

GAHC010193082020



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

Case No. : WP(C)/423/2021

AKSHENDRA PATGIRI AND 4 ORS
S/O- BIREN PATGIRI, VILL- ODALGURI, DIST.- BARPETA, ASSAM, PIN-
784509

2: MD. ABED ALI
C/O- BABJAN ALI
VILL- CHOWRAKARA
P.S. SONESWAR
DIST.- KAMRUP
ASSAM
PIN- 781382

3: MD. AKAN ALI
C/O- MD. TOMIZ ALI
VILL. AND P.O. KANIHA
DIST.- KAMRUP
ASSAM
PIN- 781380

4: BEAUTI PATAR
D/O- LT. REHASWAR PATAR
VILL- KAHIBARI
P.O. CHARAIBAHI
DIST.- MORIGAON
ASSAM
PIN- 782103

5: SYED SAYED ALI
C/O- HASIM ALI
VILL- JAHAR GAON
P.O. PASCHIM JAHAR GAON
DIST.- BAKSA
BTAD
ASSAM

PIN- 78132

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE CHIEF SECY. TO THE GOVT. OF ASSAM DISPUR, GHY-6

2:THE SECY. TO THE GOVT. OF ASSAM
SOCIAL WELFARE DEPTT.
DISPUR
GHY-6

3:THE COMM. AND SECY.
PERSONAL (B) DEPTT.
GOVT. OF ASSAM
DISPUR
GHY

4:THE DIRECTOR OF SOCIAL WELFARE DEPTT.
ASSAM
UZANBAZAR
GHY-1
KAMRUP (M)

5:THE STATE COMMISSIONER OF DISABILITIES
GOVT. OF ASSAM
BASISTHA
GHY
KAMRUP (M)

Advocate for the Petitioner : MR. I ALAM

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

Date : 12/09/2023

Heard Mr. I. Alam, learned counsel for the petitioners. Also heard Mr. D. Bora, learned Government Advocate representing respondent No.1 and Mr. C. Sharma, learned counsel for the respondent No.5.

2. This writ petition has been filed by the petitioners, who were praying for a direction to the Court for appointment for the petitioners against the posts in which they were selected by a Selection Committee within a reasonable period of time. The petitioners had earlier approached this Court by filing W.P. (C)/1424/2011. The said writ petition was preferred by the present writ petitioners along with other similarly situated persons as petitioners praying for a direction for their appointment in Grade III and Grade IV posts in the category of persons with disability. All the petitioners belong to the category of PWD.

3. This Court by order dated 23.04.2015 disposed of the earlier writ petition being W.P.(C).1424/2011 along with W.P.(C)/3994/2011 with the following directions:-

“ In this case what transpires is that a recruitment drive was carried out in the year 2005-06 to fill up 662 backlog vacancies in Gr-III and IV. These vacancies therefore obviously pertained to previous years i.e, prior to the year 2005-06. Even in this drive, 134 of the backlog vacancies could not be filled up. It appears that since the year 2005-06 no review has been carried out by the State regarding identification of posts earmarked to be filled up by persons with disability or to update the list so prepared. In such circumstances, when admittedly petitioners could not be appointed because of anomalies in the selection process particularly at the time of preparation of state level select list, Court is of the view that it would meet the ends of justice if a direction is issued to the respondents to appoint the petitioners in the available vacancies relatable to the recruitment drive carried out in the year 2005-06. Naturally, these vacancies are available in the different departments, the list of which is available with the Social Welfare Department. Ordered accordingly.

Keeping in view the mandate of the Persons with Disabilities Act, all the concerned administrative departments shall cooperate with the Social Welfare Department in ensuring that petitioners are suitably accommodated against the indentified posts in the respective departments. The Social Welfare Department being the nodal department shall verify the position of the petitioners vis a vis the selection process and proceed with their appointment in terms of their position.

Let the above exercise be carried out within a period of 4 (four) months

from the date of receipt of a certified copy of this order.

Both the writ petitions are accordingly allowed.

No cost”.

4. Pursuant thereto since the order was not complied with, a contempt petition being Cont.Cas(C)/582/2017 was filed, which is presently pending. The present writ petition has been filed by the petitioners seeking compliance of this earlier order dated 23.04.2015 passed by this Court in W.P.(C).1424/2011 and W.P.(C)/3994/2011.

5. It is submitted by the learned counsel for the petitioners that in the meantime petitioner No.2, namely, Md. Abed Ali has since been appointed. However, the petitioner Nos. 1, 3, 4 and 5 have not yet been appointed.

6. After arguing for sometime Mr. I. Alam, learned counsel appearing for the petitioners submits that since there is already an order passed earlier by this Court vide order dated 23.04.2015 in W.P.(C).1424/2011 and W.P.(C)/3994/2011 and a contempt petition is also pending, learned counsel does not wish to press the present writ petition any further and seeks to withdraw the same. Taking his submissions on record, the present writ petition being W.P.(C)/423/2021 stands closed as not pressed.

7. Interim order, if any, stands vacated.

JUDGE

Comparing Assistant