

GAHC010106222016



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

Case No. : WP(C)/512/2016

HIMANJAL KALITA
S/O. LT. SUMESWAR KALITA, VILL. MAJPATHARI, DIST. NAGAON, ASSAM,
PIN-782003.

VERSUS

THE STATE OF ASSAM and 8 ORS.
REP. BY THE COMM. and SECY. TO THE GOVT. OF ASSAM, SOCIAL
WELFARE DEPTT., DISPUR, GHY.-06.

2:THE DIRECTOR OF SOCIAL WELFARE DEPTT.

-CUM-MEMBER SECY.
STATE CHILD PROTECTION SOCIETY
ASSAM
GHY.-28.

3:DULURAM SUTRADHAR
S/O. SUCHEN CH. SUTRADHAR
VILL. KUCHIAKATA
P.O. SIDASATI
P.S. ABHAYAPURI
DIST. BONGAIGAON.

4:SNIGDHA DUTTA
C/O. SURESH DUTTA
VILL. PADUM NAGAR
BORGOS TINIALI
P.S. AND P.O. DIBRUGARH
DIST. DIBRUGARH
PIN-786001.

5:KANAK LATA BARUAH
C/O. LAKHI KT BORUAH
VILL. WARD NO. 5
NATUNPARA
P.O. MANGALDOI
DIST. DARRANG
PIN-784125.

6:BARNALI RAJKUMARI
C/O. SRI NAKUL PHUKAN
VILL. BHAKATGAON
P.O. KAPAHERA
P.S. MIKIRBHETA
DIST. MORIGAON
ASSAM
PIN-784117.

7:BUDHU BASUMATARY
D/O. KHESAR BASUMATARY
VILL. AND P.O. KACHARSAN
P.S. DHEKIAJULI
DIST. UDALGURI
PIN-784117.

8:SANGEETA DAS

C/O. AKON DAS
TOWN- BIKASH NAGAR
NAHARKATIA
P.O. AND P.S. NAHARKATIA
DIST. DIBRUGARH
PIN-786610.

9:DABBU BAGLARY

C/O. BIMAL BAGLARY
VILL. H/NO. 33
BELTOLA
P.O. RONGKHELAN
P.S. DIPHU
KARBI ANGLONG

Advocate for the Petitioner : MS. T BEGUM

Advocate for the Respondent : SC, SOCIAL WELFARE

BEFORE
THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY
O R D E R

19.04.2024

1. Heard Mr. M Haloi, learned counsel for the petitioner. Also heard Mr. TC Chutia, learned counsel representing the respondent Nos. 3,4,5,6 and 8, Mr. Bora, learned counsel for respondent Nos. 1 and 2 and Mr. P Thakuria, learned counsel for the respondent No. 7.
2. The present writ petition is filed assailing the select list dated 06.12.2015 published by the Member Secretary, State Child Protection Society, Assam for the post of Protection Officer (Non Institutional Care) with a further prayer to appoint the petitioner as Protection Officer (Non Institutional Care) considering his merit position and work experience in the said office.
3. An advertisement dated 02.12.2013 was issued by the Member Secretary, State Child Protection Society, Assam for filling up certain post of Protection Officer (Non Institutional Care) for District Child Protection Unit total in 27 in numbers.
4. The petitioner participated in the said selection process. It is the grievance of the petitioner is that though the petitioner belongs to OBC category and certain posts are reserved and earmarked for the candidates belonging to the OBC category, however, ignoring the merit of the petitioner the respondent Nos. 3 to 9 were appointed. It is the further case of the petitioner that in the standard form of application there is no provision to disclose the category of an OBC candidate though there is provision for such disclosure as regards SC and ST candidates. Accordingly, the petitioner could not disclose his status as OBC candidate in the form though he had annexed the OBC certificate along with the application form. Therefore, the respondents could not have ignored his candidature and better merit position.
5. This court under its order dated 20.09.2023 after perusal of the application form, found that there is no provision for furnishing as to whether a candidate

belongs to OBC category or not. Accordingly, this court directed to produce the record of the selection process including the application filed by the petitioner and other respondents (selected candidates). The aforesaid record has been produced before the court. The application form filed by the petitioner in original is also produced. Same discloses that there is a provision for disclosure of status of candidature, so far it relates to SC and ST status and there is no provision for disclosure of status of OBC candidates. However, at the same time it is seen from the application of the petitioner that he has not annexed any copy of the OBC certificate issued in his favour. This court has also perused the application filed by the other applicants including the private respondents, which disclose that the other candidates have not only disclosed their OBC status but also annexed the OBC certificate along with applications.

6. The advertisement itself declares that certain posts are earmarked for OBC candidates. It is true there is no provision for disclosure of OBC status in the standard application form as published in Assam Gazette Part-IX, however, the advertisement specifically declares that there shall be reservation for SC, ST and OBC candidates. There is also provision of annexing the required certificates. However, the petitioner has not annexed such certificate.
7. In the aforesaid backdrop, this court cannot find fault with the respondent authority in not treating the petitioner as OBC candidate inasmuch as the petitioner had failed to annex his OBC certificate. Had it been a case that in spite of annexing OBC certificate, the petitioner's candidature was rejected, the entire case would have been in different standing and this court could have interfered on the ground of non-consideration of the candidature of the petitioner.
8. That being the position, the action of the respondents cannot be treated as an arbitrary action resulting in violation of the right of the petitioner under Article 14 or 16 of the Constitution of India.
9. That being the position, this writ petition stands dismissed. The interim order

stands vacated.

JUDGE

Comparing Assistant