

GAHC010107372023



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

Case No. : WP(C)/3066/2023

MILAN BORAH
SON OF LATE KANDURAH BORAH,
RESIDENT OF DHENUDHARA, WARD NO.1,
UNDER PO. AND P.S.- GOHPUR AND DISTRICT- BISWANATH CHARIALI,
SONITPUR,
ASSAM, PIN- 784168.

VERSUS

THE STATE OF ASSAM AND 6 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF
ASSAM,
DEPT. OF SCHOOL EDUCATION, GUWAHATI- 781006.

2:THE SECRETARY TO THE GOVERNMENT OF ASSAM
DEPT. OF SCHOOL EDUCATION
DISPUR
GUWAHATI- 781006.

3:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI- 781019.

4:THE STATE SELECTION BOARD
REPRESENTED BY THE CHAIRMAN

SECRETARY TO THE GOVERNMENT OF ASSAM

DEPT. OF SCHOOL EDUCATION

DISPUR

GUWAHATI- 781006.

5:THE INSPECTOR OF SCHOOLS
SONITPUR DISTRICT CIRCLE
SONITPUR 784169
ASSAM.

6:THE SCHOOL SELECTION COMMITTEE
REPRESENTED BY THE MEMBER SECRETARY
THE I/C PRINCIPAL OF HOWAJAN HIGHER SECONDARY SCHOOL

DIST- SONITPUR
PIN- 784169
ASSAM.

7:GOPAL KAKATY
SON OF LATE MUKHESWAR KAKATY

VILL.- TANGANA GAON WARD NO. 3

GOHPUR
DIST.- SONITPUR
ASSAM

PIN- 784168

Advocate for the Petitioner : MR. A DEKA

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE BUDI HABUNG

ORDER

Date : 12-06-2024

Heard Mr. A. Deka, learned counsel for the petitioner. Also heard Mr. A. Khataniar, learned counsel appearing for the respondent Nos.1, 2 and 4 and Mr. I.H. Saikia, learned counsel appearing for the respondent No.7.

2. The case leading to the filling of this writ petition is that, the post of

Principal of Howajan Higher Secondary school was advertised on 01.02.2019. In terms of the advertisement dated 02.02.2019 an interview was held on 13.02.2019. The petitioner being eligible had applied for and participated in the selection process for appointment to the said post of Principal.

3. The School Selection Committee then has selected the petitioner as 1st empanelled candidate and thereafter recommended his name for appointment to the post of Principal. The respondent No.7 was not allowed to participate in the said selection process as he did not fulfil the eligibility criteria so, his name was not recommended.

4. Being aggrieved, the respondent No.7 challenged the said selection in writ petition, WP(C) No. 4988/2019. The said writ petition, however, was disposed of by this Court vide order dated 09.12.2019 with the direction to the respondent authority and the State Selection Board to examine and consider the case of the petitioner as well as the respondent No.7 and to make a fresh recommendation on the basis of the performance of the petitioner and other candidates, including the respondent No.5 petitioner herein.

5. Accordingly, the respondent authorities have considered the matter as per the direction of the Court. On such consideration, the State Selection Board in its meeting held on 26.11.2020 found the writ petitioner to be eligible. They found that the petitioner stood as the first empanelled candidate securing 19 marks and the respondent No.7 stood as second securing 18 marks. Hence, the name of the petitioner was again recommended for promotion to the post of Principal of Howajan Higher Secondary School. Thereafter the same has been forwarded to the Government for approval for appointment. However, as the case of the petitioner was not considered for appointment and instead the case of the respondent No. 7 was placed ahead of the petitioner for appointment, the

petitioner filed this writ petition.

6. It is the case of the petitioner that although the petitioner having stood as the first empanelled candidate has been found eligible by the State Selection Board and his name already been recommended, but the state authority is unable to decide the matter finally due to the pendency of this writ petition. And since, now the matter has been cleared, the case may be disposed of with direction to the respondent to appoint him as per the recommendation made by the state Selection Board.

7. The learned counsel for the respondent No.3 while referring to the affidavit filed by the respondent No.3 further submits and conceded the submission of the learned counsel for the petitioner with regards to the statement that the petitioner was 1st empanelled candidates and the respondent No.7 was the second candidates empanelled by the State Selection Board and the name of the petitioner has been recommended for appointment as the principal. He further submits that; however, the matter could not be decided finally due to the pendency of this writ petition. In **paragraph 8** of the affidavit filed by respondent No.3, it is stated that the matter regarding selection to the post of regular Principal of Howajan Higher Secondary School, District Biswanath was placed before the State Selection Board in its meeting held on 08.01.2024. However, as the matter is sub-judiced, the Selection Board deferred the matter till the final outcome of the present writ petition filed by the petitioner. The learned counsel for the respondent has also agreed on the submission of the learned counsel of petitioner for disposal of the matter with a direction to the state respondent for final decision as per the rule.

8. It is pertinent to mention here that the Government of Assam, Secondary Department in accordance with the provisions of the Assam Secondary Education (Provincialized) Service Rule, 2003 as mentioned in 2012 has issued an OM dated 26.12.2018, laying down guideline for selection of Principals in Provincialized Higher Secondary School. The Rule 13 of the Assam Secondary Education (Provincialised) Service Rules, 2003 is relevant which is reproduced hereinbelow:

“13. Procedure of selection of Principals-(1) *Before the end of each year, the Member Secretary of the School Selection Committee shall invite applications from the intending eligible candidates through an advertisement to be published at least in two widely circulated local news papers.*

(2) *On receipt of applications from the eligible candidates the School Selection Committee constituted under rule 8(4) after scrutiny of the applications, shall hold an interview and prepare a panel of names of three candidates on the basis of qualityssuch as leadership skills, administrative ability, integrity andcommanding personality.*

(3) *The panel of names so prepared by the School Selection Committee shall be forwarded through the concerned Inspector of Schools to the State Selection Board constituted under rule 16 for approval.*

(4) *After receipt of the panel under sub-rule (3) the State Selection Board shall prepare a Select List equal to the number of vacant posts talking into consideration such as leadership skills, administrative ability, integrity and commanding personality. The penal of names so prepared and recommended by the State Selection Board shall be submitted to the Government, which may after causing such verification as may be deemed necessary, shall accord approval for appointment.*

(5) *The Select List so prepared and approved shall be in force for one year from the date of its approval by the Government:*

Provided that if the School Selection Committee fails to prepare penal of names under sub-rule (2) within 6 months from the date of vacancy arises, the State Selection Board shall make the selection and prepare the penal of names following such procedure as laid down under rule 13.”

9. The learned counsel for the petitioner submits that the examination process for appointment of the Principal has been completed as per Rule 13 of

the Assam Secondary Education (Provincialized) Service Rules, 2003. And since the name of the petitioner has been recommended by the State Selection Board, the respondent authority may be directed to decide the matter finally for appointment of the petitioner as the principal.

10. Having heard the learned counsel appearing for the parties and considering the pleadings of the parties including the affidavit filed by the respondent No.3 and on perusal of the materials available on record, this writ petition is disposed of with the direction to the concerned authorities including the respondent Nos. 2,3 and 4 to complete the process for selection of the Principal of Howajan Higher Secondary School in terms of OM and the Rule 13 of the Assam Secondary Education (Provincialised) Service Rules, 2003 and decide the matter finally taking into consideration the recommendation of the State Selection Board dated 16.02.2019.

11. The aforesaid exercise shall be completed by the respondent authorities within 30 (thirty) days from the date of receipt of a certified copy of this order. With the above observations and direction, the writ petition stands disposed of.

JUDGE

Comparing Assistant