

GAHC010072592024



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

Case No. : WP(C)/2191/2024

DR. ANAMYA ROY
DAUGHTER OF SRI ABHIJIT ROY,
RESIDENT OF BANAMALI ROAD,
WARD NO. 16, KARIMGANJ TOWN,
POST OFFICE- KARIMGANJ- 788710,
DISTRICT- KARIMGANJ, ASSAM.

VERSUS

THE STATE OF ASSAM AND 14 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM,
HIGHER EDUCATION DEPARTMENT,
DISPUR, GUWAHATI- 781006.

2:THE DIRECTOR OF HIGHER EDUCATION
ASSAM
KAHILIPARA
GUWAHATI- 781019
ASSAM.

3:THE GOVERNING BODY
PANDIT DEEN DAYAL UPADHAYA ADARSHA MAHAVIDYALAYA
REPRESENTED BY THE DEPUTY COMMISSIONER
KARIMGANJ
AND CHAIRPERSON OF THE GOVERNING BODY OF THE SAID COLLEGE

POST OFFICE- KARIMGANJ- 788710

DISTRICT- KARIMGANJ
ASSAM.

4:THE SELECTION COMMITTEE FOR THE POST OF ASSISTANT PROFESSOR
AT PANDIT DEEN DAYAL UPADHAYA ADARSHA MAHAVIDYALAYA

REPRESENTED BY THE DEPUTY COMMISSIONER
KARIMGANJ
AND CHAIRPERSON OF THE GOVERNING BODY OF THE SAID COLLEGE

POST OFFICE- KARIMGANJ- 788710

DISTRICT- KARIMGANJ
ASSAM.

5:THE DEPUTY COMMISSIONER
KARIMGANJ
(THE CHAIRPERSON OF THE GOVERNING BODY OF THE PANDIT DEEN
DAYAL UPADHAYA ADARSHA MAHAVIDYALAYA
ERALIGOOL
ASSAM)

POST OFFICE- KARIMGANJ- 788710
ASSAM.

6:THE PRINCIPAL-CUM-SECRETARY
PANDIT DEEN DAYAL UPADHAYA ADARSHA MAHAVIDYALAYA AT
ERALIGOOL
P.O.- ERALIGOOL- 788723

DISTRICT- KARIMGANJ
ASSAM.

7:ANUP KUMAR DAS
INSPECTOR OF SCHOOLS

P.O.- KARIMGANJ- 788710
ASSAM.

(CHAIRPERSON/ NOMINEE
SELECTION COMMITTEE
PANDIT DEEN DAYAL UPADHAYA ADARSHA MAHAVIDYALAYA
ERALIGOOL
ASSAM).

8:SATINATH PAUL
VICE-PRINCIPAL

PANDIT DEEN DAYAL UPADHAYA ADARSHA MAHAVIDYALAYA

P.O.- ERALIGOOL- 788723

DISTRICT- KARIMGANJ

(MEMBER-SECRETARY
SELECTION COMMITTEE
PANDIT DEEN DAYAL UPADHAYA ADARSHA MAHAVIDYALAYA
ERALIGOOL
ASSAM).

9:PROF. (DR.) NIRMALKANTI ROY
DEPARTMENT OF VISUAL ARTS

ASSAM UNIVERSITY
SILCHAR

POST OFFICE- SILCHAR- 788011

DISTRICT- CACHAR
ASSAM.
(MEMBER
SELECTION COMMITTEE
PANDIT DEEN DAYAL UPADHAYA ADARSHA MAHAVIDYALAYA
ERALIGOOL
ASSAM).

10:PROF. (DR.) BELA DAS
DEPARTMENT OF BENGALI

ASSAM UNIVERSITY
SILCHAR

POST OFFICE- SILCHAR- 788011

DISTRICT- CACHAR
ASSAM.
(MEMBER
SELECTION COMMITTEE
PANDIT DEEN DAYAL UPADHAYA ADARSHA MAHAVIDYALAYA
ERALIGOOL
ASSAM).

