

GAHC010267482022



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

Case No. : WA/32/2023

AMBLA KHATUN
W/O AKIL ALI, RESIDENT OF VILLAGE SARISHAKURI (BIHARA IV) PO
BIHARA BAZARA, PS KATIGORAH, DIST CACHAR, ASSAM

VERSUS

HANIFA KHATUN AND 5 ORS. A
W/O HAFIZ AHMED, VILL- BIHARA PART IV, P.O. KATIGORAH, DIST-
CACHAR, ASSAM, PIN-788817

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM
SOCIAL WELFARE DEPTT
DISPUR
GUWAHATI- 781006

3:THE DIRECTOR OF SOCIAL WELFARE
ASSAM
UJANBAZAR
GUWAHATI- 781001

4:THE DEPUTY COMMISSIONER
CACHAR
P.O- SILCHAR
DIST- CACHAR
ASSAM

5:THE DISTRICT SOCIAL WELFARE OFFICER
P.O- SILCHAR
DIST- CACHAR

6:THE CHILD DEVELOPMENT PROJECT OFFICER

KALAIN INTEGRATED CHILD DEVELOPMENT PROJECT
HILARA
DIST- CACHAR
ASSA

Advocate for the Petitioner : MR. L R MAZUMDER

Advocate for the Respondent : GA, ASSAM

Linked Case : WA/386/2022

AMBIA KHATUN
W/O AKIL ALI

VILL.- SARISHAKURI (BIHARA- IV)
P.O.- BIHARA BAZARA
P.S.- KATIGORAH
DIST.- CACHAR (ASSAM).

VERSUS

HANIFA KHATUN AND 5 ORS.
W/O HAFIZ AHMED
VILL.- BIHARA- IV
P.O.- BIHARA BAZARA
P.S.- KATIGORAH
DIST.- CACHAR (ASSAM)
PIN-788817.

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
SOCIAL WELFARE DEPTT.

DISPUR

GUWAHATI- 6.

3:THE DIRECTOR OF SOCIAL WELFARE
ASSAM

UZANBAZAR

GUWAHATI- 781001.

4:THE DEPUTY COMMISSIONER
CACHAR

P.O. AND P.S.- SILCHAR

DIST.- CACHAR.

5:THE DISTRICT SOCIAL WELFARE OFFICER

CACHAR

SILCHAR

P.O.- SILCHAR

DIST.- CACHAR

PIN- 781001.

6:THE CHILD DEVELOPMENT PROJECT OFFICER

KALAIN INTEGRATED CHILD DEVELOPMENT PROJECT

HILARA

DIST. CACHAR

ASSAM

PIN- 788815.

Advocate for : MR. L R MAZUMDER

Advocate for : GA

ASSAM appearing for HANIFA KHATUN AND 5 ORS.

BEFORE

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE DEVASHIS BARUAH

15.06.2023

(D. Baruah, J)

Heard Mr. L. R. Mazumdar, the learned counsel for the appellant in both the appeals and Mr. K. A. Mazumdar the learned counsel appearing on behalf of the respondent No.1 as well as Ms. M. Bhattacharjee, the learned counsel appearing on behalf of the respondent Nos.2 to 6.

2. Both the writ appeals are taken up for disposal together by this common order.

3. Both the writ appeals have been filed assailing the common judgment and order dated 02.11.2022 passed in WP(C) No.3142/2018 and WP(C) No.2852/2018.

4. The learned Single Judge vide the judgment and order dated 02.11.2022 remanded the matter back to the Director of Social Welfare Department, Assam to proceed from the stage of taking the representation dated 30.09.2016 submitted by the appellant herein once again on board for consideration. The learned Single Judge observed that while taking up the same, both the parties involved, i.e. the appellant and the respondent No.1 herein should be put on prior notice and be afforded a reasonable opportunity of hearing including submission of supporting materials in support of their respective contentions. The Director of Social Welfare Department was also directed that before arriving at the findings regarding the residential status of the respondent No.1 herein shall consider and examine all such materials which are submitted by the parties before him and to take into consideration the prevailing eligibility criteria/norms, etc. at the time of publication of the Re-Advertisement dated 26.02.2010 and the then extant Government instructions on the subject. Liberty was further given to the Director of Social Welfare Department to call for a report from the concerned Revenue Authority (the Circle Officer/the Deputy Commissioner) before passing the speaking order. It was further observed that if the ultimate decision after consideration of the representation of the appellant herein by the Director of Social Welfare Department results in cancellation of engagement of the respondent No.1 as Anganwadi Helper at the Anganwadi Centre No. 167 of Isonabad Kandi, fresh recruitment process should be initiated for filling up of the post of Anganwadi Helper of the concerned Anganwadi Centre.

5. Being aggrieved by the said directions, more particularly, that there should be a fresh recruitment, the instant writ appeals have been filed.

6. It reveals from the records that this court vide an order dated 21.04.2023 directed the State respondents to apprise this Court as regards the action taken by the Director of Social Welfare Department pursuant to the directions given in paragraph No.24 of the impugned judgment and order.

7. Ms. M. Bhattacharjee, the learned counsel appearing on behalf of the respondent Nos.2 to 6 today placed on record an order dated 08.06.2023 issued by the Director of Women and Child Development, Assam.

8. From a perusal of the said order, it reveals that both the appellant as well as the respondent No.1 herein were afforded due opportunity and the Director of Women and Child Development, thereupon taking note of the enquiry report submitted by Additional Deputy Commissioner, Cachar, regarding the residential status of the appellant as well as the respondent No.1 herein, came to a finding that both the appellant as well as the respondent No.1 herein belong to the same revenue village where the Anganwadi Centre is situated. It was further observed in the said order that as per the extant Government guidelines, both the appellant as well as the respondent No.1 herein were eligible to be selected as Anganwadi Helper. Further to that, it was observed that as in the merit list of Anganwadi Helper of 167 No. Anganwadi Centre under Kalain ICDS Project, the respondent No.1 was placed in the first position and the appellant was in the second position, a decision therefore, was arrived at to engage the respondent No.1 as Anganwadi Helper in 167 No. Anganwadi Centre under Kalain for which directions were issued to the CDPO, Kalain ICDS Project. The said order dated 08.06.2023 so submitted during the course of hearing is kept on record and marked with the letter

"X".

9. We are of the opinion that in view of the order dated 08.06.2023, as upon a fact finding exercise being carried out, the respondent No.1 had been found to be a resident of the locality where the Anganwadi Centre is situated, nothing further survives in the instant appeals so filed by the appellant.

10. In that view of the matter, both the appeals stand dismissed.

JUDGE

CHIEF JUSTICE

Comparing Assistant