



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

WRIT APPEAL No.145 of 2023

Sri Jiten Saikia,
Son of Sri Putul Saikia,
Resident of Village: Kshetrigaon, PO:
Chakalaghat, PS: Jajori, District:
Nagaon, Assam, PIN – 782142.

.....Appellant

-Versus-

1. The State of Assam, represented by the Commissioner & Secretary to the Government of Assam, Education (Secondary) Department, Dispur, Guwahati – 781006, District: Kamrup (M), Assam.

2. The Director of Secondary Education, Assam, Kahilipara, Guwahati – 781019, District: Kamrup (M), Assam.

3. The Inspector of Schools, Nagaon District Circle, PO: Nagaon, District: Nagaon, Assam, PIN – 782001.

4. The Head Master/Member-Secretary, Pub Nonoi Madhab Kandoli High School, Nagaon, PO: Nonoi, District: Nagaon, Assam, PIN – 782101.

5. The School Selection Committee, Pub Nonoi Madhab Kandoli High School, Nagaon, PO: Nonoi, District: Nagaon, Assam, PIN – 782101, represented by the President, School Management & Development Committee.

6. The Supervising Officer-cum-Principal,
In-charge, Kamala Nehru Girls Higher
Secondary School, Nonoi, PO: Nonoi,
District: Nagaon, Assam, PIN – 782101.

.....Respondents

- B E F O R E -
HON'BLE THE CHIEF JUSTICE
HON'BLE MRS. JUSTICE MITALI THAKURIA

For the Appellant : Mr. P.K. Goswami, Senior
Advocate, assisted by Ms. G. Borah,
Advocate.

For the Respondents : Mr. R. Mazumdar, Standing
Counsel, Education (Secondary)
Department.

Date of Judgment & Order : **10th May, 2023.**

JUDGMENT & ORDER

[Sandeep Mehta, C.J.]

The instant intra-Court writ appeal is preferred to challenge the order dated 17.03.2023 passed by the learned Single Judge in WP(C) No.3806/2017, whereby the prayer made by the appellant herein seeking to assail the order dated 30.12.2016 issued by the Inspector of Schools, Nagaon District Circle, cancelling the selection process for filling up the post of Junior Assistant/Lower Division Assistant at Pub Nonoi Madhab Kandoli High School, Nagaon, and seeking a further direction to the Inspector of Schools to bring the process of selection to its logical conclusion, was rejected.

2. The appellant/writ petitioner claimed in the writ petition that he applied for selection against the single post

of LDA advertised by a Notification dated 11.12.2015. The selection process was undertaken by the School Selection Committee in conformity with the Assam Secondary Education (Provincialisation) Service Rules, 2003. After the written test conducted on 21.01.2016, computer test, type writing test and oral interview were held on 30.01.2016 and the result was declared on the same day. The select list was prepared on 01.02.2016 placing the appellant/writ petitioner at the first position. The recommendation was forwarded to the Inspector of Schools, who, however, did not act upon the same.

3. Being aggrieved, the appellant/writ petitioner filed WP(C) No.4620/2016, which was disposed of by the learned Single Judge vide the order dated 20.12.2016 directing the Inspector of Schools to bring the selection process to its logical end by either granting approval to the select list or to assign reasons for non-approval thereof by a speaking order.

4. The Inspector of Schools, Nagaon District Circle passed a speaking order dated 30.12.2016 cancelling the selection process on the basis of public complaint and as doubt had been created in the mind of the candidates about the transparency in the selection process.

5. Mr. P.K. Goswami, learned senior counsel representing the appellant/writ petitioner, vehemently and fervently urged that the Education (Secondary) Department failed to produce the original records for perusal of this

Court for a period of 5(five) years for which the writ petition was pending. Thus, a grave doubt is created on the *bonafide* of the departmental authorities. He further urged that the conclusion drawn in the impugned speaking order dated 30.12.2016 regarding the answer scripts having been kept at the residence of the Headmaster is absolutely unfounded because the answer scripts were, as a matter of fact, kept in the school and the sealed envelope was opened in presence of 4(four) Committee Members, who did not find any anomaly so as to justify the cancelation of the selection process. It was further contended that none of the candidates, who participated in the selection process, made any complaint at an earlier point of time but woke up only after the result had been declared. Mr. Goswami thus, urged that the speaking order dated 30.12.2016 and cancellation of the selection process, thereby depriving the appellant/writ petitioner being a successful aspirant from the opportunity of appointment, is grossly illegal and arbitrary and thus, appropriate direction deserves to be issued by requiring the respondents to act upon the select list.

6. Per contra, Mr. R. Mazumdar, learned standing counsel, Education (Secondary) Department, vehemently and fervently opposed the submissions advanced by the appellant's counsel. He pointed out that the Selection Committee of the school in question headed by the Headmaster indulged in large scale irregularities, including acceptance of bribe, which came to the notice of the

authorities when a news was flashed in a TV news channel. He further urged that it is an admitted position that the Headmaster prevented the candidates not having the diploma in computer knowledge and type writing from appearing in the type test contrary to the terms and conditions of the recruitment advertisement. He thus, urged that the decision taken by the Inspector of Schools requiring the school to fill up the post through fresh advertisement does not warrant any interference.

7. We have given our thoughtful consideration to the submissions advanced at Bar and have gone through the material available on record.

8. A perusal of the speaking order dated 30.12.2016 would indicate that the Headmaster, illegally denied permission to various candidates not having the diploma in computer from participating in the type test. The recruitment advertisement only stipulated that the candidate should be having higher secondary pass qualification with diploma in type writing (Assamese and English) with computer knowledge. Thus, there was no condition in the advertisement that the candidates would be required to have diploma in computer knowledge as well. Since certain candidates were illegally denied opportunity of participation in the selection process and as the Headmaster, during the course of enquiry, admitted that one of the candidates offered him bribe, the selection

process in question lost sanctity and was rightly scrapped by the Inspector of Schools.

9. We are of the firm opinion that the order passed by the learned Single Judge in refusing to interfere with the decision/speaking order of the Inspector of Schools, Nagaon District Circle dated 30.12.2016 is the only logical and just decision warranted in the prevailing factual scenario and hence the same does not warrant any interference whatsoever.

10. Resultantly, the writ appeal fails and is dismissed as being devoid of merit.

No order as to cost.

JUDGE

CHIEF JUSTICE

Comparing Assistant