GAHC010187582020

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

Case No. : WP(C)/5599/2020

N. MANINDRA SINGHA AND ANR.
S/O LT. INDRA BABU SINGHA, VILL. MONGALPUR, P.O. MONGALPUR,
DIST. CACHAR, ASSAM

2: PUSPANJALI SINGHA
W/O JAYANTA SINGHA
VILL. MONGALPUR
P.O. MONGALPUR
DIST. CACHAR
ASSA

VERSUS

THE STATE OF ASSAM AND 3 ORS.
TO BE REP. BY THE SECRETARY LAND AND REVENUE DEPTT. DISPUR,
GUWAHATI-6

2:THE DIRECTOR
LAND RECORDS AND SURVEYS ETC. ASSAM
RUPNAGAR
GUWAHATI-78123

3:THE DEPUTY COMMISSIONER
CACHAR
DIST. CACHAR
ASSAM
PIN-788001

4:THE SETTLEMENT OFFICER
CACHAR AND HAILAKANDI
DIST. CACHAR
ASSAM
PIN-78800

Advocate for the Petitioner : MR. A M BARBHUIYA
Advocate for the Respondent : SC. REVENUE

WP(C) 5599/2020

BEFORE
HON'BLE MR. JUSTICE MANOJIT BHUYAN

22.12.2020

Heard Mr. A. M. Barbhuiya, learned counsel for the petitioners as well as Mr. J. Handique, learned counsel representing respondent nos. 1 and 2. Mr. S. S. Roy, learned counsel appears for respondent nos. 3 and 4.

Having regard to the emerging facts, this writ petition is taken up for final disposal at the Motion stage itself.

The petitioners had earlier approached this Court in WP(C) 2928/2020 on apprehension that their candidature may not be considered in the selection to be held for filling up 42 posts of Additional Patowarys, pursuant to the Advertisement dated 16.03.2020 on ground that both of them were over aged in terms of the age limit prescribed for General category candidates in the said advertisement. The said writ petition was disposed of by order dated 19.08.2020 with direction to the petitioners for making individual representations within seven days before the Head of the Department for relaxation of their upper age limit, which consideration was directed to be given by the said authority having regard to the provisions under the Office Memorandum No. AAP-34/50/27 dated 30.05.1951. It was also directed that as and when individual representations are made, the same will be disposed of by passing reasoned order within ten days next thereof.

It is stated by the petitioners that following the directions in the aforesaid order dated 19.08.2020, individual applications were made. However, by the impugned order dated 21.09.2020, the representations were disposed of by holding that in view of the Office Memorandum dated 02.09.2020, issued by the Government of Assam in the Personnel (B) Department, there was no room for considering relaxation of age. This order dated 21.09.2020 was passed by the Settlement Officer, Cachar and Hailakandi Districts, Cachar.

Clearly, the said order dated 21.09.2020 cannot stand the scrutiny of law, inasmuch as, the same was rendered by making a departure from the directions contained in the order of

the Court dated 19.08.2020. Whereas by the direction of the Court the Head of the Department, namely, the Director of Land Records and Surveys, etc., Assam, was required to consider the representations in terms of the aforesaid Office Memorandum dated 30.05.1951, the impugned order dated 21.09.2020 was rendered by the Settlement Officer, Cachar and Hailakandi Districts, who apparently is not the Head of the Department. Further, although direction was made for giving consideration to the representations of the petitioners having regard to the Office Memorandum dated 30.05.1951, the impugned order dated 21.09.2020 was passed by placing reliance on another Office Memorandum dated 02.09.2020. Suffice to say that the impugned order was rendered without scant regard to the directions made by this Court in WP(C) 2928/2020.

On the grounds above, the impugned order dated 21.09.2020 is set aside in so far as the petitioners are concerned. A direction is made to the Director of Land Records and Survey, etc., Assam, to now give fresh consideration to the representations of the petitioners, having strict regard to the Office Memorandum dated 30.05.1951. The said authority shall now undertake the required exercise and complete the same within 15 (fifteen) days from the date of receipt of a certified copy of this order. Needless to say, depending upon the outcome of the fresh consideration and, in the event the age of the petitioners are condoned, necessary steps shall be taken by the respondents for conducting written test, which would be confined only to the petitioners herein.

Petitioners are permitted to furnish a certified copy of this order to the Director of Land Records and Surveys, etc. for his doing the needful in terms of the directions above.

A copy of this order be furnished to Mr. Handique during the course of the day for onward transmission to the Director of Land Records and Surveys, etc., Assam.

The results of the written test held on 01.11.2020, if not already announced, shall not be declared until the representations of the petitioners are considered and answered in terms of the directions above.

Writ petition stands accordingly allowed.

JUDGE

Comparing Assistant