

GAHC010059662023



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

Case No. : WP(C)/1681/2023

KAMINI KALITA
S/O- LATE RUPENDRA NARAYAN DAS, R/O- VILL.- HARALTARI, P.S.
SAPATGRAM, DIST. DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED THROUGH THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, EDUCATION DEPARTMENT (HIGHER),
SACHIVALAYA, DISPUR, GUWAHATI-781006.

2:THE DIRECTOR OF HIGHER EDUCATION
KAHILIPARA
GUWAHATI-781019.

3:THE PRINCIPAL-CUM-SECRETARY OF THE SAPATGRAM COLLEGE
SAPATGRAM
P.O. SAPATGRAM DIST. DHUBRI
PIN- 783337 ASSAM

4:THE GOVERNING BODY OF SAPATGRAM COLEGE
SAPATGRAM
DHUBRI
REPRESENTED BY ITS PRESIDENT
P.O. SAPATGRAM
DIST. DHUBRI
ASSAM
PIN- 783337.

5:THE SELECTION AND APPOINTMENT COMMITTEE
OF THE CANDIDATES TO THE POST OF GRADE-IV (UNRESERVED) IN
SAPATGRAM COLLEGE
SAPATGRAM

DHUBRI
REPRESENTED THROUGH ITS MEMBER CHAIRPERSON
P.O. SAPATGRAM
DIST. DHUBRI
ASSAM PIN- 783337

Advocate for the Petitioner : MR. B D GOSWAMI

Advocate for the Respondent : SC, HIGHER EDU

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

24-03-2023

Heard Mr. B. D. Goswami, learned counsel for the petitioner and Mr. A. R. Tahbildar, learned Standing counsel, Higher Education Department, Assam for the respondent Nos. 1 & 2.

Sapatgram College, Sapatgram, District-Dhubri is a provincialised college of the State and its Principal-cum-Secretary on 14.06.2022 issued an advertisement inviting applications from the candidates having requisite eligibility for filling up of one post of Library Bearer at Roster point No. 2 reserved for OBC/MOBC category and another post of Grade-IV at Roster point No. 4 for un-reserved category in the said college granting 15 (fifteen) days time for filling up of necessary applications from the date of publication of the said advertisement, i.e., 14.06.2022.

The petitioner accordingly submitted his application by placing his candidature for the said advertised post of Grade-IV at Roster point No. 4 under un-reserved category in Sapatgram College.

The Principal-cum-Secretary of said Sapatgram College vide reference No. SC/Interview/2022-23/4371 dated 05.12.2022 issued a call letter to the petitioner for his interview for the post of Grade-IV under unreserved category as advertised on 14.06.2022 informing him that the interview will be held on 13.12.2022. Accordingly, the petitioner participated in the said selection process.

However, from the said call letter dated 05.12.2022 issued by the Principal-cum-Secretary of said Sapatgram College to the petitioner for his interview with regard to the post of Grade-IV advertised on 14.06.2022, he could come to know that the Principal-cum-Secretary on 10.11.2022 issued a Corrigendum.

It is submitted by the petitioner that said Corrigendum dated 10.11.2022 with regard to the advertisement dated 14.06.2022 is illegal as it was beyond 15 days time allotted in the said advertisement in order to favour a blue eyed candidate of the Governing Body of said Sapatgram College, Sapatgram, District-Dhubri.

It is also submitted that the result of the said interview for the post of Grade-IV in the said college, advertised on 14.06.2022, has not yet been declared and till date, no candidate has been appointed to the said advertised post.

It is stated by the petitioner that the copy of the corrigendum dated 10.11.2022 was not published in any such dailies giving its wide publication and when he approached the college authority, he was not provided with the copy of the said corrigendum dated 10.11.2022.

The Assam College Employees (Provincialisation) Rules, 2010 is a statutory Rules as framed under Section 12 of the Assam College Employees (Provincialisation) Act, 2005.

As per Sub-Rule (2) of Rule 5 of said 2010 Rules the posts of Grade-III and Grade-IV in a provincialised college of the State are to be filled up by way of direct recruitment by collecting the names of candidates from the local employment exchange and by making advertisement in the local newspapers.

Sub-Rule (7) of Rule 5 of said 2010 Rules provides that – *the posts including the post of Grade-IV in such provincialised college of the State, it is the Governing Body who is required to conduct selection process and recommend the name (selected candidate) to the Director of Higher Education, Assam to issue order of appointment.*

Rule 7 of the said 2010 Rules relates to "Direct Recruitment" and it stipulates that:-

- “(a) All appointment either by direct recruitment or by promotion shall be made by the Director on the basis of recommendations of the Governing Body based on the recommendations of the Selection Committee/Departmental Promotion Committee duly constituted;*
- (b) The Director shall communicate his orders within thirty days;*
- (c) The Selection Committee may hold such test of interview for all posts as may be considered necessary. For posts for which UGC has prescribed norms, no candidate shall be recruited without having the required norms;*
- (d) All fresh appointments shall be made on receipt of police verification report.*

Since the appointment order to the post of Grade-IV of said provincialised Sapatgram College, Sapatgram, District-Dhubri is to be issued by the Director of Higher Education, Assam and the process of appointment of Grade-IV in the said college in terms of the said advertisement dated 14.06.2022 is not yet complete and considering the fact that the right of the petitioner to the said advertised post will accrue only when appointment is issued by the Director concerned, which is yet to be issued, the Court is of the opinion that this writ petition is prematured one.

However, the petitioner is at liberty to approach the Director of Higher Education, Assam by submitting his grievances regarding the selection process for filling up of post of Grade-IV in Sapatgram college, Sapatgram, District-Dhubri advertised on 14.06.2022 by the Principal-cum-Secretary of the said College as well as the corrigendum dated 10.11.2022.

In the event of filing any such representation by the petitioner before the Director of Higher Education, Assam along with a certified copy of this order including the annexures appended thereto and all the self attested relevant documents forthwith, the said Director of Higher Education, Assam shall do the needful following the relevant provisions and Rules as applicable and in force and shall accordingly dispose of the said representation of the petitioner within a period of 60 (sixty) days from the date of receipt of the same in accordance with law, intimating him about the outcome of the same.

It is made clear that, if in the meanwhile, the said post of Grade-IV in said Sapatgram College, Sapatgram, Dhubri in terms of the said advertisement dated 14.06.2022 has not been made, the Director of Higher Education, Assam shall not fill up the said Grade-IV post in that college without due consideration of the grievances of the petitioner made in his representation, if such representation is filed by the petitioner **on or before 31.03.2023**.

With the above observation and direction, this writ petition stands disposed of.

JUDGE

Comparing Assistant