

GAHC010154482017



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

Case No. : WP(C)/7954/2017

JAHANARA BEGOM CHOUDHURY and 9 ORS.
W/O TAJUDDIN CHOUDHURY, VILL- KHELMA- VI, WARD NO.3, PS-
KATIGORAH, DIST. CACHAR, ASSAM, PIN-788815

2: SMTI DINARA BEGOM BARBHUIYA
W/O RIAJ UDDIN
VILL- WEST SARASPUR
WARD NO. 10
PO-GUMRA BAZAR
PS- KATIGORAH
DIST. CACHAR
ASSAM
PIN-788815

3: SMTI CHAMPA RANI BAISHNAB
W/O JAYAL BAISHNAB
VILL- KHELMA VII
WARD NO. 9
PO-GUMRA BAZAR
PS-KATIGORAH
DIST. CACHAR
ASSAM
PIN-788815

4: SMTI SULTANA BEGOM BARBHUIYA
W/O ABDUL KAYUR CHOUDHURY
VILL-KAYUR
KHELMA II LAMARGRAM WARD NO.2
PO-GUMRA BAZAR
PS-KATIGORAH
DIST. CACHAR
ASSAM
PIN-788815

5: SMTI MUFIDA BEGOM BARBHUIYA
W/O NIZAMUDDIN BARBHUIYA
VILL- RANGPUR
WARD NO 4
PO-JALALPUR
PS-KATIGORAH
DIST. CACHAR
ASSAM
PIN-788815

6: SMTI SUJATA RANI DAS
W/O JHONTU BAISHNAB
VILL-KHELMA-V
WARD NO. 7
PO- GUMRA BAZAR
DIST. CACHAR
ASSAM
PIN-788815

7: SMTI SABITA DAS
W/O NIBARAN CH. DAS
VILL-CHALIGRAM
WARD NO.7
PO-KALAIN
PS-KATIGORAH
DIST. CACHAR
ASSAM
PIN-788815

8: SMTI HOLY ROY
W/O HIMANGSHU ROY
VILL BHATGRAM
WARD NO. 8
PO-KALAIN
PS-KATIGORAH
DIST. CACHAR
ASSAM
PIN-788815

9: SMTI ARCHANA DAS
W/O AJIT KUMAR DAS
VILL-BISWAMBARPUR
WARD NO. 3
PO-JALALPUR
PS KATIGORAH
DIST. CACHAR
ASSAM
PIN-788815

10: SMTI CHAMPA BEGOM

W/O ABDUL WAICH
VILL-PIR NAGAR
WARD NO. 9
PO-JALALPUR
PS- KATIGORAH
DIST. CACHAR
ASSAM
PIN-78881

VERSUS

THE STATE OF ASSAM and 13 ORS.
REP. BY THE COMMISSIONER and SECRETARY TO THE GOVT. OF ASSAM,
SOCIAL WELFARE DEPTT., DISPUR, GUWAHATI-6

2: THE DIRECTOR OF SOCIAL WELFARE
ASSAM
UZAN BAZAR
GUWAHATI-1

3: THE DEPUTY COMMISSIONER
CUM-CHAIRMAN OF PROJECT LEVEL SELECTION COMMITTEE
CACHAR
ASSAM
PIN-788001

4: THE DISTRICT SOCIAL WELFARE OFFICER
SILCHAR
DIST. CACHAR
ASSAM
PIN-788001

5: THE CHILD DEVELOPMENT PROJECT OFFICER
CUM- MEMBER SECRETARY
KALAIN
ICDS PROJECT
PO-HILARA
CACHAR-788815
ASSAM

6: SMTI PROTIMA DEY LASKAR
W/O UTTAM KR. DEY LASKAR
VILL-SARASPUR
PO-GUMRA BAZAR
PS-KATIGORAH

DIST. CACHAR
ASSAM
PIN-788815

7:SMTI SILPI NATH
W/O SUBHASH CH. NATH
R/O VILL-KHELMA PART-VII
WARD NO. 8
PO- GUMRA BAZAR
PS-KATIGORAH
DIST. CACHAR
ASSAM
PIN-788815

8:SMTI MINARA BEGUM LASKAR
D/O LATE SAIFUDDIN LASKAR
R/O VILL- KHELMA PART-II
WARD NO. 3
PO-SADISH KHAL
PS- KATIGORAH DIST. CACHAR ASSAM
PIN-788815

9:SMTI RUSNA BEGOM CHOUDHURY
W/O ABTAB UDDIN BORBHUYAN
R/O VILL- NIZ-JALALPUR PART-II
PO-JALALPUR
PS-KATIGORAH
DIST. CACHAR
ASSAM
PIN-788815

