

GAHC010216642014



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

Case No. : WP(C)/2227/2014

SMTI SAMIKSHA MAHANTA
W/O SRI DIGANTA MAHANTA, R/O DEWPANI, P.O. DEWPANI, DIST- KARBI
ANGLONG, ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS
TO THE GOVT. OF ASSAM, FOOD AND CIVIL SUPPLY DEPARTMENT,
DISPUR, GHY-6

2:THE CONTROLLER OF LEGAL METROLOGY ASSAM
R.K. MISSION ROAD
ULUBARI
GHY-7

3:THE REGISTRAR
O/O THE CONTROLLER OF LEGAL METROLOGY
ASSAM
R.K. MISSION ROAD
ULUBARI
GHY-7

4:THE CHAIRMAN OF THE SELECTION COMMITTEE
FOR SELECTION OF MANUAL ASSTT.
LEGAL METROLOGY
ASSAM IN THE O/O THE CONTROLLER OF LEGAL METROLOGY
DEPARTMENT
ASSAM
R.K. MISSION ROAD
ULUBARI
GHY-7

5:AMARESH SARMA
C/O LT. CHANDRA KANTA SARMA
VILL. and P.O. BELSOR
DIST- NALBARI
ASSAM
PIN-781303

6:BHABESH TERON
S/O HEMENDRA TERON
NABAGRAHA HOUSING COLONY ROAD
BAPUJI NAGAR
SILPUKHURI
GHY-3
ASSA

Advocate for the Petitioner : Mr. P. Mahanta

Advocate for the Respondent : MR.J.K. Goswami GA
MR. B. Chettri for R-5 & 6.

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

Judgment & Order(Oral)

Date : 06.06.2024

Heard Mr. P. Mahanta, learned counsel for the petitioner. Also heard J. K. Goswami, learned Addl. Senior Government Advocate appearing for the respondents no. 1, 2, 3 & 4 as well as Mr. B. Chettri, learned counsel appearing for the respondents no. 5 & 6.

2. The petitioner, by way of instituting the present proceedings has prayed for a direction to restrain the State respondents from appointing any candidates selected for the post of Manual Assistant, Lab. Attendant, Peon/Chowkidar cum Peon, more particularly, Manual Assistant in the Legal Metrology Department, Assam, from the select list as published on

04.03.2014 in pursuance to an advertisement issued on 14.11.2013.

3. At the outset, it is to be noted that the petitioner in the present proceedings had presented a challenge to the recruitment as made to all the posts advertised, vide the advertisement dated 14.11.2013, however, on perusal of the materials available on record, it is found that the petitioner had only submitted her candidature against the post of Manual Assistant, vide the said advertisement. Accordingly, the present writ petition is limited to the challenge as made against the post of Manual Assistant as advertised vide the said advertisement.

4. As projected in the writ petition, the Controller of Legal Metrology Department, Assam, had issued an advertisement dated 14.11.2013, inviting application from eligible candidates for recruitment, amongst others, against 20(twenty) available vacant posts of Manual Assistant. The petitioner herein submitted her application for recruitment against the posts of Manual Assistant so advertised. The application of the petitioner being found to satisfy the eligibility criterias prescribed, she came to be issued with a call letter for appearing in the said interview, which was scheduled on 24.01.2014. Likewise, the respondents no. 5 & 6 who had also submitted their respective applications against the posts of Manual Assistant, were also issued with call letters for appearing in the said interview. On conclusion of the selection process, the respondent authorities proceeded to publish the select list against the posts so available on 04.03.2014 and against the posts of Manual Assistant, 20(twenty)

persons came to be so recruited. Amongst the persons selected, the name of the respondent no. 5 so figured against the UR vacancies, while the name of the respondent no. 6 so figured in the said select list against the vacancies reserved for ST (H) category. The petitioner being aggrieved had instituted the present proceedings before this Court on 21.04.2014.

