

GAHC010251272022



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/7939/2022

GOBINDA PADI
S/O. PARAMANANDA PADI, R/O. MADHYAPUR, P.O. JONAI, P.S.---, DIST.
DHEMAJI, PIN-787060, ASSAM.

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, HIGHER
EDUCATION DEPTT., DISPUR, GUWAHATI-06.

2:THE DIRECTOR OF HIGHER EDUCATION

ASSAM
KAHILIPARA
GUWAHATI-19.

3:THE SELECTION COMMITTEE OF THE RECRUITMENT PROCESS
(ISSUED VIDE ADVERTISEMENT DTD. 27.05.2022) FOR THE POST OF
JUNIOR ASSTT. OF MURKONG SELEK COLLEGE

JONAI
P.S. --
P.O. JANAI
DIST. DHEMAJI REP. BY ITS CHAIRMAN.

4:THE PRINCIPAL AND SECRETARY OF MURKONG SELEK COLLEGE

JONAI
P.S. ---
P.O. JONAI
DIST. DHEMAJI

Advocate for the Petitioner : MR. B K GOGOI

Advocate for the Respondent : SC, HIGHER EDU

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

21/12/2022

Heard Mr. B K Gogoi, learned counsel for the petitioner and Mr. A R Tahbildar, learned Standing counsel, Higher Education Department for the respondent Nos. 1 & 2.

The Principal-cum-Member Secretary of Murkong Selek College, Jonai, District-Dhemaji on 27.05.2022 issued an advertisement for filling up of 1 (one) post of Junior Assistant (Grade-III) in the said college pursuant to which the petitioner being eligible and other candidates applied for the same and participated in the written examination on 30.07.2022 for selection to the said post.

Since the authorities of said Murkong Selek College, Jonai did not declare the result of the said written examination held on 30.07.2022, the petitioner has preferred this writ petition for a direction to the authorities of the said college to declare the result of the said written examination towards the selection for recruitment to the post of Junior Assistant (Grade-III) as advertised on 27.05.2022 within a stipulated time.

Mr. Tahbildar, learned Standing counsel, Higher Education Department, on instructions of the respondent authorities apprised the Court that the college authorities pursuant to the said advertisement dated 27.05.2022 conducted the selection/interview on 30.07.2022 and recommended the name of the selected candidates for the post of Junior Assistant (Grade-III) in said college to the Director of Higher Education, Assam and the said recommendation of the authorities of Murkong Selek College, Jonai, District-Dhemaji is presently pending for approval before the Directorate of Higher Education, Assam.

As per the provisions of the Assam College Employees (Provincialisation) Rules, 2010, framed under the Assam College Employees (Provincialisation) Act, 2005, having statutory force, the post of Lower Division Assistant, renamed as Junior Assistant (Grade-III) in a provincialised college should be made by direct recruitment and from Laboratory Bearers/Library Bearers/Grade-IV having qualification

as prescribed in the ratio of 75:25.

Rule 5 (5) of the Assam College Employees (Provincialisation) Rules, 2010 relates to Method of Recruitment to the post of Lower Division Assistant, renamed as Junior Assistant in the cadre of Grade-III.

Sub Rule (7) of said Rule 5 of said 2010 Rules provides that the Governing Body shall conduct the selection process and recommend to the Director, who shall issue orders of appointment.

Rule 7 of said 2010 Rules relates to Direct Recruitment and it provides as follows:-

- (a) All appointment 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 duly constituted;*
- (b) The Director shall communicate his orders within thirty days;*
- (c) The Selection Committee may hold such test of interview for all posts as may be considered necessary. For posts for which UGC has prescribed norms, no candidate shall be recruited without having the required norms;*
- (d) All fresh appointment shall be made on receipt of police verification report.*

Petitioner stated that the State Government in the Higher Education issued Guidelines for selection to the Grade-III post in the provincialised colleges of the State and the Directorate of Higher Education, Assam on 09.10.2017 and 29.04.2017 issued such guidelines providing that there shall be a written examination consisting of one paper of 1½ hour duration for 60 marks, marks in Computer Test, English and Assamese Typing (10 marks each) for 20 marks and Academic marks, maximum of 5 marks each in Class-X and Class-XII Examination and maximum of 10 marks in Graduate Examination.

The guidelines also provided that the written test shall be a screening test and the Selection Committee may decide to call a number of candidates for Typing Test not less than in the ratio of 1:20 or 20 candidates for one post.

Petitioner submitted that without declaring the result of the written test and without following such guidelines for selection to the Grade-III post in provincialised colleges issued by the respondent in the Higher Education Department, the authorities of Murkong Selek College, Jonai proceeded and

selected the candidate for the post of Junior Assistant (Grade-III) as advertised on 27.05.2022.

As noted above, Rule 7 (b) of said 2010 Rules provides that the Director shall communicate his orders within 30 days and Rule 7 (d) of said 2010 Rules provides that all fresh appointment shall be made on the basis of police verification report.

Considering the submissions of the parties and the grievances raised by the petitioner, the Court is of the opinion that as the matter for appointment to the post of Junior Assistant (Grade-III) in said Murkong Selek College, Jonai, District-Dhemaji as advertised on 27.05.2022 is presently pending before the Director of Higher Education, Assam, he is required to examine all the relevant aspects before taking a decision as provided under Rules 5 and 7 of said 2010 Rules and the relevant guidelines of the Department of Higher Education, Assam regarding selection and appointment to the post of Junior Assistant (Grade-III) in the provincialised colleges of Assam.

In view of the above, the Director of Higher Education, Assam shall do the needful at the time of granting his approval and in issuing appointment order to the post of Junior Assistant (Grade-III) in said Murkong Selek College, Jonai, District-Dhemaji while considering the recommendation made by the authorities of said College for the said advertised Grade-III post in it as advertised on 27.05.2022 in compliance of the provisions of the said 2010 Rules, the relevant guidelines in that regard and in accordance with law.

Petitioner shall submit a certified copy of this order before the Director of Higher Education, Assam along with his representation, if any, forthwith, obtaining necessary acknowledgment from the said authority in that regard.

With the above observation and direction, this writ petition stands disposed of.

JUDGE

Comparing Assistant