

GAHC010109162022



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

Case No. : WP(C)/6244/2022

SMT. FATEMA NARGIS CHOUDHURY
D/O. BADRUL ISLAM CHOUDHURY
R/O. SARAL KHA ROAD
WARD NO.3
SETTLEMENT
KARIMGANJ TOWN
P.O. KARIMGANJ
DIST. KARIMGANJ
ASSAM
PIN-788712.

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM
HIGHER EDUCATION DEPTT.
DISPUR
GUWAHATI-06.

2:THE DIRECTOR

HIGHER EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19.
3:THE GOVERNING BODY

SRIKISHAN SARDA COLLEGE
HAILAKANDI
P.O. HAILAKANDI
DIST. HAILAKANDI
ASSAM

PIN-788151 (REP. BY ITS PRINCIPAL/SECRETARY)
4:THE SELECTION COMMITTEE

SRIKISHAN SARDA COLLEGE
HAILAKANDI
P.O. AND DIST. HAILAKANDI
ASSAM
PIN-788151 (REP. BY ITS CHAIRMAN)
5:UNIVERSITY GRANTS COMMISSION

BAHADUR SHAH ZAFAR MARG
NEW DELHI
PIN-110002 (REP. BY ITS CHAIRMAN)
6:STATE LEVEL ELIGIBILITY TEST COMMISSION

ASSAM (N.E. REGION)
NORTH JALUKBARI
GUWAHATI-781014 (REP. BY ITS MEMBER SECRETARY)
7:ANANYA PAUL

LAXMI CHARAN ROAD
GREATER SETTLEMENT
KARIMGANJ TOWN
P.O. KARIMGANJ
DIST. KARIMGANJ
ASSAM
PIN-788710.

Advocate for : DR. B AHMED
Advocate for : SC
HIGHER EDU appearing for THE STATE OF ASSAM AND 6 ORS.

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

24-01-2023

Heard Mr. K. Uddin, learned counsel for the petitioner and Mr. S. Das, learned Standing counsel, Higher Education Department, Assam for the respondent Nos. 1 & 2. Also heard Mr. A K Dutta, learned counsel for Srikishan Sarda College, Hailakandi, respondent Nos. 3 & 4; Mr. A. Chamuah, learned Standing counsel, University Grants Commission for the respondent No. 5; Ms. J Boro, learned counsel for the respondent No. 6 and Mr. S.P. Choudhury, learned counsel for the private respondent

No. 7.

2. On 21.03.2022, the Principal of Srikishan Sarda College, Hailakandi, a provincialised College of the State, issued an advertisement, amongst others for filling up of two posts of Assistant Professor of Political Science in said College, one under reserved category of Schedule Caste at Roster Point No. 36 and the other under Un-reserved category at Roster Point No. 44 in pursuance of the order dated 09.02.2022 of the Directorate of Higher Education, Assam.

3. Petitioner obtained her graduation with major in Political Science from Cotton University, Guwahati and also obtained her Master Degree in Public Administration from Aligarh Muslim University, Aligarh and passed the UGC-NET December, 2020 & June, 2021 held on November, 2021 result of which was declared in February 2022. Having the requisite qualification, she applied for the post of Assistant Professor of Political Science in said Srikishan Sarda College, Hailakandi as advertised on 21.03.2022 along with other candidates including the respondent No. 7 in the Un-reserved category.

4. The petitioner is aggrieved as the authorities of said Srikishan Sarda College, Hailakandi did not issue any call letter to her for selection to the post of Assistant Professor of Political Science and recommended the name of the respondent no. 7.

