

GAHC040007462022



IN THE GAUHATI HIGH COURT

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

Itanagar Permanent Bench: Yupia

WP(c)227(AP)2022

1. Shri Ralung Rigom
Son of Late Aji Rigom
Aged about 28 years
Presently residing at H-Sector
Itanagar, PO/PS Itanagar
Papum Pare District
Arunachal Pradesh.
Phone No. 8258071453

2. Shri Gakir Dulom
Son of Shri Lomga Dulom
Aged about 29 years
Presently residing at Tani Colony
Chimpu, PO/PS Itanagar
Papum Pare District
Arunachal Pradesh.
Phone No. 9436407895

..... Petitioners

-Versus-

1. The State of Arunachal Pradesh through the Commissioner/Secretary, Department of Power, Government of Arunachal Pradesh, Itanagar.
2. The Commissioner/Secretary, Department of Power, Government of Arunachal Pradesh, Itanagar.
3. The Superintending Engineer(Establishment), Arunachal Pradesh Electrical Circle No. I-cum-Coordinator, Department of Power, Naharlagun, Papum Pare District, Arunachal Pradesh.
4. The Special Investigation Team(Crime Branch) through the Superintendent of Police(Crime Branch), Police Headquarters, Itanagar.

..... Respondents

By Advocates:

For the petitioners: Mr. Dicky Panging
Ms. Diana Tamuk
Mr. Marconi Doji
Mr. T. Tayeng
Mr. Doge Lona
Mr. Kirmar Ado

For the respondents: Mr. Lissing Perme, SC(Power)
Mr. Jambey Tsering, Special P.P.(SIT)

:::BEFORE:::

HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

Date of hearing : 04.03.2024

Date of Judgment: 12.03.2024

JUDGMENT & ORDER (ORAL)

Heard Mr. Dicky Panging, learned counsel for the petitioners. Also heard Mr. Lissing Perme, learned standing counsel, Department of Power, Government of Arunachal Pradesh, appearing on behalf of Respondents No. 1, 2 & 3; and Mr. Jambey Tsering, learned Special P.P., Special Investigation Team(SIT), appearing on behalf of Respondent No. 4.

2. By way of instituting the present proceedings, the petitioners have raised a grievance with regard to the action/inaction on the part of the respondents in not taking to its logical conclusion, the process of recruitment as initiated in pursuance of the Advertisement, dated 12.06.2020, for the post of Junior Engineer(Electrical) under the Meritorious Sports Persons (MSP) Quota reserved for the Arunachal Pradesh Scheduled Tribe (APST) candidates in the Department of Power, Government of Arunachal Pradesh.

3. The petitioners, in pursuance of the said Advertisement, dated 12.06.2020, submitted their respective applications for recruitment against the post of Junior Engineer(Electrical) as advertised. Including the petitioners, altogether 34(thirty four) candidates had offered their candidature for the posts of Junior Engineer(Electrical) against the said Advertisement, dated 12.06.2020, and upon scrutiny of such applications, candidature of 9(nine) applicants were accepted including those of the petitioners.

4. The petitioners, thereafter, appeared before the Selection Board for a viva voce/personality test held on 15.09.2020 and had performed well in the said selection process. However, before declaration of the results of the said recruitment process could take place; an First Information Report(FIR), dated 25.06.2021, came to be lodged by the President of Arunachal Pradesh Taekwondo Association alleging before the Officer-in-charge of the Special Investigation Team(SIT) that some persons who were not players of Taekwondo were using fake/forged medal/ participant certificates without his knowledge for being recruited under the Meritorious Sports Persons(MSP) Quota in various Departments of the Government of Arunachal Pradesh. Accordingly, on receipt of the said First Information Report(FIR), an inquiry was initiated and on submission of the Inquiry Report and the same having brought on record the fact that certain candidates had participated in various recruitment processes initiated under the Meritorious Sports Persons(MSP) Quota including the posts as advertised vide Advertisement, dated 12.06.2020, basing on such fake/forged certificates; a case being Crime Branch P.S. Case No. 07/2021 under sections 420/468/471/34 came to be registered. The Special Investigation Team(SIT) on completion of the investigation, submitted its charge-sheet on 17.03.2022, and therein, 19(nineteen) candidates allegedly using fake/forged certificates for recruitment under the Meritorious Sports Persons(MSP) Quota against the posts advertised in various Departments of the

Government of Arunachal Pradesh, came to be charge-sheeted. However, the names of the petitioners, herein, do not figure in the column of the accused persons mentioned in the charge-sheet as submitted by the investigating authority in the matter.

