

GAHC010202092016



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

Case No. : WA/49/2016

SMT JULEKHA WAHIDA AHMED
D/O LATE MOSHIBUDDIN AHMED,
R/O SOUTH SARANIA,
P.O. ULUBARI,
DIST. KAMRUP M, ASSAM.

VERSUS

THE STATE OF ASSAM and 13 ORS
REPRESENTED BY THE SECY. TO THE GOVT. OF ASSAM,
EDUCATION DEPTT.,
DISPUR, GUWAHATI.

For the Appellant : Mrs. S.P. Hussain, Advocate

For the Respondent(s) : Mr. R. Mazumdar, Standing Counsel, Secondary
Education Department.

Mr. B.D. Das, Senior Advocate assisted by Mr. S.
Boro, Advocate for respondent Nos.5, 6, 7, 8, 9, 10,
12, 13.

Mr. U.K. Das, Advocate for respondent No.12.

Ms. M. Kechii, Advocate for respondent No.11.

- B E F O R E -

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

01.06.2023

The instant intra-Court writ appeal has been preferred by the appellant herein aggrieved of the order dated 25.08.2015 passed by the learned Single Bench of this Court, whereby writ petition, WP(C) No.2485/2012 preferred by the appellant/writ petitioner seeking a direction to the respondents to provide her appointment on the post of Subject Teacher in Zoology in the provincialised Higher Secondary Schools of Assam as a consequence of the recruitment process held in the year 1995.

- 2.** The controversy at hand has undergone multiple rounds of litigation.
- 3.** Mrs. S.P. Hussain, learned counsel for the appellant vehemently and fervently urged that as this Court in the earlier round of litigation has concluded that the selection process was tainted and unauthorized appointments made, the appellant/writ petitioner deserves consideration for appointment as the Subject Teacher in Zoology as her own position merit because the appointments, which were given in the questioned selection process, were all suffering from fraud.
- 4.** Learned counsel representing the respondents have vehemently and fervently opposed the submissions advanced by the learned counsel for the

appellant/writ petitioner. They urged that the claim of the appellant/writ petitioner for appointment to the post of Subject Teacher in Zoology in provincialised Higher Secondary School has already been rejected and laid to rest by this Court in earlier rounds of litigation and hence, the appellant/writ petitioner cannot be allowed to rake up the same controversy time and again.

5. We have given our thoughtful consideration to the submissions advanced at Bar and have gone through the material placed on record, and to be specific, the order passed by the Division Bench in the earlier round of litigation, i.e. Misc. Case No.3978/2010, wherein, by order dated 11.08.2011, this Court observed as below,

“With regard to appointment of the petitioner as Zoology Subject Teacher, it is stated by learned counsel for the respondents that the entire selection process was completely vitiated and it has been quashed, as mentioned in paragraph 3 of the affidavit dated 9th August, 2011.

Since the entire process has been quashed, the appointment of the petitioner obviously cannot be made.”

6. The writ petitioner filed review petition in the PIL No.14/2010, being Review Petition No.117/2011, wherein the Court by order dated 25.01.2012 persistently rejected the claim of the petitioner for appointment in the questioned selection process by observing thus:

“As regards the claim of Mrs. Julekha Wahida Ahmed in Review Petition No.117 of 2011, for appointment in terms of order of this Court dated 6-8-2010, it was noticed in our order dated 19-12-2011 that the petitioner had to show preferential right to appointment against available vacancy in terms of order dated 6-8-2010. It has not been shown that any person lower in merit to the said petitioner has been considered or that no person higher in merit to the

petitioner is available for appointment. This being the position, in these proceedings, no further order is required to be passed.”

7. In view of the above findings as recorded in the orders passed by the Division Bench (supra), we are of the firm opinion that the prayer made by the appellant/writ petitioner in the instant multiple round of litigation seeking a direction for appointment to the post of Subject Teacher in Zoology in provincialised Higher Secondary School is misconceived and cannot even be considered for a moment.

8. As a consequence thereof, the writ appeal fails and is dismissed as being devoid of merit.

JUDGE

CHIEF JUSTICE

Comparing Assistant