam shall examine the claim of the petitioner in consultation with the

jurisdictional Deputy Commissioner, who in turn may make necessary verification etc. through the jurisdictional Gaonburah/ Ward member of the Gaon Panchayat and/or the President/Secretary of the Gaon Panchayat.

2) While carrying out the aforesaid exercise, the said authorities may also find out as to whether the petitioner also conforms to the requirement of being a resident of the same area where the Anganwadi centre is located.

3) In the event of any adverse finding relating to residential status of the private respondent not conforming to the requirement of the related guidelines, she may be provided with reasonable opportunity of being heard before any adverse finding is translated into action.

4) The outcome of the entire exercise would be communicated to the parties involved.

5) While carrying out the exercise the State authority shall take into account the relevant guidelines including the amendments therein towards the determination of the residential status of the selected candidate and the petitioner.

6) The aforesaid exercise shall be carried out and completed as expeditiously as possible, but at any rate, not later than 30.09.2011. No costs."

4. In pursuance to the above direction, the Director, Social Welfare, Assam, Guwahati-1 vide its letter No.DSW(LC) 40/2011/54, dated 17.06.2011, requested the Deputy Commissioner, Nagaon to submit verification report. Accordingly, the Additional Deputy Commissioner, Nagaon has submitted the Field Verification Report vide letter No.NDC 262/2010/259, dated 22.02.2011. As per the said report dated 17.06.2011 of the Additional Deputy Commissioner, Nagaon, the Dakhin Udali Hussania L.P. School Anganwadi Centre is running in the Dakhin Udali Hussania L.P. School, situated at Dakhin Udali Village in Ward No.3. The residence of the respondent is not covered by the survey area of Dakhin Udali Hussania L.P. School Anganwadi Centre, as she belongs to Ward No.4. The other candidates appeared for the said Anganwadi Centre are also not belong to the area covered under the concerned Anganwadi Centre. The report further says that only the residence of the petitioner is within the same ward of Dakhin Udali Hussania L.P. School Anganwadi Centre i.e. in Ward No.3.

5. However, after verification of the original Survey Register and other testimonials submitted by the petitioner as well as by the respondent, the Director found that the Survey Register was not properly prepared and as in the Survey Report, the residence of the private respondent No.6 does not covered by Survey Area i.e. the Dakhin Udali Hussania L.P. School Anganwadi Centre i.e. in Ward No.3. Therefore, the Director, Social Welfare, Assam, Guwahati-1 directed the CDPO, Udali ICDS Project in Nagaon District to prepare a fresh Survey Register in consultation with the concerned area Supervisor, member of the Gaon Panchayat and Gaonburha and to submit the report within fifteen (15) days.

6. Pursuant to the above direction of the Director, Social Welfare, Assam, Guwahati-1, the CDPO, Udali ICDS Project in Nagaon District, conducted a fresh survey and had submitted her Report vide No. CDPO(UD) 49/2011/229, dated 14.06.2012, along with the Survey Report of the Dakhin Udali Anganwadi Centre and of the Dakhin Udali Hussania L.P. School Anganwadi Centre. As per the said Survey Report, the name of the petitioner Sharibul Nessa, wife of Abdul Haque has been recorded in the Survey Report of the Dakhin Udali Anganwadi Centre under Lanka ICDS Project, against H. No.44 and the name of private respondent Nurun Nehar Begum, wife of Md. Abdul Kalam has been recorded in the Survey Register of the Dakhin Udali Hussania L.P. School Anganwadi Centre under Udali ICDS Project, against H. No.32 and as such, it was found that the residence of the petitioner was located within another ICDS Project and basing on the said report, the claim of the petitioner could not be accepted and the private respondent was allowed to continue as Anganwadi Worker in the concerned Anganwadi Centre vide order No.DSW (LC) 60/2011/70, dated 17.07.2012.

7. Being aggrieved, the petitioner challenged the legality and validity of the

above order No.DSW (LC) 60/2011/70, dated 17.07.2012, passed by the learned Director, Social Welfare, Assam, Guwahati-1, by filing the present Writ Petition.

8. Mr. G. Uddin, learned counsel for the petitioner submits that at the time of fresh verification conducted by the CDPO, Udali ICDS Project in Nagaon District as well as while passing the impugned order basing on the fresh report by the Director, the petitioner was not heard nor she was given any opportunity to submit any document in support of her claim.

9. On the other hand, Mr. T.C. Chutia, learned Addl. Senior Govt. Advocate, Assam appearing for the respondent authorities submits that the petitioner as well as the private respondent were given adequate opportunity to present their respective case at the time of conducting fresh Survey as well as passing the impugned order on the basis of fresh Survey Report. However, he fairly submitted that for the ends of justice, the petitioner may be given an opportunity of hearing before the Director.

10. Considering the submissions made by the parties, I propose to dispose of the Writ Petition with the following directions:-

(i) That the Director, Social Welfare, Assam, Guwahati-1 will call both the petitioner, private respondent as well as the CDPO, Udali ICDS Project in Nagaon District for personal hearing by fixing a date, on which date the petitioner as well as the private respondent shall be allowed to produce all the relevant documents in support of their respective claims, including their residential proof, etc. and,

(ii) The Director, Social Welfare, Assam, Guwahati-1 thereupon shall examine the claim of the petitioner based on records and pass a reasoned order.

11. The aforesaid exercise shall be completed with a period of three months, from the date of receipt of a certified copy of this order, to be submitted by the petitioner.

12. With the above observation, this Writ Petition stands disposed of.

JUDGE

Comparing Assistant