

GAHC010067152023



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

Case No. : WP(C)/1751/2023

SANJIB KALITA AND 5 ORS.

S/O- SACHINDRA KALITA, R/O- VILL.- DOULGOBINDAPUR, WARD NO. 04,
P.O., P.S. AND DIST. NALBARI, ASSAM, PIN- 781335.

2: ABDUL MANNAN

S/O- KHALIUR RAHMAN

R/O- VILL.- NADIA

P.O. PERADHARA

P.S. MUKALMUA

DIST. NALBARI

ASSAM

PIN- 781312.

3: NUR ISLAM

S/O- CHARIFUDDIN AHMED

R/O- VILL.- PASCHIM KHATAR

P.O. DEHAR KALAKUCHI

P.S. MUKALMUA

DIST. NALBARI

ASSAM

PIN- 781310.

4: SONDIP MEDHI

S/O- LATE MAHIDHAR MEDHI

R/O- VILL.- DAULASAL

P.O. DAULASAL

P.S. MUKALMUA

DIST. NALBARI

ASSAM

PIN- 781312.

5: RUPAM HALOI

S/O- LATE LANKESWAR HALOI

R/O- VILL.- KHATARUPIABATHAN

P.O. CHAMATA
P.S. BELSON
DIST. NALBARI
ASSAM
PIN- 781306.

6: NUR ISLAM
S/O- NAZIRUDDIN AHMED
R/O- VILL. BATSOR
P.O. AND P.S. BELSOR
DIST. NALBARI
ASSAM
PIN- 781310

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, REVENUE AND DISASTER MANAGEMENT (LR)
DEPARTMENT, DISPUR, GUWAHATI-6.

2:THE DEPUTY COMMISSIONER
NALBARI
ASSAM
PIN- 781335.

3:THE DEPUTY COMMISSIONER AND CHAIRMAN SELECTION
COMMITTEE
NALBARI
ASSAM
PIN- 781335

Advocate for the Petitioner : MR. A D CHOUDHURY

Advocate for the Respondent : GA, ASSAM

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH

04.04.2023

Heard Mr. A. D. Choudhury, the learned counsel appearing on behalf
of the petitioners and Mr. S. Dutta, the learned counsel appearing on

behalf of the respondent No.1 as well as Mr. T. C. Chutia, the learned Government Advocate appearing on behalf of the respondent Nos.2 & 3.

This Court vide orders dated 24.03.2023 and 27.03.2023 had detailed out the dispute involved in the instant writ petition.

The grievance of the petitioners herein as could be seen from the writ petition is that there were 18 numbers of sanctioned posts of Lot Mandal, (Grade-III) under the Amalgamated Establishment of the Deputy Commissioner, Nalbari which were advertised vide the advertisement dated 01.03.2023. It is the case of the petitioners that as per the Clause-7 of the said advertisement, it has been mentioned that against each vacancy, 4 numbers of candidate will be shortlisted on the basis of the marks obtained in the written test. However, vide an order dated 22.03.2023 passed by the Deputy Commissioner and Chairman Selection Committee, Nalbari, only 52 numbers of candidate were selected on the basis of the written test which as per the learned counsel for the petitioners is contrary to the Clause-7 of the advertisement. On 27.03.2023, the learned counsel appearing on behalf of the respondent Nos.1 & 2 apprised this Court that there were 357 candidates who applied to the post of Lot Mandal. However, only 134 candidates had appeared in the written test. It was mentioned that there was a resolution taken in the minutes of the meeting dated 15.03.2023 wherein it was decided that the minimum cut off marks that an unreserved category should get is 35% and as regards the reserved category it was to be 30%. This Court, vide the order dated 27.03.2023, had directed the Standing Counsel appearing on behalf of the respondent Nos.2 & 3 to produce before this Court the result sheet of 134 candidates who appeared in the written test held on

19.03.2023 and the marks obtained by them.

Today, Mr. T. C. Chutia, the learned Government Advocate appearing on behalf of the respondent Nos.2 & 3 has submitted that out of the total 18 vacant posts, 7 posts were earmarked for unreserved category; 3 posts were earmarked for unreserved female category; 4 posts for OBC; 2 posts for OBC female and 2 posts for ST(H). As regards the unreserved category, 28 persons were shortlisted and their last cut off marks was 52. The instructions also categorically mentioned the marks obtained by the petitioners herein which are detailed herein under:-

“1. In the written test held on 19" of March, 2023, total 134 candidates appeared and the number of candidates who were shortlisted, based on merit are as follows

<i>Category of candidates</i>	<i>Available post</i>	<i>No. of candidates shortlisted based on merit</i>	<i>Last cut off mark</i>	<i>Remark</i>
<i>UR</i>	<i>07</i>	<i>28</i>	<i>52</i>	<i>Candidates in the ration 1:4 found eligible</i>
<i>UR (Female)</i>	<i>03</i>	<i>09</i>	<i>30</i>	<i>Based on merit only 09 candidates found eligible instead of 12 candidates</i>

OBC	04	14	33	Based on merit only 14 candidates found eligible instead of 16 candidates
OBC (Female)	02	0	0	Based on merit no candidates found eligible instead of 08 candidates
ST(H)	02	01	30	Based on merit only 01 candidates found eligible instead of 08 candidates

2. As per record, all the petitioners belong UR category. Among the UR category 52 is the lowest mark of candidate as shortlisted. Marks obtained by the petitioner candidates are given below:-

- a) Sanjib Kalita – 35 (Roll No. 424349)
- b) Abdul Mannan-21 (Roll No. 883924)
- c) Nur Islam-46 (Roll No. 244965)
- d) Sandip Medhi-37 (Roll No. 543975)
- e) Rupam Haloi-24 (Roll No. 489813)
- (e) Nur Islam 17 (Roll No. 259657)

3. It may be mentioned that the cut off mark for qualifying in the written test was fixed by the Selection Committee in its meeting dated 15-03-2023 as 35% for UR category and 30% for reserve category. Though, in the advertisement it was mentioned that 72 candidates (in the ratio of 1:4) would be shortlisted in

order of merits, only 52 candidates could qualify in the written test.

Hence, only 52 candidates could be shortlisted.”

I have perused the entire result sheet of 134 candidates who participated in the written test as well as the marks obtained by the shortlisted candidates. The fact that the petitioners herein who belong to the unreserved category and there was 28 candidates who have been shortlisted against 7 posts, this Court does not find any reason to interfere at the instance of the petitioners herein as they could not question the selection as 28 candidates were shortlisted against 7 unreserved posts in terms with Clause 7 of the advertisement. Consequently, the instant writ petition stands dismissed.

The interim order passed earlier stands vacated.

The instructions so placed by Mr. T. C. Chutia, the learned Government Advocate is kept on record and marked with the letter “Y”.

JUDGE

Comparing Assistant