

GAHC010228052024



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

Case No. : WP(C)/5725/2024

BIPLOB CHOUDHURY AND 5 ORS.
S/O BIMALENDU CHOUDHURY
FIRST LINK ROAD,
LANE NO. 2,
HOUSE NO. 14, SILCHAR- 788006,
CACHAR, ASSAM

2: TAHER ZAMAN LASKAR
S/O SAHID ALI LASKAR
R/O BERENGA PART-III
SILCHAR-788005.

3: MOUSUMI SINHA
D/O MOHENDRA KUMAR SINHA
R/O TARAPUR
SILCHAR
MANIPURI BASTI
PIN-788003.

4: ABDUL MUNIN BARBHUYAN
S/O HUSSAIN AHMED BARBHUIYA
R/O HAILAKANDI TOWN
WARD NO. 11
DIST. HAILAKANDI TOWN
PIN-788151

5: SURBOJYOTI DUTTA
S/O DHURBAJYOTI DUTTA
R/O C AND D COLONY
TARAPUR
SILCHAR- 788003.

6: ANIMESH SHEE
S/O NIMILESH SHEE

R/O VILL- SHALGONGA
UDHARBOND
DIST. CACHAR
ASSAM
PIN-78803

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY, DEPARTMENT
OF EDUCATION, DISPUR

2:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI.

3:ASSAM UNIVERSITY
SILCHAR
REPRESENTED BY THE REGISTRAR SILCHAR
CACHAR
ASSAM
PIN-78801

Advocate for the Petitioner : MR. K K DEY, MR V K BAROOAH

Advocate for the Respondent : SC, SEC. EDU., SC, ASSAM UNIVERSITY

BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR

ORDER

Date : 12.11.2024

Heard Mr. K. K. Dey, learned counsel for the petitioners. Also heard Mr. D. Saikia, learned Advocate General, Assam assisted by Mr. R. Mazumder, learned Standing counsel, Secondary Education Department. Ms. M. Deka, learned counsel appearing on behalf of Mr. S. C. Keyal, learned Standing counsel, Assam

University for the respondent No. 3.

2. All the writ petitioners, in the present writ petition, have a degree in Botany and Post Graduate degree in Microbiology.

3. The Director of Secondary Education, Assam issued an Advertisement, which was published in the Assam Tribune on 27.12.2023, for filling up of 1,424 vacancies of Post Graduate teachers in different provincialised Secondary Schools, under the Director of Secondary Education, Assam. Thereafter, an addendum was issued by the Director of Secondary Education, Assam on 16.10.2024 giving the subject wise breakup of total post of Post Graduate Teachers in the provincialised Secondary Schools under the Directorate of Secondary Education, Assam and the required qualification against each subject. With regard to the post of Post Graduate Teacher in the subject Botany, the required qualification prescribed is M.Sc. in Botany or M.Sc. in Biotechnology (Plant Biotechnology).

4. The petitioners are aggrieved as they are unable to submit their applications against the post of Post Graduate Teacher in Botany, inasmuch as the portal is not accepting the applications on the ground that they do not have Post Graduate degree in Biotechnology (Plant Biotechnology).

5. Learned counsel for the petitioner submits that the Post Graduate degree held by the petitioners in Microbiology is a branch in the subject Botany and therefore, they have the required qualifications and the petitioners should be allowed to submit their applications for the post of Post Graduate Teacher in Botany subject. It is also submitted that in the **Kendriya Vidyalaya Sangathan** with regard to the subject PGD (Biology), Microbiology is an accepted degree. Further, in the **Navodaya Vidyalaya Samiti**, with regard to

the required qualification, in respect of PGD (Biology), Microbiology is an accepted subject. Learned counsel for the petitioner has also referred to an abstract of Resolution No. 2 of the Tamil Nadu Service Commission, in their 39th Equivalence Committee meeting held on 08.03.2013, wherein it was resolved that Microbiology is equivalent to the subject Botany. Under the circumstances, learned counsel for the petitioner submits that a direction should be issued to the respondents to permit the petitioners to submit their applications against the post of Post Graduate Teachers, Botany as advertised on 27.12.2023 inasmuch as all the petitioners have their post Graduate degree in Microbiology.

6. Mr. D. Saikia, learned Advocate General, Assam on the other hand submits that after assessment of the vacancies of Post Graduate & Graduate Teachers of different Government and provincialised Secondary Schools of different general area districts, the advertisement dated 27.12.2023 was issued. He submits that the Assam Secondary Education (Provincialised Schools) Service Rules, 2018 provides that the teachers appointed in the cadre shall be liable to teach in any classes either in higher classes or in any lower classes on the basis of his/her qualification and in this regard the Higher Secondary Schools under the Directorate are started from the foundational level, i.e., Class VI, and therefore it is required for the teachers to teach the students from the foundation level to the maximum level for the greater interest of the student community. In order to achieve the said object, an online meeting with subject experts of various subjects including the subject of Botany & Zoology for obtaining specific views on the subjects and its allied subjects for consideration into different posts of Post Graduate Teachers was convened on 03.10.2024. In the said meeting, the recommendation of the subject experts for the subject of Botany, and its allied subject was M.Sc. in Botany and B.Sc. in Botany (Major/Honours) or M.Sc. in

Biotechnology with specialization in Plant Biotechnology. Learned Advocate General, Assam, accordingly has produced the minutes of the meeting which was held on 03.10.2024. He therefore submits that in terms of the views given by the experts the required educational qualification for the post of Post Graduate Teacher with respect to the Botany subject was prescribed in the addendum dated 16.10.2024. He therefore submits that as the required educational qualification with regard to the subject Botany was made on the views of the experts and as the petitioners do not have the required qualification, their cases cannot be considered.

7. I have considered the submissions forwarded by the learned counsel for the parties.

8. This Court has also considered the minutes of the meeting held on 03.10.2024 with the subject experts of the Gauhati University for the determination of the Subjects and allied Subjects in connection with the recruitment of Post Graduate Teachers in both Government and provincialised Secondary Schools. In the said meeting the Head of Department of Botany was also present and on the basis of the views given by the experts in the said meeting the required educational qualification for Botany was prescribed as M.Sc. in Botany & B.Sc. (Major/Honours) or M.Sc. in Biotechnology with specialization in Plant Biotechnology.

9. This Court has also taken into consideration, the submission of the learned counsel for the petitioner that as the petitioners are having Post Graduate degree in Microbiology and as Microbiology being a branch of Botany the petitioners are eligible for submitting their applications for the posts of Post Graduate Teachers in Botany. This Court has given its anxious consideration on the submission made by the learned counsel for the petitioners, however, I am

of the considered opinion that as the experts have already given their views with regard to the required qualification for the post of Post Graduate Teachers in Botany, and particularly as this Court does not have the expertise to consider what is the required qualification for being eligible for the post of Botany, this Court is unable to accept the submission of the learned counsel for the petitioners.

10. In a similar case, the Hon'ble Supreme Court of India in the case of ***Indresh Kumar Mishra and Others Vs. The State of Jharkhand & Others***, reported in **2022 12 SCC 42** has held as under:

” 6.4 At this stage, it is required to be noted that even at the request of J.S.S.C. the question, whether, the degrees obtained by the respective petitioners in one branch of History can be said to be sufficient compliance as per the advertisement and can be said to be obtaining a degree in History came to be considered by the Expert Committee and the Expert Committee has opined that the degrees obtained by the respective candidates/petitioners in one branch of History cannot be said to be obtaining the degree in History as a whole and therefore they cannot be said to be having the requisite qualification as per the advertisement.

6.5 As per the settled proposition of law, in the field of education, the Court of Law cannot act as an expert normally, therefore, whether or not a student/candidate is possessing the requisite qualification should better be left to the educational institutions, more particularly, when the Expert Committee considers the matter.

6.6 In the present case, the educational qualifications required has been specifically mentioned in the advertisement. There is no ambiguity and/or

confusion in the advertisement providing educational qualification and the post for which the applications were invited (History/Civics). There cannot be any deviation from the educational qualifications mentioned in the advertisement. Once having found that the respective writ petitioners – appellants herein were not having the requisite qualification as per the advertisement, namely, the Postgraduate/Bachelor degree in History, which was the requirement as per the advertisement and thereafter their candidature was canceled, both the learned Single Judge as well as the Division Bench of the High Court have rightly refused to interfere with the same. We are in complete agreement with the view taken by the learned Single Judge and the Division Bench of the High Court.

6.7 As observed hereinabove in the online applications, it was stated by the respective petitioners that they are having the Postgraduate/Bachelor degree in History and only at the time of verification of the documents, when the respective certificates were produced, at that time only, the authorities came to know that the respective writ petitioners have the degrees in one branch of History and not in History as a whole and therefore the show-cause notices were issued so that the respective petitioners can clarify and satisfy that they are having the requisite qualification of Postgraduate/Bachelor degree in History and after giving them the opportunity, the decision has been taken and that too after obtaining the Expert Committee's opinion.

7. In view of the above and for the reasons stated above, we see no reason to interfere with the common judgments and order passed by the learned Single Judge, which has been confirmed by the Division Bench of the High Court. The candidature/selection of the respective petitioners are rightly cancelled on the ground that they were not having the requisite qualification for the post – Postgraduate/Bachelor degree in History as per the advertisement No.21 of

2016 and 10 of 2017.”

11. The case in hand is similar to the case of “*Indresh Kumar Mishra (supra)*”.
12. In view of the discussions made hereinabove, I see no merit in the present writ petition and the same is accordingly dismissed.

No cost.

JUDGE

Comparing Assistant