

GAHC010027652023



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

Case No. : I.A.(Civil)/441/2023

THE ASSAM PUBLIC SERVICE COMMISSIONAPS
REPRESENTED BY ITS CHAIRMAN, JAWAHARNAGAR, KHANAPARA,
GUWAHATI-22, ASSAM.

2: THE SECRETARY

ASSAM PUBLIC SERVICE COMMISSION
JAWAHARNAGAR
KHANAPARA
GUWAHATI-22
ASSAM

VERSUS

BASANTA KUMAR PAIT AND 9 ORS
SON OF SRI RAJEN PAIT, RESIDENT OF H. NO. 171, NIZARAPARA,
HIRIMBAPUR PATH, ODALBAKRA, KAMRUP(M), P.O. ODALBAKRA, PIN-
781034, ASSAM.

2:KULDIP BARMAN
SON OF SRI DILIP BARMAN
RESIDENT OF H.NO.- 18
NANDANPUR PATH
SURVEY
BELTOLA
PIN- 781028
ASSAM.

3:FRANKY KUMAR KALIA
SON OF NIRMAL KUMAR KALIA
RESIDENT OF LAL BANGLOW ROAD
TINSUKIA
PIN- 786125
ASSAM.

4:DHRUVA JYOTI BORUAH
SON OF LATE MANIK CHANDRA BARUAH
RESIDENT OF VILLAGE AND P.O.- KALOOGAON
DISTRICT SIVASAGAR
PIN- 785666
ASSAM.

5:PARTHA PRATIM DEORI
SON OF SRI TANU RAM DEORI
RESIDENT OF RATANPUR
P.O.- DHEMAJI
DISTRICT- DHEMAJI
PIN- 787057
ASSAM.

6:PANKAJ KUMAR RAJKUMAR
SON OF SRI INDRESWAR RAJBONGSHI
RESIDENT OF VILLAGE- SOLMARI
DISTRICT- MORIGAON
PIN- 782105
ASSAM.

7:THE STATE OF ASSAM

REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM
TRANSPORT DEPARTMENT
JANATA BHAWAN
DISPUR
GUWAHATI-6.

8:THE COMMISSIONER
COMMISSIONERATE OF TRANSPORT
PARIBAHAN BHAWAN
JAWAHARNAGAR
KHANAPARA
GUWAHATI-22.

9:THE SECRETARY

DEPARTMENT OF TRANSPORT
GOVERNMENT OF ASSAM
JANATA BHAWAN
DISPUR
GUWAHATI-6

Advocate for the Respondent : MR. U K NAIR

Linked Case : WP(C)/4281/2022

BASANTA KUMAR PAIT AND 5 ORS
SON OF SRI RAJEN PAIT
RESIDENT OF H. NO. 171
NIZARAPARA
HIRIMBAPUR PATH
ODALBAKRA
KAMRUP(M)
P.O. ODALBAKRA
PIN- 781034
ASSAM.

2: KULDIP BARMAN
SON OF SRI DILIP BARMAN
RESIDENT OF H.NO.- 18
NANDANPUR PATH
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ASSAM.

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SON OF NIRMAL KUMAR KALIA
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SON OF LATE MANIK CHANDRA BARUAH
RESIDENT OF VILLAGE AND P.O.- KALOOGAON
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PIN- 785666
ASSAM.

5: PARTHA PRATIM DEORI
SON OF SRI TANU RAM DEORI
RESIDENT OF RATANPUR
P.O.- DHEMAJI
DISTRICT- DHEMAJI

PIN- 787057
ASSAM.

6: PANKAJ KUMAR RAJKUMAR
SON OF SRI INDRESWAR RAJBONGSHI
RESIDENT OF VILLAGE- SOLMARI
DISTRICT- MORIGAON
PIN- 782105
ASSAM.
VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM
TRANSPORT DEPARTMENT
JANATA BHAWAN
DISPUR
GUWAHATI-6.

2:THE COMMISSIONER
COMMISSIONERATE OF TRANSPORT
PARIBAHAN BHAWAN
JAWAHARNAGAR
KHANAPARA
GUWAHATI-22.

3:THE SECRETARY
DEPARTMENT OF TRANSPORT
GOVERNMENT OF ASSAM
JANATA BHAWAN
DISPUR
GUWAHATI-6.

