GAHC010212832025

2026:GAU-AS:16102

THE GAUHATI HIGH COURT

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

WRIT PETITION [C] NO. 5729/2025

Sri Milan Chandra Paul @ Milan Paul, Asstt. Teacher, aged about 57 years, son of Late Sudhir Chandra Paul, Vill.- Thakurpur, P.O.- Dhingdinga, P.S.- Gossaigaon, District – Kokrajhar, Bodoland Territorial Region, Assam. E-mail : paulmilan764@gmail.com. Mob. : 9435720131.

.....**Petitioner**

-**VERSUS**-

1. The State of Assam, represented by the Commissioner and Secretary, Department of Education, Government of Assam, Dispur, Guwahati – 781006.
2. The Director of Education, Bodoland Territorial Region, Kokrajhar, P.O.- Kokrajhar, Assam, Pin : 783370.
3. The Inspector of Schools, Kokrajhar District Circle, Kokrajhar, BTR, Assam. Pin : 783333.
4. Mr. Abu Hasin Md. Emdadul Haque Khandakar, Principle, Grahampur Higher Secondary School, Kokrajhar, BTR, Assam. Pin : 783333.

.....**Respondents**

BEFORE
HON'BLE MR. JUSTICE MANISH CHOUDHURY

Advocates :

Advocate for the Petitioner	:	Mr. B. Deb, Advocate
Advocate for the respondent no. 1	:	Mr. P.K. Borah, Standing Counsel, Education Department
Advocate for the respondent nos. 2 & 3	:	Mr. A. Atreya, Standing Counsel, BTC
Advocate for the respondent no. 4	:	Mr. S. Islam, Advocate.
Date of hearing	:	03.11.2026
Date of pronouncement of judgment	:	03.11.2026
Whether the pronouncement is of the Operative part of the judgment ?	:	No
Whether the full judgment has been Pronounced ?	:	Yes

JUDGMENT

[M. Choudhury, J]

Heard Mr. B. Deb, learned counsel for the petitioner; Mr. P.K. Borah, learned Standing Counsel, Education Department for the respondent no. 1; Mr. A. Atreya, learned Standing Counsel, BTC for the respondent nos. 2 & 3; and Mr. S. Islam, learned counsel for the respondent no. 4.

2. The petitioner has preferred the instant writ petition under Article 226 of the

Constitution of India, seeking to invoke the extraordinary and discretionary jurisdiction for a direction to the respondent authorities to appoint the petitioner as the Principal, Grahampur Higher Secondary School, District – Kokrajhar, Bodoland Territorial Region [BTR], Assam on the premise that he is the most eligible and senior most teacher in the School.

3. Before adverting to a process of selection and appointment to the post of Principal, stated to have been initiated on the basis of an Advertisement dated 02.09.2024, it appears necessary to refer to the projections made by the petitioner in this writ petition.

3.1. The petitioner has stated that he came to be appointed in a post of Assistant Teacher at Grahampur Higher Secondary School temporarily against a sanctioned post by an Order dated 22.01.1992 issued under the hand of the respondent no. 3. By the Order dated 22.01.1992, the petitioner was appointed as an Assistant Teacher in the said School as per the Scale of Pay mentioned therein with other allowances as admissible under the Rules for a period of three months w.e.f. from the date of joining in the School. It was further mentioned that the appointee would automatically be released after expiry of the term of appointment. However, on 23.12.1992, the respondent no. 3 by an Order of even date regularized the service of the petitioner in the post of Assistant Teacher at Grahampur Higher Secondary School from the date of his joining purportedly on the approval of the District Level Selection Board, Kokrajhar. By an Order dated 25.07.2005 passed by the respondent no. 3, the petitioner was confirmed in service with permanent retention.

3.2. The petitioner was allowed to undergo the B. Ed. course of one year by an Order dated 26.06.2000 passed by the Deputy Director of Secondary Education, Assam. The petitioner was accordingly released from duties at Grahampur Higher Secondary School to undergo the B. Ed. course at the Government B.T. College, Goalpara for a period of one year. The petitioner successfully completed his B. Ed. examination, held in the month of in June, 2001 from the Government B.T. College, Goalpara and the results of B. Ed. Examination were announced on 29.11.2001. According to the petitioner, he also completed his M.A. course in Political Science from Indira Gandhi National Open University [IGNOU] in the year 2021.

3.3. The petitioner has contended that with the above qualification and experience, the

petitioner is eligible to be selected and appointed as the Principal in the Government Higher Secondary Schools.

4. It is the case of the petitioner that on 02.09.2024 the respondent no. 2 issued an Advertisement inviting applications from intending eligible candidates among the cadres of Post Graduate Teachers of provincialised Senior Secondary and Higher Secondary Schools and Graduate Teachers of Higher Secondary Schools under the BTC area for filling up 19 nos. vacancies in the post of Principal in provincialised Senior Secondary and Higher Secondary Schools under the BTC area, as per Rule 12 of the Assam Secondary Education [Provincialised Schools] Service Rules, 2018 [‘the Rules, 2018’, for short]. But, the respondent authorities in the BTC including the respondent no. 2 and the respondent no. 3 did not forward the Advertisement to the Office of the Principal of Grahampur Higher Secondary School, Kokrajhar within due time and as a result, the petitioner could not submit his candidature for the vacancies in the the post of Principal on or before the last date of submission of application fixed in the Advertisement.