11:DR. MUNMUM BHATTACHARJEE
DEPARTMENT OF BENGALI
G.C. COLLEGE

P.O.- SILCHAR - 788004

(MEMBER
SELECTION COMMITTEE

PANDIT DEEN DAYAL UPADHAYA ADARSHA MAHAVIDYALAYA
ERALIGOOL
ASSAM).

12:DR. SUSMITA GHOSH
DEPARTMENT OF BENGALI
CACHAR COLLEGE

P.O.- SILCHAR - 788001

(MEMBER
SELECTION COMMITTEE
PANDIT DEEN DAYAL UPADHAYA ADARSHA MAHAVIDYALAYA
ERALIGOOL
ASSAM).

13:DR. DEBJANI DEBNATH
DEPARTMENT OF BENGALI
PANDIT DEEN DAYAL UPADHAYA ADARSHA MAHAVIDYALAYA

P.O.- ERALIGOOL- 788723

DISTRICT- KARIMGANJ.
(MEMBER
SELECTION COMMITTEE
PANDIT DEEN DAYAL UPADHAYA ADARSHA MAHAVIDYALAYA
ERALIGOOL
ASSAM).

14:DR. R.K. NIRMALA SANA
DEPARTMENT OF MANIPURI

ASSAM UNIVERSITY
SILCHAR

P.O.- SILCHAR- 788011

DISTRICT- CACHAR
ASSAM.
(MEMBER
SELECTION COMMITTEE
PANDIT DEEN DAYAL UPADHAYA ADARSHA MAHAVIDYALAYA
ERALIGOOL
ASSAM).

15:JAYANTI CHOUDHURY
DAUGHTER OF LATE NARENDRA NARAYAN CHOUDHURY

SOUTH GOLAGHAT BASTI
HOJAI

P.O.- HOJAI- 782435
DISTRICT- NAGAON
ASSAM

PRESENTLY WORKING AS THE ASSISTANT TEACHER
NAIRGRAM SENIOR BASIC SCHOOL

P.O.- CHARGOLA BAZAR- 788713

DISTRICT- KARIMGANJ
ASSAM

Advocate for the Petitioner : MR. N DHAR

Advocate for the Respondent : SC, HIGHER EDU

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

Judgment & Order(Oral)

Date : 29.04.2024

Heard Mr. N. Dhar, learned counsel for the petitioner. Also heard Mr. S. Das, learned Standing Counsel for the Higher Education Department representing the respondents no. 1 & 2.

2. In view of the nature of the order being passed in the present proceeding today, notices upon the respondents no. 3 to 15 is deemed to be not necessary.

3. The petitioner herein, by way of instituting the present proceeding has assailed the selection of the respondent no. 15 Smti Jayanti Choudhury, by the Selection Committee as constituted for the Pandit Deen Dayal Upadhaya

Adarsha Mahavidyalaya, Eraligooi, Assam for appointment as Assistant Professor in the Department of Bengali under PwD category on 30.08.2023. The petitioner has also assailed the approval as granted by the Governing Body of the said institution to the said selection as made in respect of the respondent no. 15, vide the resolution no. 13 adopted in its meeting held on 30.08.2023.

4. In pursuance to an advertisement dated 20.07.2023, issued by the authorities of Pandit Deen Dayal Upadhaya Adarsha Mahavidyalaya, Eraligooi, Assam inviting applications from eligible candidates of direct recruitment to sanctioned posts of Assistant Professor in different subjects including the subject of Bengali, the petitioner along with other eligible candidates, including the respondent no. 15 had submitted their respective applications. It is to be mentioned that in terms of the said advertisement dated 20.07.2023, the post of Assistant Professor, Bengali as advertised was reserved for persons with bench mark disability.

The applications of the petitioner and the respondent no. 15 being found to be satisfying the eligibility criterias as prescribed in the matter were issued with call letters to appear before the Selection Committee on 29.08.2023. It is contended that the petitioner appeared before the Selection Committee on 29.08.2023. Thereafter, the matter not been taken forward, led the petitioner to submit an RTI application on 16.09.2023, seeking information, as well as the documents, pertaining to the selection process as held for the posts of Assistant Professor in the Department of Bengali as advertised in the advertisement dated 20.07.2023. The said information not being furnished, the petitioner instituted WP(C)/6369/2023 and this Court,

vide order dated 18.09.2023, proceeded to dispose of the writ petition directing the Director of Higher Education, Assam to provide to the petitioner, the information as sought for. It is the contention of the petitioner that in pursuance to the directions passed by this Court, the Principal of Pandit Deen Dayal Upadhaya Adarsha Mahavidyalaya, Eraligooi, Assam on 16.02.2023, proceeded to furnish to the petitioner the requisite information and documents.

