

GAHC010203972018



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

Case No. : Review.Pet./165/2018

SMTI DIPANJALI BARUA
R/O VILL. GAHIRKHOWA , P.O. JANARAM CHOWK, P.O. MANGALDOI, DIST.
DARRANG, ASSAM.

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE COMMISSIONER AND SECY. TO THE GOVT. OF
ASSAM, EDUCATION SECONDARY, DEPTT., ASSAM SECRETARIAT,
DISPUR, GUWAHATI.

2:THE STATE SELECTION COMMITTEE
REPRESENTED BY THE COMMISSIONER AND SECY. TO THE GOVT. OF
ASSAM CUM CHAIRMAN OF THE STATE SELECTION COMMITTEE
SECONDARY EDUCATION
DEPTT.
ASSAM
SECRETARIAT
DISPUR
GUWAHATI-6

3:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM KAHILIPARA
GUWAHATI 19

4:THE INSPECTOR OF SCHOOLS
DARRANG DIST. CIRCLE
MANGALDAI
DIST. DARRANG
ASSAM
PIN 784525

5:THE SCHOOL SELECTION COMMITTEE
OUTALA HIGHER SECONDARY SCHOOL
OUTALA HIGHER SECONDARY SCHOOL
P.O. OUTALA
DIST. DARRANG
ASSAM
PIN 784525 TO BE REPRESENTED BY ITS PRESIDENT SMTI PRANATI
BHAGAWATI
W/O SHRI TARANI GOSWAMI
R/O VILL. AND P.O. OUTALA
MANGALDAI
DIST. DARRANG
ASSAM.

6:BIPIN CHANDRA SARMAH
ASSTT. TEACHER (HINDI)
OUTALA HIGHER SECONDARY SCHOOL
P.O. OUTALA
DIST. DARRANG
ASSAM
PIN 784525

7:KAMAL PRASAD SARMA

S/O LATE DEBAJIT SARMA
R/O VILL. HABIBHANGA
P.O. KALAIGAON
BTAD
DIST. OUDALGURI
PIN 78452

Advocate for the Petitioner : MR. B K DAS

Advocate for the Respondent : SC, SEC. EDU.

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

08/02/2023

Heard Mr. H P Guwala, learned counsel for the petitioner. Also heard Mr. R Mazumdar, learned Standing counsel, Department of School (Secondary) Education for the respondent Nos. 1, 2 & 4 and Ms. N M Deka, learned counsel for the respondent No. 7.

By this petition, the petitioner has prayed for review of the order dated 08.08.2018 passed in WP(C) No. 2629/2017 stating that the Court while disposing of the said WP(C) No. 2629/2017 preferred by the petitioner did not consider the additional affidavit filed by her on 03.11.2017. As such, the said writ petition needs to be reconsidered by considering her additional affidavit filed on 03.11.2017.

Matter pertains to selection of regular Principal of Outala Higher Secondary School, a provincialised Secondary School of the State in the District of Darrang.

Pursuant to the advertisement dated 17.06.2016 issued by the Inspector of Schools, Darrang District Circle, Mangaldai for filling up the post of Principal in said Outala Higher Secondary School on regular basis, wherein the last date for filing application was 29.06.2016 in which the petitioner along with the respondent No. 7 and other candidates submitted their applications. Finding their applications in proper form, the petitioner along with the respondent No. 7 and other candidates were called for the interview and accordingly, they appeared before the School Selection Committee on 21.11.2016 for their selection to the post of regular Principal.

The Inspector of Schools, Darrang District Circle, Mangaldai on 20.06.2016 issued a corrigendum correcting the last 3 points of the said advertisement dated 17.06.2016.

The petitioner contended that though there were qualified persons to be nominated as the Member Secretary of the School Selection Committee since the In-charge Principal of said Outala H.S. School, i.e., the petitioner herself was a candidate for the post of Principal of said H.S. School, the respondent authorities allowed the respondent No. 6, Sri Bipin Chandra Sarmah, a Hindi Teacher of the said H.S. School to represent as a Member Secretary of said School Selection Committee for selection to the post of regular Principal of said H.S. School as advertised on 17.06.2016 only to

favour the respondent No. 7, who was recommended as the 1st candidate amongst the three by the said committee.

