

GAHC010124292023



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

Case No. : I.A.(Civil)/1655/2023

DR. HELMINA KHATUN AND 2 ORS.
W/O. DR. SAROWARA KAYNATH MOLLAH, VILL. SUTARPARA, P.O.
SUTARPARA, P.S. MATIA, DIST. GOALPARA, ASSAM-783123.

2: DR. LUKMAN HEKIM
S/O. LT. MAFIZ UDDIN
R/O. VILL. BHAIARPAM
P.O. BHAIARPAM
P.S. BAGHBOR
DIST. BARPETA
ASSAM-781308

3: DR. SANJIT DEBNATH
S/O. LT. DHIRESH DEBNATH
VILL. SHASTRINAGAR
P.O. HUZRANGAGORA
DIST. NAGAON
ASSAM-78200

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM HEALTH AND FAMILY WELFARE DEPARTMENT, DISPUR,
GUWAHATI-06

2: THE STATE HEALTH SOCIETY
REPRESENTED BY ITS CHAIR PERSON
CHIEF SECRETARY
ASSAM
DISPUR
GUWAHATI-06

3: THE MISSION DIRECTOR

NATIONAL RURAL HEALTH MISSION
SAIKIA COMMERCIAL COMPLEX
G.S. ROAD
CHRISTIANBASTI
GUWAHATI-05

4:THE UNION OF INDIA
THROUGH THE SECRETARY
MINISTRY OF HEALTH AND FAMILY WELFARE
NATIONAL HEALTH MISSION
NIRMAN BHAWAN
NEW DELHI-110001

5:THE EXECUTIVE DIRECTOR
NATIONAL HEALTH MISSION ASSAM
SAIKIA COMMERCIAL COMPLEX
G.S. ROAD
CHRISTIAN BASTI
GUWAHATI-78100

Advocate for the Petitioner : MR. M A SHEIKH

Advocate for the Respondent : SC, HEALTH AND F W

Linked Case : WP(C)/314/2019

HELMINA KHATUN AND 7 ORS.
W/O. DR. SAROWARA KAYNATH MOLLAH
VILL. SUTARPARA
P.O. SUTARPARA
P.S. MATIA
DIST. GOALPARA
ASSAM-783125.

2: LUKMAN HEKIM

S/O. LT. MAFIZ UDDIN
R/O. VILL. BHAIRARPAM
P.O. BHAIRARPAM
P.S. BAGHBOR
DIST. BARPETA
ASSAM-781308.

3: SANJIT DEBNATH

S/O. LT. DHIRESH DEBNATH
VILL. SHASTRINAGAR
P.O. HUZRANGAGORA
DIST. NAGAON
ASSAM-782002.
VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM HEALTH AND
FAMILY WELFARE DEPTT.
DISPUR
GUWAHATI-06.

2:THE STATE HEALTH SOCIETY

REP. BY ITS CHAIR PERSON
CHIEF SECRETARY
ASSAM
DISPUR
GUWAHATI-06.

3:THE MISSION DIRECTOR

NATIONAL RURAL HEALTH MISSION
SAIKIA COMMERCIAL COMPLEX
G.S. ROAD
CHRISTIANBASTI
GUWAHATI-05.

4:THE UNION OF INDIA

THROUGH THE SECRETARY
MINISTRY OF HEALTH AND FAMILY WELFARE
NATIONAL HEALTH MISSION
NIRMAN BHAWAN
NEW DELHI-110001.

5:THE EXECUTIVE DIRECTOR

NATIONAL HEALTH MISSION ASSAM
SAIKIA COMMERCIAL COMPLEX
G.S. ROAD
CHRISTIAN BASTI
GUWAHATI-781005.

Advocate for : MR. M A SHEIKH

Advocate for : SC

HEALTH AND F W appearing for THE STATE OF ASSAM AND 4 ORS.

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

Date : 20/09/2023

Heard Mr. M. A. Sheikh, learned counsel for the petitioners. Also heard Ms. A. Bora, learned standing counsel, Health Department.

2. This Interlocutory Application has been filed seeking amendment of the petition filed which is numbered as W.P.(C)/314/2019. By the said writ petition the following amendments have been sought for:-

“a) *At page 4 after respondent No.5 following Respondents-*

- 6. Dr. Dhrubajyoti Talukdar, S/O. Late Rabin Talukdar,*
- 7. Dr. Anjumoni Deka, S/O. Sri Jogesh Deka,*
- 8. Dr. Dhrubajyoti Das, S/O. Khagen Ch. Das,*
- 9. Dr. Bapi Chakraborty, S/O. Pravat Chakraborty.*
- 10. Dr. Mofida Khatun, D/O. Late Sobed Ali Sk.*
- 11. Dr. Biswajit Mog, S/O. Putu Mog,*
- 12. Dr. Ikbali Hashmi, S/O. Rahman Ali,*
- 13. Dr. Fatima Sabnam, D/O. Siraj Uddin,*
- 14. Dr. Paran Pegu, S/O. Bongsarat Pegu,*
- 15. Dr. Priyanka Buragohain, D/O. Pranab Buragohain,*
- 16. Dr. Lila Dhar Deori, S/O. Ina Ram Deori,*
- 17. Dr. Indrani Borah, D/O. Pulin Chandra Borah,*
- 18. Dr. Bijeta Singh, S/O. Balbhandra Nath Singh,*
- 19. Dr. John Lalruatsanga Hrangkhoh, S/O. Rengsumrita Hrangkhoh.*
- 20. Dr. Samsina Jesmin Laskar, D/O. Nazrul Islam Laskar.*
- 21. Dr. Karabi Kumari, D/O. Arun Ch. Kumar.*
- 22. Dr. Rekha Rani Kakati, D/O. Ramesh Ch. Kakati,*
- 23. Dr. Benu Dhar Dutta, S/O. Late Gangadhar Dutta,*

