

GAHC010015992015



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

Case No. : WP(C)/3592/2015

SMTI BORNALI PATIR
D/O- KAMAL PATIR, R/O- NO. 2 KHAJUA PATIR GAON, P.O.- KHAJUA PATIR,
P.S.- DHAKUAKHANA, DIST.- LAKHIMPUR, ASSAM.

VERSUS

THE STATE OF ASSAM AND 7 ORS
REP. BY THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM,
SOCIAL WELFARE DEPTT., DISPUR, GHY- 6.

2:THE DIRECTOR OF SOCIAL WELFARE DEPTT.
UZAN BAZAR
GHY- 1.

3:THE DY. COMMISSIONER
NORTH LAKHIMPUR
LAKHIMPUR
ASSAM.

4:THE DIST. SOCIAL WELFARE OFFICER
LAKHIMPUR
DIST.- LAKHIMPUR
ASSAM.

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

6:THE SELECTION COMMITTEE
REP. BY THE CIRCLE OFFICER

DHAKUAKHANA REVENUE CIRCLE
DHAKUAKHANA
DIST.- LAKHIMPUR
ASSAM.

7:THE CIRCLE OFFICER
DHAKUAKHANA REVENUE CIRCLE
DHAKUAKHANA
DIST.- LAKHIMPUR
ASSAM.

8:JIMA PATIR
W/O- SRI DULAL DOLEY
VILL.- BOKULGURI CHARIALI
P.O.- BOKULGURI
P.S.- DHAKUAKHANA
DIST.- LAKHIMPUR

Advocate for the Petitioner : MR.PARAG J SAIKIA, MS.B GOGOI,MS.R GOGOI

Advocate for the Respondent : MR.J P KACHARIR-8, MS.S GOGOI(R-8),GA,
ASSAM(R3,6,7),MR.B BURAGOHAIN(R-8),SC, SOCIAL WELFARE(R1,2,4,5)

BEFORE
HONOURABLE MR. JUSTICE NELSON SAILO

ORDER

Date : 07-11-2024

- 1.** Heard Mr. P.J. Saikia, learned counsel for the petitioner and Ms. M. Bhattacharjee, learned Additional Senior Government Advocate for the official respondents and Mr. P.K. Gogoi, learned counsel for respondent no. 8.
- 2.** By filing this writ petition the petitioner has challenged the selection and appointment of the respondent no. 8 as Anganwadi Helper in No. 2 Khajua Patir Anganwadi Centre under the Dhakuakhana ICDS Project, Dhakuakhana in the district of Lakhimpur. It is the case of the petitioner that the respondent no. 8 being an outsider could not have been recommended for appointment to the

post of Anganwadi Centre concerned.

3. Mr. P.J. Saikia, learned counsel referring to the Final Joint Verification Report dated 11.01.2011 submits that as per the said report although the respondent no. 8 secured the highest marks in the selection but it was alleged that she is an outsider and therefore the Committee suggested that proper verification in respect of the residence of the respondent no. 8 be conducted to ascertain her residential place and pending such verification, the result should be withheld.

4. Thereafter, the respondent authority concerned floated a second advertisement on 08.04.2013 for filling up the post of Anganwadi Helper in the said Anganwadi Centre. Two candidates, namely, the petitioner and the respondent no. 8 participated and in the selection process the respondent no. 8 secured the highest marks and accordingly she was recommended for appointment. The approval for her appointment was given vide communication dated 01.08.2014 and since then she is working in the said post.

5. Mr. P.J. Saikia, learned counsel submits that the respondent no. 8 being an outsider could not have been selected and appointed to the said post and this fact can be seen from the report dated 19.01.2013 made by the State Level Screening Committee prior to the issuance of the second advertisement on 08.04.2013. As per the said report it has been opined that the DC's report reveals that due to non-demarcation of boundary of the Anganwadi Centre, the residential status of the candidates could not be ascertained. The said report although not filed in the writ petition is produced by Mr. P.J. Saikia today.

6. Mr. P.J. Saikia, learned counsel further submits that the respondent No. 8 in the second selection process had submitted a residential certificate dated

19.07.2014 while the advertisement was issued on 08.04.2013. Therefore, this also goes to show that the respondent no. 8 is only an outsider.