As the Director of Secondary Education, Assam in its order under No. GB-EST/Guideline(PI)3/2013/115 dated 15.06.2016 specifically provided that where the Member Secretary in case the In-charge Principal himself/herself is the candidate for the post of Principal of such school, the Inspector of Schools will notify a Post Graduate Teacher having Master Degree with B.Ed. or a senior most Graduate Teacher having Master degree with B.Ed. to exercise the function of the Member Secretary of the School Selection Committee as constituted under the Assam Secondary Education (Provincialised) Service Rules, 2003 as amended in 2012 and where there is no Post Graduate Teacher having Master Degree & B.Ed., a senior teacher having Master degree only may be preferred and further, the concerned Inspector of Schools will issue written order to the said effect.

Petitioner stated that in spite of having Post Graduate Teacher with B.Ed. in the said Outala H.S. School, who did not apply for regular Principal of said school, the Inspector of Schools, Darrang District Circle, Mangaldai allowed the respondent No. 6, Hindi Teacher of the said H.S. School to represent as a Member Secretary of said School Selection Committee and therefore, the selection made by the said School Selection Committee, being bad in law, should be set aside and quashed.

The Court after considering entire aspects of the matter by its order dated 08.08.2018 dismissed the said WP(C) No. 2629/2017 with the following observation:-

“In the present writ petition, the petitioner has raised an issue that the constitution of the School Managing Committee of said Outala HS School in Darrang district that constituted by the Inspector of Schools, Darrang was not in conformity with the order dated 15.06.2016 passed by the Director of Secondary Education, Assam and therefore, the selection of the respondent No. 7 as regular Principal of said HS School was not valid.

The only contention raised by the petitioner herein is that the said respondent No.6 was inducted in the School Managing Committee of said Outala HS School in an extraneous consideration, only to favour the respondent No.7, who is 3 years junior to the petitioner and joined Kalaigaon HS School, Udalguri in the year 1996 only.

But petitioner's said statement is not based on record and is purely from her knowledge, which is revealed from the affidavit appended to the writ petition. Moreover, the issue raised by the petitioner now, regarding the induction of the respondent No. 6 in the School Managing Committee

of said Outala HS School only to select the respondent No. 7 as its Principal was not raised earlier in her previous WP(C) No. 559/2017 that was disposed of by the Court on 03.02.2017, with observation, as noted above.

It is seen that after due verification of records by the State Selection Board and on its recommendation, the State Government in the Secondary Education Department on 14.03.2017 approved the same and thereafter, the Director of Secondary Education by the impugned order dated 02.05.2017 appointed the said respondent No. 7 as the regular Principal of said Outala HS School, district - Darrang, a provincialised Higher Secondary School of the State."

The Court while perusing the additional affidavit filed by the petitioner on 03.11.2017 in said WP(C) No. 2629/2017 found that the petitioner therein stated that she on 28.11.2016 itself lodged an objection before the Inspector of Schools regarding induction of respondent No. 6 Bipin Ch. Sarmah, Hindi Teacher of said H.S. School as the Member Secretary of the School Selection Committee for selection of regular Principal and as the respondent authorities did not redress her grievances, she filed WP(C) No. 559/2017 challenging the constitution of the School Selection Committee by inducting said Bipin Ch. Sarmah, Hindi Teacher as a Member Secretary of the said School Selection Committee.

From the said additional affidavit filed by the petitioner on 03.11.2017 in said WP(C) No. 2629/2017, it can be seen that regarding filing of such objection before the Inspector of Schools, Darrang District Circle, Mangaldai on 28.11.2016 as stated at Para 3, at Para 10 of her said additional affidavit, she kept the part blank without mentioning whether her said statement of filing any such application/objection at the earliest point of time before the Inspector of Schools on 28.11.2016 inducting Sri Bipin Ch. Sarmah, Hindi Teacher of said school as the Member Secretary of the School Selection Committee being not in accordance with the guidelines of the Director of Secondary Education, Assam dated 15.06.2016 is without any specification, whether it has from her knowledge or from the records.

Mere making a statement without any basis of such records that she filed her application before the Inspector of Schools, Darrang on 28.11.2016 prior to the interview held on 29.11.2016 for the post of regular Principal of said H.S. School though claimed by the petitioner, cannot be considered in the eye of law.

As such, the contention of the petitioner made in her additional affidavit filed on 03.11.2017 in the WP(C) No. 2629/2017 being made without any basis of records in her verification regarding

filing of such application before the Inspector of Schools, Darrang District Circle, Mangaldai on 28.11.2016 is not valid in the eye of law which the petitioner failed to establish regarding filing of such objection and therefore, this review petition, being without merit, stands dismissed.

JUDGE

Comparing Assistant