GAHC010179262022

2026:GAU-AS:14858

In the Gauhati High Court

(HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH)
PRINCIPAL SEAT AT GUWAHATI

WP(C) NO. 5870 OF 2022

Hasima Begum @ Hasima Bibi,
Age about 29 years,
Wife of- Shahidur Rahman,
Residing at village-Nowerbhita, P.O & P.S- Kokrajhar,
Dist.-Kokrajhar, BTAD, Assam,
Pin-783346.

.....***..Petitioner***

-***Versus***-

1. The State of Assam
represented by the Commissioner and Secretary to the Government of Assam, Social Welfare Department, Dispur, Ghy-06.

2. The Director of Social Welfare Department, Assam, Uzanbazar, Guwahati-01.

3. The Joint Director-Cum-CHD, Social Welfare Department, BTC, Kokrajhar.
4. The Programme Officer, Divisional ICDS Cell, Kokrajhar.
5. The Director Social Welfare Officer, Kokrajhar.
6. The Deputy Commissioner, Kokrajhar, Assam.
7. The Selection Committee for Selection of

Anganwadi Worker (Mini) and Helper for Dotma ICDS, Project represented by its Chairman, BTC (BTAD), P.O, P.S and Dist.-Kokrajhar, Assam.

8. The Child Development Project Officer, Dotma ICDS Project, P.O, P.S and Dist.-Kokrajhar, Assam.

9. Md. Usman Gani Sk. (Member of Selection Committee of Dotma ICDS Project, Dotma), S/O-Late Basir Sk., resident of Village-Hekaipara, P.O & P.S.-Kokrajhar, Dist.-Kokrajhar, BTAD, Assam, Pin-783370.

10. The Principal, Shakti Ashram Higher Secondary & VOC School, P.O-Shakti Ashram, P.S-.-Kokrajhar, Dist.- .-Kokrajhar, Assam.

11. The Headmaster, Mowamari M.E. School, Vill-Mowamari, P.O-Kamal Sing, P.S-Gossaigaon, Dist-.-Kokrajhar, BTAD, Assam.

12. Smti. Sahinur Bibi, W/O-Afjuddin Sk, Village-Nowerbhita, P.O & P.S-Dotma, Dist. .-Kokrajhar, BTAD, Assam.

.....***Respondents***

– **B E F O R E –**

HON'BLE MR. JUSTICE KARDAK ETE

Advocate for the petitioner/appellant **:** Ms. R. Choudhury, learned counsel.

Advocate for the respondents **:** Ms. N. Choudhury, learned Standing counsel, BTC and Mr. D. Bora, learned State counsel.

Date on which Judgment is reserved **:** 05.10.2026.

Date of Hearing **:** 05.10.2026.

Date of Judgment and Order **:** 05.10.2026.

Whether the pronouncement is of the Operative part of the Judgment? **:** No.

Whether the full Judgment has been pronounced? **:** Yes.

JUDGMENT & ORDER

(ORAL)

Heard Ms. R. Choudhury, learned counsel for the petitioner. Also heard Ms. N. Choudhury, learned Standing counsel, BTC for respondent Nos. 3, 4, 5 and 8 and Mr. D. Bora, learned State counsel for respondent Nos. 1 and 2.

2. The challenge made in the present writ petition is to the order dated 22.08.2022 passed by the Joint Director-cum-CHD, Women and Child Development, BTC, Kokrajhar, whereby the appointment of the respondent No. 12 as Anganwadi Worker of No. 35, Polashguri (Mushalmanpara), Mini Anganwadi Centre, has been cancelled by treating the advertisement dated 08.02.2017 cancelled and to initiate fresh process for advertisement pursuant to the order dated 25.04.2022 passed in WP(C)/7469/2018. The petitioner particularly challenges the cancellation of advertisement dated 08.02.2017 and consequential decision to issue fresh advertisement.

3. The petitioner claims appointment as Anganwadi Worker pursuant to the advertisement dated 08.02.2017 in respect of No. 35, Polashguri (Mushalmanpara), Mini Anganwadi Centre, by virtue of the order dated 25.04.2022 passed in WP(C)/7469/2018 by this Court. The said writ petition was instituted by the petitioner on the ground that she was placed at Serial No. 2 in the selection list in respect of the aforesaid Anganwadi Centre.

