

GAHC010075202021



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

Case No. : WP(C)/3398/2021

MANASH PRATIM RAJKONWAR
SON OF UMA RAJKONWAR
R/O ASSAM TINSUKIA BORGURI ANNIRUDHADEB NAGAR, P.O. BORGURI
SUB-POST OFFICE, P.S. TINSUKIA, DIST. TINSUKIA, PIN-786125

VERSUS

THE STATE OF ASSAM AND 6 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
HOME AND POLITICAL DEPARTMENT, DISPUR, GUWAHATI-781006, ASSAM

2:THE DEPUTY INSPECTOR GENERAL OF POLICE (ADMIN)

ASSAM
ULUBARI
GUWAHATI-781007
ASSAM

3:THE SUPERINTENDEN OF POLICE

TINSUKIA
ASSAM
PIN-786125

4:STATE LEVEL POLICE RECRUITMENT BOARD

ASSAM
REP. BY ITS CHAIRMAN
ASSAM POLICE HOUSING CORPORATION LIMITED
REHABARI
GUWAHATI-781008
ASSAM

5:THE CHAIRMAN

STATE LEVEL POLICE RECRUITMENT BOARD

ASSAM POLICE HOUSING CORPORATION LIMITED

REHABARI
GUWAHATI-781008
ASSAM

6:DIBRUGARH UNIVERSITY

REP. BY ITS VICE CHANCELLOR

DIBRUGARH
ASSAM
PIN-786004

7:THE REGISTRAR

DIBRUGARH UNIVERSITY

DIBRUGARH
ASSAM
PIN-78600

Advocate for the Petitioner : MR. M K CHOUDHURY

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

19.12.2023

1. Heard Mr. B. M. Deka, learned counsel for the petitioner. Also heard Mr. D. Borah, learned Standing Counsel for the respondent Nos. 1, 2, 3, 4 and 5 and Mr. R. Mazumdar, learned Standing Counsel for the Dibrugarh University representing the respondent Nos. 6 and 7.
2. The petitioner participated in the selection process for appointment to the post

of Sub-Inspector (Un-Armed Branch) in Assam Police pursuant to an advertisement dated 11.04.2018.

3. The petitioner who is a OBC category candidate, scored 45.50 marks in the written examination out of 100 marks, 36.59 marks out of 80 marks in the Physical Efficiency Test and Extra Curricular Activities, scored 20 marks out 20 marks in the Computer Based Test (Practical). Thus, the petitioner scored 102.09 marks.
4. The cut off mark for the OBC category candidates in the recruitment process to which the petitioner belongs was fixed at 102.21 marks.
5. According to the petitioner, the answer to the Question No. 86 given by the petitioner has wrongly been evaluated and thus, not only deprived the petitioner from a due mark but also 0.5 mark has been deducted from his total scored marks for giving a wrong answer.
6. The relevant question is quoted herein below:-

“Assam shares inter-State boundary on eastern side with

(a). Manipur (b) Arunachal Pradesh
(c). Maghalaya (d) Tripura”.

7. In the answer key, the answer to the same was specified to be option (a) i.e. Manipur. According to the question setter and the answer provided in answer key is the correct answer i.e. Manipur, however, the petitioner has ticked answer No. (b) as the correct answer i.e. Arunachal Pradesh.
8. According to the petitioner, the Map of Assam will clearly reveal that Arunachal Pradesh is situated in the eastern part of Assam inasmuch as the in Assam Year Book, 2018 published by a reputed publishing house, which is recognized as one of the widely popular and accepted books, Arunachal Pradesh is shown to be situated in the eastern part of Assam. According to the petitioner, the Assam

State Web Portal own by the Government of Assam, also declares that the State of Assam is bordered by Bhutan and State of Arunachal Pradesh to the North; Nagaland, Arunachal Pradesh and Manipur to the east; Meghalaya, Tripura, Mizoram and Bangladesh to the south; and West Bengal to the west. Therefore, according to the petitioner, there is a glaring illegality in treating the answer of the petitioner to be incorrect and thus in the process, the petitioner has been deprived of a valuable right of a public employment. Accordingly, it is submitted that a direction should be issued to accept the answer of the petitioner to the Question No. 86 to be correct and recast the mark in which the petitioner will be entitled for appointment inasmuch as he will score the required cut off mark.

9. Per contra, Mr. R. Mazumdar, learned Standing Counsel representing the respondent Nos. 6 and 7 submits that the questions were set by the Dibrugarh University and the question setter has treated the answer "A" (Manipur) to be the correct answer for the reason that the majority of the eastern boundary of Assam is covered by Manipur and Nagaland and a smaller portion of Arunachal Pradesh is in the eastern side. Nagaland was not an option in the answer and therefore, the question setter has treated Manipur to be the correct answer inasmuch as majority of the eastern boundary is covered by Manipur. Such decision of an Expert Authority should not be interfered with by this Court in exercise of its power of judicial review inasmuch as such defect if any cannot be said to be a glaring defect argues Mr. Mazumdar, learned counsel.
10. It is further contended by Mr. Mazumdar, learned Standing Counsel that if at this stage, a direction is issued to correct the answer or to delete the answer, the entire selection list is to be recasted and in that event, many of the already selected person may go out the selection and those selected and appointed candidates who might get selected are not parties before this Court and therefore, such exercise may not be undertaken by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India in this writ petition.

11. This Court has given anxious consideration to the submissions advanced by the learned counsel for the parties. Also perused the materials available on record.
12. There is no dispute that the State of Assam is bordered by Arunachal Pradesh in North; in the East by Nagaland, Arunachal Pradesh and Manipur. Annexure-12 (Map of Assam) annexed to this writ petition, it clearly shown that the majority portion of the State of Arunachal Pradesh is situated in the Northern boundary of Assam and a small portion is covered in the Eastern side. The major portion of the Eastern boundary, as discernible from the Annexure-12, is covered by the State of Nagaland and the State of Manipur. The options were given as (a). Manipur (b) Arunachal Pradesh (c). Meghalaya and (d) Tripura to the question No. 86. Meghalaya and Tripura are not at all in the Eastern boundary of Assam, whereas, Manipur is in the Eastern boundary. Therefore, decision of the question setter to treat the Manipur to be the correct answer out of the option of Arunachal Pradesh, Tripura and Meghalaya cannot be said to be a glaring defect and this Court in exercise of its power of judicial review cannot replace such decision, moreso, when the same relates to a decision relating to question and answer in examination.
13. The answer keys has been finalized by University and such decision of the University should not be interfered in exercise of the power of judicial review, when it cannot be said that the answer is absolutely incorrect or that it is a glaring mistake apparent on the face of it. There may be some confusion/dispute regarding actual Eastern boundary but for the purpose of answering the question. However, when there is an option of Manipur and Arunachal Pradesh and major portion in the Eastern boundary is covered by Manipur and Nagaland and Nagaland is not an option, such determination of expert cannot be a subject matter of judicial review in the given facts of the present case inasmuch as determination revolves around correctness of an answer to a question in a competitive examination, not to any dispute regarding actual boundary.

14. This Court also finds force in the argument of Mr. Mazumdar, learned Standing Counsel representing the University that in the event the contention of the writ petitioner is allowed, the entire select list is to be recasted and on such recasting, they may be deprived from their appointment. Such course of action shall also not be permissible in absence of those selected candidates more particularly, those selected candidates belonging to the OBC category candidates. On this count also, the writ petition fails.
15. Accordingly, this Court finds no merit in this writ petition, the same stands dismissed. Parties to bear their own cost.

JUDGE

Comparing Assistant