

GAHC010043122023



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

Case No. : WP(C)/1111/2023

MD. SULTAN AHMED AND 2 ORS
S/O- SALEH AHMED,
VILLAGE- BAKRASHAL,
P.O.- JABANIPUR,
P.S.- KARIMGANJ,
DIST.- KARIMGANJ, ASSAM.

2: AHMAD FAIZ
S/O- LT. MOULANA MAKADDAS ALI
VILLAGE- SATGHARI
P.O.- KANAIBAZAR
P.S.- PATHARKANDI
DIST.- KARIMGANJ
ASSAM.

3: KAMRUL HUDA BARBHUIYA
S/O- ABDUL MATAHIR BARBHUIYA
VILL- GANAIRGRAM PART-3
P.O.- MAHADEVPUR
P.S.- KATIGORAH
DIST.- CACHAR
ASSAM- 788025

VERSUS

THE STATE OF ASSAM AND 3 ORS
TO BE REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
SECONDARY EDUCATION, ASSAM,
DISPUR, GUWAHATI-06.

2:THE DIRECTOR
SECONDARY EDUCATION
ASSAM

KAHILIPARA
GUWAHATI- 19.

3:THE EMPOWERED COMMITTEE OF TEACHERS ELIGIBILITY TEST FOR
SECONDARY EDUCATION
ASSAM
TO BE REPRESENTED BY ITS MEMBER SECRETARY
DISPUR
GUWAHATI- 781006.

4:THE RASTRYA MADHYMIK SIKSHA ABHIYAN MISSION (R.M.S.A.)
TO BE REPRESENTED BY ITS MISSION DIRECTOR
KAHILIPARA
GUWAHATI- 19

Advocate for the Petitioner : MR. A R BHUYAN

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR

ORDER

28-02-2023

Heard Mr. A.R. Bhuyan, learned counsel for the petitioners and Mr. D. Saikia, learned Advocate General, Assam, assisted by Mr. S.M.T. Chistie, learned standing counsel for the Secondary Education Department.

The petitioners are all Madrassa TET qualified candidates, who intend to apply for the post of Post-Graduate Teachers in different provincialised secondary school in terms of the advertisement dated 27-12-2022, issued by the Director of Secondary Education, Assam. In the said advertisement dated 27-12-2022, applications are invited for filling up 1385 vacant post of Graduate Teachers in different provincialised Secondary Schools. Clause-ii of the Condition of Recruitment in the said advertisement reads as under :

“The applicant should have appeared and passed Higher Secondary Teachers Eligibility Test (TET) in the concerned cadre, conducted by the Government,

scoring a minimum of 60% marks in case of Un-reserved category candidates and minimum of 55% marks in case of Scheduled Castes/Scheduled Tribes/Other Backward Classes and Persons with disabilities candidates;

Provided that for the teachers working regularly against a sanctioned Graduate post in any Provincialised High School or Higher Secondary School for a minimum period of 15 years having requisite academic and professional qualification for the post of Post Graduate Teachers appearing and qualifying in TET shall be optional and they shall be awarded with a weight-age of 60 marks for their 15 years of continuous teaching experience and those who have appeared and qualified in the TET shall get the TET qualified marks in lieu of the weight-age given for the experience:

Provided further that any experienced teacher who has appeared but could not secure the minimum qualifying 60 marks in the TET, shall be awarded at least 60 marks in respect of their experience if he or she has already completed 15 years of teachers experience, any marks secured by such experienced teacher over and above 60 qualifying marks in TET shall be counted additionally in respect of TET for such teaching for the purpose of selection for the post of Post Graduate Teacher.”

It is the case of the petitioners that they are Madrassa Teacher Eligibility Test [M-TET] qualified candidates, however, they are barred from applying for the post of Post Graduate Teachers due to the bar in Clause-ii of the condition of Recruitment in the said Advertisement. Therefore, the prayer of the petitioner in this writ petition is to permit them to apply and participate in the selection process for the posts of Post Graduate Teachers in the different provincialised Secondary Schools in terms of the Advertisement dated 27-12-2022.

The learned Advocate General, Assam, on the other hand submits that there is a bar for the petitioners' to apply for the post of Post Graduate Teachers in different provincialised Secondary Schools advertised by the Advertisement dated 27-12-2022 in view of the Notification dated 10-09-2020, issued by the Secondary Education Department, which provides that all Government

notifications allowing Madrassas TET qualified candidates to apply for the post in High Schools/High Madrassa/Higher Secondary Schools under Secondary Education and L.P/M.E. Schools under Elementary Education Department are hereby cancelled with immediate effect. He also submits that the said Notification dated 10-09-2020 was challenged in the WP(C) No. 4688/2020, along with other batch of writ petitions, which were, however, dismissed by the Judgment and Order dated 05-04-2022. In that view of the matter, as the Notification dated 10-09-2020 still holds the field till date, no concession can be given to the petitioners.

After hearing the learned counsel for the parties and on consideration of the materials available on record, particularly, the Advertisement dated 27-12-2022 calling for applications for filling up of 1385 vacancies of Post Graduate Teachers in different provincialised Secondary schools, this Court is of the view that the Advertisement dated 27-12-2022 bars the petitioners in applying for the posts that have been advertised, due to the fact that they do not possess the Higher Secondary Teacher Eligibility Test [TET]. The petitioners are only M-TET holders and, therefore, Clause-ii of Conditions of Recruitment in the Advertisement dated 27-12-2022 does not permit them to apply for the advertised posts as they are lacking in educational qualification.

The Notification dated 10-09-2020 clearly indicates that Madrassa qualified candidates are barred from applying for the post of High Schools/High Madrassa/Higher Secondary Schools under Secondary Education and L.P/M.E. Schools under Elementary Education Department. The said notification was a subject-matter of challenge in WP(C) No. 4688/2020, which was, however, dismissed by the Judgment and Order dated 05-04-2022. It is not disputed at the Bar that the judgment and order dated 05-04-2022, passed in WP(C) No.

4688/2020 and other batch of writ petitions, are under challenge before the Hon'ble Division Bench in appeal, however, no stay order has been passed in the said appeal.

On consideration of what has been stated hereinabove, this Court is of the considered opinion that as the Notification dated 10-09-2020 still holds the field, I am unable to accept the prayer made in the present writ petition and the same is dismissed. No cost.

JUDGE

Comparing Assistant