

GAHC010136602023



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

Case No. : WP(C)/3662/2023

DHRUBAJYOTI NATH AND 2 ORS.
SON OF SRI BROJENDRA NATH

RESIDENT OF VILLAGE- KOKIRA

P.O.- BALBALA

DISTRICT- GOALPARA
PIN- 783120

ASSAM.

2: MONOJ DAS
SON OF LATE KHAGEN DAS

RESIDENT OF BELTOLA TINIALI

NEAR SHIV MANDIR
HOUSE NO. 74

PIN- 781028
GUWAHATI
ASSAM.

3: PRANAB JYOTI SARANIA
SON OF SRI BINAY SARANIA

RESIDENT OF CHITRANAGAR
WARD NO. 4
TANGLA

UDALGURI
PIN- 784521

ASSAM.
VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM

PERSONNEL(A) DEPARTMENT
DISPUR

GUWAHATI-6.

2:THE ASSAM PUBLIC SERVICE COMMISSION
REPRESENTED BY ITS CHAIRMAN

JAWAHARNAGAR
KHANAPARA

GUWAHATI-22.
3:THE SECRETARY
ASSAM PUBLIC SERVICE COMMISSION
JAWAHARNAGAR
KHANAPARA

GUWAHATI-22.
4:THE PRINCIPAL CONTROLLER OF EXAMINATION
ASSAM PUBLIC SERVICE COMMISSION
JAWAHARNAGAR
KHANAPARA

GUWAHATI-22.

Advocate for : MR H K DAS

Advocate for : GA

ASSAM appearing for THE STATE OF ASSAM AND 3 ORS

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 27/06/2023

Heard Mr. H.K. Das, learned counsel for the writ petitioners in WP(C) 3662/2023 and Mr. K.P. Pathak, learned counsel in WP(C) 3801/2023. I have also heard Mr. T. J. Mahanta, learned senior counsel assisted by Ms. P. Sarma, learned counsel appearing for the APSC and Mr. J.K. Goswami,

learned Additional Senior Government Advocate, Assam, appearing for the official respondents.

The petitioners in this batch of writ petitions had participated in the Combined Competitive (Prelims) Examination, 2022, conducted by the Assam Public Service Commission (APSC) in terms of the advertisement No. 26/2022 dated 22/12/2022. The Preliminary Examination consisted of 2 (two) papers, viz. General Studies Paper-I of 200 marks with 100 questions and General Studies Paper-II for 200 marks of 80 questions. The qualifying marks of GS Paper-I was fixed at 33% but there was no qualifying marks for GS Paper-II, though there were cut off mark.

In both these writ petitions, the petitioners were denied marks on account of the fact that they had not properly darkened in the OMR sheets indicating the correct series despite clear instruction given by the APSC.

Mr. Mahanta, learned senior counsel for the APSC has relied upon the decision of the Hon'ble Supreme Court rendered in the case of ***The State of Tamil Nadu and others Vs. G. Hemalatha and others*** reported in **2019 (5) ALT 103** to submit that failure on the part of the candidate to follow the instructions of the Commission cannot be modified or relaxed. As such, no relief can be granted to the petitioners in these cases.

Mr. Das, learned counsel for the petitioner has also fairly submitted that similar view has been taken by the Division Bench of this Court in the case of ***Assam Public Service Commission and another Vs. Izaz Yusuf Ahmed and another*** reported in **2019(3) GLT 754**, wherein it has been held that non-marking of answers due to improper darkening of OMR sheet, cannot be a matter of judicial scrutiny.

If that be so, this Court is of the opinion that no relief can be granted to the petitioners at this stage since it is the admitted position of fact that they had failed to properly darken the series pertaining to the OMR sheets, as a result of which, their answers were not evaluated properly by the Computer. Situated thus, these writ petitions are held to be devoid of any merit and are accordingly dismissed.

JUDGE

sukhamay

Comparing Assistant