GAHC010014182015

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

Case No. : WP(C)/2997/2015

FARIDA BEGUM
W/O MD. SOBIL UDDIN, VILL. SADAR GAON RESERVE, P.O. NILBAGAN,
P.S. MURAJHAR, DIST- NAGAON, ASSAM, PIN-782445

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE COMMISSIONER and SECY. TO THE GOVT. OF ASSAM, SOCIAL WELFARE DEPTT., DISPUR, GHY-6

2:THE DIRECTOR OF SOCIAL WELFARE
ASSAM
UZAN BAZAR
GHY-1

3:THE PROGRAMME OFFICER
DIVISIONAL ICDS CELL
NAGAON
DIST- NAGAON
ASSAM

4:THE DISTRICT SOCIAL WELFARE OFFICER
DIST- NAGAON
ASSAM

5:THE CHILD DEVL. PROJECT OFFICER
BINNAKANDI ICDS PROJECT
DOBOKA
DIST- NAGAON
ASSAM

6:MOMOTA YASMIN LASKAR

W/O FAKAR UDDIN BARBHUIYA
VILL. SADAR GAON
MUKAMTOLA
P.O. NILBAGAN
P.S. MURAJHAR
DIST- NAGAON
ASSAM
PIN-782445

7:THE DEPUTY COMMISSIONER

HOJAI DISTRICT
HOJAI
ASSAM

Advocate for the Petitioner : MR.J ABEDIN

Advocate for the Respondent : SC, SOCIAL WELFARER1-5

BEFORE

HON'BLE MR. JUSTICE MICHAEL ZOTHANKHUMA

25.11.2020

Heard Ms. N Kalita, counsel appearing on behalf of Mr. J Abedin, counsel for the petitioner. Also heard Mr. D Nath, counsel appearing for the Social Welfare Department and Mr. NI Khan, counsel appearing for the respondent No.6.

2. The issue raised in the present writ petition revolves around the controversy as regards the place of residence of the petitioner and that of the private respondent No.6, as to who among the two is a resident of No.4 Sadar Gaon Reserve Mini Anganwadi Centre, Nagaon.

The brief facts of the case is that in pursuance to an Advertisement dated 27.01.2014, for filling up the post of Anganwadi Worker in the No.4 Sadar Gaon Reserve Mini Anganwadi Centre, the petitioner and the respondent No.6 took part in the selection process. The petitioner was selected as she had secured the highest marks in the selection process, while the respondent No.6 secured the second highest marks. The writ petitioner was subsequently appointed as Anganwadi Worker.

3. Being aggrieved by the appointment of the writ petitioner, the respondent No.6 filed WP(C) 4580/2014. WP(C) 4580/2014 was disposed of by this Court vide order dated 10.09.2014 with a direction to the Director of Social Welfare, Assam to examine as to whether the parties were residents within the jurisdiction of No.4 Sadar Gaon Reserve Mini Anganwadi Centre.

4. Consequent to the order dated 10.09.2014, passed in WP(C) 4580/2014, the Director of Social Welfare had enquired into the matter. Further, the concerned Child Development Project Officer, Binnakandi ICDS Project appeared before the Director along with the petitioner and the respondent No.6. After hearing the parties, the Director of Social Welfare issued the impugned order dated 29.04.2015, with a finding that the writ petitioner could not prove that she was a resident of No.4 Sadar Gaon Reserve Mini Anganwadi Centre, while the respondent No.6 was a resident within the said Anganwadi Centre. The order dated 29.04.2015 directed that the writ petitioner should be released from service as Anganwadi Worker and that the Project Level Selection Committee should select the next suitable candidate.

5. Consequent to the above order dated 29.04.2015 issued by the Director of Social Welfare Department, the writ petitioner was released from service and the respondent No.6 was appointed as Anganwadi Worker.

6. The petitioner being aggrieved by the order dated 29.04.2015 passed by the Director of Social Welfare, has made a challenge to the same, on the ground that certificates have been issued by various authorities showing that the petitioner is a resident of No.4 Sadar Gaon Reserve Mini Anganwadi Centre.

7. On going through the averments made by the writ petitioner in her writ petition, this Court is of the view that the documents relied upon by the writ petitioner to prove that she is a resident of No.4 Sadar Gaon Reserve Mini Anganwadi Centre would require evidence to be adduced in a Civil Court, inasmuch as, this Court is not equipped to decide a case of this nature.

Further, the Director's order dated 29.04.2015 had been passed in pursuance to the direction passed by this Court in WP(C) 4580/2014 and after giving an opportunity of hearing

to the parties.

8. In view of the reasons stated above, this Court is not inclined to exercise its discretion.

9. The writ petition is, accordingly, dismissed.

10. Interim order, passed earlier, stands vacated.

JUDGE

Comparing Assistant