

GAHC010216712018



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

Case No. : WP(C)/6884/2018

HEMANTA DAS
S/O- BHUPENDRA NATH DAS, VILL AND P.O. NITYANANDA, DIST-
BARPETA, ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS.
TO BE REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM,
EDUCATION (SECONDARY) DEPTT., DISPUR, GHY-6

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

3:THE MISSION DIRECTOR RASTRIYA MADHYAMIC SHIKSHA ABHIYAN
ASSAM
KAHILIPARA
GHY-1

Advocate for the Petitioner : MR. M A I HUSSAIN, MR. S H ZAMAN

Advocate for the Respondent : SC, SEC. EDU., MR P NAYAK, SC,MDRMSA,SC, EDU

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

16.09.2024

Heard Shri AR Bhuyan, learned counsel for the petitioner. Also heard Shri R.

Mazumdar, learned Standing Counsel, Secondary Education Department and Shri P. Nayak, learned Standing Counsel, SSA.

2. Considering that the matter is of the year 2018 wherein affidavits have been exchanged, the same is taken up for disposal at the admission stage.

3. As per the facts projected, the Director of Secondary Education, Assam had issued an advertisement on 26.09.2017 calling for applications for the post of Computer Instructor in various Government / Provincialized High / Senior Madrassa, Senior Secondary Schools, Arabic Colleges and Local Body Schools under the scheme of "Dr. Banikanta Kakoti Computer Literacy Programme". The numbers of vacancies were stated to be 3052. It is the case of the petitioner that having fulfilled all the eligibility criteria, he had applied for the said post and upon such application, a detail verification exercise was made. The petitioner has averred that there was a further verification of the online application from the period 02.02.2018 to 10.02.2018. The select list was accordingly published on 26.02.2018 of 1130 nos. of candidates. The petitioner's name was against serial no. 35 in the aforesaid select list. Whereas engagement letters were issued to all candidates, such engagement letter was not issued to the petitioner. The petitioner had approached the authorities which also did not assign any reasons and thereafter the present petition has been filed.

4. Shri Bhuyan, learned counsel for the petitioner has submitted that there is no dispute on the aspect of meeting the eligibility criteria by the petitioner in terms of the advertisement. In this connection, the learned counsel has referred to the statement of marks for PG Diploma in Computer Applications for the sessions January, 2011 to December, 2011 by the concerned University, namely, Eastern Institute for Integrated Learning in Management University, Sikkim. The said mark sheet has been issued on 25.09.2012. It is submitted that verification

and re-verification were done of all the testimonials and at no point of time the eligibility of the petitioner with regard to any of his documents were questioned. He however contends that from the affidavit-in-opposition filed by the respondents, it transpires that the said testimonial dated 25.09.2012 has not been accepted. It is submitted that such non-acceptance without assigning any reasons is wholly unreasonable and arbitrary and calls for interference by this Court. It is submitted that in the selection, the petitioner had fared well and accordingly was placed against serial no. 35 in the selection.

5. *Per contra*, Shri Mazumdar, the learned Standing Counsel, Secondary Education Department has submitted that there were specific complaints with regard to 14 nos. of candidates out of the 1130 nos. of candidates whose names were in the select list and accordingly a re-verification exercise was done. The petitioner was amongst the 14 nos. of candidates.

6. By drawing the attention of this Court to the affidavit-in-opposition filed by the Executive Director, Samagra Shiksha, Assam dated 20.07.2023, the learned Standing Counsel has submitted that in the re-verification exercise, it was revealed that the UGC, vide a Public Notice of August, 2015 has notified that the aforesaid University was dissolved by the Cabinet meeting held on 28.04.2015. Thereafter, under Section 48 of the EIILM University Act of 2006, the State Government had appointed an interim management to conduct the affairs of the University. In the appended documents pertaining to the status of the said University, which includes the recommendation of the Fact Finding Committee, it has been recommended that the Director, Higher Education, Human Resource Development Department, Government of Sikkim may validate the degrees of 2009-10 in three disciplines and except the same and beyond the academic year 2009-10, no degree would be valid. The recommendation of the Fact Finding

Committee was considered by the UGC in its 508th meeting against item no. 5.01 held on 20.07.2015 and approved, pursuant to which, the aforesaid Public Notice was issued. He accordingly submits that there are cogent reasons not to accept the testimonial of the petitioner and accordingly, no case for interference is made out.

7. Shri Nayak, learned Standing Counsel, SSA has submitted that in the affidavit-in-opposition so referred, the entire stand of the Department justifying the action has been fully explained. He has also referred to the recommendations of the Fact Finding Committee, which has been accepted by the UGC in its meeting held on 27.07.2015, whereafter the Public Notice was issued.

8. Though, it appears that the aforesaid action for dissolution of the concerned University is the subject matter of challenge in the Hon'ble Sikkim High Court, there is no further information regarding the status or outcome of the same. However, during today's proceeding of the instant case, Shri Mazumdar, learned Standing Counsel, Secondary Education Department has verified from the website of the Hon'ble Sikkim High Court and has submitted that the writ petition has also been dismissed in the meantime.

9. The decision taken not to issue the appointment letter to the petitioner despite his name appearing in the select list has to be examined from the aspect as to what stage, the said decision was taken. The selection was initiated pursuant to an advertisement of the year 2017 and the process was over in the year 2018. At that point of time, on a detailed verification exercise made, it was found that not only the University in question was dissolved, degrees / diploma obtained after 2009-10 were directed not to be recognized.

10. Under those facts and circumstances, this Court is not in a position to hold that the decision of the authorities are not based on certain cogent reasons. For a Writ Court, the exercise is only to look into the decision making process and in the instant case, as it would be revealed from the records, the decision is based on materials which have appeared in the verification exercise and also from the materials downloaded from the website of the UGC. In this regard, there is a specific amendment made in paragraph 7 of the affidavit-in-opposition dated 20.07.2023 of the respondent no. 3.

11. In view of the above, this Court is of the considered opinions that no relief can be granted in this case and accordingly, the writ petition is dismissed.

JUDGE

Comparing Assistant