

GAHC010098002023



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

Case No. : WP(C)/2497/2023

MANAKHI HAZARIKA AND 7 ORS.
D/O- MRIDUL HAZARIKA,
R/O- DHENU CHOSA,
P.O, P.S AND DIST- JORHAT, ASSAM

2: BIREN RABHA
S/O- RAMESH RABHA

R/O- KHILAMARIA

P.O- KAHIBARI

P.S- RANGJULI

DIST- GOALPARA

PIN-783130

3: LAKHESWAR GOUR
S/O- MAHU GOUR

R/O- PUB KAWOIMARI

P.O- JUNORMUR

P.S- KAMPUR

DIST- NAGAON

PIN-782427

4: KAUSTOVE RAJKHOWA
S/O- RANJIT RAJKHOWA

R/O- GOHPUR

P.O- HAWAJAN

P.S- GOHPUR

DIST- BISWANATH

5: KARUNA BORAH
S/O- DAMBARU BORA

R/O- KHALIHAMARI

P.O AND P.S- DHOLPURI

DIST- LAKHIMPUR

PIN-784164

6: SANJIB BORA
S/O- NILAMANI BORA

R/O- GOSORGURI

P.O- UDARI

P.S AND DIST- MORIGAON

PIN-782105

7: PRADIP BORAH
S/O- BIJOY BORA

R/O- KHALIHAMARI

P.O- DHOLPUR

P.S- BIHPURIA

DIST- LAKHIMPUR
PIN-784164

8: RAKIBUR RAHMAN
S/O- LATE AMINUL HAQUE

R/O- SAMDHORA

P.O- DAGAON

P.S- JURIA

DIST- NAGAON

PIN-78212

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REP. BY THE CHIEF SECRETARY TO THE GOVERNMENT OF ASSAM,
DISPUR, GUWAHATI-06

2:THE STATE LEVEL RECRUITMENT COMMISSION
FOR CLASS IV POST

REP BY ITS SECY.
ASSAM ADMINISTRATIVE STAFF COLLEGE
JAWAHAR NAGAR
KHANAPARA
GUWAHATI-22

3:THE SECRETARY
STATE LEVEL RECRUITMENT COMMISSION FOR CLASS IV POST

ASSAM ADMINISTRATIVE STAFF COLLEGE
JAWAHAR NAGAR
KHANAPARA
GUWAHATI-2

Advocate for the Petitioner : MR. D BARUAH

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

24.05.2023

Heard Mr. D. Baruah, learned counsel for the petitioners. Also heard Mr. D.

Saikia, learned Advocate General, Assam assisted by Mr. B. Choudhury, learned

Standing Counsel for State Level Recruitment Commission appearing for the respondents.

The writ petitioners herein, numbering 8 in total, had participated in the recruitment drive initiated by the State of Assam through the State Level Recruitment Commission for filling up a large number of vacancies in the Class-III and Class-IV categories. On conclusion of the recruitment process, the candidates were asked to check their results through Online portal by furnishing their Roll Numbers. It is the admitted case of the petitioners that on verifying their results none of the petitioners were found to have qualified in the recruitment process. In other words, the petitioners herein are unsuccessful candidates. Notwithstanding the same, the petitioners have approached this court by filing the present writ petition assailing the selection process primarily on two grounds. Firstly, ineligible candidates have been admitted into the recruitment process and are now going to be appointed in Grade-IV posts. Secondly, by not publishing the overall merit list the respondents have held back relevant information from the participants.

It is the case of the petitioners that candidate who were graduates have been selected for appointment in various departments against Grade-IV posts.

By relying upon a decision of the Hon'ble Supreme Court rendered in the case of **State of Bihar vs. Kaushal Kishore Singh and others** reported in **(1998) 9 SCC**

104 Mr. Baruah, learned counsel for the petitioners has argued that it is a mandatory requirement for the department to publish merit list. Therefore, by not publishing the merit list, the respondents have conducted the selection process in completely non-transparent manner.

The respondents have filed affidavit controverting the stand of the petitioners.

According to the respondents, the selection process was carried out as per the provisions of the Assam Direct Recruitment for Class III and Class IV Analogous Posts Rules, 2022 which does not mandate publishing of merit list save and except for the limited purpose of determining the Grade Pay of the recruited candidates and also for consideration of reservation for Scheduled Casts, Scheduled Tribes and Other/More Other Backward Class candidates. As such, there was no obligation for the State to publish a general merit list.

Mr. Saikia, learned Advocate General, Assam has also argued that if any candidate, who is not qualified is sought to be appointed in any department, then the respondents would not permit any such appointment.

In so far as the allegation of admitting ineligible candidates is concerned, I find from the pleadings that no particulars of any such candidate has either been furnished nor has any such person been impleaded in this writ petition.

Therefore, the aforesaid allegation on the face of it appears to be vague and hence, does not merit consideration by this Court.

In so far as the second allegation is concerned, here also, I find that the process adopted by the respondents prima-facie appears to be in consonance with the requirement of the Rules of 2022. The said Rules are not under challenge. If that be so, the writ petition cannot also be entertained on the second ground urged by the petitioners. For the same reason, in view of the specific provisions contained in the Rules of 2022, the decision rendered in the case of **Kaushal Kishore Singh and others** (supra) relied upon by the petitioners' counsel would also have no application in the facts and circumstances of the present case. Situated thus, this Court is of the opinion that there is no good ground for this Court to entertain this writ petition. However, the petitioners will be at liberty to

seek relevant information about the anomaly, if any, in the selection process by taking recourse to the provisions of the Right to Information Act, 2005. On receipt of such information, if any ground emerges for assailing the selection process, it will be open for them to approach this Court once again, by filing fresh writ petition.

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

JUDGE

Comparing Assistant