

GAHC010232422023



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

Case No. : WP(C)/6089/2023

DHIRU BHARALI
S/O- HEMKANTA BHARALI,
R/O- DAKSHINHATI , NAMATI, P.O AND P.S- BHAWANIPUR,
DIST- BARPETA, ASSAM, PIN-781352

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
HIGHER EDUCATION DEPARTMENT,
DISPUR, ASSAM, GUWAHATI-6.

2:THE DIRECTOR OF HIGHER EDUCATION
KAHILIPARA
ASSAM
GUWAHATI-19.

3:THE GOVERNING BODY OF BHAWANIPUR ANCHALIK COLLEGE
REP. BY THE SECRETARY OF THE BHAWANIPUR ANCHALIK COLLEGE
BHAWANIPUR
DISTRICT- BARPETA
PIN- 781352.

4:THE SELECTION COMMITTEE FOR THE POST OF LABORATORY BEARER
(GRADE IV)
RESERVED FOR SCHEDULED CASTE (SC) RP-08

BHAWANIPUR ANCHALIK COLLEGE
BHAWANIPUR
DISTRICT- BARPETA
PIN- 781352.

5:THE PRINCIPAL
BHAWANIPUR ANCHALIK COLLEGE
BHAWANIPUR
DISTRICT- BARPETA
PIN- 781352.

6:SABITA DAS
W/O- PRABHAT TALUKDAR

R/O- VILL- PUTHIMARI (XILIKHAR TAL)

P.O- ODALGURI

DIST- BARPETA
ASSAM

PIN-78135

Advocate for the Petitioner : MR W R MEDHI

Advocate for the Respondent : SC, HIGHER EDUCATION

BEFORE

HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

O R D E R

13.10.2023

Heard Mr. WR Medhi, learned counsel for the petitioner and Mr. K Gogoi, learned counsel for the respondents in the Higher Education Department, Government of Assam. Considering the nature of the order proposed to be passed, notice is not required to be issued to respondents No. 3, 4, 5 and 6 for the present.

2. This writ petition is instituted by the petitioner with the following prayers:-

“In the premises aforesaid, it is most respectfully prayed that Your Lordships may be pleased to-

(i) *Issue a Writ of Certiorari quashing and setting aside the*

*impugned list of **selected candidates** pending administrative approval from the Government dated **30.05.2023** issued by the **Respondent Authority No.2** and/or;*

*(ii) Issue a Writ of Mandamus directing the **Respondent Authority No.5** to furnish the requisite **documents** as sought for by the petitioner relating to the **selection** of the **candidates** for the post of **Laboratory Bearer (Grade IV)** (R-6, RP-7,RP-8 and RP-9) as per the **Advertisement** published in the Assam Tribune Edition dated **18.03.2023** and **Declare** the **Final Result** of the **Interview** held on **19.04.2023** along with the names of the **Selected Candidates** without any further **delay** as well as not to undertake **Re-Advertisement** against the aforesaid post of **Laboratory Bearer (Grade IV)** (RP-8) till the process of **selection** of the candidate is **finalized** and/or*

(iii) Pass such other order or orders as Your Lordships may deem fit and proper in the facts and circumstances of the case.

-AND-

*Pending disposal of the writ petition, be further pleased to **stay** the **operation** and **effect** of the impugned **List** of **selected candidates** pending **administrative approval** dated **30.05.2023** issued by the **Respondent Authority No. 2** and/ or direct the respondent authorities not to **involve** the private **Respondent No.6** in connection with the **selection** for the post of **Laboratory Bearer (Grade IV)** (RP-8) as per the **Advertisement** published in the Assam Tribune Edition dated **18.03.2023** till **Declaration** of the **Final Result** and **Interview** held on **19.04.2023** and/or direct the authorities pass any other order(s) as Your Lordships may deem fit and proper.”*

3. A reading of the prayers make it discernible that certain select list purported to have been prepared by the respondent authorities for appointment to Grade-IV post in the provincialised/PDUAM/Government Model College is being assailed. The petitioner particularly assails the selection of the respondent No. 6 Smti Sabita Das in respect of Bhawanipur Anchalik College, although the list referred at page 36 is a list of pending appointment and in respect of Smti Sabita Das, there is a reason stated that the appointment had not been made as because administrative approval was not received. According to the petitioner,

the respondents ought to have selected him considering his acumen and performance in the selection process. But, instead it is the respondent No. 6 who had been selected.

4. No material could be pointed out by the petitioner as to why the selection is vitiated under the law. As an answer to that, Mr. WR Medhi, learned counsel for the petitioner states that the petitioner has sought for the relevant information under the Right to Information Act, 2005 (in short RTI Act) from the Principal of Bhawanipur Anchalik College, but such information is not being provided and this is the reason as to why the petitioner cannot point out the precise reason as to why he is of the view that the selection itself is vitiated.

5. From the said aspect, we are of the view that the petitioner has a legal right under the RTI Act to be provided with the information and it is noticed that the application is dated 02.08.2023. As the information that may be provided under the RTI Act would be the basis for the petitioner to assail a selection, we are of the view that instead of going by the procedural requirement under the RTI Act, the ends of justice would be met on a direction being issued to the Principal of Bhawanipur Anchalik College to consider the application of the petitioner dated 02.08.2023 under the RTI Act seeking for certain documents and to provide the petitioner with the necessary documents.

6. As Bhawanipur Anchalik College is stated to be a provincialised college, we are of the view that the Principal can also be represented by the learned standing counsel for Higher Education Department and accordingly, we required Mr. K Gogoi, learned counsel to also appear for the Principal of the College.

7. Accordingly, the Principal of Bhawanipur Anchalik College is directed to provide the information as sought for by the application dated 02.08.2023 under

RTI Act, if otherwise such information is required to be provided under the RTI Act. If the Principal does not intend to provide the required information, a reason thereof be stated as to why under the RTI Act such information is not required to be provided to the petitioner. It is also taken note that the Director of Higher Education, Assam has also directed the Principal of Bhawanipur Anchalik College by the communication dated 20.09.2023 to provide the information to the petitioner under the RTI Act as sought for.

8. Accordingly, the information be provided within a period of seven days from the date of receipt of a certified copy of this order. Upon receipt of the information, if so advised, liberty remains with the petitioner to approach again.

The writ petition is disposed of accordingly.

JUDGE

Comparing Assistant