5. The learned counsel for the petitioner, at the outset, has submitted that the said selection process stood vitiated on account of the fact that the father of the respondent no. 6 being the Registrar in the office of the Controller, Legal Metrology Department, Assam, was in the charge of the selection process and also was a member of the Selection Committee, which had carried out the viva-voce examination of the candidates applying against the posts of Manual Assistant in pursuance to the advertisement in question.

6. The learned counsel for the petitioner further submits that the Selection Committee in its meeting held on 20.01.2014, had adopted a resolution to the extent that if any son/daughter or nearest family member of any of the member of the Selection Board appears for the viva-voce examination, such Member of the Selection Board shall abstain from the interviewing process during the time of appearance of his/her son/daughter/nearest relative. However, in respect of the father of the respondent no. 6, the said abstention would be of no consequence, inasmuch as, it was the father of the respondent no. 6 in his capacity as the Registrar in the office of the Controller of Legal Metrology, Assam had

conducted the selection process as its In-charge and had also taken all requisite steps, like issuance of call letters, convening of the Selection Committee as its Member Secretary etc., and accordingly, the selection of the respondent no. 6 apparently, was so made under the influence of his father and accordingly, the selection process insofar as it concerns the respondent no. 6 having been vitiated, the appointment effect in respect of respondent no. 6 would require an interference. The learned counsel for the petitioner has further submitted that given the nature of involvement of the father of the petitioner in the selection process, a reasonable likelihood of bias exists and the same has the effect of vitiating the selection of the respondent no. 6.

7. The learned counsel for the petitioner has further submitted that although the provisions of “**The Assam Women (Reservation of Vacancies in Services and Posts) Act, 2005**” and “**The Assam (Reservation of vacancies in Services and Posts) Rules, 2005**” was applicable to the recruitment process as involved in the matter, the reservation for women as mandated under the said Act of 2005 was not provided for and, accordingly, the entire selection process for non-compliance of the mandate of the said Act of 2005 stood vitiated.

8. The learned counsel for the petitioner, with regard to the selection of the respondent no. 5 has contended that the selection of the respondent no. 5 was vitiated on account of the fact that he had produced a fabricated and forged age certificate, showing his Date of Birth therein, as 01.01.1984.

It was further contended that the said respondent had already crossed the maximum age limit as prescribed in the advertisement and he in collusion with the respondents no. 2 & 3, by producing a fabricated and forged age certificate, reflecting his date of birth therein as 01.01.1984, managed to participate in the selection process and also was selected therein. It is contended that the respondent no. 5 was thereafter, in terms of his selection, appointed against the post of Manual Assistant. Accordingly, Mr. Mahanta, learned counsel for the petitioner submits that the appointments of the respondents no. 5 & 6 in view of the clear illegality as existing and demonstrated by the petitioner in the present proceeding, the said appointments would require an interference from this Court.

9. Mr. J. K. Goswami, learned counsel for the State respondents has at the outset submitted that the contention of the petitioner that she was the only women candidate in the fray is clearly perverse, inasmuch as, in addition to the petitioner herein, there were other women candidates participating in the selection process and basing on the marks so obtained by the women candidates, it was contended that the petitioner did not figure within the merit position warranting her appointment. The learned counsel further submits that even by applying the provisions of the said Act of 2005 to the vacancies as advertised for the posts of Manual Assistant, it was found that the marks as scored by the petitioner would not mandate for her appointment against the posts so advertised.

10. Mr. Goswami, learned counsel appearing for the State respondents

has further submitted that the statement of marks as prepared in the matter, would reveal that the while the respondent no. 6 had participated in the selection process, his father had abstained from the interview process and the respondent no. 6 herein was only marked by four members of the Selection Committee. It was reiterated that the Selection Committee was constituted with five members, including the father of the respondent no. 6 herein. Accordingly, it is submitted that the other members assigned marks to the respondent no. 6 herein and he having come within the merit position warranting his appointment against the posts so reserved for ST (H) category candidates, the respondent no. 6 was selected and consequently, appointed against the posts of Manual Assistant as reserved for ST (H) category candidates.