4.1. When the petitioner came to learn about the Advertisement subsequently on 06.12.2024, he immediately submitted an application before the Principal In-Charge, Grahampur Higher Secondary School on 06.12.2024 to enquire whether the Advertisement was received by the Office of the Principal, Grahampur Higher Secondary School or not. In response, the Principal In-Charge, Grahampur Higher Secondary School informed the petitioner in writing on 10.12.2024 that the Advertisement was not received by his office either from the respondent no. 2 or from the respondent no. 3. On receipt of the Reply dated 10.12.2024, the petitioner made a Representation before the respondent no. 2 through the Principal In-Charge, Grahampur Higher Secondary School to consider his candidature for the post of Principal based on his qualification and seniority. In that connection, the petitioner drew support from a Seniority List issued under the hand of the Principal In-Charge, Grahampur Higher Secondary School on 10.12.2024, wherein it was mentioned that the petitioner was drawing Graduate Scale of Pay on and from 31.01.1992. The above Representation of the petitioner was duly forwarded by the Principal In-Charge, Grahampur Higher Secondary School to the respondent no. 2 on 11.12.2024. No response was received

from the respondent no. 2 thereafter.

5. The petitioner has stated that the cause of action to prefer the writ petition arose when by an Order dated 30.01.2025 issued under the hand of the respondent no. 2, the respondent no. 4 came to be appointed in the post of Principal in Grahampur Higher Secondary School on regular basis.

6. Mr. Deb, learned counsel appearing for the petitioner has submitted that inter-se seniority of the petitioner and the respondent no. 4 would make it evident that the petitioner was/is senior to the respondent no. 4. He has further submitted that the petitioner has the qualifications and experience, as laid down in Rule 12[3] of the Rules, 2018, to be selected and appointed as the Principal in a Higher Secondary and Senior Secondary Schools. Mr. Deb has further contended that though the respondent no. 4 had acquired the B. Ed. Degree in the year 2000, but, like the petitioner, the respondent no. 4 did not take any permission from the competent authority to pursue the B. Ed. Degree course and therefore, the B. Ed. Degree of the respondent no. 4 is to be treated as an invalid one. Moreover, the respondent no. 4 was working as a Demonstrator [Physics] in Grahampur Higher Secondary School, Kokrajhar prior to the Order dated 30.01.2025 and, therefore, he lacks the experience to be selected and appointed as a Principal under Rule 12 of the Rules, 2018.

7. Mr. Atreya, learned Standing Counsel, BTC and Mr. Islam, learned counsel for the respondent no. 4 have, in unison, submitted that the matter of selection and appointment to the post of Principal in Senior Secondary and Higher Secondary Schools in the State of Assam are governed and regulated by the Rules, 2018, as amended, more particularly, Rule 12 thereof and the BTC authorities have followed the same procedure. They have further contended that by the Order dated 30.01.2025, the respondent no. 4 has already been appointed as the Principal of Grahampur Higher Secondary School. Conspicuously, the Order dated 30.01.2025 has not been challenged by the petitioner in the writ petition. It is their further contention that the Advertisement dated 02.09.2024 was duly published in a number of widely circulated newspapers on 04.09.2024. Therefore, receipt or non-receipt of a copy of the Advertisement dated 02.09.2024 by the Principal of Grahampur Higher Secondary School or by the petitioner through his Principal is inconsequential and immaterial. It is further

submitted by them that the post of Principal is to be filled up by direct recruitment and the petitioner failed to submit his application in response to the Advertisement on or before the last date of submission of application, 18.09.2024. As the petitioner did not take part in the process of selection initiated pursuant to the Advertisement dated 02.09.2024, admittedly due to his own fault, the petitioner cannot mount a challenge to the selection and appointment of the respondent no. 4 as the Principal of Grahampur Higher Secondary School by the Order dated 30.01.2025, which was done strictly adhering to the procedure set forth in the Rules, 2018.

8. Mr. Borah, learned Standing Counsel, Elementary Education Department, Government of Assam has adopted the submissions of Mr. Atreya and Mr. Islam.

9. I have considered the submissions of the learned counsel for the parties and have also gone through the materials brought on record by the parties through their pleadings.

