

GAHC010102382023



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

Case No. : WP(C)/2719/2023

GOBINDA DEKA
S/O- LT. PRABHAT DEKA,
R/O- VILL.- BEZPARA, P.O.- MUDAIBORI, P.S. MANGALDAI, DIST.-
DARRANG, ASSAM, PIN- 784146.

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE PRINCIPAL SECRETARY,
DEPTT. OF WOMEN AND CHILD DEVELOPMENT,
DISPUR, GUWAHATI-6.

2:THE DEPUTY SECRETARY TO THE GOVT. OF ASSAM
DEPTT. OF WOMEN AND CHILD DEVELOPMENT
DISPUR
GHY-6.

3:THE DIRECTOR
WOMEN AND CHILD DEVELOPMENT
ASSAM
UZANBAZAR
GUWAHATI-1.

4:THE DISTRICT SOCIAL WELFARE OFFICER
DARRANG
MANGALDOI CUM MEMBER SECRETARY

DISTRICT LEVEL SELECTION COMMITTEE
PIN- 784125

Advocate for the Petitioner : MR. R M CHOUDHURY

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 16-08-2023

Heard Mr. RM Choudhury, learned counsel for the petitioner as well as Ms. M. Bhattacharjee, learned Addl. Senior Govt. Advocate for the respondents.

2. By filing this writ petition under Article 226 of the Constitution of India, the grievance of the petitioner is that after the closure of recruitment process which was initiated vide advertisement dated 03.01.2005 for filling up the Grade-IV post under the Directorate of District Social Welfare Officer, Mangaldoi, the petitioner had approached this Court by filing the writ petition under Article 226 of the Constitution of India which was registered as WP(C) 3636/2022 and thereafter, as the order of the Court directing the respondent authorities to take a decision within a reasonable period was not complied with, the petitioner had filed a contempt petition, being Cont. Cas (C) 623/2022. The said contempt petition was closed by order dated 11.11.2022, with a direction to the petitioner to approach the authorities again.

3. Accordingly the petitioner had submitted a fresh representation through registered post with A/D which was posted on 30.01.2023 and thereupon the respondent no.3 i.e. the Directorate of Women and Child Development, Assam by a speaking order dated 28.03.2023, rejected the

representation of the petitioner on the ground that the selection was completed in the year 2005 and the record could not be traced out in the Department and moreover, as the petitioner did not agitate his claim within the reasonable time, the authorities had expressed their inability to take a decision of the recruitment process which was completed 17 years back.

4. The learned counsel for the petitioner has submitted that the petitioner had applied for Grade-IV post and was not aware of the completion of the recruitment process. It is submitted that the respondent authorities had a duty to inform the Court as well as the petitioner about the completion of the recruitment process which was not done and therefore, this writ petition was filed.

5. The learned Addl. Senior Govt. Advocate has opposed the prayer made in this writ petition.

6. It is noted that as per order dated 03.06.2022 passed in WP(C) 3636/2022, this Court had taken note of the delay and laches on part of the petitioner to file WP(C) 3636/2022, yet an opportunity was granted to the petitioner to approach the authorities with his grievance.

7. In the contempt petition, being Cont. Cas (C) 623/2022 filed by the petitioner, the observation of this Court made in para-3 and 4 of the said order is quoted below:

3. A reading of the aforesaid portion makes it discernible that the petition of the petitioner was held to be not maintainable but the petitioner given a liberty to file a representation and if filed, the authorities may pass order. We do not find that there is any order which had been willfully deliberately violated.

4. Accordingly, contempt petition stands closed. However, liberty is a great approach again with appropriate application, if so advised.

8. The petitioner had approached the Court again by filing WP(C) 257/2023 and this Court by order dated 20.01.2023 once again directed the petitioner to file a fresh representation before the Director of Social Welfare, Assam and allowing 3(three) months time to the said authority to dispose of the said representation. It was observed in the said order that the Directorate of Social Welfare, Assam issued a notification dated 11.11.2005 declaring the results for Grade-IV employees. The Court also takes notice that the recruitment process was initiated vide advertisement containing reference to letter of the respondent no.3 dated 03.01.2005.

9. As per the contents of the speaking order dated 28.03.2023, the petitioner had appeared for interview on 10.02.2005 and it is recorded that the petitioner claimed that the District Social Welfare Officer, Mangaldoi had appointed persons bearing Roll no.21, 22 and 5 vide notification dated 11.11.2005. In this regard, the Court is of the opinion that after appointment was made, the recruitment process comes to an end. Therefore, the Court is inclined to hold that the challenge made to the recruitment process, which had concluded on 11.11.2005 cannot be entertained after 17 years 9 months on the ground of delay and laches. This is an appropriate case to invoke the provision

of maxim of *vigilantibus non dormientibus jura subveniunt* meaning thereby that the law will assist those who were vigilant with their rights and not those who sleep thereupon.

10. Accordingly the Court does not find any merit in this writ petition, which is vitiated by inordinate delay and laches and therefore, this writ petition is dismissed at the motion stage without issuance of notice on the respondents.

JUDGE

Comparing Assistant