11. With regard to the selection and appointment of the respondent no. 5 herein, Mr. Goswami, learned counsel has submitted that the allegation that the respondent no. 5 was working in the Office of the Controller, Legal Metrology Department, Assam, since long, is clearly perverse. The respondent no. 5 in his application form, as submitted in pursuance to the advertisement in question, has submitted documents pertaining to his Date of Birth and the same was authenticated on the date of interview by production of the original copies thereof. It was contended that the Date of Birth of the respondent no. 5 was revealed as 01.01.1984 from the documents so produced. Accordingly, it is submitted that the selection and appointment of the respondent no. 5 does not suffer from any infirmity and this Court, would be pleased not to interfere with the selection and appointment of the respondent no. 5. Accordingly, in the above premises,

Mr. Goswami, learned Addl. Senior Govt. Advocate, submits that the writ petition is devoid of any merit and requires to be dismissed.

12. The respondent no. 5, by way of filing an affidavit in the matter has submitted that he was not over aged on the date when he had submitted his application and the documents as furnished by him in his said application, which were subsequently, authenticated before the Selection Committee by production of original copies thereof; and, his Date of Birth therein having been revealed as 01.01.1984, there was no illegality committed by the respondent authorities in allowing the respondent no. 5 to participate in the selection process. It was further contended in the affidavit that the respondent no. 5 having been found to be suitable and his merit position as assessed by the Selection Board having figured within the posts available for General category candidates, his selection and appointment would not require any interference from this Court. It was further directed that the interim directions passed by this Court, vide order dated 30.04.2014, in the present proceedings was so made effective till the returnable date i.e., on 04.06.2014. It is submitted that after the returnable date, the said interim directions passed by this Court was never extended and accordingly, it cannot be held that the same was continuing even during the time when the appointment was so effected in respect of candidates selected in the said selection process.

13. Mr. B. Chettri, learned counsel appearing for the respondent no. 5 & 6 has submitted that though the father of the respondent no. 6 was a

member of the Selection Committee, but, in terms of the decision already taken by the Selection Committee members, at the time of interview of the respondent no. 6 his father had abstained from the recruitment process and the statement of marks placed before this Court by the respondent authorities would also go to reveal that out of the 5 members of the Selection Committee, the respondent no. 6 herein was only awarded marks in the interview by 4 members of such Selection Committee members. It was contended that the respondent no. 6 herein having joined his posts on 07.07.2014 and continuing in his services till date; and there being no allegation of malafide against the other Selection Committee members, it was prayed that this Court would be pleased not to interfere with the selection and appointment of the respondent no. 6.

14. Mr. B. Chettri, learned counsel for the respondent no. 5 & 6 had further submitted that the petitioner herein had participated in the selection process without any demur or protest and only when she was unsuccessful in the said selection process, she has approached this Court by way of instituting the present proceedings assailing the selection list so published in the matter. Accordingly, it is contended that the petitioner having participated in the selection process without raising any objection, she now cannot be permitted to assail the selection so made in the matter.

15. Mr. Chettri, learned counsel for the respondent no. 5 & 6, in support of his submissions had placed reliance on the following decisions:-

1. 2023 SCC Online Sc 344 (Tajvir Singh Sodhi & Ors. Vs State of Jammu & Kashmir & Ors.
2. (2015) 11 SCC 493 (Pradeep Kumar Rai Vs Dinesh Kumar Pandey & Ors.)
3. (2017) 9 SCC 478 (D. Saroja Kumari Vs R. Helen Thilakom)
4. (2018) 15 SCC 796 (Union Public Service Commission Vs M. Sathiya Priya & Ors.)
5. (2020) 18 SCC 356 (Union Public Service Commission Vs Jawahar Santhkumar)
6. (1984) 2 SCC 631 (Javed Rasool Bhat Vs State of Jammu & Kashmir)
7. (1985) 4 SCC 417 (Ashok Kumar Yadav Vs State of Haryana & Ors.)