10:SMTI RANJAN BAISHNAB
W/O RAM SUNDAR BAISHNAB
R/O VILL- KHELMA PART V
PO-GUMRA BAZAR
PS-KATIGORAH
DIST. CACHAR
ASSAM
PIN-788815

11:SMTI SAMPA RANI DAS
D/O MANTU DAS
R/O VILL CHALIGRAM
PO-KALAIN
PS-KATIGORAH
DIST. CACHAR
ASSAM
PIN-788815

12:SMTI PUSPITA DAS
D/O SUNARAM DAS
R/O VILL- BISWAMBARPUR
PO-JALALPUR
PS- KATIGORAH
DIST. CACHAR
ASSAM
PIN-788815

13:SMTI SALMA BEGUM
D/O ABDUR RAHMAN
R/ VILL-SOUTH TINTIKRI
PO HILLARA
PS-KATIGORAH
DIST. CACHAR
ASSAM
PIN-788815

14:SMTI AROTI DAS
W/O AMARESH DAS
R/O VILL-PIR NAGAR
PO-JALALPUR
PS-KATIGORAH
DIST. CACHAR
ASSAM
PIN-78881

Advocate for the Petitioner : MR.J PATOWARI

Advocate for the Respondent : MR. N BARUA, R- 6-14

Linked Case : WP(C)/4051/2017

PROTIMA DEY LASKAR and 8 ORS.
W/O- UTTAM KR. DEY LASKAR
VILL- SARASPUR
P.O- GUMRA BAZAR
P.S- KATIGORAH
DIST- CACHAR
ASSAM

2: SILPI NATH

W/O- SUBHASH CHANDRA NATH
R/O- VILL- KHELMA PART-VII
P.O- GUMRA BAZAR
P.S- KATIGORAH
DIST- CACHAR
ASSAM

3: MINARA BEGUM LASKAR
D/O- LATE SAIFUDDIN LASKAR
R/O- VILL- KHELMA PART-II
LAMARGRAM
P.O- SADISH KHAL
P.S- KATIGORAH
DIST- CACHAR
ASSAM

4: RUSNA BEGUM CHOUDHURY
W/O- ABTAB UDDIN BORBHUYAN
R/O- VILL- NIZJALALPUR
P.O- JALALPUR
P.S- KATIGORAH
DIST- CACHAR
ASSAM

5: RANJANA BAISHNAB
W/O- RAM SUNDAR BAISHNAB
R/O- VILL- KHELMA PART-V
P.O- GUMRA BAZAR
P.S- KATIGORAH
DIST- CACHAR
ASSAM

6: SAMPA RANI DAS
D/O- MANTU DAS
R/O- VILL- SALIGRAM
P.O- KALAIN
P.S- KATIGORAH
DIST- CACHAR
ASSAM

7: PUSPITA DAS
D/O- SUNARAM DAS
R/O- VILL- BISWAMBARPUR
P.O- JALALPUR
P.S- KATIGORAH
DIST- CACHAR
ASSAM

8: SALMA BEGUM
D/O- ABDUR RAHMAN
R/O- VILL- SOUTH TINTIKRI
P.O- HILARA
P.S- KATIGORAH
DIST- CACHAR
ASSAM

9: AROTI DAS
W/O- AMARESH DAS
R/O- VILL- PIRNAGAR
P.O- JALALPUR
P.S- KATIGORAH
DIST- CACHAR
ASSAM
VERSUS

THE STATE OF ASSAM and 16 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM
SOCIAL WELFARE DEPTT.
DISPUR
GUWAHATI-6
ASSAM

