

GAHC010144562024



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

Case No. : WP(C)/3672/2024

MD. MOFIDUL ISLAM
S/O- LATE NURUJ ZAMAL, R/O- VILLAGE- PUTHIKHAITY, P.O. RUPAHI,
DISTRICT- NAGAON, ASSAM, PIN- 782125

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, EDUCATION (HIGHER) DEPARTMENT, DISPUR, GUWAHATI-06

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

3:THE GOVERNING BODY OF B.H. COLLEGE
HOWLY
BARPETA
ASSAM
PIN- 781316 REPRESENTED BY ITS PRESIDENT

4:THE PRINCIPAL AND SECRETARY
B.H. COLLEGE
HOWLY
BARPETA
ASSAM
PIN- 781316

5:THE CHAIRMAN OF THE SELECTION BOARD FOR THE POST OF
ASSISTANT PROFESSOR
POLITICAL SCIENCE DEPARTMENT

B.H. COLLEGE
HOWLY
BARPETA
PIN- 781316

6:SUKALPA DEKA
C/O- PRINCIPAL
B.H.COLLEGE
HOWLY
BARPETA
PIN- 78131

Advocate for the Petitioner : MR. P MAHANTA

Advocate for the Respondent : SC, HIGHER EDU

BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR

ORDER

Date : 26.07.2024

- 1.** Heard Mr. P. Mahanta, learned counsel for the petitioner.
- 2.** Pursuant to an Advertisement, dated 03.02.2024, issued by the Principal, B.H. College, Howly, Barpeta for the post of Assistant Professor in Political Science, Management and Finance, the petitioner applied for the post of Assistant Professor in Political Science. Thereafter, the petitioner was called for interview on 08.07.2024 by a Communication, dated 25.06.2024, issued by the Principal, B.H. College, Howly, Barpeta.
- 3.** It is the case of the petitioner that the petitioner appeared before the Interview Board along with 4 other candidates, however, the Selection Board refused to interview the petitioner for a total of 3 marks on the ground that he has not submitted the No Objection Certificate. The further case of the

petitioner is that by a Communication dated 14.06.2022 written by the Commissioner and Secretary to the Government of Assam, Higher Education Department and addressed to the Director of Higher Education, Assam and the Director of Technical Education, Assam, it was informed that henceforth teaching and non-teaching staffs of all categories of colleges will not require any NOC from concerned colleges/ universities/polytechnics for applying for any other posts in any Government Organization. The said Communication, dated 14.06.2022, was also forwarded to the Principals of the different colleges in the State of Assam by the Director of Higher Education, Assam by Communication dated 22.06.2024. Therefore, in terms of the Communication dated 14.06.2022, the petitioner was not required to submit his NOC.

4. Mr. K. Gogoi, learned Standing counsel, Higher Education Department, however, relying on Rule 24 of the Assam College Employees (Provincialized) Rules 2010 (Rules of 2010 in short), submits that the said Rule mandates that the Governing Body shall issue No Objection Certificate to the college employees to apply for admission to course of higher studies and for other jobs. He, therefore, submits that in terms of Rule 24 of the Rules of 2010, No Objection Certificate is required to be submitted by the petitioner.

5. Mr. P. Mahanta, learned counsel appearing for the petitioner submits that the petitioner has also made a representation on 12.07.2024 before the Director of Higher Education, Assam with regard to the non-conduct of interview of the petitioner despite issuance of Call Letter by the B.H. College, Howly, Barpeta. He also submits that the said representation was submitted through Post before the Director of Higher Education, Assam on 15.07.2024. He, therefore, submits that the petitioner would be satisfied if the direction is given to the Director of

Higher Education, Assam to consider the representation made by the petitioner within a specific period of time.

6. Recording the submission made by the learned counsel for the petitioner, this writ petition is disposed of directing the Director of Higher Education, Assam to consider the representation made by the petitioner on 12.07.2024 within a period of 2 (two) weeks from the date of receipt of the said representation in accordance with law. It is also made clear that till the representation is considered and disposed of, the respondents, particularly, Respondent No. 2 / Director of Higher Education, Assam, shall not finalize the recommendation with regard to the post of Assistant Professor in Political Science of B.H. College, Howly, Barpeta.

7. The petitioner is also permitted to furnish a copy of this writ petition alongwith the annexures appended thereto alongwith a certified true copy of this order to the Director of Higher Education, Assam.

8. With the above observations and directions, this writ petition is disposed of.

JUDGE

Comparing Assistant