

GAHC010023792017



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

Case No. : WP(C)/3058/2017

JAHANGIR ALI AHMED
S/O- MD. SAIDUR RAHMAN AKAND, R/O- VILL- KAKDHUWA, P.O-
GOMAFULBARI, P.S- TARABARI, DIST- BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM and ANR.
REP. BY THE COMMISSIONER and SECRETARY TO THE GOVT OF ASSAM,
FINANCE DEPT. DISPUR, GUWAHATI- 06

2:THE DIIRECTOR OF AUDIT LOCAL FUND
ASSAM
KAR BHAWAN
GANESHGURI
GUWAHATI-

Advocate for the Petitioner : MR.R PEGU

Advocate for the Respondent :

**BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

09.02.2024.

1. Heard Mr. R. Ali, learned counsel for the petitioner. Also heard Mr. P. Nayak, learned Standing Counsel for the Finance Department appearing on behalf of the respondents.
2. An advertisement was issued on 29.05.2015 by the respondent No. 2 i.e. Director of Audit (Local Fund), Assam for filling up 63 posts of Assistant Audit Officer. Out of the aforesaid 63 posts, 11 posts were earmarked for ST(P) candidates, 5 posts for ST(H), 13 posts for OBC and 32 posts for General candidates. The petitioner is a General category candidate.
3. Referring to the Annxure-9 annexed to the writ petition, Mr. R. Ali, learned counsel for the petitioner submits that the aforesaid is a provisional select list published wherein only the Roll numbers. of the provisionally selected candidates are indicated without reference to any category to which the Roll numbers relate to. The select list contains only 51 Roll numbers, though the advertisement was for filling up of 63 posts. Therefore, entire selection process is vitiated for the aforesaid irregularity.
4. Mr. P. Nayak, learned Standing Counsel for the Finance Department pursuant to this Court's orders dated 31.05.2017 and 05.02.2024 has produced certain documents signed by the Director of Audit (Local Fund), Assam. One of such document is a statement showing the total marks obtained by all the candidates belonging to the un-reserved category, ST(P), ST(H), OBC/MOBC. From the aforesaid record, it is seen that the last selected candidate belonging to the

General category candidate obtained 215 Marks (Written Test= 197, Viva-Voce=18) and the petitioner obtained 180 Marks (Written Test=166, Viva-voce=14) and accordingly, it is contended by Mr. Nayak, learned counsel that for this reason the petitioner was not selected for appointment.

5. Coming to the next grievance of the petitioner that though total 63 Nos. of posts were advertised, however, only 51 posts were filled up. Mr. Nayak, learned Standing Counsel for the Finance Department on basis of his instruction and records has submitted that 12 posts were not filled up for want of qualifying candidates and those 12 posts vacancies were not meant for General category candidates and all the vacancies of General category candidates has been filled up. Out of the aforesaid 12 vacancies, 7 Nos. belongs to ST(P) candidates, 2 Nos. for ST(H) candidates, 2 Nos. for OBC/MOBC candidates and 1 No. for PWD candidates.
6. In view of the aforesaid record which is also shown to Mr. Ali, learned counsel for the petitioner, Mr. Ali, learned counsel submits that the he cannot argue beyond the record and record speaks for itself.
7. In view of the contention and submissions made by Mr. P. Nayak, learned Standing Counsel as well as considering the statement produced and signed by Director of Audit (Local Fund), Assam, this Court is of the view that, this Court cannot find fault in non selecting the petitioner in the selection process inasmuch as the petitioner has failed to show that his right under Article 14 and/ or under Article 16 of the Constitution of India has been violated. Accordingly, this writ petition stands dismissed. Parties to bear their own cost.

JUDGE

Comparing Assistant