

GAHC010011382016



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

**Case No. : WP(C)/1760/2016**

SMTI PARVINARA BEGUM  
W/O SHAJAHAN ALI, VILL. PACHIM MOHIMARI, P.O. MOHIMARI, P.S.  
CHAYYGAON, DIST- KAMRUP RURAL, ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS  
REP. BY THE COMMISSIONER and SECY. TO THE SOCIAL WELFARE DEPTT.,  
DISPUR, GHY-6

2:THE DIRECTOR OF SOCIAL WELFARE DEPTT.  
ASSAM  
UZANBAZAR  
GHY-1

3:THE CHILD DEVELOPMENT PROJECT OFFICER  
CDPO  
GOROIMARI ICDS PROJECT  
GOROIMARI  
DIST- KAMRUP RURAL  
ASSAM

4:SHAJIDA KHATUN  
W/O NURUL ISLAM  
VILL. and P.O. MOHIMARI  
P.S. CHAYYGAON  
DIST- KAMRUP RURAL  
ASSA

**Advocate for the Petitioner : MRS.F BEGUM**

**Advocate for the Respondent : SC, SOCIAL WELFARE**

**BEFORE  
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

**ORDER**

**16.07.2024**

Heard Shri A. Mannaf, learned counsel for the petitioner. Also heard Shri D. Bora, learned State Counsel representing the official respondents.

2. Though the service of notice upon the respondent no. 4 has been served, she has chosen not to contest the writ petition and in this regard, there is an order dated 20.11.2020 of this Court that the said respondent no. 4 has been served.

3. The issue involved is the selection and appointment of the petitioner as Anganwadi Worker (AWW).

4. As per the facts projected, in the year 2012 a recruitment process was initiated for filling up the post of Anganwadi Worker of the newly created No. 27 Uttar-Pub Mohimari Anganwadi Centre under the Goroimari ICDS Project in the district of Kamrup. In the said selection, the petitioner had participated and was subsequently appointed. The said appointment was however the subject matter of challenge by the private respondent no. 4 in WP(C)/5527/2012. The said writ petition was disposed of along with a number of other cases pertaining to challenge to appointments of AWW and were disposed of vide a common judgment dated 26.05.2015 by which the matters were remanded to be examined afresh. The petitioner had accordingly appeared before the authorities. However, vide the impugned communication dated 10.02.2016, the petitioner was released from the post of AWW with a direction to hold a fresh interview for the said post.

5. Shri Mannaf, learned counsel for the petitioner has submitted that the impugned order has been passed on irrelevant consideration. By drawing the attention of this Court to the document annexed to the affidavit-in-opposition filed by the respondent no. 3, the learned counsel for the petitioner has submitted that while the candidature of the private respondent no. 4 has also been found fault with, there was no reason to find fault with the candidature of the petitioner. It is submitted that the only reason assigned is that the petitioner was having her residence at a distance of 1 KM from the Anganwadi Centre which is not relevant. By referring to the advertisement, the learned counsel has submitted that the requirement was to be from the same village and there is no dispute that the petitioner is a resident of the same village where the Anganwadi Centre is located.

6. *Per contra*, Shri Bora, learned State Counsel has submitted that the impugned order dated 10.02.2016 is only a consequential order of the decision taken by the authorities after the matter was remanded for a fresh consideration. The learned State Counsel submits that the candidatures of both the candidates were rejected by citing good reasons with a further observation that fresh selection was required to be made. The learned State Counsel accordingly submits that the reasons being prescribed and being relevant, no interference may be made and the post may be permitted to be filled up by a fresh selection.

7. The rival contentions have been duly considered.

8. This Court has noticed that vide an interim order dated 16.03.2016, the impugned order of discontinuation from service has been stayed. The learned counsel for the petitioner has also clarified that pursuant to such interim order, the petitioner is continuing in her service without any blemish.

9. The initial writ petition by the respondent no. 4, namely, WP(C)/5527/2012 was instituted challenging the appointment of the petitioner in the aforesaid post. The said writ petition was disposed of by remanding the matter back for an examination by the authorities. The relevant document which has been annexed in the affidavit-in-opposition dated 18.08.2021 filed by the respondent no. 3 would reveal that while the respondent no. 4 was held to be disqualified as she was an elected representative of the concerned Gaon Panchayat, the candidature of the petitioner was also found fault with on the ground that her residence was at a distance of 1 KM from the locality. The concerned advertisement and the Rules holding the field at that time stipulated that a candidate should be from the same revenue village. Shri Bora, learned State Counsel has fairly submitted that though subsequently there is a change on the residential aspect, at that time, the requirement was to be from the same revenue village. The materials on record would clearly show that the petitioner belongs to the same revenue village where the concerned Anganwadi Centre is located.

10. In view of the aforesaid facts and circumstances, the factor of distance which has been taken into consideration may not be a relevant factor so far as the present selection and appointment is concerned. As noted above, the petitioner is continuing in her service on the strength of the interim order.

11. In view of the above, this Court is of the opinion that interest of justice would be served by interfering with the impugned order on the peculiar facts and circumstances. The impugned order dated 10.02.2016 by which the petitioner was sought to be released from her service as AWW is accordingly set aside and the petitioner be allowed to continue in her service as AWW in the aforesaid Anganwadi Centre. The interim order dated 16.03.2016 is made

absolute.

12. The writ petition accordingly stands allowed.

**JUDGE**

**Comparing Assistant**