

GAHC010169532016



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

Case No. : WP(C)/1602/2016

ABDUL HAKIM CHOWDHURY
S/O ABDUL HAMID CHOWDHURY, R/O AMBARI BHUYAN PARA, P.O. B.K.
SERSOW, DIST- DHUBRI, ASSAM

VERSUS

THE STATE OF ASSAM and 9 ORS.
REP. BY THE SECY. TO THE GOVT. OF ASSAM, EDUCATION SECO DEPTT.
DISPUR, GHY-6

2:THE DIRECTOR OF MADRASSA EDUCATION
ASSAM
KAHILIPARA
GHY-19

3:THE SELECTION BOARD
CONSTITUTED FOR SELECTION OF CANDIDATE FOR THE POST OF LDA
JR. ASSTT. AND LIBRARIAN IN MASALLABARI KUSHBARI SR. MADRASSA
DHUBRI
REP. BY ITS PRESIDENT
MD. ABDUS SATTAR MIAH
R/O MOIRAKUCHI
PO. AIRKATA
DIST- DHUBRI
ASSAM
PIN-783330

4:SHOMEJ UDDIN AHMED
IN-CHARGE SUPERINTENDENT OF MASALLABARI KUSHBARI SR.
MADRASSA CUM MEMBER SECY. OF THE SELECTION BOARD
VILL. KUSHBARI
P.O. AIRKATA
DIST- DHUBRI
ASSAM PIN-783330

5:IMAN ALI SARKAR
MEMBER OF THE SELECTION BOARD
R/O NASHKARA
P.O. AIRKATA
DIST- DHUBRI
ASSAM
PIN-783330

6:OSMAN GONI
MEMBER OF THE SELECTION BOARD
R/O VILL. and P.O. GAURIPUR
DIST- DHUBRI
ASSAM
PIN-783301

7:ESAHAQUE ALI CHOUDHURY
MEMBER OF THE SELECTION BOARD
R/O COLLEGE ROAD
P.O. KHALILPUR
DIST- DHUBRI
ASSAM
PIN-783301

8:MIR ABUL KALAM AZAM
MEMBER OF THE SELECTION BOARD
R/O VILL. and P.O. AIRKATA
DIST- DHUBRI
ASSAM
PIN-783301

9:DR. ANISUR RAHMAN
MEMBER OF THE SELECTION BOARD
R/O KUSHBARI
P.O. AIRKATA
DIST- DHUBRI
ASSAM
PIN-783330

10:MONIRUZZAMAN AHMED
S/O TOSLEM UDDIN AHMED
R/O BASHMURA
P.O. AIRKATA
DIST- DHUBRI
ASSAM PIN-783330

Advocate for the Petitioner : MR.T J MAHANTA
Advocate for the Respondent : MR.A MANNAF R - 4

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : 09.01.2024

Heard Mr. T. J. Mahanta, learned senior counsel, assisted by Ms. P. Sarma, learned counsel, appearing on behalf of the petitioner.

Also heard Mr. U. Sarma, learned standing counsel, Secondary Education Department, appearing on behalf of respondents No. 1 & 2; Mr. A. Mannaf, learned counsel, appearing on behalf of respondent No. 4; Mr. B. Gogoi, learned counsel, appearing on behalf of respondent No. 9; and Mr. A. R. Sikdar, learned counsel, appearing on behalf of respondent No. 10.

The petitioner has by way of instituting the present writ petition, assailed the selection and appointment of respondent No. 10 as Junior Assistant(LDA) in Masallabari Kushbari Senior Madrassa, Dhubri.

The facts required for adjudication of the issues arising in the writ petition, is noticed as below:

The respondent authorities more particularly, the Director, Madrassa Education, Assam, vide an advertisement, dated 07.11.2015, invited applications amongst others, for a post of LDA(Jr. Assistant) and a post of Librarian lying vacant in Masallabari Kushbari Senior Madrassa, Dhubri. The manner and

method of conducting the selection in pursuance to the said advertisement, dated 07.11.2015, was prescribed by the competent authority vide a Notification, dated 26.11.2015. Accordingly, vide communication, dated 06.10.2015, a selection committee for the posts, as available in Masallabari Kushbari Senior Madrassa, Dhubri, was constituted and approved by the Director, Madrassa Education, Assam, on 08.10.2015. As revealed from the pleadings brought on record, the selection committee conducted the selections on 17.12.2015, and the select list was prepared on 18.12.2015 by the selection committee. Consequently, on approval of the same, vide impugned order, dated 29.02.2016, the respondent No. 10 came to be appointed as the Junior Assistant(LDA) in the said Masallabari Kushbari Senior Madrassa, Dhubri. It is the said appointment which is presently under challenge.

