

GAHC010257362019



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

Case No. : Review.Pet./157/2019

NASIR UDDIN LASKAR
S/O- LATE SAFIQUUL HAQUE LASKAR, PRINCIPAL, ALGAPUR PUBLIC
HIGHER SECONDARY SCHOOL, HAILAKANDI, P.O. KALIBARI
BAZAR, DIST.- HAILAKANDI, ASSAM.

VERSUS

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

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
EDUCATION (SECONDARY) DEPARTMENT
DISPUR
GUWAHATI-6.

3:THE DIRECTOR
SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-6.

4:THE INSPECTOR OF SCHOOLS
H.D.C.

HAILAKANDI
P.O.
P.S. AND DIST.- HAILAKANDI
ASSAM.

5:THE SCHOOL SELECTION COMMITTEE

REP. BY THE PRESIDENT
SCHOOL MANAGING COMMITTEE
ALGAPUR PUBLIC HIGHER SECONDARY SCHOOL
HAILAKANDI
P.O. KALIBARI BAZAR
DIST.- HAILAKANDI
ASSAM.

6:ALPANA DAS MAZUMDER
SUBJECT TEACHER
EX. IN-CHARGE PRINCIPAL
ALGAPUR HIGHER SECONDARY SCHOOL
HAILAKANDI
P.O. KALIBARI BAZAR
DIST.- HAILAKANDI
ASSAM

Advocate for the Petitioner : MR. A M BARBHUIYA

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HON'BLE MR. JUSTICE N. KOTISWAR SINGH

ORDER

09.01.2023

Heard Mr. A.M. Barbhuiya, learned counsel for the review petitioner. Also heard Ms. H. Terangpi, learned standing counsel, Secondary Education Department and Ms. R. Devi, learned counsel appearing for respondent No.6.

2. The present review petition has been filed seeking review of the order dated 26.09.2019 passed by this Court in WP(C) No.4234/2017, on the ground that there was proper selection process in as much as all the members of the Selection Committee had taken part in the selection process as evident from the document annexed at page 83 of the review petition though this Court gave a finding that the selection process was vitiated. Relevant

portion of the said order is reproduced hereinbelow:-

"7. This Court has requisitioned the records of the recruitment process.

8. Perusal of the original records shows that though in the final selection list prepared by the Selection Committee, the names of the 4 (four) members appeared, however, at the crucial part of the recruitment process consisting of the interview which assessed the comparative qualities of the candidates, namely, leadership skills, administrative ability, integrity etc, only 2 (two) members were present, i.e., the Principal In charge of the said School and the President of the School Management Committee. The other two members were conspicuously absent.

9. In view of above, learned counsel for the petitioner submits that the said selection process is vitiated.

10. However, it has been submitted by the learned counsel for the respondents that in the final list prepared by the Selection Committee, all the members were present and as such, it has been submitted that there is no illegality in the said recruitment process.

11. On perusal of the proceeding and original records of the Selection Committee produced by the learned counsel for the official respondents, it is seen that in the final select list prepared by the Selection Committee, the names of the all the members of the Selection Committee appeared. However, in respect of one part of the selection process, where the leadership skill, administrative ability and integrity were assessed by the Selection Committee, signature of only two members are shown. In another document, which gives comparative marks obtained by the candidates, the names of all the Selection Committee members are shown. However, the said document is merely reflection of the percentage of marks obtained by the concerned candidates in the H.S.L.C Examination, H.S. Examination, Degree Examination, Post Graduation Degree, B.Ed/M.Ed etc.

12. This Court is of the view that the aforesaid exercise of ascertaining of the marks given on account of the marks obtained by the candidates in their respective examinations is merely a mechanical work which could be also undertaken by any person as well. However, the critical part of the recruitment process, i.e. the interview where the leadership skill, administrative ability and integrity were assessed, it had to be undertaken by the Selection Committee, which could not be delegated any other person and cannot be undertaken by a Selection Committee not fully comprised of as per rules.

13. Therefore, this Court is of the view that the Selection Committee consisting of only two members, namely, Principal In charge of the High School and President of the Management Committee which assessed the suitability of the candidate with reference to leadership skill, administrative ability, integrity cannot be said to have been properly constituted in absence of other two members of the Selection Committee.

14. It may be also noted that in the rules it is not mentioned anywhere that in absence of any member of the Selection Committee, the remaining members of the Selection Committee may proceed with the recruitment process.

15. Accordingly, this Court would hold that all the four members would be required to be present, at least at the crucial stage/part of the recruitment process where the relevant attributes and characters of the candidates were being assessed, which is purely a subjective assessment as opposed to the objective assessment relating to the marks obtained by the candidates in the past examinations.

16. Accordingly, this Court is of the view that the aforesaid selection process is vitiated by non-participation of the remaining members of the Selection Committee.

17. In the result, the petition is allowed. The appointment of respondent No.6 vide order dated 27.06.2017 is set aside.

18. Consequently, the authorities will hold a fresh selection process by considering all the candidates including the petitioner and the respondent No. 6 in accordance with the Rules. However, till such exercise is completed, the respondent No. 6 will continue to hold the post of Principal purely on provisional basis.

19. The aforesaid exercise is to be concluded preferably within a period of three months from the date of receipt of a certified copy of this order."

3. The ground for seeking review is that it is not correct that only 2(two) members of the Selection Committee were present on the basis of the document, which is annexed at page 83, and all the members were present. In view of the above submission, this Court again called for the records, which is placed before this Court. In the original records placed before this Court, there is no difference in the documentation. The document which the review

petitioner seeks to rely which is to be found at page 83 of the reivew petition is also found at page 45 of the original record. In the original record also, it is clearly seen that though the said document contains the signatures of four members of the Selection Committee, at the time of the assessment of the leadership skill, administrative ability, integrity, etc. only 2(two) members have signed the document. The document at page 83 annexed to the review petition is merely a part of the selection process and not the final assessment which would require the signatures of all the four members of the Selection Committee.

4. Under the circumstances, this Court is of the view that there is no merit in this review petition and accordingly, the same is dismissed. Earlier interim order passed, if any, in this review petition, stands vacated.

Sd/- N. Kotiswar Singh
JUDGE

Comparing Assistant