

GAHC010014952015



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

Case No. : I.A./469/2015

SMT. ANJALI GOSWAMI
W/O SRI JIBAN CH. GOSWAMI,
VILL. PUBTHARIA, P.O. PUBTHARIA, DIST. NAGAON, ASSAM.

VERSUS

1: THE STATE OF ASSAM and 4 ORS,
REPRESENTED BY THE COMMISSIONER and SECY. TO THE GOVT. OF
ASSAM, EDUCATION SECONDARY DEPTT., DISPUR, GUWAHATI -6

2: THE DIRECTOR OF SECONDARY EDUCATION
ASSAM KAHILIPARA GUWAHATI-19

3: THE INSPECTOR OF SCHOOLS
NAGAON DIST. CIRLCE NAGAON ASSAM.

4: AMLAN GOSWAMI
S/O LATE ATUL CH. GOSWAMI
VILL. and P.O. PUBTHORI DIST. NAGAON ASSAM.

5: DIBYAJYOTI BORA
S/O LATE LAKSHI PRASAD BORA
VILL. GOMOTHA GOAN P.O. KUWARITAL
DIST. NAGAON ASSAM

Advocate for the Petitioner : MR.D SARMA

Advocate for the Respondent :

– B E F O R E –
HON'BLE THE CHIEF JUSTICE (ACTING) MR. N. KOTISWAR SINGH
HON'BLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 06-02-2023

[(N. Kotiswar Singh, CJ (Acting))]

None appears for the applicant on call. However, Mr. N.J. Khataniar, learned standing counsel, Education (Secondary) Department, appearing for the respondent Nos.1 to 3 is present.

From the order sheet, it appears that after this application was moved on 05.06.2015 seeking condonation of delay of 123 days in preferring the connected appeal, notice was issued, making the same returnable on 22.07.2015 and the applicant was directed to take steps upon the private respondent by registered post with A/D.

When the matter was taken up on 23.07.2015, the applicant was directed to take fresh steps in respect of the respondent No.4. Thereafter, this matter had remained in cold storage and the matter was put up before the Lawazima Court on 25.03.2022 when none appeared for the applicant. Since the notice was not complete in respect of the respondent No.4, the Lawazima Court directed the applicant to take steps by registered post with A/D in respect of the respondent No.4 as well as by usual process.

It appears that nothing has moved thereafter. When the matter was taken up again on 02.01.2023, none appeared for the applicant. We have also seen the order against which the appeal has been preferred.

The learned Single Judge appeared to have set aside the promotion of the present writ appellant primarily on the ground that she was promoted to the higher post of Assistant Headmaster on the basis of a select list which had expired and as such, her promotion was not in accordance with law.

We are not going into the merit of the case. However, reference is made only for the purpose to understand the nature of the case. From the above, it appears that direction was issued by the learned Single Judge to fill up the vacant post in accordance with law by taking fresh steps. We are not aware as to what is the position as to the said post of Assistant Headmaster. The learned counsel for the State is also not able to assist us without instruction in that regard. The fact that the applicant has not pursued the matter could be for the reason that the matter has already become infructuous. However, we are not inclined to keep this application pending for such a long period. Accordingly, we close this interlocutory application seeking condonation of delay in preferring the connected appeal. However, we still grant liberty to the applicant to approach this Court and for revival of this interlocutory application for condoning the delay of 123 days, without counting the additional days in applying for revival of this application if the cause of action still survives and the applicant still aggrieved by the direction of the learned Single Judge.

With the above observation, we close this interlocutory application. Resultantly, the writ appeal, which is yet to be numbered, is accordingly dismissed, which also shall stand revived if the application for condonation of delay is allowed subsequently.

JUDGE

CHIEF JUSTICE (ACTING)

Comparing Assistant