

GAHC010160662018



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

Case No. : WP(C)/4943/2018

AZAHAR UDDIN
S/O. LATE MD. MOZIBAR RAHMAN, VILL. AND P.O. KADAMTALA, P.S.
BAGHBAR, DIST. BARPETA, ASSAM, PIN 781301.

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
REVENUE AND DISASTER MANAGEMENT, GUWAHATI-6.

2:THE DEPUTY COMMISSIONER

BARPETA
ASSAM
PIN 781304.

3:THE CIRCLE OFFICER
BAGHBAR REVENUE CIRCLE

BARPETA
ASSAM
PIN 781308

Advocate for the Petitioner : MR. I H SAIKIA, MR. L M RAHMAN,MR. K KALITA,MR. M R
CHOUDHURY

Advocate for the Respondent : GA, ASSAM, SC, REVENUE

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER**Date : 29.07.2024**

Heard Mr. I.H. Saikia, learned counsel for the petitioner. Also heard Mr. J.K. Goswami, learned Additional Senior Govt. Advocate for the respondents No.2 and 3 and Mr. J. Handique, learned Standing counsel for the Revenue and Disaster Management Department for the respondent No.1.

The challenge in the present proceedings is to an advertisement dated 07.06.2018 issued by the Deputy Commissioner, Barpeta inviting applications for filling up the post of Gaon Burah of 30 No. Charge, Baghbar Mouza under Baghbar Revenue Circle.

The grievance of the petitioner is that in the said advertisement the minimum age requisite for a candidate to apply against the said post has been fixed as 35 years or above as on 01.01.2018 and thereby depriving the petitioner from participating in the recruitment process, although he had a preferential claim in the matter.

Today when the matter was taken up for consideration, Mr. J. Handique and Mr. J.K. Goswami, learned counsels appearing for the State respondents, have placed on record a notification dated 10.04.2018, by which the executive instructions governing the manner of recruitment to the post of Gaon Burah under the Assam Land and Revenue Regulation Act, 1886, was amended and therein the minimum age for being eligible to apply against the post was so prescribed as 35 years. The advertisement having been so issued in terms of the notification dated 10.04.2018 and the provision of the notification dated 10.04.2018 not being under challenge, the petitioner herein cannot, in absence of a challenge to the executive instruction as brought into force vide notification dated 10.04.2018, present a challenge to the above noted advertisement and accordingly, it is held that the challenge to the said advertisement by the petitioner herein cannot be sustained.

Mr. I.H. Saikia, learned counsel for the petitioner has brought on record a notification dated 26.08.2021 by which, the executive instructions governing the recruitment to the post of Gaon Burah, was further amended and the minimum age of 35 years as prescribed, was changed to 30 years and accordingly, it is contended that as on date for the purpose of recruitment to the post of Gaon Burah, an applicant has to be 30 years or more on the last date of the advertisement for being eligible to be considered for appointment against the post of Gaon Burah.

The above being the position and the advertisement dated 07.06.2018 having not been taken forward, on account of interim directions passed in the present proceeding, this Court is of the view

that the said advertisement dated 07.06.2018, also in view of the lapse of time occasioning since its issuance and more candidate having become eligible in the meantime, requires to be interfered with.

Accordingly, the advertisement dated 07.06.2018 is set aside.

Having interfered with the said advertisement, the respondent authority more particularly the District Commissioner, Barpeta, is now required to re-advertise the post of Gaon Burah of 30 No. Charge, Baghbar Mouza under Baghbar Revenue Circle, strictly in accordance with the executive instruction governing the recruitment to the post of Gaon Burah as on date.

The said advertisement be so issued within a outer limit of three months from the date of receipt of the certified copy of this order.

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

JUDGE

Comparing Assistant