

GAHC010129482019



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

**Case No. : Review.Pet./110/2019**

PRABAL RAJKHOWA  
S/O- LATE DEBENDRA NATH RAJKHOWA, R/O- VILL.- GEDERBORI, P.O.  
JAMUGURI, P.S. JAJARI, DIST.- NAGAON.

VERSUS

THE STATE OF ASSAM AND 6 ORS.  
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF  
ASSAM, SOCIAL WELFARE DEPARTMENT, DISPUR, GUWAHATI-6.

2:THE DIRECTOR  
SOCIAL WELFARE  
UZANBAZAR  
GUWAHATI- 781001  
ASSAM.

3:THE DISTRICT SOCIAL WELFARE OFFICER  
MORIGAON  
DIST.- MORIGAON  
ASSAM.

4:SRI IMRAN HUSSEIN  
THE THEN CHAIRMAN OF THE SELECTION COMMITTEE  
R/O- F.A. AHMED NAGAR  
RODALI PATH. H/NO. 10  
P.O. PANJABARI  
GUWAHATI  
DIST.- KAMRUP(M)  
ASSAM  
PIN- 781037.

5:SRI SANJEEV KUMAR NATH

S/O- LATE RAMESH CH. NATH  
VILL.- BARBHAGIA  
P.O. CHARALBAHI  
MORIGAON  
DIST.- MORIGAON  
ASSAM.

6:SRI PRADIP KUMAR NATH  
C/O- CDPO (SOCIAL WELFARE OFFICER) KOPILI ICDS PROJECT  
BARAPUJIA  
DIST.- NAGAON  
ASSAM  
PIN- 782107.

7:SRI HASHIMUDDIN AHMED  
C/O- CDPO (SOCIAL WELFARE OFFICER) LAHORIGHAT ICDS PROJECT  
MORIGAON  
DIST.- MORIGAON  
ASSAM  
PIN- 782107

|                     |   |                                                                                                                                                                                                     |
|---------------------|---|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| For the petitioner  | : | Mr. M.K. Choudhury, Senior Advocate<br>Assisted by Mr. P. Bharadwaj, Advocate                                                                                                                       |
| For the respondents | : | Ms. M. Bhattacharjee,<br>Addl. Senior Govt. Advocate, Assam<br>For respondent Nos.1, 2 and 3<br>Mr. S.K. Das,<br>Advocate for respondent No.5<br>Mr. H. Ali,<br>Advocate for respondent Nos.6 and 7 |

– B E F O R E –

**HON'BLE THE CHIEF JUSTICE****HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY****18-07-2023***S. Mehta, C.J.*

The has approached this Court through this review application seeking review of the judgment and order dated 25.05.2017 passed by the learned Division Bench of this Court in WA No.97/2015.

The facts in nutshell are that the respondent No.5 herein filed WP(C) No.2671/2013 arraying the present review petitioner, the State of Assam and few others as party respondents with prayers to quash the selection process to the post of Statistical Assistant held in pursuance of a general notice issued by the Director of Social Welfare, Assam. The case of the writ petitioner was that though two vacancies were notified for Morigaon district, the authorities appointed the first three candidates, including the appellant/review petitioner. Without any basis the writ petitioner claimed to have come across various anomalies and illegalities in the selection process whereupon he initially approached the authorities by filing representation and thereafter, he filed the captioned writ petition challenging the selection of the respondent Nos.4, 5 and 6. The review petitioner was the respondent No.4 in the said writ petition. The learned Single Bench directed the Standing Counsel, Social Welfare Department to produce the original record relating to the selection in question and accordingly, the same was produced and was perused by the Court. Along with the original record, certain reports of Forensic Science Laboratory (FSL) were also attached which clearly indicated enhancement of marks by individual members of the selection committee by use of whitener. It was also found that the review petitioner was not even a candidate sponsored by Morigaon Employment Exchange. Moreover, he was not appointed against the two notified vacancies and only the respondent Nos.5 and 6 in the writ petition were appointed against those two notified vacancies.

Thus, the learned Single Judge quashed the entire selection process which was found to be tainted by fraud and manipulation. Appointment of the review petitioner (respondent No.4 in the writ petition) was not made against the regular notified vacancies and hence, was quashed. After quashing the selection process, the respondent authorities were directed to hold fresh selection for the two notified vacancies as well as other vacancies in the post of Statistical Assistant as may be available in the Morigaon district. The order dated 19.02.2015 passed by the learned Single Judge was assailed by the review petitioner by filing an appeal being WA No.97/2015 which was dismissed vide judgment and order dated 25.05.2017. The review petitioner approached the Hon'ble Supreme Court by way of Special Leave to Appeal (C) No.33258/2017 which was dismissed by Hon'ble the Supreme Court vide order dated 08.12.2017.

Claiming to have laid hands on certain documents under the RTI Act, which, as per review petitioner, would completely change the scenario so far as the allegation of manipulation in the selection process is concerned, he has approached this Court through this application seeking review of the judgment and order dated 25.05.2017 passed by the Division Bench of this Court in the writ appeal.

We have heard learned counsel representing the parties and have gone through the material available on record.

Mr. M.K. Choudhury, learned senior counsel representing the review applicant vehemently and fervently contended that as a matter of fact, the original record was not placed for consideration before the learned Single Bench as well as the Division Bench and hence, the order quashing the selection process and thereby putting the review petitioner out of job was passed in ignorance of the true factual position. He further contends that the copies of the original record have been subsequently provided to the appellant in response to his query under the RTI Act and a bare perusal of the records, which have been filed with this review application, would conclusively establish that the allegation of illegalities in the selection process were

without any basis.

We have considered the submissions advanced by Mr. M.K. Choudhury, learned senior counsel representing the review petitioner and have gone through the material placed on record.

First and foremost, we would like to observe that the selection and appointment of the review petitioner on the face of it was illegal because only two posts were notified whereas appointment of the review petitioner, who stood third in merit, was made against a non-existent vacancy. That apart, the judgment and order dated 25.05.2017 which is sought to be reviewed, has already been affirmed by Hon'ble the Supreme Court with the dismissal of the Special Leave to Appeal (C) No.33258/2017 vide order dated 08.12.2017. A perusal of the order of the learned Single Judge dated 19.02.2015 further reveals that the entire original records along with the FSL report were presented for the Court's perusal and the same conclusively established the fact of manipulation in preparing the result of the selection process.

Thus, we are of the firm view that the order under review which has attained finality with the dismissal of the Special Leave to Appeal (C) No.33258/2017 as mentioned above, does not require any interference in this review application, which is dismissed as being devoid of merit.

No order as to cost.

**JUDGE**

**CHIEF JUSTICE**

**Comparing Assistant**