GAHC010156552023

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

Case No. : I.A.(Civil)/2287/2023

MAINUL HOQUE CHOUDHURY AND ANR.
S/O ABDUL HAMID
R/O RGB ROAD
NEAR HOTEL D COURT YARD
LAKHI NAGAR
2ND BYE LANE
HOUSE NO.3
P.O. AND P.S. DISPUR
GUWAHATI-05.

2: SRI DHRUBAJYOTI SAIKIA

S/O LATE MAHENDRA NATH SAIKIA
R/O HOUSE NO. 50
ANANDA NAGAR
SIX MILE
KHANAPARA
GUWAHATI-22
DIST. KAMRUP(M)
ASSAM.
VERSUS

NANDESWAR DAS AND 5 ORS.
S/O- LATE DHANI RAM DAS
R/O- NO. BILATIA
DHING
NAGAON
DIST. NAGAON
P.O. DHING
ASSAM
PIN- 782123.

2:THE STATE OF ASSAM

REP. BY THE SECRETARY TO THE GOVT. OF ASSAM AGRICULTURE DEPTT.
DISPUR
GUWAHATI-06.
3:THE SECRETARY
TO THE GOVT. OF ASSAM
FINANCE DEPTT.
DISPUR
GUWAHATI-06.
4:THE JOINT SECRETARY
TO THE GOVT. OF ASSAM AGRICULTURE DEPTT.
DISPUR
GUWAHATI-06.
5:THE DIRECTOR OF AGRICULTURE
ASSAM
KHANAPARA
GHY-22
6:THE ACCOUNTANT GENERAL (A AND E)
BELTOLA
MAIDAMGAON
GUWAHATI-29

Advocate for : MR DEBA SARMAH
Advocate for : SC
AGRI. DEPARTMENT appearing for NANDESWAR DAS AND 5 ORS.

Linked Case : WP(C)/4143/2023

GAUTAM PATOWARY
S/O- LT. SIBCHAREN PATOWARI
FATASIL AMBARI
KUMUD GOGOI PATH
GUWAHATI
DIST.- KAMRUP (M)
ASSAM
PIN- 781025

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE SECRETARY TO THE GOVT. OF ASSAM
DEPARTMENT OF AGRICULTURE
DISPUR
GUWAHATI- 781006

2:THE SECRETARY TO THE GOVERNMENT OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI- 781006
3:THE JOINT SECRETARY TO THE GOVERNMENT OF ASSAM
AGRICULTURE DEPARTMENT
DISPUR
GUWAHATI- 7810066
4:THE DIRECTOR OF AGRICULTURE
ASSAM
KHANAPARA
GUWAHATI- 781022
5:THE ACCOUNTANT GENERAL (A AND E)
BELTOLA
MAIDAMGAON
GUWAHATI- 781029

Advocate for : MR. R MAZUMDAR
Advocate for : SC
AG appearing for THE STATE OF ASSAM AND 4 ORS

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

24.08.2023

Heard Ms. N Shyam, learned counsel for the applicants and Mr. R Mazumdar, learned counsel appearing for the opposite party No. 1/writ petitioner. Also heard Ms. G Bora, learned Standing counsel, Agriculture Department for the opposite party Nos. 2, 4 & 5, Mr. P Nayak, learned Standing counsel, Finance Department for the opposite party No. 3 as well as Mr. B Chakraborty, learned Standing counsel, Accountant General (A&E) for the respondent No. 6.

The applicants herein have preferred this Interlocutory Application stating that they as writ petitioners preferred WP(C) No. 4373/2020 wherein the Notification dated 19.09.2020 issued by the respondent authorities in the Agriculture Department promoting the opposite party No. 1/writ petitioner along with 12 others to the post of Statistical Officer in the Agriculture Department of the State is under challenge and that the Court on 21.10.2020 observed that any promotion made in favour of the respondents therein shall be subject to the result of the said writ petition.

Ms. Shyam, learned counsel appearing on behalf of the applicants submitted that the petitioner of the connected WP(C) No. 4143/2023, Gautam Patowary is the party respondent No. 15 in their said WP(C) No. 4373/2020, but without making the applicants as party respondents in the connected WP(C) No. 4143/2023 he preferred the same praying for certain service benefits on the basis of the Notification dated 19.09.2020 that is under challenge in WP(C) No. 4373/2020 preferred by the present applicants, which is presently pending for adjudication.

As such, Ms. Shyam submitted that the present applicants are necessary parties in the connected WP(C) No. 4143/2023 filed by the opposite party No. 1, Gautam Patowary.

By order dated 09.08.2023 passed in the present proceeding, the Court directed the present opposite parties to file their objections, if any, on or before 21.08.2023 with regard to the impleadments of the present applicants in the connected WP(C) No. 4143/2023 and fixing the matter today. But no such objections have been filed by the opposite parties with regard to the impleadments of the present applicants in the connected WP(C) No. 4143/2023, as directed by the Court on 09.08.2023.

It is seen that the present applicants preferred WP(C) No. 4373/2020, wherein the present opposite party No. 1 is the respondent No. 15 therein and to that extent the applicants have placed a copy of the order dated 21.10.2020 passed in said WP(C) No. 4373/2020 preferred by them.

Mr. R Mazumdar, learned counsel for the opposite party No. 1 by placing the order dated 10.05.2023 passed in I.A.(Civil) No. 1344/2021 annexed as Annexure-5 to WP(C) No. 4143/2023 submitted that the Court while considering the said I.A.(C) No. 1344/2021 observed that if the applicants are aggrieved in any manner due to non-payment of Regular Scale of Pay/Pension due to misconstruction of the order dated 21.10.2020 passed in said 4373/2020 preferred by the applicants, then the same would give rise to a separate cause of action for which they may approach the Court by preferring appropriate petition and hence pursuant to the said order dated 10.05.2023, noted above, the present applicants have preferred the connected WP(C) No. 4143/2023.

However it is seen that the petitioner tried to establish before the Court about the

proper viz-a-viz necessary party in the proceeding, stating that his right accrues to the post of Statistical Officer on the basis of the Notification dated 19.09.2020 issued by the respondent authorities in the Agriculture Department as he was holding the post initially on ad-hoc basis.

It is to be noted herein that the present opposite party No. 1 was not the applicant in said I.A.(C) No. 1344/2021, noted above.

As such, the submission made on behalf of the opposite party No. 1 stands rejected.

After hearing the learned counsels for the parties and considering the entire aspect of the matter, the Court is of the considered view that the present applicants are necessary parties for proper adjudication of the connected WP(C) No. 4143/2023 which has a connection with WP(C) No. 4373/2020, since the petitioner of WP(C) No. 4143/2023 was promoted on the basis of the Notification dated 19.09.2020 issued by the respondents in the Agriculture Department of the State to the post of Statistical Officer in the Agriculture Department which is under challenge in the said WP(C) No. 4373/2020 preferred by the applicants.

Accordingly, this Interlocutory Application stands allowed.

The present applicants, (i) Mainul Hoque Choudhury and (ii) Dhrubajyoti Saikia be impleaded as party respondent Nos. 6 & 7 in the connected WP(C) No. 4143/2023.

The concerned Section of the Registry of this High Court shall accordingly do the needful.

JUDGE

Comparing Assistant