Accordingly, upon submission of the said charge-sheet; the petitioners submitted representations before the authority concerned, praying for declaration of the results of the viva voce/personality test held on 15.09.2020. However, the appointing authority by contending that the records of the selection having been seized by the Special Investigation Team(SIT), no further steps in the matter was possible on their part till the records of the selection as seized by the investigating authority is returned.

The appeals made by the petitioners for taking the recruitment process to its logical conclusion having not been given a due consideration by the authorities, the petitioners have instituted the present proceedings before this Court.

5. Mr. Panging, learned counsel for the petitioners, by reiterating the facts as noticed hereinabove, has submitted that the petitioners having not been found to be involved in any misdoing in the matter and their certificates not being detected to be fake/forged and only 1(one) candidate among the 11(eleven) candidates who were declared eligible for the selection process in pursuance of the Advertisement, dated 12.06.2020, having been found to have used fake/forged medal/participant certificates; the respondent authorities must take the process of selection to its logical conclusion by declaring the results of the other 10(ten) candidates who have to be construed to be genuine candidates including the petitioners, herein.

6. Per contra, Mr. Tsering, learned Special P.P., Special Investigation Team(SIT), by relying on the affidavit-in-opposition as filed in the matter, has submitted that after the submission of the charge-sheet in the matter, indicting 19(nineteen) persons belonging to the Taekwondo discipline; further investigation into the matter was being carried-out and the petitioners belonging to the football and archery disciplines respectively, are also under the purview of such investigation that is being carried-out in the matter. On noticing the said stand of the respondents, this Court vide order, dated 30.11.2023, had required the learned Special P.P., Special Investigation Team(SIT), to place on record, the status report with regard to the process for ascertainment of the genuineness of the certificates produced in the selection process by the petitioners herein.

7. In terms of the directions passed by this Court vide the said order, dated 30.11.2023; during the hearing of the matter, Mr. Tsering, learned Special P.P., Special Investigation Team(SIT), has placed on record, the status report submitted by the Investigating Officer in the matter and therein, it has been stated that during the investigation of the matter, the certificates of the petitioners were verified and the same were found to be genuine as per the report furnished by the local sports Associations.

8. It is to be noted that the petitioners herein, in addition, to having the requisite qualification for recruitment against the posts advertised, had also brought on record, materials to demonstrate that the petitioners had represented the State of Arunachal Pradesh in their sports disciplines of football and archery at the national level and such certificates of the petitioners are not disputed.

9. In view of the said development and also the categorical finding as recorded in the status report submitted in the matter by the Investigating Officer of the Special

Investigation Team(SIT), during the hearing of the proceedings; this Court is of the considered opinion that only 1(one) candidate out of the 11(eleven) candidates shortlisted as eligible for selection process against the post of Junior Engineer(Electrical) as advertised vide the Advertisement, dated 12.06.2020, having been detected to have used fake/forged medal/participant certificates and no material having been brought on record with regard to the candidates, the selection process as initiated by the authorities in pursuance of the Advertisement, dated 12.06.2020, is required to be taken to its logical conclusion, by considering the cases of the candidates whose certificates have not been found to be doubtful.

10. In the above view of the matter; the following directions are hereby issued:

(i). The certificates of the petitioners having been held to be genuine and also there being no allegation with regard to the certificates as submitted by 8(eight) other candidates shortlisted for selection for recruitment to the post of Junior Engineer(Electrical) in terms of the Advertisement, dated 12.06.2020; the respondent authorities now would be required to take the selection process forward by declaring the results of the viva voce/personality test held on 15.09.2020.

(ii). For the purpose of declaration of such results, the respondent authorities would be required to approach the Court of competent jurisdiction wherein the charge-sheet has been filed, praying for release of the records pertaining to the viva voce/personality test held on 15.09.2020, in pursuance of the Advertisement, dated 12.06.2020, and on receipt of such records from the concerned Court, proceed to declare the results of such selection in terms of the directions passed hereinabove.

(iii). On declaration of the results in terms of the directions passed hereinabove; the respondent authorities shall proceed to effect appointments against the posts advertised vide the Advertisement, dated 12.06.2020, forthwith.

(iv). It is provided that any appointment made in terms of the directions passed hereinabove against the posts advertised vide Advertisement, dated 12.06.2020, would be subject to the criminal proceedings as instituted and presently pending in the matter.

11. The respondent authorities are now required to comply with the above directions within a period of 3(three) months from the date of receipt of a certified copy of this order.

12. With the above directions and observations, this writ petition stands disposed of. However, there shall be no order as to costs.

JUDGE

Comparing Assistant