4. The petitioner has been temporarily engaged as a Voluntary Mini Anganwadi Worker at Polashguri (Mushalmanpara) Anganwadi Centre since 02.01.2017.

5. The respondent authorities issued a Notification dated 08.02.2017 inviting applications for filling up the posts of Anganwadi Workers/Mini AWW and AWH in respect of various Anganwadi Centres, including No. 35, Polashguri (Mushalmanpara), Mini Anganwadi Centre. Pursuant thereto, the petitioner, along with 3 (three) others, including the respondent No. 12, participated in the selection process. The respondent No. 12 was placed at Serial No. 1, whereas the petitioner was placed at Serial No. 2 in the selection list.

6. The petitioner challenged the appointment of the respondent No. 12 by filing WP(C)/7469/2018 on the ground that the certificate produced by the respondent No. 12 was fake and, as such, she had obtained the appointment fraudulently.

7. This Court by order dated 25.04.2022 has disposed of the writ petition being WP(C)/7469/2018, the relevant paragraphs are reproduced herein below :-

> "*4. The grievance raised is that the respondent No.12 was selected and appointed as the Anganwadi worker pursuant to such selection. But in the selection process the respondent No.12 relied upon a transfer certificate issued by Sakti Ashram Higher Secondary & Voc. School in the Kokrajhar district. The allegation made in this writ petition is that the said certificate is a false certificate.*
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> *5. The respondent No.10 being the Principal of Sakti Ashram Higher Secondary & Voc School has filed an affidavit stating that the said certificate is a false certificate which was not validly issued by the school concerned. Infact, in the affidavit of the respondent No.10, the certificate bearing serial No.426 which was issued by the Sakti Ashram Higher Secondary & Voc School is annexed as Annexure-1 to the affidavit-in-opposition of the respondent No.10 which prima*

facie shows that the said certificate was issued to another person namely Tozamil Hoque and not to the respondent No.12. Prima facie the certificate relied upon by the respondent No.12 appears to be a false and fabricated certificate which is not only an act of relying upon fabricated and false document in a selection process but would also amount to a criminal offence.

6. We are unable to proceed further in the writ petition inasmuch as the respondent No.12 could not be duly served as neither the A/D card nor the unserved notice was received back although there is an order of the Lawazima Court dated 18.02.2021, wherein, notices were deemed to have been served on the respondent No.12. A deemed service neither allows the Court to arrive at a conclusion as to whether the notices were infact served or not. Consequently, it may not be appropriate to pass adverse order against the respondent No.12 in the absence of there being a definite conclusion as to whether notices were duly served.

7. We have already taken note of that the selection and appointment process was under the Social Welfare Department under the BTC. Accordingly, we direct the Joint Director-cum-CHD, Social Welfare Department, BTC, Kokrajhar to examine the matter as to whether the respondent No.12 was appointed as the Anganwadi worker of 35 No. Polashguri (Muslimpara) in a selection process where she had relied upon a fake transfer certificate issued by the Sakti Ashram Higher Secondary & Voc School. For the purpose, the Joint Director to give a hearing to the respondent No.12. The Joint Director to also take note of the affidavit-in-opposition of the respondent No.10 being the Principal of Sakti Ashram Higher Secondary & Voc School to the extent that the Certificate No.426 relied upon by the respondent No.12 was infact not a certificate issued by the said school to the respondent No.12 and whereas, the Certificate No.426 was actually issued to another person namely Tozamil Hoque. In doing so, the Joint Director may give a hearing also to the present writ petitioner. If upon the exercise to be under taken

by the Joint Director, a conclusion is arrived that the respondent No.12 relied upon a fabricated school certificate to achieve the selection process leading to the order of appointment, appropriate orders be passed against the respondent No.12 by not allowing such person who had availed an appointment by fraudulent means to continue in service any further. Relying upon a fabricated document in a selection process would also be a criminal offence. The Joint Director to take steps to initiate appropriate proceeding if in the event a conclusion is arrived that the respondent No.12 had relied upon a false and fabricated certificate to procedure the appointment. On the other hand, if the Joint Director arrives at a conclusion that the certificate was a genuine certificate, appropriate order be passed. The requirement be done within a period of three months from the date of receipt of the certified copy of the order."

