GAHC010175022020

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

Case No. : WP(C)/5489/2020

SHYAMAL CH BARMAN AND 4 ORS
S/O- LT. GEDA RAM BARMAN, R/O- VILL- MADHAIKHALI, P.O. ASHARI KANDI, P.S. GAURIPUR, DIST.- DHUBRI, ASSAM PIN- 783331

2: SAYDUL BADSHA
S/O- KAPIL UDDIN
R/O- VILL- BHELENGAMARI
P.O. PADMER ALGA
P.S. FAKIRGANJ
DIST.- DHUBRI
ASSAM
PIN- 783339

3: MD. OMAR ALI
S/O- MD. TOMEZ UDDIN
R/O- VILL- SHIVERALGA
P.O. PADMER ALGA
P.S. FAKIRGANJ
DIST.- DHUBRI
ASSAM
PIN- 783339

4: MD. NURJAMAL SHEIKH
S/O- HASHEM ALI SK
R/O- VILL- SHIVERALGA
P.O. PADMER ALGA
P.S. FAKIRGANJ
DIST.- DHUBRI
ASSAM
PIN- 783339

5: SHAIFUL ISLAM MOLLICK
S/O- AHSAN ALI MOLLICK
R/O- VILL- JARUAR CHAR PART-V

P.O. PADMER ALGA
P.S. FAKIRGANJ
DIST.- DHUBRI
ASSAM
PIN- 78333

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, DEPTT. OF HOME, DISPUR, GHY-06

2:THE DIRECTOR GENERAL OF POLICE
ASSAM POLICE HEADQUARTERS
ULUBARI
GHY-07

3:THE ADDL. DIRECTOR GENERAL OF POLICE (TAP)
ASSAM POLICE HEADQUARTERS
ULUBARI
GHY-07

4:THE INSPECTOR GENERAL OF POLICE (ADMN.)
ASSAM POLICE HEADQUARTERS
ULUBARI
GHY-07

5:THE SUPERINTENDENT OF POLICE
DHUBRI
P.O. AND P.S. DHUBRI
DIST.- DHUBRI
ASSAM

6:THE DY. SUPERINTENDENT OF POLICE (H.Q.)
DHUBRI
P.O. AND P.S. DHUBRI
DIST.- DHUBRI
ASSA

Advocate for the Petitioner : MR. M A SHEIKH

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANOJIT BHUYAN

ORDER

21.12.2020

Heard Mr. M.A. Sheikh, learned counsel for the petitioners as well as Mr. D. Nath, learned counsel representing all the respondents.

Prayer in the writ petition is for considering the case of the petitioners in terms of the judgment and order dated 22.02.2019, passed in WP(C) 2725/2010, as well as order passed in subsequent writ petitions which had been disposed of in the light of the judgment and order dated 22.02.2019.

Brief facts to be noticed are that an Advertisement was issued on 20.02.2009 for recruitment of Armed Branch Constables in Assam Police, in which selection process the petitioner no.1 had participated. In so far as the petitioner nos.2 to 5 are concerned, they had participated in the selection process pursuant to another similar Advertisement dated 08.02.2010. The petitioners, however, could not emerge successful. It is shown that a group of persons hailing from Sivasagar district had assailed their non-selection by filing WP(C) 2725/2010. By judgment and order dated 22.02.2019, this Court had observed that some illegality was committed by the respondents while undertaking the selection process. It was also observed that in the absence of the selected candidates who had already been appointed, it would not be fair to dislodge them without granting opportunity of being heard. A direction was made that the case of those petitioners be considered in the available current vacancies or next vacancies and in the event any of the petitioners became over-aged, the same be relaxed. A direction was also made that without considering the case of those petitioners, the vacancies in the post of Armed Branch Constable are not to be filled up.

In the present case it is seen that although they had participated in the recruitment process pursuant to Advertisements dated 20.02.2009 and 08.02.2010, for more than a decade they did not raise any objection or any grievance regarding their non-selection. It is only after the judgment and order dated 22.02.2019 was rendered that they filed representation on 17.09.2020. It is more than evident that the petitioners did not express any

grievance as to their non-selection for all those years. As such, at this distant point of time, the petitioners cannot be allowed to rake up a dead issue by unsettling a settled position and seek advantage of the fruits of litigation of another batch of petitioners who had raised grievances at the appropriate time. It is also seen that there are no averments made in the writ petition which makes worth considering the reasons for the delay in raising their grievances.

Mr. D. Nath have brought to the notice of this Court an order dated 05.08.2019 passed in WP(C) 4921/2019, instituted by persons similarly situated and which was dismissed by this Court.

In the above view of the matter, this Court is not inclined to entertain the writ petition, which has been filed belatedly. In the absence of any merit in the writ petition, the same stands dismissed, however, without any order as to cost.

JUDGE

Comparing Assistant