2:THE DIRECTOR
SOCIAL WELFARE
ASSAM
UZAN BAZAR
GUWAHATI-1
ASSAM

3:THE DEPUTY COMMISSIONER
CUM CHAIRMAN OF PROJECT LEVEL SELECTION COMMITTEE
CACHAR- 788001
ASSAM

4:DISTRICT SOCIAL WELFARE OFFICER
SILCHAR
DIST- CACHAR
ASSAM- 788001

5:THE CHILD DEVELOPMENT PROJECT OFFICER
CUM MEMBER SECRETARY
KALAIN
ICDS PROJECT
P.O- HILARA
CACHAR- 788815
ASSAM

6:JAHANARA BEGUM CHOUDHURY
W/O- TAJUDDIN CHOUDHURY
R/O- VILL- KHELMA PART-VI

P.O- GUMRA BAZAR
WARD NO.3
P.S- KATIGORAH
DIST- CACHAR
ASSA
PIN- 788815
7:DINARA BEGUM BARBHUIYA
W/O- RIAJ UDDIN
R/O- VILL- WEST SARASPUR
P.O- GUMRA BAZAR
SILCHAR
DIST- CACHAR
ASSAM
PIN- 788815
8:CHAMPA RANI BAISHNAB
W/O- JAOYLAL BAISHNAB
R/O- VILL- KHELMA
P.O- GUMRA BAZAR
SILCHAR
DIST- CACHAR
ASSAM
PIN- 788815
9:SULTANA BEGUM BARBHUIYA
W/O- ABDUL KAIYUM CHOUDHURY
R/O- VILL- KHELMA PART-II
P.O- GUMRA BAZAR
SILCHAR
DIST- CACHAR
ASSAM
PIN- 788815
10:MUFIDA BEGUM BARBHUIYA
W/O- NIZAMUDDIN BARBHUIYA
R/O- VILL- RANGPUR
P.O- JALALPUR
P.S- KATIGORAH
DIST- CACHAR
ASSAM
PIN- 788815
11:SUJATA RANI DAS
W/O- JHONTU BAISHNAB
R/O- VILL- KHELMA PART-V
P.O- GUMRA BAZAR
DIST- CACHAR
ASSAM
PIN- 788815
12:SABITA DAS
W/O- NIBARAN CH. DAS
VILL- CHALIGRAM

P.O- KALAIN
SILCHAR
DIST- CACHAR
ASSAM
PIN- 788815
13:HOLY ROY
W/O- HIMANGSHU ROY
VILL- BHATGRAM
P.O- KALAIN
SILCHAR
DIST- CACHAR
ASSAM
PIN- 788815
14:ARCHANA DAS
W/O- AJIT KUMAR DAS
VILL- BISWAMBHARPUR
P.O- JALALPUR
P.S- KATIGORAH
DIST- CACHAR
ASSAM
PIN- 788815
15:SUPRIYA PAUL
W/O- NANTU PAUL
VILL- BRAHMANGRAM
P.O- KALAIN
SILCHAR
DIST- CACHAR
ASSAM
PIN- 788815
16:HAFSARA BEGUM
W/O- HABIB AHMED
VILL- BEHERA PART-VI
P.O- HILARA
P.S- KATIGORAH
DIST- CACHAR
ASSAM
PIN- 788815
17:CHAMPA BEGUM
W/O- ABDUL WAICH
VILL- PIR NAGAR
P.O- JALALPUR
WARD NO.9
DIST- CACHAR
ASSAM
PIN- 788815

Advocate for : MR.S K GHOSH

Advocate for : MR.M RAHMANR- 6 to 14 and 17 appearing for THE STATE OF

ASSAM and 16 ORS.

**BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA**

JUDGMENT & ORDER (ORAL)

Date: 09.01.2023

Heard Mr. KN Choudhury, learned senior counsel for the petitioners in WP(C)No.7954/2017. We have also heard Mr. PKR Choudhury, learned Amicus Curiae for the petitioners in WP(C)No.4051/2017 as well as Mr. D Nath, the Senior Government Advocate for the respondents in the Social Welfare Department, Government of Assam.

2. An advertisement dated 08.09.2009 was issued by the In-Charge CDPO of Kalain ICDS Project Cachar inviting applications for the post of Anganwadi workers and helpers in respect of the Anganwadi Centres listed in the said advertisement. The selection resulted in a select list of the year 2010 wherein the names of the petitioners in WP(C)No.7954/2017 are stated to be included. But without bringing the process to its logical end, in respect of the same posts, another advertisement dated 20.07.2013 was issued which was assailed in WP(C)No.4681/2013 and WP(C)No.399/2014. The said two writ petitions were given a final consideration by the order dated 05.05.2015 by which the advertisement dated 20.07.2013 was interfered. The implication of interfering with the subsequent advertisement dated 20.07.2013 in respect of the same posts would be that the earlier selection process pursuant to the advertisement

dated 08.09.2009 is required to be brought to its logical end. In the process of bringing the advertisement dated 08.09.2009 to its logical end, another select list was prepared and allegations were raised that some people who were residents outside the territorial jurisdiction of the area of the respective Anganwadi Centres were also included. Upon such allegations, WP(C)No.3442/2016 was instituted which was given a consideration by the order dated 08.06.2016. By the order of 08.06.2016 in WP(C)No.3442/2016, the persons who had raised the allegations that residents outside the jurisdictional area of the respective Anganwadi Centres were also included, were required to file their respective representations. Accordingly, representations were filed which resulted in the order dated 14.06.2017 of the Director of Social Welfare Department. By the order dated 14.06.2017, in respect of the concerned Anganwadi Centres, certain persons were found to have been residents outside the jurisdictional area of the Anganwadi Centres concerned and their selections were interfered. But by the order dated 14.06.2017 of the Director, while doing so, it was also provided that in respect of the posts which would be the resultant vacancies upon the outsider candidates being removed, there would be a fresh advertisement.

