GAHC010023552017

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

Case No. : WP(C)/3013/2017

ALIM UDDIN
S/O. NAZIM UDDIN, VILL. GORUBANDHA, P.O. SANDH KHAITI, P.S. MAYANG, DIST. MORIGAON.

VERSUS

THE STATE OF ASSAM and 2 ORS.
REP. BY THE COMM. and SECY. TO THE GOVT. OF ASSAM, REVENUE DEPTT., DISPUR, GHY.-06.

2:THE DY. COMMISSIONER

MORIGAON
DIST. MORIGAON
ASSAM.

3:THE CIRCLE OFFICER

MAYONG REVENUE CIRCLE
MAYONG
DIST. MORIGAON
ASSAM

Advocate for the Petitioner : MR.S ISLAM, MR.J AHMED,MS.M AHMED,MS.S R SAIKIA

Advocate for the Respondent : SC, REVENUE, GA, ASSAM

Linked Case : WP(C)/2238/2017

MD. ALIM UDDIN
S/O. NAZIM UDDIN
VILL. GORUBANDHA
P.O. SANDH KHAITI
P.S. MAYONG
DIST. MORIGAON
ASSAM.

VERSUS

THE STATE OF ASSAM and 3 ORS.
REP. BY THE COMM. and SECY. THE GOVT. OF ASSAM
REVENUE DEPTT.
DISPUR
GHY.-06.

2:THE DY. COMMISSIONER

MORIGAON
DIST. MORIGAON
ASSAM.

3:THE CIRCLE OFFICER

MAYONG
DIST. MORIGAON
ASSAM.

4:SRI DHARMENDRA BORO

S/O. LT. MAYA RAM BORO
VILL. BALUKAJARI
P.O. BURGAON
P.S. MAYONG
DIST. MORIGAON
ASSAM
PIN-782121.

Advocate for : MR.D BORA
Advocate for : SC
REVENUE appearing for THE STATE OF ASSAM and 3 ORS.

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 14.07.2026

Heard Mr. J. Ahmed, learned counsel, appearing for the petitioner, in the above noted 02 (two) writ petitions. Also heard Mr. S. Dutta, learned Standing Counsel, Revenue & Disaster Management Department and Mr. J. K. Goswami, learned Additional Senior Government Advocate, appearing for their respective State Respondents.

2. The petitioner by way of instituting WP(C).No.2238/2017, has prayed for a direction upon the Respondent Authorities to appoint the petitioner as Goan Burah of Bhalukajhari, Pabokati, Hatibhanga, Teteliguri, Koroguri, Gorubandha, Boramari and Boramari Pam Kisamat villages under Pokorai Mouza of Mayong Revenue Circle, in the District of Morigaon, in pursuance to an advertisement 16.02.2016, issued for recruitment against the said post.

The petitioner by way of instituting WP(C).No.3013/2017, has assailed a fresh advertisement dated 16.05.2017, issued by the Deputy Commissioner, Morigaon, for recruitment against the post of Goan Burah of Bhalukajhari, Pabokati, Hatibhanga, Teteliguri, Koroguri, Gorubandha, Boramari and Boramari Pam Kisamat villages under Pokorai Mouza of Mayong Revenue Circle in the District of Morigaon.

3. The issues involved in the above noted 02 (two) writ petitions being identical, with the consent of the parties, the same were taken up for hearing

analogously and are being disposed of by the present order.

4. As projected by the petitioner, in pursuance to an advertisement dated 16.02.2016, issued by the Deputy Commissioner, Morigaon, inviting applications from eligible candidates for recruitment against the post of Gaon Burah of Bhalukajhari, Pabokati, Hatibhanga, Teteliguri, Koroguri, Gorubandha, Boramari and Boramari Pam Kisamat villages, under Pokorai Mouza of Mayong Revenue Circle in the District of Morigaon, the petitioner along with one Dharmendra Boro, had submitted their respective applications. Thereafter, the petitioner and the said Dharmendra Boro were issued call letter requiring them to appear in a interview scheduled on 03.08.2016. It is projected that the interview could not be held on 03.08.2016 and accordingly, the petitioner was issued with a fresh call letter on 21.02.2017, requiring him to appear in the interview now scheduled on 28.02.2017. It is submitted that the petitioner had accordingly, appeared in the interview held on 28.02.2017, and had performed exceptionally well, therein, and he was expecting that he being the only candidate in the fray for recruitment against the post of Gaon Burah, as advertised vide the advertisement dated 16.02.2016, would be favoured with an order of appointment. However, it is projected that the selection process held in pursuance to the advertisement dated 16.02.2016, was not taken to its logical conclusion and apprehending that the Respondent Authorities may re-advertise the post, in question, the petitioner had moved before this Court by way of instituting writ petition being WP(C).No.2238/2017. During the pendency of WP(C).No.2238 /2017, the Respondent Authorities proceeded to issue a fresh

advertisement dated 16.05.2017, inviting applications for recruitment against the post of Gaon Burah, which was earlier put up for recruitment vide the advertisement dated 16.02.2016.