The writ petitioner has basically in this writ petition, assailed the selection and appointment of respondent No. 10 basing on a communication, dated 31.12.2015, issued by the respondent No. 9 to the Director, Education of Madrassa, Assam, wherein, he had brought on record, certain allegations with regard to the manner and method in which the selection process was conducted by the selection committee. The said allegation made by respondent No. 9, who was included in the selection committee as a nominee of the DME, was not considered by the Director, Education of Madrassa, Assam, and the respondent No. 10 was appointed vide order, dated 29.02.2016. It is to be noted here that the selection was held on 17.12.2015, on which date, the respondent No. 9 had participated in the selection process but it is his allegation that when the select list was prepared and forwarded to the respondent No. 2, he was not kept in the loop and his signatures therein was not taken. The respondent No. 9 has filed

an affidavit in the matter, reiterating the contentions that has been raised by him in his said communication, dated 30.12.2015.

The allegations as leveled by respondent No. 9 being the main foundation basing on which the writ petition was structured by the petitioner, it is to be noted as to whether the allegations leveled by the respondent No. 9 can be taken on its face value. It is on record that the selection committee had vide a resolution taken in its meeting held on 18.12.2015, prepared the select list and had recommended the respondent No. 10 for the post of JA(LDA). Subsequently, on 19.12.2015, the selection committee again held a meeting and therein, had adopted a resolution with regard to the refusal by the respondent No. 9 to sign on the merit list. It was brought on record in the said meeting that the respondent No. 9 had so refused to sign on the select list in view of the fact that the selection committee as constituted for the post of Librarian, had refused to accept the demand/request made by the respondent No. 9 for selecting his brother Aminur Rahman, a candidate in the selection process at serial No. 9 for the said post and basing on the same, the respondent No. 9 did not sign on the merit list prepared by the selection committee. The above aspect of the matter has not been disputed by the respondent No. 9 in his affidavit. There is no contention raised by the respondent No. 9 with regard to the fact that his own brother was a candidate for the post of Librarian and he was also nominated as a member of the selection committee for the said post and he participated in the selection process.

In view of the said position and the lack of *bona fide* on the part of

respondent No. 9, as reflected from his action in participating in the selection process wherein his own brother was a candidate, the allegations made both in his representation, dated 31.12.2015 as well as in the affidavit filed in the present writ petition, is not appreciated and the contentions therein, are rejected.

In view of the above, the respondent No. 9's allegations not being taken to be trustworthy by this Court, the main plank of argument of the petitioner falls through and the challenge to the selection process based on the allegations leveled by the respondent No. 9, stands rejected.

The petitioner has further contended that the President of the selection committee Md. Abdus Sattar Miah, i.e. respondent No. 3, had participated in the selection process in spite of the fact that his son was a candidate in the said selection process. The said allegation although may have the affect of vitiating the selection process but the selection which was conducted and concluded in the year 2015, this Court would not disturb the same at this distant point of time basing on the said allegation in-as-much as the son of the respondent No. 3 was placed at serial No. 23 in the merit list and that in any view of the matter had not affected the rights of the petitioner or the respondent No. 10 in the selection process. Other than the 2(two) allegations, there is no other allegation made by the petitioner pertaining to the challenge made by him with regard to the selection and appointment of respondent No. 10.

The conclusions reached by this Court with regard to the said allegations, reflect that the said allegations are without merit and accordingly, the challenge preferred by the petitioner to the selection and appointment of respondent No. 10 is hereby rejected. Accordingly, the writ petition is held to be without merit and therefore, the same stands dismissed. However, there shall be no order as to costs.

JUDGE

Comparing Assistant