

GAHC010130472021



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

Case No. : WP(C)/4323/2021

DHRUBA JYOTI GAYAN
S/OLATE RAMESWAR GAYAN
R/O MEKHALI GAON
P.O. BONGAON
DIST. JORHAT, ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM-CUM-
CHAIRMAN, STATE LEVEL SELECTION COMMITTEE (SLC) FOR
APPOINTMENT ON COMPASSIONATE GROUND, DIPSUR, GUWAHATI-
781006

2:THE STATE LEVEL COMMITTEE (SLC)

REP. BY ITS MEMBER SECRETARY TO THE GOVT. OF ASSAM

EDUCATION (ELEMENTARY) DEPARTMENT
DISPUR
GUWAHATI-781006

3:THE DISTRICT LEVEL COMMITTEE (DLC)
REP. BY ITS MEMBER SECRETARY-CU-DEPUTY COMMISSIONER
JORHAT
ASSAM
PIN-785001

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER (DEEO)

JORHAT
JORHAT

ASSAM
PIN-78500

Advocate for the Petitioner : MR. S U AHMED

Advocate for the Respondent : SC, ELEM. EDU

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

25.05.2023

Heard Shri SU Ahmed, learned counsel for the petitioner. Also heard Shri D Nath, learned Senior Government Advocate, Assam as well as Shri G Pegu, learned Standing Counsel, Education (Elem.) Department, Assam.

2. Shri Nath, learned Senior Government Advocate has submitted that pursuant to the order dated 08.05.2023, an affidavit has been filed by the Superintendent of Police, CID on 17.05.2023. Such affidavit was directed to be filed in view of the submissions made by Shri Nath, learned State Counsel which was recorded in the order dated 08.05.2023 that the documents annexed to the writ petition were not tallying with the official documents.

3. The petitioner is aggrieved by the rejection of such claim. However, from the affidavit filed by the Superintendent of Police, CID dated 17.05.2023, it reveals that the application was rejected, as there was manipulation. The petitioner has based his claim on a so-called recommendation by the District Level Committee (DLC) in which, his date of application has been shown to be 22.12.2004 with a remark of recommendation of the post of LP Teacher for the year 2015-16. The said recommendation is extracted hereinbelow:

“He is recommended for the post of LP for the year 2015-16.”

4. Though the petitioner is a male candidate, in the recommendation, the reference is made as “she”.

5. From the affidavit filed by the Superintendent of Police, CID, dated 17.05.2023, it, however, reveals that there was no such minute and recommendation in favour of the petitioner. On the other hand, the official documents containing the consideration of the case of the petitioner by the DLC would show that the application was not made on 22.12.2004 but on 22.04.2015 and the recommendation was to the following effect:

“The Committee observed that the applicant was minor at the time of the death of Govt. Employee. Hence he applied only after attaining of required age/Qualification. The case is forwarded to the Government for consideration and recommended for the year 2015-16 vacancy.”

6. The aforesaid fact revealed in the affidavit-in-opposition along with the connected documents is, however, admitted by Shri Ahmed, learned counsel for the petitioner and has also filed an affidavit containing such admission. Shri Ahmed, learned counsel, accordingly prays for a liberty to withdraw this writ petition.

7. Though in ordinary circumstances, withdrawal of a writ petition is not refused, in the instant case, it appears that fraud was taken recourse to by the petitioner in a Court of equity which amounts to gross abuse of the process.

8. Under these facts and circumstances, though this writ petition is allowed to be withdrawn, the same is subject to payment of cost of Rs. 10,000/- (Ten thousand) only, to be paid by the petitioner in favour of the Lawyers' Benevolent Fund of the

Gauhati High Court Bar Association.

JUDGE

Comparing Assistant