24. Dr. Pradip Kumar Sarma, S/O. Late Mahendra Nath Sarma,
25. Dr. Jatin Chandra Das, S/O. Late Ghana Ram Das,
26. Dr. Sainen Goswami, S/O. Lt. Atul Chandra Goswami,
27. Dr. Altab Hussien, S/O. Asab Ali,
28. Dr. Biku Das, S/O. Gakul Das,
29. Dr. Bhaba Kanta, S/O. Lt. Hari Kanta Sarma,
30. Dr. Tripti Das, D/O. Bimal Kumar Das,
31. Dr. Mahendra Kakati, S/O. Late Gunaram Kakati,
32. Dr. Dipali Nath, D/O. Manindra Kumar Nath,
33. Dr. Tapabrata Baruah, S/O. Dambarudhar Baruah,
34. Dr. Mitali Boro, D/O. Anil Boro,
35. Dr. Subhash Chandra Sarma, S/O. Late Parbananda Sarma,
36. Dr. (Mrs.) Monalisha Mill, D/O. Late Mahanta Kumar Mili.
37. Dr. Mitali Das, D/O. Birinchi Kr. Das,
38. Dr. Dolly Kumari, D/O. Dilip Kumar Sah,
39. Dr. Richa Sharma, D/O Dr. Pronoy Kumar Sharma,
40. Dr. Jayantajit Mohan, S/O. Dilip Kumar Mohan,
41. Dr. Sundhar Konwar, S/O. Late Jogeswar Konwar,
42. Dr. Thanuram Hazarika, S/O. Late Bongshidhar Hazarika.

may be added-Respondent No. 6 to 42 are C/O. Mission Director, National Health Mission, Assam Office of the Mission Director, National Health Mission, Assam, Saikia Commercial Complex, G.S. Road, Christian basti, Guwahati 781005."

Besides the said averments as extracted above the prayer made in the writ petition is also sought to be amended as under:-

"c) The prayer of the writ Petition at page 11 may be replaced by following prayer —

"Under the above circumstances it is therefore prayed that Your Lordships would be pleased to admit this petition, call for the records, issue a rule calling upon the Respondents to show cause as to why a writ in the nature of mandamus shall not be

issued to set aside the impugned advertisement dated 11.1.2019 (Annexure No.5) or otherwise to show Cause as to why the application of the Petitioners shall not be accepted for the post of Medical Officer (Ayurvedic) advertise vide said advertisement and to show cause as to why the selection and appointment of Respondent No. 6 to 42 as Medical Officer (Ayur) RB SK under the NHM issued vide impugned Order dated 4.03.2019 under No. NHM-310 13(11) / 5002018-HRD-NHM/3214 by the Respondent No. 3 (Annexure F of additional affidavit-in Reply) shall not be set aside and on perusal of records and reply to show cause if any and after hearing the parties would be pleased to make the rule absolute by setting aside the impugned advertisement dated 11.01.2019 (Annexure No. 5) or otherwise directing the Respondents to accept the application of the Petitioners for the post of Medical Officer (Ayurvedic) advertise vide said advertisement and by setting aside the selection and appointment of Respondent No. 6 to 42 as Medical Officer (Ayur) RBSK under the NHM issued vide impugned Order dated 4.03.2019 by the Respondent No.3. And or pass any other or pass any other order (Ss) as Your Lordships may deem fit and proper for the interest of justice.

Further it is prayed that pending disposal of this writ petition the Respondents may be directed to accept the applications of the Petitioners for the post of Medical officer (Ayurvedic) in pursuance of impugned advertisement dated 11.01.2019 (Annexure No. 5),

And for this act of kindness, the Petitioners as in duty bound shall ever pray."

3. Learned counsel appearing for the Health Department does not object to the prayers made.
4. Accordingly the amendment as prayed for is allowed. In terms of the above, this Interlocutory Application stands disposed of.
5. In terms of the order passed today the writ petition being W.P. (C)/314/2019 is permitted to be amended.
6. The writ petitioner will file a complete set of amended writ petition before

the Registry within 2 (two) weeks. Sufficient copies of the amended writ petition as filed will also be served upon the respondents.

7. Interlocutory Application accordingly stands allowed and disposed of.

JUDGE

Comparing Assistant