
(2011) 05 GAU CK 0058
In the Gauhati High Court
Case No : Writ Petition (C) No. 215 of 2010

Chitrawati Patgiri and Others

APPELLANT

Vs

State of Assam and Others

RESPONDENT

Date of Decision : 11-05-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2011) 3 GLT 334

Hon'ble Judges : Biplab Kumar Sharma, J

Bench : Single Bench

Advocate : N. Borah, D. Borah and M. Saikia, for the Appellant; GA, Assam, for the Respondent

Judgement

B.K. Sharma, J.—These batch of writ petitions pertaining to selection and appointment of Anganwadi Workers and Helpers. The grievance raised in these writ petitions and the relief sought for being one and the same, have been taken up for analogous hearing.

The common grievance in all the writ petitions is that the private Respondents involved in the writ petitions who have been selection and appointed as Anganwadi Workers and Helpers being not the residents of jurisdictional Anganwadi centres, could not have been offered candidatures and consequently could not have been selected and appointed. In this connection, the Petitioners have referred to the guidelines framed and circulated by the Government of Assam in the Social Welfare Department in terms of which the candidate for the post of Anganwadi Worker (AWW) and Anganwadi Helper (AWH) shall be a local woman residing in the same area where the Anganwadi Centre is located. This is, apart from the other conditions stipulated in the said guidelines.

2. In tune with the said guidelines in the related advertisement inviting applications for the assignment of AWW and AWH it was specified that the candidates must be inhabitants of the Anganwadi Centre/Ward.

3. According to the Petitioners involved in these batch of writ petitions, the private Respondents who have been selected and appointed are not the residents of the area relating to the Anganwadi centre. As per the guidelines, the residential proof should be certified by the respective Gaonburha/Ward member of the Gaon Panchayat and/or Secretary/President of the Gaon Panchayat of their local jurisdiction. In some of the writ petitions although the private Respondents have placed reliance on the certificates purportedly issued by the Gaon burha/Ward Member of the Gaon Panchayat and/or Secretary/President of the Gaon Panchayat so as to prove their residential status within the Anganwadi area, but the Petitioners have disputed the same. According to the Petitioners, such certificates are being issued on approach being made without any cross verification. Thus, it is the grievance of the Petitioners that if the authorities had followed the aforesaid guidelines, the private Respondents could not have offered their candidatures and consequently would also not have been selected and appointed.

4. On the other hand, the stand of the private Respondents who have been selected and appointed as AWW and AWH pursuant to the selection in question is that allegations made in the writ petitions disputing their residential status are all baseless and ill motivated. Another plea taken is that in fact, some of the Petitioners are not local residents of the area of the Anganwadi centres.

5. Above being the disputed question of fact regarding conforming to the requirement of being a resident of the specific local area of the Anganwadi centre, this Court exercising its jurisdiction under Article 226 of the Constitution of India cannot resolve the same by taking recourse to thorough enquiry taking evidence etc.

6. Learned Counsel for the parties submit that having regard to the nature of the grievance raised, it will be appropriate to issue a direction to the Director of Social Welfare, Assam to look into the grievance of the Petitioners by way of determining as to whether the private Respondents do conform to the requirement of residential status in terms of the relevant guidelines.

7. Since the task involved will be essentially a finding of fact as to whether the private Respondents who have been selected and appointed are in fact local inhabitants of the area in which the Anganwadi centres are located, it may not be possible to decide the same without the assistance of the respective Deputy Commissioners of the Districts.

Although as per the guidelines, it is the jurisdictional Gaonburah/Ward member and/or President/Secretary of the Gaon Panchayat who are to certify the related residential proof of the candidates, but in view of the allegations made in the writ petitions that such certificates are being issued without any cross verification, it will be appropriate for the jurisdictional Deputy Commissioners to adopt such a device as may be deemed fit and proper for getting the correct information from the said authorities or any other authority towards ascertaining the true state of

affair relating to the residential status of the private Respondents, i.e. whether they conform to the requirement of being an inhabitant/resident of the area where the Anganwadi Centre is located.

8. At this stage, Mr. K. Das, learned Standing counsel, BTC submits that the task of ascertaining the residential status of the selected candidates involved in these proceedings in respect of BTAD area may be entrusted to Council Head of Social Welfare Department who in turn shall do the needful in consultation with the jurisdictional Deputy Commissioners as directed above. He submits that in the BTAD area the certificates referred to above are issued by the President of the Village Level Development Council in their respective area.

9. Since the task now to be undertaken by the Director of Social Welfare, Assam and the Council Head of Social Welfare Department in BTAD area in terms of this order for determination of the residential status of the private Respondents in terms of the guidelines referred to above may entail adverse consequence to the private Respondents or some of them, it will also be appropriate to hear them before passing any adverse order.

10. In view of the above, all the writ petitions are disposed of with the following directions:

(i) In the event of making any representation furnishing the details of the allegations relating to the residential status of the private Respondents by the Petitioners involved in these writ petitions within 27.05.2011, the Director of Social Welfare, Assam shall examine the claim of the Petitioners in consultation with the jurisdictional Deputy Commissioners who in turn may make necessary verification etc. through the jurisdictional Gaonburah/Ward member of the Gaon Panchayat and/or the President/Secretary of the Gaon Panchayat. In so far as the BTAD area is concerned, this exercise shall be carried out by the Council Head of the Social Welfare Department in consultation with the jurisdictional Deputy Commissioners who in turn may consult with the respective President of Village Level Development Council.

(ii) While carrying out the aforesaid exercise, the said authorities may also find out as to whether the Petitioners also conform to the requirement of being a resident of the same area where the Anganwadi centre is located. This is in view of the allegations of the private Respondents in some of the writ petitions that in fact, it is the Petitioners who are not the residents of concerned Anganwadi centres.

(iii) In the event of any adverse finding relating to residential status of the private Respondents not conforming to the requirement of the related guidelines, they may be provided with reasonable opportunity of being heard before the adverse findings are translated into action by appropriate measures in accordance with law.

(iv) The outcome of the entire exercise may be communicated to the parties

involved.

(v) While carrying out the exercising the authority shall take into account the relevant guidelines including the amendments therein towards determination of the residential status of the selected candidates and the Petitioners.

(vi) The aforesaid exercise shall be carried out and completed as expeditiously as possible, but at any rate, nor later than 31.08.2011.

Let the copies of this order be furnished to Mr. B.K. Sarma, learned Standing counsel, SWD as well as Mr. K. Das learned Standing counsel, BTC.