
(2022) 02 GAU CK 0035
In the Gauhati High Court
Case No : Writ Petition (Civil) No. 899 Of 2022

Paramita Acharjee

APPELLANT

Vs

State Of Assam And 3 Ors

RESPONDENT

Date of Decision : 15-02-2022

Acts Referred:

Assam College Employees (Provincialisation) Rules, 2010 — Rule 7, 7(a)

Citation : (2022) 02 GAU CK 0035

Hon'ble Judges : Achintya Malla Bujor Barua, J

Bench : Single Bench

Advocate : A Dhar

Final Decision : Allowed

Judgement

1. Heard Mr. A Dhar, learned counsel for the petitioner. Also heard Mr. S Das, learned counsel for the respondents no. 1 and 2 being the authorities

under the Higher Education Department, Government of Assam.

2. Considering the nature of the order proposed to be passed, notices are not required to be issued to the respondents no. 3 and 4 being the authorities

under the Radhamadhab College, Silchar.

3. An advertisement was issued in the local daily newspaper "The Assam Tribune" dated 22.06.2014 inviting applications from the candidates

having UGC norms with NET/SLET/SET/M.Phil degree on or before 10.07.2009/ PhD. degree as per by UGC regulation, 2009, by the Principal cum

Secretary of Radhamadhab College, Silchar for a post of Assistant Professor in Bengali (unreserved). The petitioner along with others participated in

the resultant selection process.

4. The present petitioner namely Paramita Acharjee who had also offered her

candidature pursuant to the said advertisement instituted

WP(C)/6205/2014 inter-alia claiming that she was not called for the interview. The said writ petition was given a final consideration by the judgment

dated 15.06.2018 whereby the rejection of the application of the petitioner was found to be arbitrary and accordingly, a direction was issued to the

authorities to accept the application of the petitioner.

5. Another candidate in the selection process namely Abhijit Choudhury instituted WP(C)/8517/2018 on the grievance of non-consideration or non-

allotment of marks in respect of certain qualifications of the said candidate. The said writ petition was given a final consideration by the order dated

19.09.2019 requiring the petitioner therein to prefer a detail representation before the Director of Higher Education, Assam. In the meantime the

present writ petitioner instituted WP(C)/3814/2020 on the ground of there being an inordinate delay in finalizing the selection process to the

advertisement dated 22.06.2014. The said writ petition was given a final consideration by the order dated 26.04.2021 directing the President of the

Governing Body of Radhamadhab College, Silchar to submit its resolution regarding the selection to the unreserved post of Assistant Professor of

Bengali in the College as per the advertisement dated 22.06.2014 and 26.06.2014. It was further provided that after receipt of the resolution of the

Governing Body of Radhamadhab College, Silchar the Director of Higher Education, Assam within a period of sixty days shall pass necessary order

under the provisions of the Assam College Employees (Provincialisation) Rules, 2010 (in short, the Rules of 2010) as well as taking note of an earlier

order dated 19.09.2019 in WP(C)/8517/2018.

6. Thereafter, the authorities in the Radhamadhab College, Silchar by a communication dated 08.05.2021 informed the petitioner that pursuant to the

direction in the order dated 26.04.2021 in WP(C)/3814/2020, the entire records of the selection was transmitted by the college authorities to the

Director of Higher Education, Assam. As nothing further progressed, the petitioner submitted representations before the authorities and in response to

one such representation, the Secretary to the Government of Assam in the Higher Education Department required the Director of Higher Education,

Assam to submit a status report to the Department on the selection process. Even after such steps nothing further had progressed, some further

representations were submitted by the petitioner but of no avail. Being aggrieved, the present writ petition is instituted seeking relief that the resolution of the Governing Body of the Radhamadhab College, Silchar pertaining to the selection pursuant to the advertisements dated 22.06.2014 and

26.06.2014 be given its final consideration.

7. Rule 7 of the Rules of 2010 inter-alia requires that all appointments either by direct recruitment or by promotion, shall be made by the Director on

the basis of recommendations of the Governing Body based on the recommendations of the Selection Committee/Departmental Promotion Committee

which were duly constituted.

8. From the communication of the College authorities dated 08.05.2021, it is discernable that the records containing the recommendation of the

Governing Body based on the recommendation of the Selection Committee were duly transmitted to the Director of Higher Education, Assam for its

consideration under Rule 7 of the Rules of 2010. We are of the view that Rule 7 of the Rules of 2010 vests a legal duty on the Director to pass a

reasoned order on such recommendation being made by the Governing Body and it would be inappropriate for the Director to sit over the matter and

not take any decision.

9. In the circumstance, we dispose of this writ petition directing the Director of Higher Education, Assam to consider the recommendation of the

Governing Body of Radhamadhab College, Silchar based on the recommendation of the selection committee as per the advertisement dated

22.06.2014 and 26.06.2014 and pass a reasoned order thereof as required under Rule 7(a) of the Rules of 2010. The reasoned order be passed within

a period of one month from the date of receipt of certified copy of this order. If the records of the recommendation of the Governing Body are not

available in the office of the Director of Higher Education, Assam, the Director shall do the needful to obtain the recommendation from the authorities

of Radhamadhab College, Silchar and pass a reasoned order as required by this order.

10. Writ petition stands allowed as indicated above.