

GAHC010008462015



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

Case No. : WP(C)/721/2015

ALIM UDDIN LASKAR and ANR.
S/O LT. HARUN RAHSID LASKAR, VILL. BARBOND PT-I, P.S. and DIST-
HAILAKANDI, ASSAM

2: FIRUJ UDDIN BARBHUIYA
S/O LT. ABDUL KHALEQUE BARBHUIYA
VILL. BARBOND PT-I
P.S. and DIST- HAILAKANDI
ASSA

VERSUS

THE STATE OF ASSAM AND 10 ORS
REP. BY CHIEF SECY. TO THE GOVT. OF ASSAM, DISPUR, GHY-6

2:DY. COMMISSIONER
HAILAKANDI

3:SIRAJ UDDIN BARBHUIYA
S/O LT. SOFIQUL HAQUE BARBHUI
VILL. ALGAPUR PT-V
P.O. KALIBARI BAZAR
DIST- HAILAKANDI

4:SOWMAN GHOSH
S/O SRI SANJIB GHOSH
MOHILA SAMITI ROAD
W/NO.9
P.O. and DIST- HAILAKANDI

5:BIPRA PRASAD CHAKRABORTY
S/O BISHNU PADA CHAKRABORTY
COLLEGE ROAD
W/NO.13

P.O. and DIST- HAILAKANDI

6:SUKANTA BARMAN
C/O SANTUSH BARMAN
HAILAKANDI TOWN W/NO.14
P.O. LAKSMISAHAR
DIST- HAILAKANDI

7:DIJVAK LONG RONGMAI
S/O SRI PONGA LONG RONGMAI
NAGA COLONY
W/NO.1
P.O. and DIST- HAILAKANDI

8:CHIRANJIT BARMAN
S/O BIPUL CHANDRA BARMAN
C/O RAJAT CHAKRABORTY
HAILAKANDI TOWN W/NO. 12
SHIB BARI ROAD
P.O. and DIST- HAILAKANDI

9:DASARATH BARMAN
S/O GOKUL BARMAN
VILL. MOHANPUR LALPANI
P.O. LALPANI
DIST- HAILAKANDI

10:L. NUNGSHITHOL SINGHA
S/O LT. L. RAMAN SINGHA
H/NO.76
THINGOMKHUL
P.O. SUDARSHANPUR PT-III
DIST- HAILAKANDI

11:KISHANJIT SINGHA
S/O SRI NIRMAL SINGHA
VILL. RONGPUR PT-III
P.O. RANGABAK
PT-II
DIST- HAILAKAND

Advocate for the Petitioner : MR.D K DEKA

Advocate for the Respondent : MS. S DOLEY (R-3 TO 11)

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 16/05/2023

Heard Mr. N. H. Mazarbhuyan, learned counsel for the writ petitioners. Also heard Mr. T.C. Chutia, learned Additional Senior Government Advocate, Assam, appearing for the respondents.

The facts of the case, in a nutshell, are that on 04/01/2014, the Deputy Commissioner, Hailakandi i.e. the respondent no. 2 had invited applications for filling up 5 (five) vacant posts of Process Server and 6 (six) posts of Peon. Out of 6 (six) posts of Peon, 2(two) were reserved for being filled up by way of compassionate appointment. The two writ petitioners herein, claims to have participated in the recruitment process. According to the petitioners, a select list was published on 26/12/2014 containing the names of 11 selected candidates and in the said select list, the names of the petitioners appeared in Serial No. 1 and 8 respectively. Notwithstanding the same, no order of appointment had been issued in their favour. On the contrary, another select list dated 26/12/2014 was published, which contained the name of 9(nine) selected candidates without the writ petitioners. Contending that the respondents have changed the select list only to favour persons of their choice, the instant writ petition has been filed.

By filing an affidavit, the respondent no. 2 has categorically stated that the select list dated 26/12/2014 containing the name of 11 (eleven) candidates is not genuine, inasmuch, no such select list was ever published by the respondent no. 2. Rather, the departmental authorities had published the select list dated 26/12/2014 containing the name of 9(nine) selected candidates, which did not include the names of the 2 (two) writ petitioners.

Mr. Chutia, learned Government Advocate, Assam, has also argued that the select list containing the names of 11 (eleven) selected candidates including the petitioners is a forged list and the same was never published by the competent authorities. Rather, the list containing the names of

9(nine) candidates is the genuine one and appointments have already been made from that select list. If that be so, it is apparent that there is a seriously disputed question of fact involved in this case pertaining to the question as to which of the two select lists is valid. The said question cannot be resolved in this writ petition. Moreover, if it is really the case of the department that a forged select list was shown to have been published, then the matter would call for further investigation under the provisions of the Cr.P.C. However, since no FIR has been lodged by either side till today, the machinery under the Cr.P.C. has not been activated till date.

As such, by granting liberty to the parties to take appropriate legal recourse in the matter, as may be permissible in the facts and circumstances of the case, this writ petition stands disposed of.

JUDGE

sukhamay

Comparing Assistant