

GAHC010019932015



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

Case No. : WP(C)/5089/2015

SMTI JYOTI DOLEY PATIR and 3 ORS.
W/O SRI ANIL PATIR, VILL. BHITOR BOCHAMUKH, P.O. BAKULGURI, P.S.
DHAKUAKHANA, DIST- LAKHIMPUR, ASSAM

2: MONIKA DOLEY
W/O SRI DIBYAJYOTI DOLEY
VILL. BALIJAN DANGDHARA
P.O. O'GURI
P.S. DHAKUAKHANA
DIST- LAKHIMPUR
ASSAM

3: MALABIKA MILI PATIR
W/O SRI RAMEN PATIR
VILL. JANOU KHAJUA PATIR
P.O. KHAJUA PAIR
P.S. DHAKUAKHANA
DIST- LAKHIMPUR
ASSAM

4: BORNALI PEGU
W/O SRI PRIYADIP PEGU
VILL. BOGORIGURI
P.O. BAKULGURI
P.S. DHAKUAKHANA
DIST- LAKHIMPUR
ASSA

VERSUS

THE STATE OF ASSAM AND 9 ORS
REP. BY THE COMMISSIONER and SECY. TO THE GOVT. OF ASSAM, SOCIAL
WELFARE DEPTT., DISPUR, GHY-6

2:THE DIRECTOR OF SOCIAL WELFARE
KACHARI
GHY-1

3:THE DISTRICT SOCIAL WELFARE OFFICER
LAKHIMPUR
DIST- LAKHIMPUR
ASSAM

4:THE DY. COMMISSIONER
LAKHIMPUR
NORTH LAKHIMPUR
ASSAM

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

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

7:PREMBALA KAMAN PATIR
W/O SRI MONJIT PATIR
R/O BHITOR BOCHAMUKH
P.O. BOKULGURI
MOUZA- and P.S. DHAKUAKHANA
DIST- LAKHIMPUR
ASSAM

8:PINKY PATIR DOLEY
W/O SRI PADMAKANTA DOLEY
R/O BALIJAN DANGDHARA
P.O. O'GURI
MOUZA- and P.S. DHAKUAKHANA
DIST- LAKHIMPUR
ASSAM

9:DIPAMONI PATIR
D/O SRI RANJAN PATIR
R/O JANOU KHAJUA PATIR
P.O. KHAJUA PATIR
MOUZA and P.S. DHAKUAKHANA
DIST- LAKHIMPUR
ASSAM

10:NOJORA PATIR
D/O LT. MUKTI PATIR
R/O VILL. NO.1 BOGORI UPPER
P.O. BOKULGURI
MOUZA- and P.S. DHAKUAKHANA
DIST- LAKHIMPUR
ASSA

Advocate for the Petitioner : MR.J P KACHARI, MS.S GOGOI,MR.B BURAGOHAIN

Advocate for the Respondent : GA, ASSAMR4,6, MR.B K SARMA,SC, SOCIAL WELFARE(R1-3,5),MR.B PADUN(R- 7-10)

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

06.08.2024

Heard Shri P.K. Gogoi, learned counsel appearing on instructions of Shri B.K. Buragohain, learned counsel for the petitioners. Also heard Shri A. Chakraborty, learned State Counsel.

2. The petitioners who are 4 in numbers had participated in a recruitment process for the post of Anganwadi Workers in various Anganwadi Centres under the Integrated Child Development Services (ICDS) Project, Dhakuakhana in the district of Lakhimpur pursuant to an advertisement dated 16.09.2009.

3. It is the case of the petitioners that in the said recruitment, they were duly selected and were appointed in the respective Anganwadi Centres. The appointment of the petitioners were however the subject matter of challenge in a writ petition being WP(C)/4359/2010. The said writ petition was disposed of by this Court by directing an enquiry to be made on residential status of the petitioners. Accordingly, enquiry was made and a report was issued on 15.07.2015. In terms of the said report, the impugned order dated 03.08.2015 has been passed whereby the petitioners have

been released from their services.

4. Shri Gogoi, the learned counsel for the petitioners has submitted that no proper opportunity was granted to the petitioners in the enquiry and accordingly, there was violation of the principles of the natural justice. He has also submitted that while the initial selection was done, a verification exercise was made and there was no doubt regarding their eligibility on the issue of residential status. He accordingly submits that the impugned order which was passed pursuant to such erroneous enquiry report be interfered with and the petitioners be directed to be reinstated in their respective services.

5. *Per contra*, Shri Chakraborty, the learned State Counsel has submitted that the enquiry was done pursuant to an order of this Court. He submits that if the petitioners were aggrieved by such order of this Court, they could have preferred an appeal which was not done and therefore, initiation and completion of the enquiry cannot be put to challenge. It is submitted that the enquiry was a fact finding enquiry only to ascertain the residential status of the petitioners. He reiterates that it is an essential condition that to be appointed as an Anganwadi Worker or an Anganwadi Helper, the incumbent should be from the locality as the very purpose of the scheme is to give necessary assistance to the children and the mothers. It is submitted that the enquiry was properly done and it was found that the petitioners do not belong to their locality and the said fact would go to the root of the matter by which their initial selection cannot be sustained.

6. The learned State Counsel has also informed that this writ petition is pending since the year 2015 and there is no interim order and in the meantime certain developments have taken place including appointments of new incumbents.

7. This Court has noticed that the private respondent had entered appearance and has also filed the affidavit-in-opposition on 08.02.2019. However, none is present to represent them today. Be that as it may, this Court has proceeded with the matter.

8. The grounds of challenge is mainly on the issue of violation of the principles of the natural justice in the enquiry. At this stage, it would be apposite to refer to the order dated 07.01.2013 passed in WP(C)/4359/2010 wherein the appointments of the petitioners were put to challenge. The said writ petition was disposed of by directing an enquiry on the residential status of the present petitioners. As rightly pointed out, the said direction was not put to further challenge and the enquiry was conducted in compliance with the aforesaid direction. The enquiry culminated in an order dated 15.07.2015. A bare perusal of the said order passed by the Director of Social Welfare would show that the enquiry was made with respect to the 7 (seven) numbers of Anganwadi Centres amongst which the petitioners were also connected. It appears that the Director had applied his mind inasmuch as separate considerations were made for each of the 7 (seven) centres *vis-a-vis* the nature of allegations. The Director had taken all the relevant factors into consideration including the records and comparative statements of the marks obtained. The residential aspects were duly considered. The said order was followed by the order dated 03.08.2015 whereby the petitioners were released from their services.

9. This Court being *prima facie* satisfied with the mode and nature of the enquiry in which the relevant factors have been taken into consideration, no case for interference appears to be made out. This Court has also noted that almost a decade has passed and in absence of any interim order, the rights have crystallised upon the new incumbents who have been appointed in the said Anganwadi Centres.

10. In view of the above, the writ petition stands dismissed.

JUDGE

Comparing Assistant