3. WP(C)No.7954/2017 is instituted on the grievance that as these posts are also included in the advertisement dated 08.09.2009 wherein as per the order dated 05.05.2015 in WP(C)No.4681/2013 and WP(C)No.399/2014 there is a requirement to bring the selection process to its logical end, therefore, a fresh advertisement in respect of some of the posts cannot be issued once again and if it is done it would be in conflict with the requirement of the order dated 05.05.2015 in WP(C)No.4681/2013 and WP(C)No.399/2014.

4. We are in agreement with Mr. KN Choudhury, learned senior counsel for the petitioner that a fresh advertisement cannot be issued for the said posts which were subjected in the advertisement dated 08.09.2009, where there is a requirement to bring the process to its logical end. Accordingly, the part of the order dated 14.06.2017 of the Director Social Welfare Department requiring initiation of a fresh advertisement for such vacant post is set aside.

5. With regard to the other provisions of the order dated 14.06.2017, WP(C)No.4051/2017 has been instituted by such candidates who were declared to have been residents outside the territorial jurisdiction of the respective Anganwadi Centres by the order dated 14.06.2017.

6. Mr. PKR Choudhury, learned counsel for the petitioners in WP(C)No.4051/2017 makes a submission that the petitioners therein were declared to have been persons from outside the territorial jurisdiction of the respective Anganwadi Centres without following due procedure of law i.e. no opportunity of hearing were given to such petitioners. In view of the stand of Mr. PKR Choudhury, learned counsel for the petitioners in WP(C)No.4051/2017 that the due procedure of law was not followed before declaring the said petitioners to be residents outside the jurisdictional area of the respective Anganwadi Centres, we provide that the respective writ petitioners of WP(C)No.4051/2017 shall file their individual representations before the Director of Social Welfare Assam stating in detail in what manner they are residents within the territorial area of the respective Anganwadi Centres. Upon such representations being submitted, the Director shall give individual hearing to the

petitioners making such representations and thereupon arrive at a factual determination as to whether the individual petitioners are residents within the territorial area of the respective Anganwadi Centres. If the decision to be arrived at would be that they are in fact residents within the territorial jurisdiction of the respective Anganwadi Centre, the order removing them from the respective posts on the ground of not being the residents within the territorial area of the Anganwadi Centre concerned shall be reviewed and rectified. On the other hand, the decision would remain if the respective petitioners are residents outside the territorial jurisdiction of the respective Anganwadi Centres, the order dated 14.06.2017 in respect of such petitioners would prevail and the resultant vacancies be filled up by bringing the process of selection pursuant to the advertisement dated 08.09.2009 to its logical end.

7. It is stated that there is also a subsequent advertisement of the year 2010 for the same purpose, pursuant to which also the selection process was initiated. The two advertisements, i.e. the advertisement dated 08.09.2009 and the subsequent advertisement of the year 2010 be read as one advertisement.

8. We also take note of the communication dated 05.01.2023 of the Director Women and Child Development Department, Assam made to the learned Additional Senior Government Advocate, Assam, the purport of which is also in conformity of the provisions of this order. Accordingly, the Director shall do the needful.

9. We also take note that Mr. PKR Choudhury, learned counsel was requested

to be the Amicus Curiae for the petitioners in WP(C)No.4051/2017, and, therefore, the learned counsel may not have contact with the writ petitioners. As the said writ petitioners are presently serving under the Social Welfare Department, or re-nomenclatured as Women and Child Development Department, Assam, the Director of the Department may do the needful to inform the petitioners in WP(C)No.4051/2017 about the requirement of this order.

10. The entire process indicated above be completed within a period of two months from the date of receipt of a certified copy of this order.

11. In respect of the petitioners in WP(C)No.4051/2017, they may continue as such, till such reasoned order is passed by the Director as indicated above.

12. In the event, the order of the Director is against the petitioners in WP(C)No.4051/2017, they have to make way for the other selected candidates or if it is otherwise, the consequent reasoned order to be passed by the Director shall have its effect.

13. It is clarified that upon the Director informing the petitioners in WP(C)No.4051/2017 about the requirement of this order, the respective petitioners shall file their applications without any delay so that the reasoned order as required can be effectively passed by the Director. If such applications are not filed by the petitioners in WP(C)No.4051/2017 within the period of one month, the provisions of the order dated 14.06.2017 providing for their ouster

from service shall prevail.

14. Both the writ petitions stand disposed of in the above terms.

15. The requisite fee of the learned Amicus Curiae be accordingly paid to Mr. PKR Choudhury, learned counsel who appeared on behalf of the petitioners in WP(C)No.4051/2017.

JUDGE

Comparing Assistant