

GAHC010219232019



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

Case No. : WP(C)/6732/2019

BAPAN SARMA
S/O LT. BIDHU SARMA, HOUSE NO. 512, BILASIPARA, WARD NO. 8, P.O.
HAKAMA, P.S. BILASIPARA, DIST. DHUBRI, ASSAM, PIN-783348

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
SECONDARY EDUCATION DEPTT. DISPUR, GUWAHATI-6

2:THE DIRECTOR
SECONDARY EDUCATION ASSAM
KAHILIPARA
GUWAHATI-19

3:THE INSPECTOR OF SCHOOLS
DHUBRI DIST. CIRCLE

4:THE PRINCIPAL
ROKAKHATA H.S.SCHOOL
BILASIPARA
P.O. HAKAMA
DIST. DHUBRI

5:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
DEPARTMENT OF FINANCE

DISPUR
GUWAHATI
ASSAM
PIN- 78100

Advocate for the Petitioner : MR. N NATH

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

14.06.2023

Heard Shri A.K. Dutta, learned counsel for the petitioner. Also heard Shri U. Sharma, learned Standing Counsel, Secondary Education Department.

Considering the subject matter and the fact that this writ petition is pending since the year 2019, the same is taken up for disposal at the admission stage.

The petitioner claims to be selected by the School Management and Development Authority for appointment to a Grade –IV post in the Rokakhata H.S. School, Dhubri. However, there was litigation in the Court of the learned Munsiff, Bilasipara instituted by one unsuccessful candidate which was registered as T.S. No. 10/2013 along with Misc. (J) Case No. 9/2013. The petitioner states that an *ex-parte* order of *status quo* was initially passed. However, the Misc Case was dismissed on 29.06.2013 whereafter the oral interview was held on 10.07.2013. The case of the petitioner is that in the meantime the S.I.U approval had lapsed and there was a communication from the Inspector of Schools, Dhubri dated 21.01.2014 to the Director of Secondary Education seeking extension of S.I.U approval.

Shri Dutta, the learned counsel for the petitioner submits that a direction may be issued for grant of S.I.U approval so that the petitioner can be appointed.

On the other hand, Shri U. Sharma, the learned Standing Counsel, Secondary Education Department has submitted that the S.I.U approval had lapsed in the year 2014 itself and this writ petition has been filed after more than 5 (five) years. He, accordingly, submits that the petitioner may not be entitled to any equitable relief.

Shri M. Bhuyan, learned counsel appearing for the Finance Department has endorsed the submission of Shri Sharma, the learned Standing Counsel and has also submitted that on the ground of inordinate delay itself, the writ petition ought to be dismissed.

After hearing the parties, this Court has noticed that cause of action, if any, has arisen in the years 2013-14 and this writ petition has been instituted only on 06.09.2019 that is after about 5 years. There is no explanation for this inordinate delay in this writ petition. In a specific query regarding any communication in the meantime, Shri Dutta, the learned counsel has placed before this Court certain documents which he had obtained under the RTI Act.

Apart from the fact that these documents are not made part of writ proceedings, a bare perusal of the same would reveal that certain information has been granted along with certain enclosures. The said enclosures however are relating to vacancy position.

This Court is of the considered opinion that the powers exercised under Article 226 of the Constitution of India is extraordinary in nature where the conduct of the petitioner is of paramount importance.

In the instant case, the petitioner has approached this Court after a lapse of about 5 (five) years without any explanation.

Under the aforesaid facts and circumstances, this Court is of the view that

no equitable relief is entitled to by the petitioner and accordingly, the writ petition stands dismissed.

JUDGE

Comparing Assistant