



GAHC010158662023



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

Case No. : I.A.(Civil)/1988/2023

DR. PRIYANKA CHOWDHURY AND 2 ORS
C/O NABA JYOTI DAS, R/O WARD NO.5, BENUDHAR PATH, SANTIPUR,
RANGIA, P.O. AND P.S. RANGIA, DISTRICT KAMRUP, ASSAM.

2: SAURAV JYOTI ROY
S/O PABITRA MOHAN ROY
R/O HOUSE NO. 23
HAENDRA DAIMARY PATH
GHORAMARA
BELTOLA
P.O. BELTOLA
P.S. BASISTHA
GUWAHATI
DISTRICT KAMRUP(M)
ASSAM.

3: DR. DEBASHISH MISHRA

S/O BIRENDRA NATH MISHRA
R/O VILLAGE BHAKUATEPA
P.O. RAULY
P.S. SARTHEBARI
DISTRICT BARPETA
ASSAM

VERSUS

DR. ARCHITA BHATTACHARYYA AND 16 ORS
WIFE OF MRINMOY DUTTA, RESIDENT OF SYNDICATE VILLA, 2A, 1ST
FLOOR, PRINCIPAL J.B. ROAD, CHENIKUTHI, DISTRICT- KAMRUP(M),
ASSAM, PIN- 781003.

2:DR. MINTU DAS
SON OF LATE SUBHAS DAS



RESIDENT OF DAS TAILORS
LALUK

P.O.- LALUK
DISTRICT- LAKHIMPUR (ASSAM)

PIN- 784160.

3:THE UNION OF INDIA

REPRESENTED BY THE SECRETARY
MINISTRY OF EDUCATION (DEPARTMENT OF HIGHER EDUCATION)
127-C
SHASTRI BHAWAN
NEW DELHI.

4:THE STATE OF ASSAM
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM

HIGHER EDUCATION DEPARTMENT

DISPUR
GUWAHATI-6.

5:THE JOINT SECRETARY TO THE GOVERNMENT OF ASSAM
HIGHER EDUCATION DEPARTMENT
DISPUR
GUWAHATI-6.

6:THE DIRECTOR OF HIGHER EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19.

7:PROF. NANI GOPAL MAHANTA
ADVISOR
EDUCATION
JANATA BHAWAN
DISPUR
GUWAHATI-6.

8:DR. DEEPAK MAJUMDER
SECRETARY
HIGHER EDUCATION

JANATA BHAWAN



DISPUR

GUWAHATI-6.

9:PROF. CHANDAN K. SHARMA
DEPT. OF SOCIOLOGY
TEZPUR UNIVERSITY

NAPAAM
TEZPUR

DISTRICT- SONITPUR
ASSAM

PIN- 784028.

10:PROF. MAHADEV PATGIRI
DEPARTMENT OF PHYSICS

COTTON UNIVERSITY

PAN BAZAR
GUWAHATI

DISTRICT- KAMRUP(M)
ASSAM

PIN- 781001.

11:DR. SATYENDRA NATH BARMAN
PRINCIPAL
B. BAROOAH COLLEGE

DR. B. BARUAH ROAD
ULUBARI

GUWAHATI
DISTRICT- KAMRUP(M)

ASSAM. PIN- 781007.

12:PROF. SATYAKAM BORTHAKUR
DEPARTMENT OF ASSAMESE
DIBRUGARH UNIVERSITY

DISTRICT- DIBRUGARH
ASSAM.
PIN- 786004.



13:DHARMA KANTA MILI
DIRECTOR
HIGHER EDUCATION

KAHILIPARA
GUWAHATI

DISTRICT- KAMRUP(M)
ASSAM.
PIN- 781019.

14:CHINMOYEE TALUKDAR
DEPUTY DIRECTOR
DIRECTORATE OF HIGHER EDUCATION

KAHILIPARA
GUWAHATI

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PIN- 781019.

15:THE UNIVERSITY GRANTS COMMISSION
REPRESENTED BY THE CHAIRMAN

HAVING REGISTERED OFFICE AT BAHADUR SHAH ZAFAR MARG

NEW DELHI- 110002.

16:RANGIA COLLEGE
RANGIA
P.O.- RANGIA

DISTRICT- KAMRUP
ASSAM

PIN- 781354

REPRESENTED BY PRINCIPAL
RANGIA COLLEGE.

17:NABANITA DUTTA
W/O JAYANTA DUTTA
R/O VILLAGE BALIKARIA
P.O. BALIKARIA
P.S. AND DIST. NALBARI
ASSAM



Advocate for the Petitioner : MR. B D GOSWAMI

Advocate for the Respondent : SC, HIGHER EDU

Linked Case : I.A.(Civil)/2468/2023

DR. NABANITA DUTTA

W/O JAYANTA DUTTA

R/O VILLAGE BALIKARIA
P.O. BALIKARIA
P.S. AND DIST. NALBARI
ASSAM

VERSUS

DR. ARCHITA BHATTACHARYYA AND 15 ORS
WIFE OF MRINMOY DUTTA
RESIDENT OF SYNDICATE VILLA
2A
1ST FLOOR
PRINCIPAL J.B. ROAD
CHENIKUTHI
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2:DR. MINTU DAS
SON OF LATE SUBHAS DAS

RESIDENT OF DAS TAILORS
LALUK

P.O.- LALUK
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PIN- 781354

REPRESENTED BY PRINCIPAL
RANGIA COLLEGE.

