

GAHC010188542020



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

Case No. : WP(C)/141/2021

SUNITA SINHA
W/O SRI BIRCHANDRA SINHA,
RESIDENT OF VILLAGE EAST KACHUDARAM, PO CHINCOORIE, PS
SICCHAR, DIST CACHAR, ASSAM 788007

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE COMMISSION OF SECRETARY, GOVT. OF ASSAM,
SOCIAL WELFARE DEPARTMENT, DISPUR GUWAHATI 781006, ASSAM

2:THE DIRECTOR OF SOCIAL WELFARE
ASSAM
UZAN BAZAR
GUWAHATI 781001
ASSAM 788001

3:THE DEPUTY COMMISSIONER

CACHAR
SILCHAR
ASSAM 78001

4:THE DISTRICT SOCIAL WELFARE OFFICER

CACHAR
SILCHAR
ASSAM 788001

5:THE CHILD DEVELOPMENT PROJECT OFFICER (CDPO).
SILCHAR (R) PROJECT
CACHAR

ASSAM 788001

6:THE BLOCK DEVELOPMENT OFFICER

SILCHAR DEVELOPMENT BLOCK
SILCHAR
CACHAR
ASSAM 788003

7:SMTI SUBRATA SINHA
W/O PARTHA SARATHI SINHA
RESIDENT OF VILLAGE EAST KACHUDARAM
PO CHINCOORIE
PS SILCHAR
SADAR
DIST CACHAR
ASSAM 78800

Advocate for the Petitioner : MR. B P SINHA

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 21/04/2023

Heard Mr. B.P. Sinha, learned counsel for the writ petitioner. Also heard Ms. M.D. Borah, learned Government Advocate, Assam, appearing for the respondent nos. 1 to 6. None has appeared for the respondent no. 7 despite service of notice.

The respondent authorities had issued an advertisement notice dated 20/01/2016 inviting applications for filling up two posts of Anganwadi Worker and two posts of Anganwadi Helpers in different AWCs. In response to the said advertisement notice, the writ petitioner herein had applied for the post of Anganwadi Worker, Hindustanipara, East Kachudaram AWC-99. The writ petitioner as well as the respondent no. 7 had both participated in the selection process. The respondent no. 7 had secured first position with highest percentage of marks i.e. 49.5, whereas, the writ petitioner stood

second. Accordingly, the respondent no. 7 was appointed. However, according to the petitioner, the respondent no. 7 is not a resident of the local area of the AWC and therefore she did not fulfill the eligibility norm and hence, could not have participated in the selection process. A prayer has, therefore, been made to set aside the appointment of the respondent no. 7 as Anganwadi Worker of the aforesaid AWC and issue a direction to appoint the petitioner in her place.

The respondent no. 5 has filed affidavit-in-opposition responding to the plea raised in the writ petition but in the said affidavit, there is no indication as to whether the respondent no. 7 did meet the eligibility requirement in terms of the advertisement notice.

It would be pertinent to note herein that Paragraph 'A' of the advertisement notice dated 20/01/2016 lays down the eligibility criteria. Clause A(i) would be relevant for the purpose of this case and is, therefore, reproduced herein below for ready reference :

“A(i) The candidate for the post of Anganwadi Worker and Anganwadi Helper shall be a local women residing in the area where the Anganwadi centre is located by the Concerned Anganwadi centre area the residence of the candidate for the post of Anganwadi Worker and Anganwadi Helper of the concern to the Anganwadi centre must be from the said locality within the survey area. So that the candidate belong to the concern area only can apply.”

From the above, it is clear that local residency of the candidate is a condition precedent as per the advertisement notice, so as to participate in the recruitment process.

The respondent no. 7 had earlier appeared in this case by engaging her counsel but subsequently, her counsel withdrew from this case and since then, she is un-represented in this case. The respondent no. 7 has also not filed any affidavit. Under the circumstance, it is apparent that the respondent no. 7 has no answer to offer in so far as the basic allegation pertaining to her eligibility to participate in the selection process as made by the petitioner, is concerned. In other words, it appears

that the respondent no. 7 was not eligible to participate in the selection process for appointment as Anganwadi Worker in the East Kachudaram AWC-99, as per the advertisement notice dated 20/01/2016. If that be so, the marks obtained by the respondent No. 7 would be immaterial as she was not eligible in the first place, to participate in the selection process. As such, no credit can be given to her on the basis of the marks scored in the selection process. Had the respondent no.7 not been appointed, the writ petitioner, who came in the second position, obviously would have been the beneficiary of the selection process.

This Court is, therefore, left with no option but to interfere with the selection and appointment of respondent no. 7. Accordingly, the appointment of the respondent no. 7 as Anganwadi Worker in East Kachudaram AWC-99 is hereby set aside.

Since the writ petitioner admittedly stood second in the selection process and there is no objection as to her eligibility as well as qualification to hold the post of Anganwadi Worker, hence, a Writ of Mandamus is hereby issued directing the respondents to appoint the writ petitioner as Anganwadi Worker in the East Kachudaram AWC-99. The exercise, as directed by this Court, be completed within 90 (ninety) days from the date of receipt of a certified copy of this order.

With the above observation, the writ petition stands disposed of.

JUDGE

sukhamay

Comparing Assistant