

GAHC010228392023



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

Case No. : WP(C)/5941/2023

KULDEEP TASSA
S/O HAREN TASSA VILL. NIZ BHEKULAJAN P.O. TENGAKHAT DIST.
DIBRUGARH ASSAM-786103

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, DEPARTMENT OF WELFARE OF PLAIN TRIBES AND
BACKWARD CLASSES, DISPUR, GUWAHATI- 781006.

2:THE STATE LEVEL CASTE SCRUTINY COMMITTEE
REP BY ITS CHAIRMAN CUM SECRETARY WELFARE OF PLAIN TRIBES
AND BACKWARD CASTE DEPT. TO THE GOVT.OF ASSAM DISPUR
GUWAHATI6

3:THE DIRECTOR OF MEDICAL EDUCATION
ASSAM
SIXMILE KHANAPARA GUWAHATI 22

4:THE DIRECTOR OF TEA TRIBES WELFARE
ASSAM
RUPNAGAR GUWAHATI 32

5:THE DISTRICT COMMISSIONER
DIBRUGARH
DIST DIBRUGARH ASSAM 786001

6:THE PRINCIPAL
ASSAM MEDICAL COLLEGE
AMC ROAD BARBARI DIBRUGARH ASSAM 78600

Advocate for the Petitioner : MR S M ABDULLAH P

Advocate for the Respondent : SC, HEALTH

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

ORDER

Date : 12-10-2023

Heard Mr. Y.S. Mannan, learned counsel for the petitioner. Also heard Mr. C. Sarma, learned counsel for the respondents no. 1 and 2 being the authorities under the Welfare of Plain Tribes & Backward Classes Department of Government of Assam and Mr. B. Gogoi, learned counsel for the respondents no. 3 and 6 being the authorities under the Medical Education Department of Government of Assam and Mr. P. Saikia, learned Junior Government Advocate for the respondents no. 4 and 5 being the authorities under the Director of Tea Tribes Welfare, Assam and District Commissioner, Dibrugarh.

2. The petitioner who is a candidate for the 1st Year MBBS Course of the year 2023 in the State of Assam and who offers the candidature as a candidate belonging to the Tea Garden Labourer/Ex-Tea Garden Labourer (in short, TGL/Ex-TGL) category is aggrieved by the admission notices dated 28.09.2023 and 29.09.2023 by which a provisional select list was revised. The petitioner was required to appear before the State Level Scrutiny Committee under the Department of Social Justice and Empowerment pertaining to the claims regarding the Other Backward Classes on the question as to whether the petitioner does actually belong to the TGL/Ex-TGL category.

3. Reservation in favour of TGL/Ex-TGL is available at entry 24 of the Notification dated 10.09.1993 of the Government of India providing for the list

of Other Backward Classes in the State of Assam wherein to be included under entry 24, there is a requirement of a factual determination as to whether the petitioner or his/he father or any of his/her forefather was a tea garden labourer in any of the tea garden in Assam at any period of time.

4. The petitioner on being subjected to the State Level Scrutiny Committee, was rejected to be belonging to the TGL/Ex-TGL category and being aggrieved, this writ petition is instituted on the ground that without giving adequate opportunity of hearing to the petitioner, his claim to be belonging to the TGL/Ex-TGL category had been rejected and consequently the name of the petitioner was deleted from the provisional select list.

5. Mr. Y.S. Mannan, learned counsel for the petitioner while presenting the matter has referred to certain certificates issued from the Bipinbag Tea Estate in the Dibrugarh district wherein it is certified that Madan Tassa being the grandfather of the petitioner and Chulachana Tassa being the grandmother of the petitioner, were both tea garden labourers in the Bipinbag Tea Estate. According to the petitioner, the contents of the certificate were not given a due consideration by the State Level Scrutiny Committee.

6. A prima facie reading of the certificates produced before the Court shows that it is certified that the aforesaid two persons who are claimed to be the grandfather and grandmother of the petitioner were tea garden labourers in the Bipinbag Tea Estate. A certificate under the law is a document which shows the existence of a fact and not the creation of a fact and the contents of the certificate would also have to be established based upon adequate material being produced.

7. In view of the above, the matter is remanded back to the State Level

Scrutiny Committee for giving adequate opportunity of hearing to the petitioner firstly to establish that the aforesaid two persons namely Madan Tassa and Chulachana Tassa are respectively the grandfather and grandmother of the petitioner and secondly, that the aforesaid two persons namely Madan Tassa being the grandfather of the petitioner and Chulachana Tassa being the grandmother of the petitioner had worked as tea garden labourers in the Bipinbag Tea Estate, if necessary by calling for the records of Bipinbag Tea Estate so that a correct factual determination on the aspect can be made.

8. Accordingly, the petitioner to appear before the State Level Scrutiny Committee on 16.10.2023 in the chamber of the Joint Secretary-cum-Member Secretary of State Level Caste Scrutiny Committee under the Social Justice and Empowerment Department of Government of Assam situated at D Block, 1st Floor, Janata Bhawan at 10:30 A.M., as agreed by both the learned counsel for the Social Justice and Empowerment Department of Government of Assam as well as the learned counsel for the Medical Education Department of Government of Assam.

9. The legal right of the petitioner to claim a seat in the 1st Year MBBS Course in the category of TGL/Ex-TGL would be subject to the decision that the Committee may render and as per the provisions of law applicable for the purpose.

Writ petition stands disposed of in the above terms.

JUDGE

Comparing Assistant