4:THE ASSAM PUBLIC SERVICE COMMISSION
REPRESENTED BY ITS CHAIRMAN
JAWAHARNAGAR
KHANAPARA
GUWAHATI-22
ASSAM.

5:THE UNDER SECRETARY
ASSAM PUBLIC SERVICE COMMISSION
JAWAHARNAGAR
KHANAPARA
GUWAHATI-22
ASSAM.

6:THE JOINT SECRETARY
ASSAM PUBLIC SERVICE COMMISSION
JAWAHARNAGAR
KHANAPARA
GUWAHATI-22

ASSAM.
7:THE CONTROLLER OF EXAMINATION
ASSAM PUBLIC SERVICE COMMISSION
JAWAHARNAGAR
KHANAPARA
GUWAHATI-22
ASSAM.

Advocate for : MR. U K NAIR
Advocate for : SC
TRANSPORT appearing for THE STATE OF ASSAM AND 6 ORS

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 26-04-2023

Heard Mr. M.P. Sarma, learned counsel for the writ petitioner. Also heard Mr. T.J. Mahanta, learned Sr. counsel assisted by Mr. P.P. Dutta, learned standing counsel, APSC appearing for the respondent Nos. 4, 5, 6 and 7 and Ms. M.D. Bora, learned standing counsel, Transport Department, Assam appearing for the respondent Nos. 1 to 3.

The six writ petitioners in this writ petition were denied participation in the selection process initiated by the authorities for filling up 26 vacant posts of MVIs in terms of the advertisement notice No. 10/22 dated 25-05-2022. Aggrieved thereby, the writ petitioners had approached this Court *inter alia* contending that they were eligible to take part in the selection process.

Taking note of the contention of the writ petitioners, this Court had passed interim order dated 27-06-2022 provisionally allowing the petitioners to participate in the selection process. However, the authorities were also directed not to publish the final

result of the selection process. Accordingly, the six writ petitioners had participated in the selection process. After conclusion of the selection process, the APSC as well as the Secretary, APSC as applicants had approached this Court by filing I.A.(C) No. 441/2023 with a prayer to modify the interim order dated 27-06-2022 passed in W.P.(C) No. 4281/2022 and allow the APSC to declare final results of selection process. The said prayer was allowed by this Court by order dated 12-04-2023 where-after the results were published on 24-04-2023.

Mr. Mahanta has placed the final select list before this Court in sealed cover and submits that four out of the six writ petitioners have emerged as successful candidate in the selection process. However, until such time the question of their eligibility is finally determined by this Court, no order of appointment can be issued in their favour. Mr. Mahanta, learned Sr. counsel for the APSC further submits that since the other two writ petitioners did not qualify in the selection process on merit, no relief can be granted to them in this writ petition.

Mr. Sarma, learned counsel for the writ petitioners has also fairly submitted that the only question that would now arise for consideration of this Court in the writ petition is as to whether, the four writ petitioners, viz. Sri Kuldip Barman, Sri Dhruva Jyoti Boruah, Sri Partha Pratim Deori and Sri Pankaj Rajkumar whose names find place in the final select list, were eligible to participate in the selection process and to that extent, would they be entitled to appointment orders. The aforesaid aspect of the matter can be decided at the time of final hearing of the writ petition.

In view of the above and after taking note of the submissions made by the learned

counsel for both the sides the respondents are hereby granted leave to fill up 22 (twenty two) vacant posts of MVIs by operating the select list dated 24-04-2023. However, four posts of MVIs shall be kept vacant awaiting further order(s) in the writ petition.

In view of the nature of controversy involved in the matter, the respondents to keep the select list dated 24-04-2023 alive for a period of 06 months w.e.f. today, awaiting final order in the writ petition.

With the above observation, the order dated 12-04-2023 passed in I.A.(C) No. 441/2023 stands modified.

Registry to list the connected writ petition for final hearing in the 1st week of June, 2023 on a non-miscellaneous day.

The written instruction dated 25-04-2023 produced by Ms. M.D. Bora, learned standing counsel, Transport Department, Assam shall form part of the record of the I.A.

I.A. stands disposed of.

JUDGE

GS

Comparing Assistant