
(2020) 12 GAU CK 0003
In the Gauhati High Court
Case No : Writ Petition (C) No. 2282 Of 2017

Bimal Chandra Modak

APPELLANT

Vs

State Of Assam And Ors

RESPONDENT

Date of Decision : 02-12-2020

Acts Referred:

Citation : (2020) 12 GAU CK 0003

Hon'ble Judges : Achintya Malla Bujor Barua, J

Bench : Single Bench

Advocate : M U Mondal, D N Sarmar

Final Decision : Disposed Off

Judgement

1. Heard Mr. M.U. Mondal, learned counsel for the petitioner. Also heard Mr. R. Mazumdar, learned counsel for the Secondary Education

Department and Mr. D.N. Sarma, learned counsel for the respondent on. 4.

2. The petitioner participated in a selection process for appointment of subject teacher in the Higher Secondary School in Assam. In the selection

process he secured 245.74 marks and he had applied for a post of subject teacher in Satrsal Higher Secondary School, Dhubri. Smti Riju Moni Bora

who had secured 272.02 marks in the selection process was the first candidate in order of merit for the Satrsal Higher Secondary School. The

petitioner instituted WP(C) No. 3190/2013. Although a notification dated 04.04.2013 and the select list dated 06.04.2013 are assailed in WP(C) No.

3190/2013 but in course of hearing, the said grievances were not insisted upon. The petitioner in fact raised a question that he had secured 245.74

marks whereas the respondent no. 4 in the said writ petition namely, Sri Nihar Ranjan Nath had secured 224.82 marks but he was selected and

appointed in the Lala Higher Secondary and Multipurpose School in the district of Karimganj. In the order dated 23.11.2016 in WP(C) No. 3190/2013

it was taken note of that the affidavit of the respondents therein was silent as to why Sri Nihar Ranjan Nath was appointed in Lala Higher Secondary

and Multipurpose School although he had secured 224.82 marks whereas the petitioner had secured 245.74 marks. Accordingly, the respondents were required to reexamine the matter.

3. As required by the order dated 23.11.2016, a reexamination was done and the order dated 14.03.2017 had been passed by the Assistant Director of Secondary Education, Assam, which is assailed in this writ petition.

4. We have gone through the order dated 14.03.2017. The purport of the order dated 14.03.2017 is that the selection was made on the basis of school wise merit and not state wise merit. It is also stated that the decision to make a school wise merit list was assailed in an appropriate writ petition but was rejected.

5. From the order it is discernable that the petitioner had applied in respect of Satrsal Higher Secondary School where he secured 245.74 marks

whereas Smti Riju Moni Bora having secured 272.02 marks was selected and appointed. We do not find any infirmity in the selection and appointment

of Smti Riju Moni Bora who was selected and appointed on merit as per the merit list pertaining to Satrsal Higher Secondary School. As regards the

question raised by the petitioner in respect of the appointment of Sri Nihar Ranjan Nath in the Lala Higher Secondary and Multipurpose School, it is

stated that although merit wise in respect of Satrsal Higher Secondary School, the petitioner may have secured more marks but he had not applied for

Lala Higher Secondary and Multipurpose School and therefore, as the procedure adopted was a school wise merit list, therefore, inspite of securing

more marks the petitioner cannot have any claim for a being selected and appointed for the Lala Higher Secondary and Multipurpose School.

6. We do not find any arbitrariness or illegality in the reasoning as well as the conclusion arrived at by the Assistant Director of Secondary Education

Department, Assam in the order dated 14.03.2017. In view of such conclusion, we do not find any merit in the writ petition.

7. Mr. M.U. Mondal, learned counsel for the petitioner makes a prayer that considering the overall merit position state wise, the petitioner if possible

may be accommodated against a suitable post. We do not express any view on the said prayer. If the petitioner so desires, he may submit

representation before the authority, but even if any representation is submitted, it has to be borne in mind by the respondent authorities that there is no

requirement or any indication of this Court that the prayer of the petitioner has to be allowed. However, if the respondents as per their wisdom intend

to give any favourable order to the petitioner, there shall not be any bar in view of the order passed by the Court.

8. Writ petition stands disposed of in the above terms.