16. I have considered the submissions of the learned counsel appearing for the parties and also perused the materials placed on record.

17. At the outset, the contention made by the learned counsel for the respondents no. 5 & 6, that the petitioner having participated in the selection process would not be entitled to challenge the same on being not successful therein, is being examined.

18. The facts and circumstances as involved in the present case, the said contention would not be acceptable, inasmuch as, the challenge in the present proceedings as made by the petitioner herein pertains to the manner in which the selection process was so conducted and is so made basing on materials, which had come to her knowledge after the said

selection process was over. The petitioner herein could not have known at the time of when the selection process was conducted that the father of the respondent no. 6 was a member of the Selection Committee. These information were received by the petitioner only on conclusion of the said selection process, likewise, even the allegations made against the respondent no. 5 were also so received after the said selection process was concluded. Accordingly, on the said ground, the petitioner cannot be non-suited in the matter. Accordingly, the decisions as relied upon by the learned counsel for the respondents no. 5 & 6 in this connection, in the case of **Tajvir Singh Sodhi & Ors., (supra)**, **Pradeep Kumar Rai & Ors., (Supra)** and **D. Sarojakumari (supra)**, would not advance the case of the respondents no. 5 & 6 herein.

19. The second contention of the learned counsel for the respondents no. 5 & 6 that a High Power Committee having been constituted for conducting the selection in question and there being no allegation of malafide, arbitrariness and illegality in the said selection process, this Court would be pleased not to interfere with the decision of the Selection Board in the matter by way exercise of its power of Judicial Review. The said contention, in the facts and circumstances of the present proceedings is not acceptable, inasmuch as, there is an allegation of bias raised with regard to the selection and appointment of the respondent no. 6 herein. The bias as raised pertains to the role played by the father of the respondent no. 6 in the selection process being the Registrar in the Office of the Controller, Legal Metrology, Assam and the Member Secretary of the Selection Committee. The petitioner had projected that the father of the respondent

no. 6 was not a mere member of the Selection Committee, but, was its Member Secretary and accordingly, was involved in every aspect of the selection process right from the issuance of the call letters to the candidates applying for the posts in question in pursuance to the advertisement dated 14.11.2013. Accordingly, a reasonable likelihood of bias being evident in the matter, the contention of the petitioner that the recommendation of the Selection Committee ought not to be examined by this Court in exercise of its power of Judicial Review would not be attracted in the present case. Accordingly, the decisions as relied upon by the respondents no. 5 & 6 in the case of **M. Sathiya Priya & Ors., (supra)** and **Jawahar Santhkumar & Ors., (supra)** would not advance the case of the respondents no. 6.

20. Having considered the above submissions of the respondents no. 5 & 6, this Court would now examine the contention of the petitioner with regard to the selection of the respondent no. 6 herein, being vitiated on account of a reasonable likelihood of bias.

21. As noticed herein above, the father of the respondent no. 6 was the Registrar in the Office of the Controller, Legal Metrology Department, Assam, and was also the Member Secretary of the Selection Committee.

22. A perusal of the materials brought on record, would reveal that the allegations as leveled in the matter by the petitioner, more particularly, with regard to the selection of the respondent no. 6 raises a possibility of

reasonable likelihood of bias. Once the possibility of likelihood of bias creeps in, the selection process has to be held to have been vitiated. The role played by the father of the respondent no. 6 in the matter, as evident from the materials coming on record, leads to a situation wherein, a conclusion can be drawn that he being at the helm of affairs, at least with regard to the process of selection involved, there is a possibility of him influencing the other members of the Selection Committee to select the respondent no. 6 herein. The role played by the father of the respondent no. 6 in the matter, a reasonable likelihood of bias with regard to the selection of the respondent no. 6 cannot be ruled out.

