

(2022) 09 GAU CK 0033

In the Gauhati High Court

Case No : Writ Petition (Civil) No. 6121 Of 2022

Dipangki Haloi

APPELLANT

Vs

State Of Assam And 8 Ors

RESPONDENT

Date of Decision : 19-09-2022

Acts Referred:

Citation : (2022) 09 GAU CK 0033

Hon'ble Judges : Achintya Malla Bujor Barua, J

Bench : Single Bench

Advocate : H. Buragohain

Final Decision : Disposed Of

Judgement

1. Heard Mr. H Buragohain, learned counsel for the petitioner. Also heard Mr. T J Mahanta, learned senior counsel for the respondents in the APSC as well as Mr. N Upadhaya, learned counsel for the respondents in the Irrigation Department, Government and Mr. S Bhuyan, learned counsel for the Director of Technical Education, Guwahati.

2. The petitioner herein who also belongs to the OBC category and is a diploma in Civil Engineering and Planning from the Girls Polytechnic, Bamunimaidam, Guwahati, participated in a selection process for recruitment to the post of Junior Engineer (Civil Engineering Branch), Irrigation Department, Government of Assam as per the advertisement dated 19.08.2020 issued by the APSC. As per the advertisement, the requisite educational qualification is that a candidate must have passed three years diploma course in the concerned Engineering discipline from an Institute recognized by the State Council for Technical Education and that the diploma obtained through distance mode of education will not be acceptable.

3. The petitioner having participated in the selection process, was rejected as per the report on scrutiny/verification of documents submitted by the candidates along with their applications which is available as Annexure-B, page-100 of the

writ petition. In respect of the petitioner bearing roll number 11079, the ground of rejection is as extracted:

“Diploma in Civil Engineering & Planning in place of Diploma in Civil Engineering.”

4. Being aggrieved, this writ petition is instituted.

5. Mr. T J Mahanta, learned senior counsel for the APSC vehemently argues that similar issue has also been raised in other writ petitions which are pending, wherein interim orders had been passed and therefore, the argument is that similar interim order be also passed in this writ petition.

6. Interim orders in our view would to be a restrain order in further proceeding with the selection process which may have its effect in the public interest. But at the same time, we are also bound to take note of the clarification issued by the Director of Technical Education, Assam addressed to the Secretary, Assam Public Service Commission as per the communication dated 10.03.2022, wherein it is provided as extracted:

“With reference to the subject cited above, I have the honour to state that as per AICTE’s notification and Assam Government Office Memorandum mentioned under reference, Diploma in Civil Engineering and Planning may be considered as equivalent to Diploma in Civil Engineering. Diploma in Civil Engineering and Planning belongs to the Core or Major discipline of Civil Engineering, which is as per nomenclatures of UG & PG degrees in Engineering/Technology as shown in the table below.”

7. A reading of the afore-extracted portion of the communication of the Director of Technical Education makes it discernable that as per the AICTE’s notification and the relevant Government of Assam Office Memorandum, a diploma in Civil Engineering and Planning may be considered as equivalent to diploma in Civil Engineering. It further provides that diploma in Civil Engineering and Planning belongs to the core or major discipline of Civil Engineering which is as per nomenclatures of under graduate and post graduate degrees in Engineering/Technology as shown in the table provided in the said communication. The communication also encloses the relevant AICTE letters and Office Memorandums.

8. A reading of the communication dated 10.03.2022 makes it discernable that the authorities in the Technical Education Department of the Government of Assam had already taken its decision on the equivalence of the diploma in Civil Engineering and Planning with that of the diploma in Civil Engineering.

9. In view of the variance between the view taken by the APSC as well as that contained in the communication dated 10.03.2022, we are of the view that instead of staying the recruitment process, the interest of justice would be better served upon the APSC taking it up with the relevant authorities in the Department of Technical Education, Government of Assam and arrive at a final conclusion as to whether a diploma in Civil Engineering and Planning is also an acceptable qualification where the required qualification is a diploma in Civil

Engineering. The said decision as to whether the diploma in Civil Engineering and Planning is also an acceptable qualification where the requirement is diploma in Civil Engineering can be taken only by the authorities in the Government of Assam.

10. From such point of view, we direct the Secretary, APSC to whom the communication dated 10.03.2022 was made by the Director of Technical Education, Assam to take up the matter with the Commissioner & Secretary to the Government of Assam in the Technical Education Department and arrive at a mutually acceptable conclusion as to whether the qualification of diploma in Civil Engineering and Planning can also be an acceptable qualification in a situation where as per the advertisement dated 19.08.2020 the required qualification is diploma in Civil Engineering.

11. The required final conclusion that is to be arrived between the APSC and the Department of Technical Education be done within a period of three weeks as agreed between by both the parties from the date of receipt of certified copy of this order. Till such mutually acceptable conclusion between the APSC and the Department is arrived at, the further recruitment process pursuant to the advertisement dated 19.08.2020 shall not be carried forward by any of the respondents henceforth. For the purpose, the authorities in the Technical Education, Government of Assam is also directed to cooperate with the APSC in the required manner so that the desired result is obtained.

12. The carrying forward of the recruitment process pursuant to the advertisement dated 19.08.2020 and the resultant appointments that may be made shall now be subject to the final conclusion that the APSC and the Technical Education Department of the Government of Assam may arrive at between themselves. If the final conclusion is in favour of diploma in Civil Engineering and Planning being acceptable where the required qualification is diploma in Civil Engineering, the APSC may incorporate necessary changes in the result of the selection and if the decision is against, the selection result i.e. already available, may be acted upon.

Writ petition stands disposed of in the above terms.