5. On perusal of the said documents and information as furnished to the petitioner, the petitioner contends to have discovered that the respondent no. 15 was so recommended by the Selection Committee for appointment against the post of Assistant Professor in the Department of Bengali as advertised vide the advertisement dated 20.07.2023, clearly in violation of the procedure prescribed in this connection under the guidelines holding the field.

6. It is the further contention of the petitioner that the respondent no. 15 did not have a uniformly good academic career. The petitioner also contends that the M.A. degree in Bengali as obtained by the respondent no. 15 was so obtained as an off-campus candidate, which was contended to be not in terms of the norms as laid down by the UGC for appointment to the post of Assistant Professor. The Ph.D as obtained by the respondent no. 15 was also questioned by the writ petitioner.

7. In the above premises, the petitioner assails the selection of the respondent no. 15 against the post in question and requires this Court to interfere with the same.

8. Mr. S. Das, learned Standing Counsel for the Higher Education

Department on a query raised by this Court has received instructions from the Director of Higher Education Assam, and in terms thereof, has submitted that the proposal as submitted by the Principal of the said college for appointment of the respondent no. 15 as Assistant Professor in the Department of Bengali, under PwD category in the College, on 30.08.2023 was not given a final consideration by the Director, Higher Education, Assam and presently the same is pending due to the prevailing Model Code of Conduct for general election, 2024.

9. As evident from the instructions as placed on record by the learned Standing Counsel for the Higher Education Department, the proposal as submitted pertaining to the appointment of the respondent no. 15 herein, is presently pending consideration with the Director of Secondary Education, Assam for examination, this Court is of the considered view that the matter having not been given a final consideration by the Director of Higher Education, Assam, the present proceeding is to be held to be pre-mature. However, considering the grievances raised by the petitioner as well as the allegation leveled pertaining to the selection of the respondent no. 15 against the post in question, this Court, hereby directs the petitioner to submit a detailed representation before the Director of Higher Education, Assam, and therein, highlight with materials the inconsistency and or, irregularity in the selection as made by the Selection Committee of the College in question in selecting the respondent no. 15 against the post of Assistant Professor in the Department of Bengali, under PwD category.

10. The representation as now required to be submitted by petitioner, shall be so submitted on or, before 10.05.2024. On receipt of such representation

from the petitioner, the Director of Higher Education, Assam before arriving at its decision with regard to the proposal pertaining to appointment against the post of Assistant Professor in the Department of Bengali under PwD category in the College in question, shall in addition to considering the contentions as raised by the petitioner in her representation, also afford an opportunity of hearing to the petitioner herein, the respondent no. 15 and the College authorities of the College in question to place their respective cases before him.

11. The Director of Higher Education, Assam on receipt of the representation from the petitioner, along with a certified copy of this order, shall fix a date for hearing in the matter and issue notices thereof to the petitioner, the respondent no. 15 and the College authorities requiring their appearance on the date so fixed.

12. The Director of Higher Education, Assam, upon considering the contentions as made by the petitioner herein in her representation as now permitted to be submitted by her and upon hearing the petitioner, the respondent no. 15 as well as the College authorities proceed to dispose of the same by way of issuing a speaking order, containing the decision as may be arrived at by Director, Higher Education, Assam, along with the reasons basing on which such decision was so arrived at.

13. The speaking order so issued, shall be communicated to the petitioner, the respondent no. 15 as well as the College authorities. Further processing of the matter shall be so made as per the decision that would be arrived at by the Director of Higher Education, Assam in the matter.

14. The above exercise shall be initiated and completed within a period of

3(three) months from the date of receipt of a certified copy of this order.

With the above observations and directions, the writ petition stands disposed of.

JUDGE

Comparing Assistant