
(2011) 06 GAU CK 0019

In the Gauhati High Court

Case No : Review Petition No 55, 56 and 57 of 2011

Sushil Agarwalla and Others

APPELLANT

Vs

State of Assam and Others

RESPONDENT

Date of Decision : 09-06-2011

Acts Referred:

Assam Medical Colleges (Regulation of Admission to Post Graduate Courses) Rules, 2006 — Rule 4(3)

Assam Medical Colleges (Regulation of Admission to the Post Graduate Course (Amendment) Rules, 2010 — Rule 4(3)

Citation : (2011) 3 GLT 165

Hon'ble Judges : Arup Kumar Goswami, J; Amitava Roy, J

Bench : Division Bench

Judgement

Amitava Roy, J.—The instant applications carry a prayer for review and/or reconsideration of certain observations contained in the judgment and order dated 26.5.2011 disposing of a series of writ petitions, the lead proceeding being WP(C) No. 3280/2011 (Dr. Sushil Agarwalla and Anr. v. State of Assam and Ors.).

2. We have heard Mr RP Sarmah, Senior Advocate for the review applicants, Mr. B. Goyal, learned State counsel and Mr. D Saikia, learned Standing Counsel, Health & Family Welfare Department, Govt. of Assam.

3. The review applicants have with particular reference to paragraph 52 of the decision sought to be reviewed, have contended as follows:

(1) They are serving teachers in the departments having been appointed as such prior to the year 2006 following a selection conducted by the Assam Public Service Commission (for short, hereafter referred to as the "Commission").

(2) They are serving in the departments other than the seven categories referred to in Rule 4(3)(i) of the Assam Medical Colleges (Regulation of Admission to Post Graduate Courses) Rules, 2006 (hereafter referred to as the "2006 Rules") and that in terms thereof, they are eligible for applying for the allotment of Teachers

Quota seats in the subjects of the departments where they are already working.

(3) Following the amendment of the 2006 Rules by the Assam Medical Colleges(Regulation of Admission to the Post Graduate Course (Amendment) Rules, 2010 (for short, hereafter referred to as the "2010 Rules", Rule 4(3)(i) had undergone a change thereby enhancing the number of seats reserved for the Teachers Quota for each session, namely, session 2010 and session 2011 only in degree courses.

(4) They have been appointed following a selection through the Commission and are serving in three Medical Colleges of Assam and thus entitled to the benefit of Rule 4(3)(i) under both 2006 Rules and 2010 Rules.

(5) In the judgment and order rendered, the entitlement of the teachers contemplated in the aforementioned provision of the Rules has been limited to the seven subjects only as mentioned in Rule 4(3)(i) of the 2006 Rules. Further, the benefit of enhancement of Teachers Quota seats from 5 to 20 has been confined only to the session 2010.

4. While Mr Sarmah has reiterated the above seeking appropriate orders in consonance with the Rules, the learned Standing Counsel, Health and Family Welfare Department has pointed out that the figure " 10%" appearing in the first line of the last sub-para of paragraph 56 of the judgment ought to be read as "9%" in view of the preceding narration.

5. After hearing the learned Counsel for the parties and on a consideration of the pleadings as well as the reasonings recorded in the judgment and order sought to be reviewed vis-a-vis the relevant issues, we are of the view that the following clarifications need be provided-

(1) the finding of entitlement of seats in the Teachers Quota is not limited to the seven subjects named in Rule 4(3)(i) of the 2006 Rules and subject to the compliance of the conditions of eligibility prescribed therein would be extended also to the teachers presently working in the subjects, beyond those so named. The entitlement of the serving teachers to 20 seats following the 2010 Rules would be available for 2010 as well as 2011 sessions, however, subject to the other stipulations as mentioned therein. This elaboration is in consonance with Rule 4(3)(i) and Rule 4(3)(vi) held by us to be valid.

(2) The words "additional 10% marks" would be read as "additional marks as aforesaid.

6. The eventual conclusions recorded in the judgment and order dated 26.5.2011, the above clarification notwithstanding, are hereby reiterated. As the clarifications provided hereinabove are in alignment with the text of the Rules dealt with, without having any fresh bearing on the contentions raised by the writ Petitioners and analysed in the abovementioned decision, it has been considered inessential to issue notice to them (writ Petitioners) in the instant proceedings.

7. The review petitions stand disposed in the above terms. No costs.