

GAHC010186792023



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

Case No. : WA/354/2023

1. STATE OF ASSAM,
REPRESENTED BY THE COMMISSIONER AND SECRETARY,
GOVT. OF ASSAM, DEPARTMENT OF HEALTH AND FAMILY WELFARE,
DISPUR, GUWAHATI-06,
DIST-KAMRUP(M), ASSAM.

2: THE PRINCIPAL-CUM-CHIEF SUPERINTENDENT,
FAKHRUDDIN ALI AHMED MEDICAL COLLEGE AND HOSPITAL,
BARPETA, DIST-BARPETA, ASSAM, PIN-7810301.

3: THE DIRECTOR,
DIRECTORATE OF MEDICAL EDUCATION, ASSAM,
SIX MILE, KHANAPARA, GUWAHATI-22,
DIST-KAMRUP(M), ASSAM.

4: THE DIRECTOR OF HEALTH SERVICES (FW), ASSAM,
SWASTHYA BHAWAN, HENGRABARI,
GUWAHATI-36, DIST-KAMRUP(M), ASSAM.

VERSUS

1. BANAJIT BARMAN,
S/O SUREN BARMAN,
VILL-BARKHETRI BARNI,
P.O.-BANAGRAM CHOWK, P.S.-BELSOR,
DIST-NALBARI, ASSAM, PIN-781303

2: BANAJIT DAS,
S/O SRI PRABIN DAS,
R/O VILL-BARBHALA,
P.O.-GOBINDAPUR, P.S.-PATACHARKUCHI,
DIST-BARPETA, ASSAM, PIN-78132

For the Appellant(s) : Mr. D.P. Borah, Advocate.

For the Respondent(s) : Mr. S. Barman, Advocate for respondent No.1.

Mr. M. Kalita, Advocate for respondent No.2.

– BEFORE –

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

07.02.2024

(Vijay Bishnoi, CJ)

This appeal is filed by the State being aggrieved with the order dated 24.07.2023 whereby the learned Single Judge while dismissing the review petition [Review Petition No.37/2022] filed by the State has imposed a cost of Rs.10,000/- with the direction to deposit the same in the name of the Gauhati High Court Lawyers' Benevolent Fund within a period of 2(two) months.

Mr. D.P. Borah, learned counsel for the appellants has submitted that the writ petition [WP(C) No.1036/2020] filed by the respondent No.1 herein was decided by this Court on 12.10.2020 on the basis of concession given by the counsel for the respondent No.5 therein. It is submitted that the State has only agreed to consider the case of the writ petitioner/respondent No.1 herein in the given circumstances and there was no concession on the part of the State that the respondent No.1/writ petitioner would be provided appointment on account of the concession given by the counsel for the respondent No.5 therein.

It is submitted that the State has filed the review petition mainly on the ground that the respondent No.1 is lacking the qualification for appointment on the post of Medical Record Officer. However, the learned Single Judge, while

dismissing the review petition, has imposed a cost of Rs.10,000/- upon the State, which cannot be said to be justified in any manner. It is further submitted that pursuant to the directions given by the learned Single Judge in the aforesaid writ petition, the candidature of the respondent No.1 herein has already been considered by the State and the same has been rejected and against the said rejection order, the writ petitioner/respondent No.1 herein has already preferred a separate writ petition which is pending consideration before this Court.

Mr. S. Barman, learned counsel for the respondent No.1 has opposed the appeal.

Having heard the learned counsel for the parties and after taking into consideration the facts and circumstances of the case, particularly, the fact that there was no concession on the part of the State at the time of passing of the order dated 12.10.2020 in WP(C) No.1036/2020, we are of the view that the cost imposed by the learned Single Judge upon the State while dismissing the Review Petition No.37/2022 is not justified. The cost is therefore made easy.

The writ appeal is accordingly disposed of.

JUDGE

CHIEF JUSTICE

Comparing Assistant