

GAHC010054082023



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

Case No. : WP(C)/1516/2023

SMTI. MINASKHI BORA
W/O SRI NIREN SAIKIA, R/O CHARIGAON KHATONIAR KURI, P.O.-
CHENGALIGAON, P.S.-JORHAT, DIST-JORHAT, ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, EDUCATION (SECONDARY) DEPARTMENT, DISPUR,
GUWAHATI-6

2:THE SECRETARY TO THE GOVT. OF ASSAM
PERSONAL (B) DEPARTMENT
DISPUR
GUWAHATI-6

3:THE DIRECTOR
SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-1

Advocate for the Petitioner : MR. P J SAIKIA

Advocate for the Respondent : SC, SEC. EDU.

**BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK**

ORDER

16.03.2023

Heard Mr. P J Saikia, learned counsel for the petitioner and Mr. SMT Chistie, learned Standing counsel, Department of School (Secondary) Education, Assam for the respondent Nos. 1 to 3.

Petitioner obtained her Graduation with Economics as Major from Dibrugarh University in the year 1994, passed her Post-Graduation in Economics from Gauhati University in the year 1996, obtained B.Ed. Degree from Kaliabor College of Education under Gauhati University in the year 2014 and also passed Teacher's Eligibility Test for Secondary Education, for which result was declared on 23.07.2020. As such, the petitioner submitted that she is eligible for the post of Graduate Teacher in any Government/Provincialised Secondary School of the State.

On 27.12.2022, the Director of Secondary Education (DSE), Assam issued an Advertisement for filling up of posts of Graduate Teachers in provincialised and Government secondary schools of the State that was published in the local dailies on 28.12.2022.

By filing this writ petition, the petitioner has prayed for a direction to the respondent authorities to allow her to submit her application through offline mode pursuant to the advertisement dated 27.12.2022/28.12.2022 and to accept her application to be submitted in offline mode and consequently to allow her to take part in the interview process in pursuance of the said advertisement dated 27.12.2022 issued by the DSE, Assam, relaxing her upper age.

Petitioner has annexed a copy of the advertisement dated 27.12.2022/28.12.2022 issued by the DSE, Assam, noted above.

In the said advertisement dated 27.12.2022/28.12.2022, noted above, it is provided that a candidate must not be less than 18 years of age and not more than 40 years for unreserved category, 42 years for Ex-Servicemen, 43 years for OBC/MOBC and 45 years for SC/ST(P)/ST(H) and 50 years for Persons with Disability (PwD) as on 1st January, 2022 as per Government Office Memorandum issued vide No. ABP.6/2016/51 dated 02.09.2020

and subsequent Corrigendum No. ABP.6/2016/52 dated 20.02.2021.

From the said advertisement annexed by the petitioner as Annexure-11 to this petition, it is seen that the Director of Secondary Education, Assam categorically provided that no offline applications will be accepted from the candidates with regard to said advertisement.

Mr. Chistie, Standing counsel, Department of School (Secondary) Education placed before the Court a copy of the Notice dated 14.02.2022 issued by the DSE, Assam whereby for the posts that were advertised on 27.12.2022/28.12.2022, the provision of application through online mode was opened from 12.00 midnight of 16.02.2023 to 12.00 midnight of 28.02.2023.

As such, Clause-4 of the Other Criteria of the said advertisement dated 27.12.2022/28.12.2022 was modified to the extent that such applications will be received through online mode up to 28.02.2023 in the official website at www.madhyamik.asssam.gov.in, observing further that no offline applications will be accepted in that regard.

From the affidavit filed by the petitioner in this petition on 06.03.2023, it is seen that she is of 49 years old and further, the last date of submission of application form through online mode as advertised on 27.12.2022/28.12.2022 has already expired on 28.02.2023.

From the case records it is seen that the petitioner has filed this writ petition on 09.03.2023 with the endorsement of the Registry in the Filing Department dated 09.03.2023, which is after the expiry of submission of application pursuant to the said advertisement dated 27.12.2022 on 28.02.2023.

Petitioner otherwise also does not fulfill the requisite eligibility criteria, as on 1st January, 2022 she was already 49 years old and she has crossed the upper age limit for any such appointment to the Government/Public post in the State of Assam in terms of the Government Office Memorandum No. ABP.6/2016/51 dated 02.09.2020 and the Corrigendum No. ABP.6/2016/52 dated 20.02.2021.

Petitioner has also failed to place before the Court as to when she applied before the State Government in the Secondary Education Department for condonation of her

upper age, except placing a copy of an application submitted before the Director of Secondary Education, Assam on 28.02.2023, i.e., on the last date of submission of application through online, whereby she requested the said authority to allow her to apply for the post of Graduate Teacher in Arts in terms of the advertisement dated 27.12.2022/28.12.2022, though the DSE, Assam is not the appropriate authority to condone the upper age limit for any Government/Public post and it is only the State Government in the concerned department.

As the petitioner has approached this Court on 09.03.2023 after the last date of submission of application form pursuant to the advertisement dated 27.12.2022/28.12.2022, that has already expired on 28.02.2023, even if the contention of the petitioner is accepted, the Court in exercise of the power conferred under Article 226 of the Constitution of India can not extend the last date of submission of application form in terms of said advertisement issued by the Director of Secondary Education, Assam.

Accordingly, this writ petition being devoid of merit, stands dismissed.

JUDGE

Comparing Assistant