10. It is an admitted position that for filling up vacancies in the post of Principal in Provincialised Senior Secondary and Higher Secondary Schools in the BTC, the BTC authorities have followed the provisions of the Assam Secondary Education [Provincialised Schools] Service Rules, 2018 ['the Rules, 2018' or 'the 2018 Rules', for short]. Sub-rule [1] of Rule 12 of the Rules, 2018 has prescribed that the post of Principal in Provincialised Senior Secondary and Higher Secondary Schools shall be filled up by direct recruitment from the candidates amongst the cadres of Post Graduate Teachers of Senior Secondary and Higher Secondary Schools and Graduate Teachers of Higher Secondary Schools as per the procedure laid down under sub-rule [5] thereof. The minimum qualification for appointment in the Post of Principal in Higher Secondary Schools have been set forth in sub-rule [3] of Rule 12. As per sub-rule [5][i] of Rule 12, the Competent Authority is required to make an assessment of the number of vacancies occurring in the cadre of Principal to be filled up in the next year within the districts before the end of each year. As per sub-rule [5][ii], applications from the intending eligible candidates are to be invited through an Advertisement to be published at least in two widely circulated local newspapers including the School Notice Board.

11. In the Advertisement dated 02.09.2024, the district-wise and school-wise vacancies in

the post of Principal of Provincialised Senior Secondary and Higher Secondary Schools were shown. In the Advertisement, a total of nineteen vacancies occurring in four districts within the BTC/BTR in nineteen numbers of schools were shown. By the Advertisement, applications were invited from intending eligible candidates among the cadres of Post Graduate Teachers of Provincialised Senior Secondary and Higher Secondary Schools and Graduate Teachers of Higher Secondary Schools under the BTC for filling up those nineteen numbers of vacancies in the post of Principal of Provincialised Senior Secondary and Higher Secondary Schools under the BTC area in the prescribed Pay Scale with allowances as per Rule 12 of the Rules, 2018. As per the Advertisement, the last date of submission of application was 18.09.2024.

12. It is an admitted position that the petitioner did not respond to the Advertisement dated 02.09.2024, which was also published in widely circulated newspapers in terms of Rule 12[5][ii] of the Rules, 2018, in time. In a process of direct recruitment to be undertaken, the publication of an advertisement to that effect is sine qua non, as evident from Rule 12[5][ii] of the Rules, 2018. Though it is also a requirement to publish the Advertisement in the school notice board but when the Advertisement is published in widely circulated newspapers, any deficiency of publication or otherwise in the school notice board is inconsequential.

13. The petitioner has stated that it was only on 06.12.2024 he wrote to the Principal, Grahampur Higher Secondary School regarding receipt or otherwise of the Advertisement published for filling up the vacancies in the post of Principal in the BTR and he was stated to have been informed by the Principal In-Charge, Grahampur Higher Secondary School on 10.12.2024. But, for establishing the veracity of such contention, the petitioner has not arrayed the Principal In-Charge, Grahampur Higher Secondary School as a party-respondent in the present writ petition.

14. From the Order dated 30.01.2025, it is noticed that the appointment of the respondent no. 4 was pursuant to a recommendation of the Council Level Selection Board and approval accorded by the BTC. In the Order of Appointment dated 30.01.2025, the respondent no. 4 is shown to have the qualification of M. Sc., B. Ed. and the experience as Demonstrator in Grahampur Higher Secondary School.

15. When the petitioner did not participate in the process of direct recruitment initiated and undertaken by the respondent BTC authorities by publication of the Advertisement dated 02.09.2024, admittedly due to his own failure to respond in time to the Advertisement published in widely circulated newspapers on 04.09.2024, this Court is of the considered view that it is not open for the petitioner to make any assail to the qualification and experience of the respondent no. 4 by only making a prayer for issuance of a writ in the nature of mandamus for a direction to the respondent authorities to appoint the petitioner as the Principal in Grahampur Higher Secondary School, without any specific challenge to the Order of Appointment dated 30.01.2025. When the Order of Appointment dated 30.01.2025 is not challenged, the same is not liable to be interfered with.

16. It is pertinent to mention that the Advertisement dated 02.09.2024 was for filing up nineteen nos. of vacancies in the post of Principal in nineteen nos. of Senior Secondary and Higher Secondary Schools in BTC area, mentioned therein. A candidate applying in response to the Advertisement was to be considered for any of the nineteen vacancies, if he was to be found eligible and declared qualified on merit. In such a situation, the petitioner even if he had responded to the Advertisement, his candidature would have fallen in consideration against all the nineteen vacancies not only for Grahampur Higher Secondary School. In such a scenario, challenge ought to have been against the selection and appointment of all the candidates against the nineteen posts. Such challenge having not been made, the writ petition also suffers from non-impleadment of the necessary parties.

17. The contention of the petitioner that he was the most eligible and senior most teacher in Grahampur Higher Secondary School could have only been adjudicated had the petitioner participated in the process of selection initiated by the Advertisement dated 02.09.2024 and as the petitioner did not participate in the process of selection, for the reason already discussed hereinabove, the said aspect is not required to be gone into the present writ petition.

18. In view of the discussions made, for the reasons assigned and the findings reached at as above, the writ petition is found to be devoid of any merit and the same is liable to be dismissed. The writ petition is accordingly, dismissed. There shall, however, be no order as to

cost.

JUDGE

Simanta Das

Digitally signed by Simanta Das
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Comparing Assistant