Being aggrieved by the issuance of the fresh advertisement dated 16.05.2017, the petitioner has assailed the same by way of instituting WP(C).No.3013/2017.

5. Mr. J. Ahmed, learned counsel, appearing for the petitioner, after reiterating the facts noticed, hereinabove, has submitted that the petitioner had the requisite qualification which were mandated to be processed by a candidate, for appointment as a Gaon Burah. He submits that the Respondent Authorities had considered his educational qualification as well as had examined his merit during the interview process which was conducted by a duly constituted Selection Committee, headed by the jurisdictional Deputy Commissioner. Mr. J. Ahmed, submits that the Respondent Authorities, on approaches made by the petitioner before them to know the reasons for the delay occasioning in finalizing the process of selection involved, had never intimated to the petitioner that the recruitment process as initiated vide advertisement dated 16.02.2016, was cancelled on the ground that the performance of the petitioner during the selection process was found to be not satisfactory. He submits that the said plea was taken by the Respondents only in an affidavit filed in the proceedings of WP(C).No.3013/2017 in the year 2022 and that too without bringing on record any supporting documents to justify such claim taken by the respondents before this Court.

6. Mr. J. Ahmed, further submits that the petitioner being only the eligible candidate in the fray and there being noting adverse found against him by the Respondent Authorities, candidature of the petitioner could not have been rejected by the Respondent Authorities on their own whims and caprices. He submits that the petitioner had performed well during the interview and there was nothing adverse coming on record in this connection against him. Accordingly, he submits that the petitioner being the lone eligible candidate in the fray, the Respondent Authorities could not have denied to the petitioner his due appointment as Gaon Burah in pursuance to the advertisement, in question.

7. Mr. J. Ahmed, has submitted that the Respondent Authorities, had proceeded to issue fresh advertisement dated 16.05.2017, without issuing any order cancelling the earlier recruitment process, initiated vide the advertisement dated 16.02.2016. Mr. Ahmed, submits that the fresh advertisement was so issued basing on the pressure brought upon by the Respondent Authorities from political circles. Mr. Ahmed, submits that the Respondent Authorities succumbing to such pressure have not declared the results of the selection held in pursuance to the advertisement dated 16.02.2016. Accordingly, Mr. Ahmed submits that the impugned advertisement dated 16.05.2017, under challenge, in WP(C).No.3013/2017, would mandate an interference from this Court.

8. In the above premises, Mr. J. Ahmed, submits that the Respondent Authorities, be directed to take the process of selection initiated vide the advertisement dated 16.02.2016, to its logical conclusion and issue orders

appointing the petitioner against the post of Gaon Burah as advertised vide the said advertisement dated 16.02.2016.

9. Per contra Mr. S. Dutta, learned Standing Counsel, Revenue & Disaster Management Department, as well as Mr. J. K. Goswami, learned Additional Senior Government Advocate, appearing for the State Respondents, have submitted that in pursuance to the advertisement dated 16.02.2016, a interview was scheduled on 28.02.2017, and therein, only the petitioner had appeared, inasmuch as, he was only the eligible candidate in the fray. It is submitted that the performance of the petitioner in the interview process not being found to be satisfactory, the selection Committee had proceeded not to declare the results of the selection process and accordingly, the said selection process came to be abandoned.

Thereafter, the Respondent Authorities had issued a fresh advertisement on 16.05.2017. It is submitted that the petitioner cannot be permitted to claim that he must now be appointed irrespective of the fact that on evaluation of his merit by the Selection Committee during the interview held in the matter, he was found to be not suitable for being recommended for appointment against the post, in question.

10. Accordingly, the learned counsels for the Respondents, submit that the decision of the Respondent Authorities to not take the selection process initiated vide the advertisement dated 16.02.2016 to its logical conclusion, being so arrived at basing on reasonable grounds, the same would not mandate an interference from this Court. Accordingly, they submit that the issuance of the fresh advertisement was on account of the necessity existing to fill up the post, in question. It is further

projected that the results of the selection process held in pursuance to the advertisement dated 16.02.2016, having not been declared, it cannot be contended by the petitioner that he had performed exceptionally well in the said selection process. Accordingly, it is submitted that fresh advertisement dated 16.05.2017, would not mandate an interference from this Court and no direction would be called upon to be issued requiring the Respondent Authorities, to appoint the petitioner against the post of Gaon Burah as involved in the present writ petition.

