

GAHC010282422023



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

Case No. : I.A.(Civil)/3780/2023

THE PRINCIPAL, SILAPATHAR COLLEGE
SILAPATHAR COLLEGE, SILAPATHAR, DISTRICT- DHEMAJI, ASSAM

VERSUS

DIPIKA BORUAH AND 3 ORS.
WIFE OF BIREN BORAH, RESIDENT OF CHANDMARI, WARD NO. 14, P.O.
KHELMATI, DISTRICT- LAKHIMPUR, PIN- 787031

2:THE STATE OF ASSAM

REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM
EDUCATION (HIGHER) DEPARTMENT
DISPUR
GUWAHATI
PIN- 781006

3:THE DIRECTOR
EDUCATION (HIGHER) DEPARTMENT
GOVERNMENT OF ASSAM
KAHILIPARA
GUWAHATI
PIN- 781022

4:DR. BROJEN SARMA
ASSISTANT PROFESSOR
GOVERNMENT MODEL COLLEGE
DEITHOR
KARBI ANGLONG
PIN- 78247

Advocate for the Petitioner : MR J PAYENG

Advocate for the Respondent : SC, HIGHER EDU

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : 18.06.2024

Heard Mr.J.Payeng, learned counsel for the applicant. Also heard Mr. R.M.Deka, learned counsel representing the opposite party No.1 and Mr. K.Gogoi, learned Standing counsel, Higher Education Department, Assam. Mr. R. Dhar, learned counsel appears for the opposite party No. 4.

2. By way of instituting the present application, the college authorities of Silapathar College have prayed for a vacation and or modification of the interim direction passed by this court vide order dated 14.08.2023 in WP (C) No. 4605/2023.

3. This court vide the said order dated 14.08.2023, while issuing notice in the matter had directed that in the event the respondent No. 4 is not appointed to the post of Assistant Professor (Assamese), the same shall not be done till the next date fixed without leave of the court.

4. Upon hearing learned counsel for the parties and also on perusal of the materials available on record, this Court finds that this court is now required to adjudicate on the reasons as given by the Director of Higher Education, Assam in the speaking order dated 20.06.2023 which is the subject matter of challenge in the connected writ petition. The Director of Higher Education, Assam had upon examination of the materials placed before him concluded that the petitioner even if would now be granted the marks claimed by her, she would be

entitled to receive two marks more, however the difference of marks between the opposite party No.1/petitioner and the opposite party No.4 herein would still be 4.39 marks. Accordingly, the Director of Higher Education, Assam had found the selection of the opposite party No.4 to be justified.

5. In view of the above position and without expressing any opinion on the merits of the reasons as assigned in the speaking order dated 20.06.2023 and finding that the opposite party No. 4 selection was upheld by the Director of Higher Education, Assam, this Court modifies the interim direction passed by the order dated 14.08.2023 in WP (C) No. 4605/2023 to the extent that the respondent authorities would now be at liberty to appoint the selected candidate i.e. opposite party No. 4 herein against the post of Assistant Professor(Assamese), Silapathar College in terms of his selection for the purpose which was upheld by the Director of Higher Education, Assam vide his speaking order dated 20.06.2023. The modification of the order dated 14.08.2023 is also made keeping in view the interest of the students studying in the said college.

6. In the event, opposite party No.4 is so appointed in terms of the liberty granted by this order, such appointment shall be subject to the result of the connected Writ Petition i.e. WP (C) No. 4605/2023 and this aspect of the matter shall be incorporated by the Director of Assam Higher Education in the appointment order to be issued to the opposite party No. 4.

With the above observations and directions, the interlocutory application stands disposed of.

JUDGE

Comparing Assistant