

GAHC010276792018



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

Case No. : WP(C)/8624/2018

DEBAJANI GOGOI
W/O- SRI DILIP BARUAH, R/O- KHUBUNG CHAPORI, P.O- OUGURI, P.S-
DHAKUAKHANA, DIST- LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM AND 6 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM,
SOCIAL WELFARE DEPTT, DISPUR, GHY- 06

2:THE DIRECTOR OF SOCIAL WELFARE DEPTT
UZAN BAZAR
GUWAHATI- 01

3:THE SOCIAL WELFARE OFFICER
LAKHIMPUR
DIST- LAKHIMPUR
ASSAM

4:THE CHILD DEVELOPMENT PROJECT OFFICER
ICDS PROJECT
DHAKUAKHANA
DIST- LAKHIMPUR
ASSAM

5:THE SELECTION COMMITTEE
REP. BY THE CIRCLE OFFICER
DHAKUAKHANA REVENUE CIRCLE
DHAKUAKHANA
DIST- LAKHIMPUR
ASSAM

6:THE CIRCLE OFFICER
DHAKUAKHANA REVENUE CIRCLE
DHAKUAKHANA
DIST- LAKHIMPUR
ASSAM

7:LILIMAI BARUAH
O/O THE CHILD DEVELOPMENT OFFICER
DHAKUAKHANA
P.O- DHAKUAKHANA
DIST- LAKHIMPU

Advocate for the Petitioner : MR. P J SAIKIA

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

Date : 04-01-2023

Heard Ms. D. Dutta, learned counsel for the petitioner and Mr. H. Sarma. Learned Addl. Senior Government Advocate for the respondents No. 1 to 6, being the authorities under the Social Welfare Department of the Government of Assam. Also heard Mr. N. Deka, learned counsel for the respondent No. 7 Smt. Lilimai Baruah.

2. Both the petitioner Smt. Debajani Gogoi and the respondent No. 7 Smt. Lilimai Baruah participated in a selection process pursuant to an advertisement available at Annexure 1 to the writ petition amongst others, for the post of Anganwadi Helper in Khubung Chapori Anganwadi Centre.

3. Without delving with the long chequered history of litigation between the parties, we take note of the order dated 31.01.2018 in WP(C) No. 1752/2015, by which there was a requirement of the respondents in the Social Welfare Department to examine as to who between the petitioner and the respondent

No. 7 is resident within the jurisdictional area of the Khubung Chapori Anganwadi Centre so as to raise their respective claims for being appointed as an Anganwadi Helper in the said centre. The aforesaid requirement resulted in the order dated 26.11.2018 by which upon an enquiry, the respondent authorities arrived at a satisfaction that both the petitioner Smt. Debajani Gogoi and the respondent No. 7 Smt. Lilimai Baruah are residents within the jurisdictional area of the Khubung Chapori Anganwadi Centre. However, the respondent authorities also arrived at their conclusion that in the selection process, the respondent No. 7 was at Sl. No. 1 in terms of merit and therefore the order of appointment had been offered/confirmed in her favour. Being aggrieved this writ petition is instituted by the petitioner and refers to an earlier report dated 29.01.2011 of the CDPO, Dhakuakhana ICDS Project, wherein in paragraph 3 it had been provided as extracted:

“3. Smti Lilimai Boruah, in Khubung Chapari selected candidate of A.W. Helper and all others are outsiders as falls theirs residence in Old Centre area namely Ghilaguri Chapari, only Debajani Gogoi falls in the New Centre area and may be considered for appointment.”

4. By referring to the afore-extracted paragraph 3 of the report dated 29.01.2011, the petitioner raises a contention that the respondent No. 7 Smt. Lilimai Baruah may be a resident within the old centre area namely Ghilaguri Chapari, but it is the petitioner Smt. Debajani Gogoi who is a resident of the new centre area and therefore is entitled to an appointment.

5. The aforesaid issue raised being again in the realm of factual dispute, we direct the Director of Social Welfare Department to conduct a further enquiry as to who between the petitioner Smt. Debajani Gogoi and the respondent No. 7 Smt. Lilimai Baruah is a resident within the jurisdictional area of the existing Khubung Chapori Anganwadi Centre. If the enquiry results in a conclusion that

the either of the two do not belong, the Director may pass an appropriate order and if the conclusion arrived at is that both belong within the jurisdictional area of the Khubung Chapori Anganwadi Centre, the earlier order dated 26.11.2018 may prevail. We are not interfering with the order dated 26.11.2018 for the reasons stated above but provide that in the event the Director arrives at any reasoned order and the contents of which may be otherwise than that of the order dated 26.11.2018, the subsequent order to be passed shall prevail between the parties.

Writ petition stands disposed of as indicated above.

JUDGE

Comparing Assistant