

(2018) 03 GAU CK 0112
In the Gauhati High Court
Case No : WP(C) 3050 of 2017

SRI. BENUDHAR DUTTA.

APPELLANT

Vs

STATE OF ASSAM and 8 ORS.

RESPONDENT

Date of Decision : 28-03-2018

Acts Referred:

Citation : (2018) 03 GAU CK 0112

Hon'ble Judges : ACHINTYA MALLA BUJOR BARUA

Bench : Single Bench

Final Decision : Disposed Of

Judgement

1. Heard Mr. RP Kakati, learned senior counsel for the petitioner and Dr. B. Ahmed, learned counsel for the respondent No.9, Mr. K. Uddin, learned counsel for the respondent No.6 and Mr. N. Haque, learned counsel for the respondent No.4. Also heard Mr. N. Sarma, learned standing counsel, Secondary Education.

2. Office note dated 25.01.2018 indicates that service on respondents Nos.5,7 & 8 is not yet completed. However, Mr. Kakati, learned senior counsel for the petitioner submits that the said respondents are the members of the selection committee and therefore, they are not necessary parties for the purpose of this writ petition and accordingly, their array as respondents can be deleted. On the basis of the submission of Mr. Kakati, the names of respondents Nos.5,7 and 8 are deleted from the array of respondents.

3. The petitioner has been serving as a subject teacher in English in BNMP H.S. School in Cachar district for almost six years. A selection process was initiated for the post of Principal for the said BNMP H.S. School, in which, the petitioner as well the respondent No.9 had participated. It is stated

that in the selection process that was undertaken, the respondent No.9 was placed in the first position on merit whereas the petitioner was placed in second position. The said result of the selection process is under challenge in the writ petition on the ground that as per the guidelines provided in the order dated 23.06.2016 of the Director of Secondary Education, Assam, the selection committee is required to award marks to each of the candidates under the heads of leadership skills for 5 marks, administrative ability for 5 marks and integrity and ACR for 5 marks. The petitioner has raised an assertion that in order to arrive at the leadership skills for the purpose of 5 marks, the selection committee is required to examine the merit of the candidates on the basis of result sheet duly certified by the Principal of the institution where the concerned candidate was earlier serving. Further as regards 5 marks of the integrity, the ACRs for last 3 years are required to be taken into consideration.

4. From the order dated 23.06.2016 of the Director, Secondary Education, laying down the guidelines, it is noticed that for the purpose of evaluating leadership skills of 5 marks, the concerned candidate is required to produce the result sheet duly certified by the Principal of the concerned institute where he was serving. In the instant case, it is the grievance of the petitioner that instead the concerned Principal of the school had transmitted the result sheets, which according to the petitioner depicts an incorrect information. The said procedure adopted by the selection committee appears to be a deviation from the guidelines in the order dated 23.06.2016. Further grievance of the petitioner is that in respect of respondent No.9, the ACRs for last 2 years were reported by an authority, who was not in office in that relevant point of time for the purpose for which ACR was reported, which if fact was also in the case of the petitioner.

5. It is seen in the instant case that an officer, who was not holding the office at the relevant time had reported the ACRs. In the event, the ACR was not reported by the appropriate officer, who was holding the office at the relevant time, the law provides for an alternative procedure as to what has been done. The aforesaid anomalies as indicated above are not disputed by the respondents herein.

6. In view of above, it is deemed appropriate that the interest of justice would be met if the selection committee would undertake a de-novo selection

strictly in accordance with the guidelines provided in the order dated 23.03.2016. It is ordered accordingly. The result of the selection that selection

committee may make upon such de-novo exercise shall prevail over the earlier select list.

7. The aforesaid exercise of conducting a de-novo selection shall be done within a period of 3 (three) months from the date of receipt of certified copy of this order.

8. It is further provided that the de-novo selection shall be conducted within the candidates, who had offered their candidatures in the earlier selection

process and the authority shall not be required to re-advertise for the post afresh.

9. The writ petition stand disposed of in above terms.