8. The Joint Director-cum-CHD, Women and Child Development, BTC, Kokrajhar, after providing an opportunity of hearing to the parties in terms of the order dated 25.04.2022 passed by this Court, considered the matter. Accordingly, by the order dated 22.08.2022, the authority directed the Child Development Project Officer to cancel the engagement of the respondent No. 12 with immediate effect by cancelling the advertisement dated 08.02.2017 in respect of No. 35, Polashguri (Mushalmanpara), Mini Anganwadi Centre, and to initiate a fresh process for advertisement of the post of Anganwadi Worker, having found that the respondent No. 12 had obtained the appointment fraudulently by submitting false and fabricated documents. Being aggrieved by the said order, the present writ petition has been filed.

9. Ms. R. Choudhury, learned counsel for the petitioner, submits that since the documents on the basis of which the respondent No. 12 had obtained appointment as Anganwadi Worker were found to be false and fabricated and

her appointment has consequently been cancelled, the petitioner is entitled to be appointed as Anganwadi Worker, as she was placed at Serial No. 2 in the selection list. She submits that there was no direction by this Court to cancel the advertisement and to initiate a fresh advertisement process. Since the respondent No. 12, who was the candidate placed at Serial No. 1, has been found to have obtained the appointment fraudulently, the petitioner, being the next candidate in the merit list, is entitled to be appointed. Therefore, she submits that the decision to cancel the advertisement and to initiate a fresh process for advertisement has adversely affected the right of the petitioner to be considered for appointment as Anganwadi Worker. As such, she submits that a direction may be issued to the respondent authorities to appoint the petitioner in terms of the advertisement dated 08.02.2017 and the selection list.

10. On the other hand, Ms. N. Choudhury, learned Standing Counsel, BTC, submits that as per the select list dated 31.05.2017, the respondent No. 12 was appointed as Anganwadi Worker at Polashguri (Mushalmanpara), Mini Anganwadi Centre. However, pursuant to the order of this Court dated 25.04.2022, the respondent authorities, after providing an opportunity of hearing to the petitioner and the respondent No. 12, found that the certificate submitted by the respondent No. 12 was false and fabricated. Accordingly, by the speaking order dated 22.08.2022, the authority cancelled the engagement of the respondent No. 12 as Anganwadi Worker of No. 35, Polashguri (Mushalmanpara), Mini Anganwadi Centre, and directed initiation of a fresh selection process by issuing a fresh advertisement. She submits that since there is no wait list, the petitioner does not have any right to claim appointment merely because she was placed at Serial No. 2 in the selection list. She further submits that since there were 4 (four) candidates, upon cancellation of the

appointment of the respondent No. 12, the respondent authorities have fairly decided to issue a fresh advertisement so as to enable all eligible candidates to participate in the selection process. Therefore, the speaking order passed pursuant to the order of this Court warrants no interference.

11. I have considered the submissions advanced by the learned counsel for the parties and have also perused the materials available on record.

12. Essentially, the claim of the petitioner for appointment as Anganwadi Worker of No. 35, Polashguri (Mushalmanpara), Mini Anganwadi Centre, is based on the order of this Court dated 25.04.2022 and on the fact that she was placed at Serial No. 2 in the merit list/select list dated 31.05.2017. It is not disputed that the respondent No. 12 was placed at Serial No. 1, whereas the petitioner was placed at Serial No. 2 in the select list. There were 4 (four) candidates, out of whom one candidate was found to be absent and the 4th candidate had secured only 5 marks. It is also not in dispute that the certificate submitted by the respondent No. 12 was found to be false and fabricated, on the basis of which she had obtained her appointment fraudulently.

13. This Court, in the earlier writ petition instituted by the petitioner, had directed the respondent authorities to examine the matter as to whether the respondent No. 12 was appointed as Anganwadi Worker in the selection process on the basis of a fake transfer certificate issued by the concerned authority. It has been directed that, upon the exercise undertaken by the respondent authorities, if a conclusion was arrived at that the respondent No. 12 had relied upon a fabricated school certificate to secure selection leading to her appointment, an appropriate order should be passed against the respondent No.