23. The Hon'ble Supreme Court, in the case of **S. Parthasarathi Vs. State of Andhra Pradesh**, reported in **(1974) 3 SCC 459**; while drawing distinction of bias, "real likelihood" and "reasonable suspicion", the Court expanded the scope of bias. The relevant paragraphs of the said judgment are reproduced as under:

"13. We are of the opinion that the cumulative effect of the circumstances stated above was sufficient to create in the mind of a reasonable man the impression that there was a real likelihood of bias in the inquiring officer. There must be a "real likelihood" of bias and that means there must be a substantial possibility of bias. The Court will have to judge of the matter as a reasonable man would judge of any matter in the conduct of his own business (see A. v Sunderland, i) [[1901] 2 KB 357 at 373).

14. The test of likelihood of bias which has been applied in a number of cases is based on the "reasonable apprehension of a reasonable

man fully cognizant of the facts, The courts have quashed decisions on the strength of the reasonable suspicion of the party aggrieved without having made any finding that a real likelihood of bias in fact existed (see *R. v. Huggins* (11895) 1 Q8 563), *R. v. Sussex, II, ex. p. McCarthy* [(1924) 1 KB 256), *Cottle v Cottle* ((1939) 2 All ER 535); *R. v. Abingdon, J. ex. p. Cousins* (1964) 108 Si 840) J But in *R. v. Camborne, il ex p Pearce* ((1955) 1 GB 41 at 51) the Court, after a review of the relevant cases held that real likelihood of bias was the proper test and that a real likelihood of bias had to be made to appear not only from the materials in fact ascertained by the party complaining, but from much further facts as he might readily have ascertained and easily verified in the course of his inquiries.

15.*****

16. The tests of "real likelihood" and "reasonable suspicion are really inconsistent with each other. We think that the reviewing authority must make a determination on the basis of the whole evidence before it whether a reasonable man would in the circumstances infer that there is real likelihood of bias. The Court must look at the impression which other people have. This follows from the principle that Justice must not only be done but seen to be done, if right minded persons would think that there is real likelihood of bias on the part of an inquiring officer, he must not conduct the enquiry: nevertheless, there must be a real likelihood of bias. Surmise or conjecture would not be enough. There must exist circumstances from which reasonable men would think it probable or likely that the inquiring officer will be prejudiced against the delinquent. The Court will not inquire whether

he was really prejudiced. If a reasonable man would think on the basis of the existing circumstances that he is likely to be prejudiced, that is sufficient to quash the decision....”

24. The Hon’ble Supreme Court on emphasizing upon bias in the case of **Dr. G. Sarana Vs. University of Lucknow and others**, reported in **(1976) 3 SCC 585**, held that what has to be seen is whether there is a reasonable ground for believing that he was likely to have been biased. In deciding the question of bias, human probabilities and ordinary course of human conduct have to be taken into consideration. In case, the member of the group or board may be in a position to influence the other, then his bias is likely to operate in a subtle manner.

25. In the case on hand, what is evident to be noted is that the respondents have not contended in the absence of the father of the petitioner herein, the selection process could not have been taken forward. The said position is noted for the purpose for consideration as to whether the doctrine of necessity would stand attracted in the matter. In this connection, reference is made to the decision of the Hon’ble Supreme Court in the case of **J. Mohapatra & Co. & Anr. Vs. State of Orissa & Anr.**, reported in **(1984) 4 SCC 103**, wherein, it was held that the doctrine of necessity is an exception to the rule that no man can be a judge of his own cause. An adjudicator who is subject to disqualification on the ground of bias or interest in the matter which he has to decide, may be required to adjudicate if there is no other person who is competent or authorized to adjudicate or if a quorum cannot be formed without him or if no other competent tribunal can be constituted. In such cases the principle of natural

justice would give way to the doctrine of necessity. The doctrine of necessity applies not only to judicial matters but also to quasi judicial and administrative matters.