5. Being aggrieved with the said decision of the concerned Selection Committee as well as the authorities of said Srikishan Sarda College, Hailakandi in recommending the name of the respondent No. 7, disregarding her better claim and violating the guidelines, provisions and regulations issued by the University Grants Commission (UGC) as well as the Directorate of Higher Education, Assam; the petitioner has filed this writ petition on 20.09.2022, praying amongst others (i) to set aside the impugned action of the respondent said college in not allowing the petitioner to take part in the selection process for the un-reserved post of Assistant Professor in Political Science in said Srikishan Sarda College, Hailakandi, (ii) to direct the Director of Higher Education, Assam to take a decision on the eligibility of the petitioner for the post of Assistant Professor in Political Science, (iii) to conduct a fresh selection for the unreserved post of Assistant Professor in Political Science in said Srikishan Sarda College, Hailakandi as advertised on 21.03.2022 and (iv) to direct the Director of Higher Education, Assam not to proceed with the process of appointment of the respondent No. 7 and not to approve the selection of the said respondent No. 7 for the unreserved post of Assistant Professor in Political Science in said Srikishan Sarda College, Hailakandi.

6. By filing an affidavit, the authorities of Srikishan Sarda College, Hailakandi, stated that though

the petitioner applied for the post of Assistant Professor in Political Science in terms of the advertisement dated 21.03.2022, on its receipt, it was placed before the Governing Body of the college for candidature of the petitioner for the said advertised post. The Governing body of the said college by its resolution dated 19.04.2022 resolved to issue call letters for interview for the post of Assistant Professor in Political Science in said Srikishan Sarda College through its Principal only to those having Master degree in the subject of Political Science with other requisite qualifications as per UGC norms and therefore, call letter was not issued to the petitioner since she is a Master degree holder of Public Administration and not in the subject of Political Science.

7. Mr. Dutta, learned counsel also submitted that after selecting the respondent No. 7 at Roster Point No. 44 unreserved for the post of Assistant Professor of Political Science as advertised on 21.03.2022 by the concerned Selection Committee of the college, it was duly accepted by the management of the college in its meeting held on 19.04.2022 and the name of the respondent No. 7 along with the proposal of recommendation was forwarded to the Director of Higher Education, Assam on 20.08.2022 for necessary approval and appointment of the said selected candidate in the said post as the college is on urgent requirement of a Master degree holder in Political Science to the post of Assistant Professor in Political Science in that college.

8. Mr. Dutta further stated that Rule 27 of the Assam College Employees (Provincialisation) Rules, 2010 empowers the Governing Body of the College to exercise such powers of the appointing authority as per usual norms.

9. The Court while issuing notice to the respondents on 23.09.2022 in the interim observed that the selection and appointment of the respondent No. 7 shall be subject to the outcome of the said writ petition.

10. The present petitioner is also the petitioner of WP(C) No. 3758/2022 and the Court passed a detail order in the said petition which is also applicable in the present case. In the said WP(C) No. 3758/2022, the authorities of Lala Rural College, Hailakandi did not select the petitioner as she does not have the Master degree in Political Science, whereas she possesses Master degree in Public Administration.

11. As in the present case, in said WP(C) No. 3758/2022 also the proposal for selection and appointment of the selected candidate respondent No. 6 therein is pending before the Director of Higher Education, who is the final authority as per the 2010 Rules to grant approval of the selection and recommendation to a post of Principal/Assistant Professor in a provincialised college of the State

and to issue necessary appointment letter.

12. It is settled that only when a decision is taken as provided under the Rules and the recommendation of the Selection Committee or the recommendation of the Governing Body is approved, an unsuccessful candidate can be said to be an aggrieved party and can raise the issue of dispute before the Writ Court.

13. The petitioner's case is fully covered by the decision rendered in said WP(C) No. 3758/2022.

14. As such, the Court found that the prayers made by the petitioner in this writ petition are prematured and therefore, cannot be entertained. Accordingly, her prayers are rejected.

15. However, the petitioner if aggrieved with the decision of the authorities of said Srikishan Sarda College, regarding selection and appointment of the respondent No. 7, she may file a representation before the Director of Higher Education, Assam for redressal of her grievances, if so advised.

16. The interim order passed earlier on 23.09.2022 in the present proceeding stands merged with this order.

17. With the above observations and directions, this writ petition stands disposed of.

JUDGE

Comparing Assistant