

GAHC010082242022



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

Case No. : WA/110/2023

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, SOCIAL WELFARE DEPARTMENT, DISPUR, GUWAHATI- 6.

2: THE DIRECTOR OF SOCIAL WELFARE
ASSAM UZAN BAZAR GUWAHATI- 1.

3: THE PROGRAMME OFFICE
DIVISIONAL ICDS CELL
CACHAR SILCHAR
P.O. SILCHAR
DIST. CACHAR ASSAM.

4: THE DISTRICT SOCIAL WELFARE OFFICER
CACHAR SILCHAR ASSAM

VERSUS

AMIT KUMAR DEB AND ANR.
S/O. LT. ANIL CHANDRA DEB, C/O. BIBEK BHATTACHARJEE,
AMBIKAPATTY, SILCHAR, P.O. AND P.S. SILCHAR, DIST. CACHAR, ASSAM.

2:DILWAR HUSSAIN LASKAR
S/O. ABDUL SALAM LASKAR
VILL.- BORJATRAPUR
P.O.- BORKHOLA DIST.- CACHAR ASSAM

For the appellants : Mr. D. Nath,
Senior Govt. Advocate, Assam

For the respondents : Mr. P.K. Roychoudhury,
Mr. H.I. Choudhury, Advocates.

– B E F O R E –

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

02-06-2023

In pursuance of this Court's order dated 08.05.2023, Mr. D. Nath, learned Senior Government Advocate has placed on record the application forms of the writ petitioners/respondents herein *qua* whom a direction has been given by the learned Single Bench that their results of viva-voce shall be declared and consequential action be taken.

Mr. Nath pointed out that in terms of the Advertisement dated 24.02.2014 the applications were to be filed to the District Social Welfare Officer, Cachar whereas the writ petitioners/respondents directly filed the applications to the Directorate of Women and Child Development, Assam. As many as 347 applications were received in the office of the District Social Welfare Officer, Cachar, which were somehow not forwarded to the Directorate of Women and Child Development, Assam and as a consequence, those candidates were illegally deprived of the opportunity to participate in the selection process. He urged that apparently there had been a fraud in the manner in which the applications of writ petitioners/respondents were selectively processed. He further pointed out that the Director concerned retired in the same year and thus, no action could be taken against him.

Mr. PK Roychoudhury, learned counsel representing the writ petitioners/respondents candidly concedes that the record indicates that large number of candidates had undoubtedly filed their applications to the District Social Welfare Officer in terms of the Advertisement dated 24.02.2014 whereas

his clients writ petitioners/ respondents filed their applications directly to the Directorate of Women and Child Development, Assam and thus, the selection process was not fairly undertaken. However, his prayer is that as the two posts of LDA-cum-Typist in the Cachar District are still lying vacant, as and when the selection process is held for these posts, the respondents herein may be allowed to appear in the selection process by granting age relaxation if they have become over-aged in the meantime.

To this submission of learned counsel for the respondents/writ petitioners, Mr. Nath does not have any objection.

Thus, the impugned order dated 26.09.2019 passed by the learned Single Judge in WP(C) 1385/2018 and other connected writ petitions is reversed. The direction given by the learned Single Judge to declare the result of the viva-voce examination of the respondents is hereby set aside.

However, in the interest of justice and to ensure that the respondents are not deprived of the opportunity to participate in the selection process owing to becoming over-aged during this long pending litigation, it is hereby directed that as and when the recruitment process for filling up the two posts of LDA-cum-Typist in the office of the District Social Welfare Officer, Cachar is initiated, the writ petitioners/respondents may be granted age relaxation.

The writ appeal is allowed in these terms.

No order as to cost.

JUDGE

CHIEF JUSTICE

Comparing Assistant