11. I have heard the learned counsel for the parties and also perused the materials coming on record.

12. In pursuance to an advertisement dated 16.02.2016, it is noticed that the petitioner and one Dharmendra Boro, had submitted their respective applications. However, Dharmendra Boro, being found to have not satisfied the requisite eligibility criteria set out for recruitment as a Goan Burah, it was the petitioner who was the only eligible candidate in the fray, for appearing in the selection process for the post, in question.

13. The petitioner, accordingly participated in the selection process and appeared in an interview held on 28.02.2017. However, after conclusion of the selection process, the results thereof, not being declared, the petitioner had instituted WP(C).No.2238/2017. During the pendency of the proceedings in WP(C).No.2238/2017, the Respondent Authorities having issued a fresh advertisement on 16.05.2017, for recruitment against the same post of Gaon Burah against which the petitioner had already appeared for selection, the petitioner

proceeded to instituted WP(C).No.3013/2017, assailing the fresh advertisement.

14. The Respondent Authorities in WP(C).No.2238/2017 have filed an affidavit on 22.07.2022 and therein, have contended that the performance of the petitioner in the interview scheduled on 28.02.2017 was found to be not satisfactory by the selection Committee and accordingly no recommendation came to be made in his favour.

15. The contentions as made by the respondents in the said affidavit was not disputed by the petitioner by way of filing of a rejoinder.

16. Accordingly, this Court finds that the reason assigned by the respondents for not taking the selection process to be initiated in pursuance to the advertisement dated 16.02.2016, to be a cogent one. The petitioner having not been found by the Selection Committee to be suitable for appointment against the advertised post, it would not be permissible for this Court to direct the Respondent Authorities to still appoint the petitioner against the post, in question. The fact that the petitioner was the sole candidate in the said selection process will not still change the position, inasmuch as, the petitioner was not found to be suitable for the appointment, in question, by the Selection Committee.

17. This Court further notices that the petitioner has not leveled any allegation of malice, arbitrariness and/or bias against the members of the Selection Committee. Accordingly, solely on the ground that the petitioner was the only candidate participating in the selection process, this Court does not found any right

accruing to the petitioner to claim appointment against the post, in question, when no recommendation in his favour is found to have been made by the Selection Committee for such appointment.

18. In view of the above discussion, the claim made by the petitioner in the above noticed writ petitions for a direction upon the Respondent Authorities for appointing him against the post of Gaon Burah, would not mandate an acceptance by this Court.

19. Having drawn the above conclusions, this Court would now examine the challenge presented by the petitioner to the fresh advertisement dated 16.05.2017.

20. As projected by the Respondents, the fresh advertisement dated 16.05.2017 was mandated to be issued as no recommendation came to be made in favour of the petitioner (sole candidate) by the Selection Committee in pursuance to the earlier advertisement dated 16.02.2016. It is further noticed that this Court vide order dated 22.05.2017, while issuing notice in WP(C).No.3013/2017, had in the interim kept the advertisement dated 16.05.2017 in abeyance. The said order continues to hold the field.

21. Considering the long delay occasioning since issuance of the advertisement dated 16.05.2017 and the fact that the same remained dormant all along, many more candidates in the meanwhile having become eligible for appointment as Gaon Burah, this Court is of the considered view that the said advertisement at this stage cannot be permitted to be revived and accordingly, the said advertisement dated

16.05.2017 stands set aside.

22. The respondents having projected a necessity existing for filling up the post of Gaon Burah advertised vide the advertisement dated 16.02.2016 and 16.05.2017, this Court directs the Respondent Authorities to issue fresh advertisement incorporating, therein, the norms presently in vogue for recruitment against the post of Gaon Burah/Gaon Pradhan, in question.

23. At this stage Mr. J. Ahmed, has submitted that the petitioner holds the requisite eligibility criteria for recruitment against the post of Gaon Burah, in terms of the eligibility criteria currently in vogue and is also within the age limit for such recruitment .

24. It is provided that, in the event, the petitioner satisfies the eligibility criteria mandated for recruitment for the post of Goan Burah and is within the age limit prescribed for such recruitment, in the event, the Respondents issue fresh advertisement for recruitment against the post of Goan Burah, involved in the present proceedings, the petitioner shall also be permitted to participate in the said selection.

25. With the above observations and directions, the above noted writ petitions being WP(C).3013/2017 and WP(C).2238/2017, stands disposed of.

JUDGE

Comparing Assistant