

GAHC010028542015



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

Case No. : WP(C)/7915/2015

SMTI BANASHREE BASUMATARY
W/O- SRI KAILASH BASUMATARY, R/O VILL. NO. 2, MISSING KATHANAI,
P.O. and P.S.- GOHPUR, DIST.- SONITPUR, ASSAM.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY COMMISSIONER and SECY. TO THE GOVT. OF ASSAM, SOCIAL
WELFARE DEPTT., GHY- 6.

2:THE DIST. SOCIAL WELFARE DEPTT.
GUWAHATI- 781001
UZAN BAZAR.

3:THE DIST. SOCIAL WELFARE OFFICER
SOCIAL WELFARE DEPTT.
SONITPUR
DIST.- SONITPUR
ASSAM.

4:THE SELECTION COMMITTEE
ANGANWADI WORKER/HELPER
CHAIDUAR
ICDS PROJECT
REP. BY ITS CHAIRMAN
SONITPUR
ASSAM.

5:THE CHILD DEVELOPMENT PROJECT OFFICER
CHAIDUAR
ICDS PROJECT
CHAIDUAR

P.S.- HALEM
DIST.- SONITPUR
ASSAM.

6:JONALI PATIR DOLEY
W/O- SRI APPEL DOLEY
R/O VILL.- NO. 3 BALIJAN
P.O. and P.S.- GOHPUR
DIST.- SONITPUR
ASSAM

Advocate for the Petitioner : MR.J K PARAJULI

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 29-01-2024

1. Heard Mr. S.K. Chakraborty learned counsel for the petitioner. Also heard Mr. T Chutia, learned Additional Senior Govt. Advocate, Assam appearing for respondent Nos.1 to 5. None appears for the respondent No.6.

2. The petitioner approached this court by filing a writ petition being WP(C) No.390/2010 with a grievance that the respondent No.6 who has been appointed as Anganwadi worker at No.170 Missing Kathani Anganwadi Center is not a local resident of village No.2, Missing Kathani and therefore, her selection to the said post is illegal. As the respondent No.6 in the aforesaid writ proceeding denied such allegation and asserted that the respondent No.6 is a local resident of village No.2 Missing Kathani, this court declined to enter into such disputed question of fact. However, in the

interest of justice, this court under its order dated 04.04.2011 passed in WP(C) No.390/2010 granted a liberty to the petitioner to approach the Director, Social Welfare Department, Govt. of Assam raising her grievances and in the event of such an application is made, the Director, Social welfare Department, Govt. of Assam was directed to hear all the parties concerned and pass necessary order(s) in accordance with law. Subsequent to this, the petitioner preferred a representation before the Director, however, alleging non consideration of such representation, the petitioner filed a contempt case being Cont.Cas(C) No.157/2012.

3. In the proceeding of the said contempt petition, the learned standing counsel, Social Welfare Department, on instructions submitted that the date of hearing has already been fixed on 15.09.2012 at 3.00 PM in the Office of the Director and accordingly, the Director will hear the parties and necessary order as directed earlier by this court on 04.04.2011 shall be passed. In view of such submission, the contempt petition was closed.

4. Thereafter, upon hearing the parties, the Director Social Welfare Department, Assam passed a speaking order after obtaining a report from the concerned field officials. The determination was made in favour of the petitioner and against the respondent No.6 and finally the following concluding order was passed by the Director in its order dated 09.11.2012

“In view of the above, I am in the opinion that, the claim of the petitioner is based on facts and hence her claim is upheld. The Child Development Project Officer is hereby directed to place the

matter before the Project Level Selection Committee, to take further action in this regard as per Govt. guidelines. The earlier order issued vide No.DSW(ICDS)G/5/2011/353 dt 29-5-2012 is hereby set aside."

5. It is submitted by Mr. Chaliha that such order remained unassailed and therefore, as on date, there is no subsisting order of appeal on favour of respondent No.6.

6. The present writ petition is filed assailing that even after such determination, nothing has been done to implement such direction of the Director.

7. The respondent No.2 i.e., the Director Women and Child Welfare Department, Assam has filed an affidavit in the present proceeding and reiterated its stand that the respondent No.6 was not a local candidate from the village inasmuch as the then CDPO has illegally made appointment to the respondent No.6. It is a further stand that the original records of the selection were misplaced by the CDPO who issued two orders in favor of the respondent No.6 and even after asking he has not submitted any original record. Accordingly, a departmental proceeding has also been initiated against the aforesaid CDPO.

8. In the aforesaid uncontroverted pleaded case of the respondent authority, it is clear that the respondent themselves has admitted that the petitioner is a duly selected candidate for the Anganwadi Center in question being a local candidate inasmuch as the respondent No.6 is not entitled for such appointment being a resident outsider in the jurisdiction of the Anganwadi center.

9. That being the position, now it is the Director who is to implement its order dated 09.11.2012 (Annexure – H to the writ petition)

10. In view of the aforesaid finding, the respondent No.2 Director shall take a call on the order dated 09.11.2012 and proceed in terms of the said order. Such exercise shall be carried out within a period of 6 (six) weeks from the date on which the petitioner shall furnish a copy of this order before the respondent No.2, Director.

11. With the aforesaid, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant