

GAHC010172302024



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

Case No. : WP(C)/8448/2019

SUKLAL DEBNATH
S/O- SRI PARIMAL DEBNATH
VILL- PURANI BAZAR
P.O- FAKIRGRAM
DIST- KOKRAJHAR
BTAD
ASSAM, PIN- 783345

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THHE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM
HIGHER EDUCATION DEPTT
DISPUR
GUWAHATI- 781006
ASSAM

2:THE DIRECTOR OF HIGHER EDUCATION
ASSAM
KAHILIPARA
GUWAHATI- 781019
ASSAM

3:THE DIRECTOR OF EDUCATION
BTC
KOKRAJHAR
BTAD
ASSAM, PIN- 783370

4:THE GOVERNING BODY
FAKIRGRAM COLLEGE
REP. BY ITS PRESIDENT/ SECRETARY
P.O- FAKIRGRAM
DIST- KOKRAJHAR

BTAD
ASSAM, PIN- 783345

5:THE PRINCIPAL
FAKIRGRAM COLLEGE
P.O- FAKIRGRAM
DIST- KOKRAJHAR
BTAD
ASSAM, PIN- 783345

6:MOHIDUL ISLAM
S/O LT. ASHAN ALI
R/O. VILL. KALJHAR
P.O. FAKIRAGRAM
DIST.- KOKRAJHAR
BTC
ASSAM, PIN- 783345

Advocate for : J U AHMED
Advocate for : SC
HIGHER EDU appearing for THE STATE OF ASSAM AND 4 ORS

BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR

ORDER

Date : 12.11.2024

Heard Mr. J. U. Ahmed, learned counsel for the petitioner. Also heard Mr. S. Bhuyan, learned Standing counsel, Higher Education Department for the respondent Nos. 1 & 2, Ms. R. B. Borah, learned Standing counsel, BTC for the respondent No. 3; Mr. A. Wahab learned counsel for the respondent No. 4; Mr. M. U. Mondal, learned counsel for the respondent No. 5 and Mr. A. Alim Sk, learned counsel for the respondent No. 6.

2. The petitioner was initially appointed temporarily for the post of Night Guard (Grade- IV) in the Fakiragram College on a monthly remuneration of Rs. 2,000/- (rupees two thousand) by a Communication dated 29.10.2014 issued by

the Secretary of the Fakiragram College. While the petitioner was functioning as such, the Principal-in-Charge, Fakiragram College issued an Advertisement, which was published in the Assam Tribune on 29.10.2018 for filling up 1 (one) vacant sanctioned post of Grade-IV (Unreserved) at the Fakiragram College. The petitioner being eligible, made his application for the said post of Grade-IV (Unreserved) and he was called for interview on 29.07.2019. Thereafter, the Governing Body of Fakiragram College, in its meeting held on 24.08.2019, approved the selection of the respondent No. 6/Mohidul Islam and recommended to the Principal-in-Charge to submit the same before the Director of Education, BTC, Kokrajhar.

3. In the meantime, 3 (three) members of the Governing Body made a representation before the Director of Education, BTC, Kokrajhar on 28th August, 2019 withdrawing their signatures from the Resolution No. 4 dated 24th August, 2019 regarding appointment of Grade-IV post of Fakiragram College. In view of the said representation dated 28th August, 2019, the Director of Education, BTC, directed the Joint Director of Education, BTC to conduct an enquiry by a Communication dated 7th September, 2019. Accordingly, the Joint Director, BTC held an enquiry and submitted his report on 21st October, 2019 before the Director of Education, Bodoland Territorial Council, Kokrajhar.

4. Mr. M. U. Mondal, learned counsel for the respondent No. 5/the Principal of Fakiragram College submits that as the expert body has made the selection, no interference should be made in the said recommendation of the Governing Body of the Fakiragram College.

5. Mr. A. Alim Sk, learned counsel for the respondent No. 6 on the other hand submits that the petitioner had obtained only 12 Marks out of a total of 50

Marks, whereas, the respondent No. 6 has obtained 32 Marks and as the respondent No. 6 obtained the highest marks amongst all the candidates, the Governing Body had rightly recommended the case of the respondent No. 6 for selection to the post of Grade- IV (Unreserved).

6. This Court on 18.11.2019, while issuing notice directed that no appointment shall be made to the post of Grade-IV in the Fakiragram College, Kokrajhar in terms of the advertisement dated 29.10.2018. In view of the said interim order, till date, the Director of Education, BTC, has taken no further steps despite the enquiry report being submitted on 21st October, 2019.

7. As the Director of Education, BTC has directed for an enquiry to be conducted by the Joint Director of Education, BTC, and as the said enquiry report has already been submitted on 21st October, 2019, this Court without entering into the merits of the present writ petition, dispose of this writ petition by directing the Director of Education, BTC to take a call on the enquiry report submitted by the Joint Director of Education, BTC on 21st October, 2019 and thereafter, pass appropriate orders in accordance with law. While considering the enquiry report dated 21st October, 2019, the Director of Education, BTC shall also hear the petitioner as well as the respondent No. 6 in person.

8. Let such consideration be done within a period of 2 (two) months from the date of receipt of a copy of this order.

9. Writ petition is accordingly disposed of.

JUDGE

Comparing Assistant