Advocate for : MR. A T SARKAR

Advocate for : SC

HIGHER EDU appearing for DR. ARCHITA BHATTACHARYYA AND 15 ORS

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 20-12-2023

Heard Mr. B.D. Goswami, learned counsel for the applicant in I.A.(C) No. 1988/2023 arising out of W.P.(C) No. 1635/2023 and Mr. A.T. Sarkar, learned counsel for the applicant in I.A.(C) No. 2468/2023, also arising out of W.P.(C) No. 1635/2023. Mr. M.K. Choudhury, learned Sr. counsel assisted by Mr. M. Dutta, learned counsel is present for the writ petitioners/ opposite parties. Mr. K. Gogoi, learned standing counsel, Higher Education, Assam, Mr. A. Chamuah, learned standing counsel, UGC and Ms. A. Gayan, learned



counsel appearing for the Rangia College, are also present.

Both these I.A.s have been filed with a prayer to vacate/ modify the order dated 22-03-2023 passed by the learned Single Judge in W.P.(C) No. 1635/2023 restraining the respondents from finalising the selection process for appointment of teachers in the Rangia College initiated pursuant to the advertisement notice dated 10-02-2023.

The writ petitioners/ opposite parties had approached this Court by filing the aforementioned writ petition *inter alia* challenging the OM dated 24-02-2022 pertaining to the allotment of marks during the selection process for appointment of Assistant Professors in any Govt./ provincialised/ PDUAM/ Govt. Medical College in Assam as well as the decision of the Expert Committee dated 24-01-2022 declining the objection to the effect that proper process of rationalisation of marking had not been done before undertaking the selection process.

It appears from the materials on record that the writ petitioner No. 1 was an applicant for the post of Assistant Professor in the Assamese Department in the Rangia College but the writ petitioner No. 2 did not apply for in any of the posts since there was no vacancy advertised for the Physics Department. From the averments made in the applications, it further appears that the applicants in both the I.A.s were not only selected for appointment in the Rangia College but they were also issued the orders of appointment. However, due to the interim order dated 22-03-2023 passed in W.P.(C) No. 1635/2023 both the applicants could not joint their posts.

Mr. Goswami submits that his client, i.e. the applicant in I.A.(C) No. 1988/2023 is



not an applicant for the Department of Assamese and therefore, even if the writ petitioners succeeds in their attempt to assail the selection process on the grounds stated in the I.A.s, even then, the same could not have any bearing in the selection and appointment of the applicant in I.A.(C) No. 1988/2023.

Mr. Sarkar also submits that although his client, i.e. the applicant in I.A.(C) No. 2468/2023 is a candidate for the post of Assistant Professor in the Department of Assamese in the Rangia College, even then, there is no justifiable ground to prevent her from joining the post since a large number of candidates have already been appointed by following the same procedure for allotment of marks.

Mr. Choudhury, learned Sr. counsel for the writ petitioners/ opposite parties, on the other hand, submits that in the absence of a proper process of rationalisation of criteria for allotment of marks, the selection process undertaken in the case is totally flawed and if the Court accepts the contention of the writ petitioners, then it may lead to setting aside of the appointment orders of both the applicants besides affecting a large of other selected candidates. As such, submits Mr. Choudhury, it is a fit case where, instead of vacating the interim order, the writ petition itself should be heard expeditiously and disposed of on merit.

Mr. K. Gogoi, learned standing counsel, Higher Education, Assam has submitted that as per the Expert Committee report, rationalisation has already been done and therefore, there is no scope for this Court to entertain the plea raised in the petition.

I have considered the submission made at the bar and have also gone through the



materials available on record. The first and foremost consideration of the Court in matters of this nature is that whenever appointment of teachers in an educational institute is withheld due to the interim order(s) of the Court, it is the students of the educational institute who suffer immensely. In the present case, the writ petitioners do not stand to gain in any manner if the applicants are prevented from joining in their respective posts during the pendency of the writ petition. If the petitioners succeed in the writ petition, appropriate relief can always be granted to them. On the contrary, if the interim order is vacated then it is the students who would be the primary beneficiary of such an order of the Court.

It is also to be noted herein that out of the two writ petitioners, only one i.e. the writ petitioner No. 1 had submitted application pursuant to the advertisement notice dated 10-02-2023. The other writ petitioner did not even apply for any post. Therefore, even if the petitioner No. 1 succeeds in the writ petition, she can at best, fill up only vacancy. Whether the entire process of selection would be vitiated due to alleged non-rationalisation of marking process is not a matter which cannot be entertained in this writ petition since it is not a Public Interest Litigation. In other words, the writ petitioners can seek relief in this petition only to the extent that may be justified in the facts of the case, based on their locus in the matter and no further. Therefore, the balance of convenience, in the opinion of this Court, also appears to be tilted against the writ petitioners.

Having regard to the facts and circumstances of the case in its entirety as well as keeping in mind the supervening interest of the students and the college, this Court is of the opinion that the present is a fit case where the interim order dated 22-03-2023



deserves to be vacated.

Ordered accordingly.

It will now be open for the authorities to permit the two applicants, viz. Dr. Priyanka Choudhury and Dr. Nabanita Dutta to join their respective posts in terms of the appointment orders issued to them.

The appointment of these two applicants would, however, be subject to the final order that may be passed in the writ petition.

With the above observation, both these applications stand disposed of.

JUDGE

GS

Comparing Assistant