26. Applying the decision of the Hon'ble Supreme Court in the case of **J. Mahapatra (supra)** to the facts of the present case, it is seen that the doctrine of necessity cannot be invoked in the facts of the selection involved in the present proceedings, inasmuch as, no material was brought on record to demonstrate that the father of the respondent no. 6 was not replaceable as the Member Secretary of the Selection Committee as constituted in the matter.

27. The Hon'ble Supreme Court in a Constitution Bench decision in the case of **Ashok Kumar Yadav & Ors., (supra)** has reaffirmed the principle of bias holding that if a selection committee is constituted for the purpose of selecting candidates on merits and one of the members of the selection committee is closely related to a candidate appearing for the selection, it would not be enough for such member merely to withdraw from participation in the interview of the candidate but, would be required to ask the authorities to nominate another person in his place on the selection committee, because otherwise all the selections made would be vitiated on account of reasonable likelihood of bias affecting the process of selection.

28. The Hon'ble Supreme Court in the case of **Kirti Deshmankar Vs. Union of India & Ors.,** reported in **(1991) 1 SCC 193**, re-emphasised that if the mother-in-law of the selected candidate was interested in the

admission of her daughter-in-law, her presence in the meeting of the council vitiates the selection and it was not necessary to categorically establish the bias. The Court observed that if in the selection process; it is shown that there was a reasonable likelihood of bias, it is sufficient to set aside such selection.

29. The Hon'ble Supreme Court in the case of **G. N. Nayak Vs. Goa University**, reported in **(2002) 2 SCC 712**; again emphasising the element of impartiality in the mind of judicial, quasi judicial or administrative body held as thus:

"33. Bias may be generally defined as partiality or preference. It is true that any person or authority required to act in a judicial or quasi-judicial matter must act impartially.

"If however, 'bias' and 'partiality' be defined to mean the total absence of preconceptions in the mind of the Judge, then no one has ever had a fair trial and no one ever will. The human mind, even at infancy, is no blank piece of paper. We are born with predispositions and the processes of education, formal and informal, create attitudes which precede reasoning in particular instances and which, therefore, by definition, are prejudices." (Per Frank, J. in Linahan, Re, (1943) 138 F 2d 650, 652)"

34. It is not every kind of bias which in law is taken to vitiate an act. It must be a prejudice which is not founded on reason, and actuated by self interest-whether pecuniary or personal. Because of this

element of personal interest, bias is also seen as an extension of the principles of natural justice that no man should be a judge in his own cause. Being a state of mind, a bias is sometimes impossible to determine. Therefore, the courts have evolved the principle that it is sufficient for a litigant to successfully impugn an action by establishing a reasonable possibility of bias or proving circumstances from which the operation of influences affecting a fair assessment of the merits of the case can be inferred”.

30. The above judgments of the Hon’ble Supreme Court having been noticed, it would now be require to consider the decision of the Hon’ble Supreme Court in the case of **Javid Rasool Bhat & Ors., (supra)**, relied upon by the learned counsel appearing for the respondents no. 5 & 6.

31. Mr. B. Chettri, learned counsel for the respondents no. 5 & 6 by relying upon the decision in the case of **Javid Rasool Bhat & Ors., (supra)**, had contended that in absence of any allegation of mala fide, it would not be right to set aside the selection merely because one of the candidates happened to be related to a member of the selection committee who abstained from participating in the interview of that candidate. The case of **Javid Rasool Bhat (supra)** is based on a written and oral test wherein the member of the selection committee for oral test was unaware of the marks obtained by the candidate in the written examination. The father of the candidate who was on the interview panel had left the premise at the time of interview. Thus, the Court found that there was no bias. While in the present case, as per the procedure prescribed and discussed, the members of selection committee were aware, how many marks have been obtained by

individual candidates in the interview and by shortage of how many marks they may be out from the merit list of selection. The members of the selection committee were aware that their relatives would appear for interview, therefore, they themselves passed a resolution on 01.08.2003 prior to starting the process of selection and decided to abstain from the interview of those particular candidates. Having knowledge of the fact that their relatives are appearing and even without intimating the same to the higher authorities for change of members of the selection committee, they had participated in the process of selection. Therefore, this Court is of the considered view that the judgment of **Javid Rasool Bhat (supra)** would not further the case of the respondents.

