

GAHC010217862021



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

Case No. : WP(C)/7087/2021

RATNAWALI DEVI
W/O BIRENDRA CHANDRA SARMA, RETD PRINCIPAL I/C OF
BURHINAGAR SR. SECONDARY SCHOOL, DARRANG. R/O VILL
GOMTHAPARA, PO DEODHANIGHAT, PS SIPAJHAR, DIST DARRANG
(ASSAM), PIN 784147

VERSUS

THE STATE OF ASSAM AND 6 ORS
REP BY THE COMMISSIONER AND SECRETARY, TO THE GOVT OF ASSAM
EDUCATION (SECONDARY) DEPARTMENT, DISPUR, GUWAHATI-6

2:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-781019

3:THE FINANCE DEPARTMENT
REP BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM
DISPUR
GUWAHATI-781006

4:THE INSPECTOR OF SCHOOLS
DARRANG DISTRICT CIRCLE
MANGALDOI
ASSAM

5:THE PRESIDENT
SCHOOL MANAGING AND DEVELOPMENT COMMITTEE
BURHINAGAR SENIOR SECONDARY SCHOOL
MAHALIAPARA
DARRANG-784147

ASSAM

6:THE SELECTION COMMITTEE FOR THE POST OF PRINCIPAL
BURHINAGAR SENIOR SECONDARY SCHOOL
MAHALIAPARA
DARRANG
ASSAM
PIN 784147

7:DIGANTA RAJBONGSHI
S/O MR. DINANATH DEKA
PRINCIPAL
BURHINAGAR SENIOUR SECONDARY SCHOOL
MAHALIAPARA
DARRANG
ASSAM
PIN 78414

Advocate for the Petitioner : MR D N SARMA

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 20.01.2023

Heard Mr. R. Islam, learned counsel for the petitioner. Also heard Mr. N. J. Khataniar, learned Standing Counsel, Secondary Education Department.

2. The present petitioner was a Lecturer in *Burhinagar Junior College*, who retired from service on 30.4.2019 and she challenges an order dated 27.6.2019 issued by the Director of Secondary Education, Assam appointing respondent No.7 as the Principal of the said Burhinagar Junior College.

3. During the period of service of the petitioner and prior to her retirement, the petitioner alongwith respondent No.7 participated in a selection process for the post of Principal of the said College, pursuant to an advertisement dated

19.6.2014. In the said selection process, the present respondent No.7 was selected as the Principal of said College and the selection committee placed the present writ petitioner in Serial No.2 in terms of the merit.

4. Such selection was challenged by the present writ petitioner by way of WP(C) No. 3629/2014. The said writ petition preferred by the present writ petitioner was disposed of by this court by directing the Director of Secondary Education, Assam to consider the grievances of the present petitioner regarding selection of respondent No.7. However this court clarified in the said order that this court had not expressed any opinion on the merit of the case of the petitioner.

5. Thereafter, the Director of Higher Education, Assam rejected the proposal of the Governing Body to appoint respondent No.7. Accordingly the Governing Body of the College preferred WP(C) No.5799/2014. This court under its order dated 10.1.2018 while interfering with the decision of the Director of the Higher Education, Assam in rejecting the proposal of the Governing Body for appointment of respondent No.7 as Principal of the College, remanded the matter for a fresh decision.

6. In the meantime, the petitioner has retired from service and in terms of the order dated 10.1.2018 passed in WP(C) No.5799/2014, the impugned order has been passed.

7. On the aforesaid backdrop this court is of the considered opinion that the petitioner in the present writ petition cannot be an aggrieved party for the following reasons:

(i) The present writ petition preferred by the present writ petitioner was remanded back to the Director of Higher Education, Assam without entering

into the merit of the claim of the present petitioner. Thus, this court had not determined the merit of the claim of the present petitioner in his earlier writ petition.

(ii) The decision of the Director of Secondary Education has been interfered by this court in WP(C) No.5799/2014, which has attained finality and it was the bounden duty of the Director of Higher Education, Assam to comply with the order dated 10.1.2018 passed in WP(C) No. 5799/2014, in view of finality of said order. In the meantime, the petitioner had retired from her service on attaining the age of superannuation and at this stage, even if the present order is set aside, she cannot be appointed as a Principal of the said college.

8. Therefore, in the considered opinion of this Court, the present petitioner is having no locus, in given facts and circumstances of the present case, to assail the order dated 27.6.2019.

9. Accordingly the present writ petition is dismissed.

If the petitioner had any grievances for any wrong done to her, she may claim damages before appropriate forum.

JUDGE

Comparing Assistant