

GAHC010147972023



2024:GAU-AS:11660

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

Case No. : WP(C)/3938/2023

MRS. ANASUYA BORUAH AND 5 ORS
W/O RAJIB KUMAR HAZARIKA, R/O CHOLADHARA CHARIALI,
NAYANPUR ROAD, P.O.JORHAT, DIST- JORHAT, PIN-785001, ASSAM

2: BORNALI CHUTIA
W/O BIJOY BORGHAIN
R/O GOHAIGAON
P.O.-GOGHAIGAON
DIST-DHEMAJI
PIN-787057
ASSAM

3: PULAK SAIKIA
S/O SHRI UTAPAL SAIKIA
R/O KEKURI
P.O.-KEKURI
P.S.-DHAKUAKHANA
DIST-NORTH LAKHIMPUR
PIN-787055
ASSAM

4: RUBI NATH DAS
W/O SRI PURANJAN DAS
R/O SANKARDEV RAILWAY COLONY
NEAR NAMGHAR
P.O.-KODOMONI
DIST-DIBRUGARH
ASSAM
PIN-786001

5: BABYJYOTI GOGOI
W/O SRI NAREN GOGOI
R/O JAKAIPLOWA NO. 1
P.O.-RAJABARI

P.S.-BIHPURIA
DIST- LAKHIMPUR
PIN 787055
ASSAM

6: DOLLY GOGOI
D/O SRI LKAHI GOGOI
VILL- CHERAKAPAR LAKHIN GAON
P.O.-CHEREKAPAR
DIST-SIVASAGAR (ASSAM)
PIN-78564

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM,
DEPARTMENT OF SCHOOL EDUCATION, DISPUR, GUWAHATI-781006

2:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-78101

Advocate for the Petitioner : MR. A DEKA, MR. S BORTHAKUR,MR N SARMA

Advocate for the Respondent : SC, SEC. EDU.,

BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR

ORDER

Date : 26.11.2024

- 1.** Heard Mr. A. Deka, learned counsel for the petitioners as well as Ms. P. Das, learned standing counsel, Secondary Education Department appearing on behalf of all the respondents.
- 2.** The Director of Secondary Education, Assam issued an advertisement on 27.12.2022 for filling up 7500 (seven thousand five hundred) vacant posts of

Graduate Teacher (Arts), Graduate Teacher (Science), Graduate Teacher (Hindi) and Graduate Teacher (Sanskrit) of different provincialised Secondary Schools under the Directorate of Secondary Education. Pursuant to the said advertisement, the petitioners in the present writ petition applied for the post of Graduate Teachers (Arts). By a Communication dated 02.03.2023, the Director of Secondary Education, Assam, directed the petitioners to appear for physical document verification which was to commence from 13.03.2023 to 16.03.2023 in the Office of the Directorate of Secondary Education. In terms of the Communication dated 02.03.2023, the petitioners appeared and submitted the original documents/ certificates for verification. Thereafter, the Director of Secondary Education Department published the first provisional merit list on 21.04.2023.

3. It is categorical case of the petitioners that in the said provisional merit list the name of some candidates were found overlapping against different districts under the OBC category. The grievance of the petitioners is that, without proper verification of the provisional merit list the final merit list of Graduate Teachers of all districts under the provincialised High Schools was published on 05.05.2023, wherein, there was also overlapping of districts with regard to the selected candidates. As a result of such overlapping, some candidates are shown selected in more than 3 to 4 districts, however, as the said candidates have chosen only 1 (one) post in a particular district, according to their choice, thereby some category of OBC candidates securing lesser marks were deprived from the merit list and appointment.

4. Accordingly, the present writ petition has been filed for a direction to the respondents to scrutinize the district wise merit list dated 05.05.2023 and to find out names of the overlapping candidates whose names figured against the

same post of Graduate Teachers (Arts) under different districts under the OBC category.

5. This Court on 17.10.2023, accordingly, directed the learned Standing counsel, Secondary Education Department to take instructions in the matter and 6 (six) posts of left out available vacancies earmarked for the OBC category in terms of the advertisement dated 27.12.2022 in respect of the Graduate Teachers (Arts) were directed not to be filled up till the next returnable date.

6. The interim Order dated 17.07.2023 has been extended from time to time and is still in subsistence till today.

7. Further, the petitioners have also filed an additional affidavit on 5th August, 2024, wherein, they have annexed 4 (four) replies to the RTI application made by the petitioners. The first RTI reply is from the Inspector of Schools, JDC, Jorhat , wherein, it is stated that 3 (three) numbers of Graduate Teachers (Arts) reserved for OBC/MOBC is vacant after filling up post as per the advertisement dated 27.12.2022. The second RTI reply is from the Office of the Inspector of Schools, DDC, Dhemaji, wherein, it is stated that 1 (one) number of Graduate Teacher (Arts) post reserved for OBC/MOBC is vacant after filling up post as per the advertisement dated 27.12.2022. The third RTI reply is from the Inspector of Schools, Lakhimpur District Circle, North Lakhimpur, wherein, it is stated that 6 (six) numbers of Graduate Teachers (Arts) posts reserved for MOBC/OBC are lying vacant after filling up the post as per the advertisement dated 27.12.2022. The last RTI reply is from the Office of the Inspector of Schools, Dibrugarh District Circle, Dibrugarh, wherein, it is stated that 5 (five) numbers of Graduate Teachers (Arts) posts reserved for MOBC/OBC are vacant after filling up posts as per the advertisement dated 27.12.2022.

- 8.** A perusal of the RTI replies made from the 4 (four) different districts, would indicate that there are still vacancies in respect of Graduate Teacher (Arts) reserved for MOBC/OBC after filling up the posts as per the advertisement dated 27.12.2022.
- 9.** On 07.11.2024 the learned standing counsel, Secondary Education Department, was directed to take instructions with regard to the overlapping of candidates in different districts.
- 10.** Today when the matter is called up, Ms. P. Das, learned standing counsel, Secondary Education Department submits on instructions that as the writ petitioners have failed to disclose or submit the district wise acknowledgement against which district, they have applied, the respondents are not in a position to take further steps.
- 11.** After hearing the parties, the petitioners are accordingly directed to submit the district wise acknowledgement against which district they have made their application before the Director of Secondary Education, Assam within a period of 2 (two) weeks from today. Thereafter, on receipt of the acknowledgements made by the petitioners disclosing the choice of districts to which they have applied, the respondents, particularly the Director of Secondary Education, Assam/Respondent No. 2 and the concerned Inspector of Schools shall scrutinize the district wise merit list dated 05.05.2023 and verify as to whether there is any overlapping of the names of the candidates whose names figured against the same post of Graduate Teachers (Arts) in different districts. On verification, if the authorities come to the finding that there has been overlapping of candidates as well as there are vacancies as projected by the concerned Inspector of Schools which is appended to the additional affidavit filed by the petitioners on 05.08.2024, appropriate orders shall be passed by the

Director of Secondary Education, Assam for accommodation of the petitioners as Graduate Teachers (Arts). However, the same shall be done in accordance with law.

12. Let such exercise be done and completed within a period of 2 (two) months from the date of receipt of the certified true copy of this order.

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

JUDGE

Comparing Assistant