12 by not allowing a person who had obtained appointment through fraudulent means to continue in service any further. It has also observed that using such a fabricated document in the selection process would constitute a criminal offence. This Court further directed that appropriate steps be taken to initiate proceedings if a conclusion was arrived at that the respondent No.12 had relied upon a false and fabricated certificate to procure the appointment. On the other hand, if the respondent authorities arrived at a conclusion that the certificate was genuine, an appropriate order was directed to be passed accordingly. Pursuant thereto, the respondent authorities issued notice to the parties and provided them an opportunity of hearing.

14. The respondent authorities, upon consideration of the matter in terms of the order passed by this Court, found that the respondent No. 12 had obtained the appointment fraudulently by using false and fabricated documents in the selection process. Accordingly, the concerned authority directed cancellation of the engagement of the respondent No. 12 and also treated the advertisement dated 08.02.2017 in respect of No. 35, Polashguri (Mushalmanpara), Mini Anganwadi Centre, as cancelled and directed initiation of a fresh process for appointment in respect of the said Anganwadi Centre. It has also been directed that necessary action be taken against the respondent No. 12.

15. Upon consideration of the order passed by this Court in the earlier writ petition, it is seen that no direction was issued with regard to consideration of the petitioner for appointment as Anganwadi Worker merely on the ground that she was the second candidate in the selection list. The respondent authorities appear to have fairly considered the matter pursuant to the order of this Court by providing an opportunity of hearing to the parties and have arrived at a

conclusion that the certificates submitted by the respondent No. 12 were false and fabricated documents. Therefore, she had obtained the appointment as Anganwadi Worker fraudulently.

16. Upon consideration of the matter in its entirety, this Court finds no infirmity in the order dated 22.08.2022, as the same was passed upon careful consideration of the issues involved after providing an opportunity of hearing to the petitioner and the respondent No. 12, pursuant to the order dated 25.04.2022 passed by this Court in WP(C)/7469/2018. Ordinarily, the petitioner could not claim an indefeasible right to appointment merely on the ground that she was selected at Serial No. 2 once the appointment of the candidate selected at Serial No. 1 was found to have been obtained fraudulently by using false and fabricated documents. However, the petitioner had been engaged, although temporarily, as a Voluntary Mini Anganwadi Worker at Polashguri (Mushalmanpara) Anganwadi Centre and had participated in the selection process pursuant to the advertisement dated 08.02.2017 for the post of Anganwadi Worker in respect of the same Anganwadi Centre and stood second in the selection list dated 31.05.2017, her claim merits consideration. Thus, her claim, can be considered for the reason that no other deficiency has been shown against her which would disentitle her from appointment as Anganwadi Worker. Moreover, the petitioner had challenged the appointment of the respondent No. 12, who had stood first in the selection list, on the ground that she had obtained the appointment fraudulently by using false and fabricated documents, and this Court had directed the respondent authorities to examine the said claim.

17. This Court is of the view that, in the facts and circumstances of the

present case, instead of initiating a fresh selection process, the claim of the petitioner, who stood second in the selection list, ought to be considered after the appointment of the candidate who stood first was found to have been obtained fraudulently by using false and fabricated documents. Such a course would also avoid unnecessary expenditure on the part of the State in undertaking a fresh selection process, unless the petitioner is found to be otherwise ineligible for appointment to the post of Anganwadi Worker at Polashguri (Mushalmanpara) Anganwadi Centre.

18. Having considered the above, this Court is of the considered view that the interest of justice would be served if the claim of the petitioner for appointment as Anganwadi Worker is considered by the respondent authorities. Accordingly, it is directed that the respondent authorities shall consider the claim of the petitioner for appointment, she having stood second in the selection list dated 31.05.2017, and, if found otherwise eligible, appoint the petitioner as Anganwadi Worker of No. 35 Polashguri (Mushalmanpara) Anganwadi Centre. Consequently, the direction to initiate a fresh process for advertisement in respect of the post of Anganwadi Worker of Polashguri (Mushalmanpara) Anganwadi Centre is interfered with and set aside.

19. The aforesaid exercise shall be carried out and completed as expeditiously as possible, but not later than a period of 6 (six) weeks from the date of receipt of the certified copy of this order.

20. The writ petition is accordingly allowed and disposed of.

JUDGE

Comparing Assistant