7. The learned counsel further submits that the comparative statement annexed by the respondent no. 8 and the one annexed by the respondent no. 5 are not similar. Moreover there appears to be one more candidate in the comparative statement annexed by the respondent no. 8. He further submits that even on this ground, the selection of the respondent No. 8 is doubtful and therefore her appointment and selection should be set aside.

8. Ms. M. Bhattacharjee, Additional Senior Government Advocate on the other hand submits that there is no reason to doubt the residential status of the respondent no. 8 inasmuch as the residential status of the respondent no. 8 is duly supported by a certificate issued by the Gaonbura of No. 4 Khajua Patir Lat on 24.01.2013. Therefore, merely because the respondent no. 8 had subsequently submitted a similar residential certificate which was dated 19.07.2014 for the purpose of filing the counter-affidavit in the writ petition, her residential address cannot be doubted. She further submits that in so far as the comparative statement of the candidates is concerned, there is no discrepancy as both the comparative statements annexed in the affidavit-in-opposition of respondent no. 8 and respondent no. 5 and that they are with the same marks. Only difference is that the marks given by each of the members of the Selection Committee have been shown in the comparative statement annexed by respondent no. 5 and for this, there is no reason to doubt the genuineness of the same.

9. Mr. P.K. Gogoi, learned counsel for respondent no. 8 adopts the argument of Mr. M. Bhattacharjee, learned State Counsel and submits that the respondent no. 8 is indeed a resident of No. 2 Khajua Patir in which the Anganwadi Centre

is located. He submits that although the respondent no. 8 has not made a statement in her affidavit-in-opposition but the fact is that her father had donated 1 Katha 2 Lechas of land for the establishment of Anganwadi Centre. Therefore, the claim of the writ petition is without any basis and the writ petition should be dismissed.

10. I have heard the submissions made by learned counsels of the rival parties and perused the materials available of record. The issue regarding the residential status of respondent no. 8 has been questioned by the petitioner on the basis of the Joint Verification Report dated 11.01.2011 wherein it has been recorded that although the respondent no. 8 secured the highest marks he has been alleged to be an outsider and therefore a suggestion was made that proper verification be done. Thereafter, whether proper verification was conducted or not is not discernible from the materials available on record. However, Mr. P.J. Saikia, learned counsel for the petitioner has produced the Minutes of the Meeting of the State Level Screening Committee held on 19.01.2013 wherein it has been recorded that as per the Deputy Commissioner's report, it is revealed that due to non-demarcation of the boundary of the No. 2 Khajua Patir Anganwadi Centre, the residential status of the candidates could not be ascertained. Therefore, the verification of the residential status of the candidates concerned rests at that only.

11. In the selection process that was initiated pursuant to the issuance of the second advertisement on 08.04.2013, the candidates concerned apparently produced their respective documents and that an interview was conducted on 29.06.2013. In the process of the selection the respondent no. 8 has submitted her residential certificate issued by the Gaonbura on 24.01.2013. The Screening Committee/Selection Committee upon perusal of the documents concerned on

being satisfied, recommended the name of respondent No. 8 as Anganwadi Helper for the said Anganwadi Centre. Therefore, in absence of any materials to the contrary and importantly, a challenge to the Gaonbura certificate issued in favour of the respondent no. 8, this Court is inclined to accept the same as a relevant material to show that the respondent no. 8 resides within the Anganwadi Centre area concerned.

12. In so far as the discrepancy pointed out by the learned counsel for the petitioner on the comparative statement of marks is concerned, it is seen that there is no difference in the total marks given to the candidates. One of the comparative statements provide for the aggregate marks obtained by the candidates and the other provides for the break-up of marks by showing the marks allotted by each of the members of the Selection Committee. Therefore, the marks allotted to the candidates in the considered view of this Court being the same, the comparative statement annexed in the affidavit cannot be doubted.

13. Upon due consideration, this Court does not find merit in the writ petition and accordingly the same is dismissed.

14. No costs.

JUDGE

Comparing Assistant