32. In view of the above discussions and in the light of the decisions of the Hon'ble Supreme Court as noticed herein above, it is established in the present matter that the recruitment of the respondent no. 6 is vitiated, inasmuch as, the reasonable likelihood of bias with regard to such selection is fully established irrefutably. Therefore, this Court, holds that the appointment of the respondent no. 6 stands vitiated because of reasonable likelihood of bias arising in the matter, basing on the manner in which he was so selected and the role his father had to play in the selection process. Accordingly, the selection and appointment of the respondent no. 6 in the matter cannot be sustained and the same stands interfered with.

33. At this stage, it is to be noted that the appointment order issued to the respondent no. 6 herein was so issued with a clear stipulation that the same is subject to the outcome of the proceeding in the present writ petition. This would now bring the Court to consider the selection and appointment of the

respondent no. 5.

34. The challenge of the petitioner to the selection and appointment of the respondent no. 5 is premised on the contention that he had submitted fabricated and forged documents showing his date of birth as 01.01.1984 and thereby, managed to participate in the said selection process. The said aspect of the matter was not established in the present proceedings by the petitioner herein by bringing on record cogent materials to support her contention in this connection.

35. The State respondents as well as the respondent no. 5 have categorically stated that the respondent no. 5 had in his application, enclosed documents in proof of his Date of Birth, which were subsequently, authenticated on production of the original copies thereof. The said contentions of the State respondents as well as the respondent no. 5 have not been disputed by the petitioner herein by bringing on record cogent materials. Accordingly, the petitioner having not disputed such categorical contentions, advanced by the respondents, by bringing on record cogent materials, this Court would not proceed to interfere with the appointment so made with respect of the respondent no. 5 herein.

36. The contentions of the petitioner with regard to appointments of the respondents no. 5 & 6, having been considered and concluded as above, the Court would now examine the contention of the petitioner herein that the said selection also stood vitiated on account of the fact that women reservation was not provided for, in terms of "**The Assam Women (Reservation of Vacancies in Services and Posts) Act, 2005**" and "**The Assam (Reservation of vacancies in Services and Posts) Rules,**

2005”.

37. The materials brought on record by Mr. J. K. Goswami, learned counsel for the State respondents and the marks scored by the candidates in the selection process reveals that the petitioner in the said selection process had scored 19.6 marks and above her, there were other 9 women candidates scoring more marks. Even if, the said Act of 2005 is so applied to the posts of Manual Assistant as advertised vide the advertisement in question, the women reservation would work out to 6 posts only and; the petitioner herein, not being within the merit position for inclusion against the said 6 posts, the petitioner otherwise, would not also figure in the select list even on application of the provisions of **“The Assam Women (Reservation of Vacancies in Services and Posts) Act, 2005”** and **“The Assam (Reservation of vacancies in Services and Posts) Rules, 2005”**. Accordingly, the said issue is not further deliberated upon in this order and the contention made by the petitioner in this connection, stands rejected.

38. The above conclusions having been drawn, it is held that the petitioner herein would not be entitled to an appointment against the vacancies so advertised, vide the advertisement dated 14.11.2013. The selection and appointment of the respondent no. 5 would also not call for any interference. However, the appointment of the respondent no. 6 being held to have raised a reasonable likelihood of bias, the same accordingly, stands set aside.

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

JUDGE

Comparing Assistant