

GAHC010162612021



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

Case No. : WA/293/2021

JOONMANI PAGAG GAM
W/O SHRI PADMESWAR GAM R/O VILL- UTTAR BOGORIGURI, P.O.
KULLAMOHWA, DIST. JORHAT, ASSAM.

VERSUS

1.THE STATE OF ASSAM AND 4 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
SOCIAL WELFARE DEPARTMENT, DISPUR, GUWAHATI-781006.

2:THE DIRECTOR OF SOCIAL WELFARE ASSAM
UJANBAZAR GUWAHATI - 781001.

3:THE DISTRICT SOCIAL WELFARE OFFICER
JORHAT DISTRICT JORHAT ASSAM.

4:THE CHILD DEVELOPMENT PROJECT OFFICER
UJAN MAJULI ICDS PROJECT
JENGRAMUKH DIST. JORHAT ASSAM.

5:SMTI. JIBANI PAGAG KHAMAN
W/O- DEBESWAR PAGAG
PREMANENG RESIDENT OF VILLAGE- BORIGURI
P.O. KULLAMOHWA MAJULI
DIST.- JORHAT ASSAM

For the Appellant	:	Ms. B. Choudhury, Advocate.
	:	Ms. K. Devi, Advocate.
For the Respondent(s)	:	Mr. D.K. Sharma, Additional Senior Government Advocate for respondent Nos.1 to 4.
	:	Mr. I.H. Saikia and Mr. K. Kalita, Advocates for respondent No.5.

– BEFORE –
HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI
HON'BLE MR. JUSTICE SUMAN SHYAM

11.06.2024

(Vijay Bishnoi, CJ)

This writ appeal is filed by the appellant/writ petitioner being aggrieved with the judgment dated 01.09.2021 passed by the learned Single Judge in WP(C) No.1900/2016, whereby the writ petition filed by the appellant/writ petitioner has been dismissed.

2. The matter is in relation to selection and appointment of Anganwadi Worker in the Uttar Bagoriguri Mini Anganwadi Centre which held in the year 2013.

3. The appellant is claiming that the respondent No.5 who was selected for the post of Anganwadi Worker of the aforesaid Anganwadi Centre was not the resident of the village wherein the said Anganwadi Centre is situated. It is asserted that in the advertisement as well as in the selection criteria, it was specifically mentioned that the person engaged as an Anganwadi Worker should be a resident of that village only where the Anganwadi Centre is situated.

4. It was contended by the appellant/writ petitioner before the learned Single Judge that the respondent No.5 is not a resident of the village where the Anganwadi Centre is situated and therefore, her selection and appointment is liable to be set aside.

5. The learned Single Judge, after considering the order dated 02.07.2015 passed by the Director, Social Welfare whereby the claim of the appellant was rejected, has come to the conclusion that the factors considered by the Director,

Social Welfare are relevant and germane to the issue and therefore, the order dated 02.07.2015 is not liable to be interfered with. The learned Single Judge has further observed that it is only the decision making process which writ court is entitled to examine and not the ultimate decision.

6. Learned counsel for the appellant has vehemently submitted that the instant writ appeal, being WA No.293/2021 filed by the appellant challenging the impugned judgment 01.09.2021 passed by the learned Single Judge was dismissed by the Division Bench of this Court on 21.12.2021, relying on the statement of the learned counsel for the State that the village of the respondent No.5 and the village where the Anganwadi Centre is situated falls within the same Revenue village.

7. It is submitted by the learned counsel for the appellant that vide order dated 22.11.2022 passed in Review Petition No.104/2022, the order dated 21.12.2021 passed by this Court in WA No.293/2021 was recalled and the writ appeal was restored for hearing.

8. It is submitted that in the review order dated 22.11.2022, the Division Bench of this Court has come to the conclusion that the village of the respondent No.5 and the village where the Anganwadi Centre is situated falls in different Revenue Villages.

Learned counsel for the appellant has therefore submitted that it is proved that the respondent No.5 is not the resident of the same village where the Anganwadi Centre is situated and in such circumstances, her appointment on the post of Anganwadi Worker in the aforesaid Anganwadi Centre is liable to be set aside.

9. Learned counsel appearing for the respondent State as well as the private

respondent has opposed the writ appeal.

10. Having heard the learned counsel appearing for the appellant and after going through the material available on record, more particularly, taking into consideration the fact that the selection for the post of Anganwadi Worker on the concerned Anganwadi Centre held in the year 2013 and 11 years have passed, therefore, in the peculiar facts and circumstances of the case, we are not inclined to interfere with the impugned judgment dated 01.09.2021 passed by the learned Single Judge in WP(C) No1900/2016. Hence, this writ appeal is dismissed.

JUDGE

CHIEF JUSTICE

Comparing Assistant