
(2007) 05 GAU CK 0017

In the Gauhati High Court

Case No : Writ Petition (Civil) No. 2633 of 2001

Nava Saharia & Ors.

APPELLANT

Vs

State of Assam & Ors.

RESPONDENT

Date of Decision : 31-05-2007

Acts Referred:

Assam Elementary Education (Provincialisation) Rules, 1977 — Rule 3, 3

Citation : (2010) 1 GLT 344

Hon'ble Judges : Anima Hazarika, J

Bench : Single Bench

Advocate : S.Hazarika, S.Das, M.R.Pathak, J.Ahmed, Advocates appearing for Parties

Judgement

Anima Hazarika, J.

1. Heard Mr. J. Ahmed, learned counsel appearing for the petitioners. Also heard Mr. M. R. Pathak, learned Standing Counsel, Education Department, Govt. of Assam.

2. In the instant writ petition, the petitioners are sons and daughters of retired L. P. School teachers. The petitioners are qualified for appointment to the post of L. P. School teachers and they have applied for appointment under 10% quota reserved for sons and daughters of retired L. P. School teachers. They have appeared in the interview in constituency wise held for the same in the year 1997, but no select list was prepared by the then Advisory Board under the category of 10% reserved quota for the sons and daughters of retired L. P. School teachers. The appointment letters were issued by the authority in the last part of 1998/99 on the basis of select list prepared pursuant to the interview held in the year 1997 but nobody could be appointed from the candidates under 10% reserved quota although they are entitled for the same.

3. Being aggrieved by the action of the authority the petitioners immediately approached this Court by way of filing writ petitions, mentioned of which has

been made in para 3 of the instant writ petition. All those writ petitions were disposed of by this Court directing the petitioners to submit fresh application before the Director of Elementary Education, Assam for appointment as sons/daughters of retired L. P. School teacher giving all relevant particulars and after submission of the said application the Director, Elementary Education, Assam to consider the applications submitted by the writ petitioners. Pursuant to the aforesaid orders passed by this Court the writ petitioners therein, submitted applications before the Director, Elementary Education, Assam individually. On the applications so submitted by the petitioners, the then Director, Elementary Education had passed a speaking order stating therein that for appointment under 10% reserved quota, the candidate should be selected by Subdivisional level Advisory Board under existing policy of the Government Rules and guidelines but surprisingly enough in the last part of the year 1998, the authority had filled up more than 200 posts of L. P. School teachers under Mangaldoi subdivision, without appointing any candidate under the 10% reserved quota.

4. The petitioners have also come to know from reliable sources that altogether 500 appointments of L. P. School teachers under Mangaldoi subdivision have been made and out of them only 2 candidates were appointed under the 10% reserved quota.

5. However, at this stage no directions could be given to the authority for appointing the candidates under 10% reserved quota from the select list of 1997 as prayed for in the instant writ petition, inasmuch as by efflux of time the validity of select list prepared in the year 1997/98 has expired.

6. In view of the above position, Mr. J. Ahmed appearing for the petitioners submitted that the authority may be directed to adhere strictly the provisions of Rule 3 of the Assam Elementary Education (Provincialisation) Rules, 1977 while selecting candidates for appointment as assistant teachers in the L. P. Schools.

7. No affidavit has been filed nor any record has been produced by the State. However, Mr. M. R. Pathak, learned Standing Counsel, Education Department, Government of Assam has fairly submitted that as per Rule 3 of the aforesaid Rule, 1977 the Advisory Board/selection committee is bound to select the candidates of retired L. P. Schools teachers under 10% reserved quota.

8. Accordingly, this writ petition is disposed of with a direction to the respondents particularly, respondent No. 2 to adhere strictly the aforesaid Rule 3 of 1977 Rules while making selection for the post of teachers in L. P. Schools.

9. With the above observation and directions, this writ petition is disposed of. No cost.