



GAHC010154202022

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

Case No. : WP(C)/5103/2022

MEHBUBA SULTANA
W/O- JAHIDUR RAHMAN,
VILL.- DAFARPUR,
P.O. DAFARPUR,
P.S. TAMARHAT,
DIST.- DHUBRI, ASSAM,
PIN- 783334.

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, SOCIAL WELFARE DEPARTMENT, DISPUR, GHY-06.

2:THE DIRECTOR OF SOCIAL WELFARE DEPARTMENT
ASSAM
UZANBAZAR
GUWAHATI-01.

3:THE CHILD DEVELOPMENT PROJECT OFFICER

GOLAKGANJ
ICDS PROJECT
GOLAKGANJ
DIST.- DHUBRI
ASSAM
PIN-

4:THE DISTRICT SOCIAL WELFARE OFFICER

DIST.- DHUBRI
ASSAM.



5:ARIFA SULTANA
W/O- HARUN AL ROSHID AHMED

VILL. AND P.O. DAFARPUR

P.S. TAMARHAT

DIST.- DHUBRI
ASSAM

PIN- 783334.

6:SHAHERA KHATUN
W/O- SAFAR UDDIN SHEIKH

VILL. AND P.O. DAFARPUR

P.S. TAMARHAT

DIST.- DHUBRI
ASSAM

PIN- 783334

Advocate for the Petitioner : MR. M U MONDAL

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

**BEFORE
HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI**

Advocate for the petitioner : Shri MU Mondal, Adv.

Advocates for the respondents : Ms. M. Bhattacharyya, GA-Assam
Ms. R. Choudhury, R-5



Date of hearing : **05.04.2024**
Date of Judgment : **05.04.2024**

JUDGMENT & ORDER

Heard Shri MU Mondal, learned counsel for the petitioner. Also heard Ms. M. Bhattacharyya, learned Additional Senior Government Advocate, Assam whereas the private respondent no. 5 is represented by Ms. R. Choudhury, learned counsel.

2. The issue is with regard to a recruitment process for the post of Anganwadi Helper in the 27 No. Muslimpara (Dafarpur) in the district of Dhubri.

3. A recruitment process for the aforesaid post of Anganwadi Helper was initiated vide an advertisement dated 28.10.2021 in which the petitioner, along with the respondent nos. 5 and 6 had offered their candidatures. Pursuant to the said applications, an interview was held on 09.02.2022 and it is the contention of the petitioner that in spite of getting the highest mark, the appointment was not offered to her and the same was rather offered to the respondent no. 5. The petitioner could learn the grounds of her rejection is that she did not produce the original documents.

4. Shri Mondal, learned counsel for the petitioner by drawing the attention of this Court to the affidavit-in-opposition dated 08.09.2023 filed by the respondent no. 2 has referred to the chart prepared by the Selection Committee. It is submitted that the chart would clearly reflect that while the petitioner had secured 60 marks, the respondent no. 5 had secured 53.5 marks and therefore, it was wholly unjustified to deny the appointment to the petitioner. As regards the remarks that the original documents were not

submitted by the petitioner, Shri Mondal submits that the petitioner could learn about the same only from the affidavit and in any case, in the writ petition, more specifically in paragraph 4 thereof, there is a statement that the petitioner had produced the original documents.

5. It is further submitted by Shri Mondal, learned counsel for the petitioner that when the marks were to be deduced from the documents pertaining to various examination, there was no scope to endorse such a remark that the original documents were not submitted. He accordingly submits that the selection and the consequent appointment of the respondent no. 5 is liable to be interfered with and a direction be given for appointing the petitioner.

6. *Per contra*, Ms. Bhattacharyya, learned State Counsel has submitted that the grounds cited for declining to accept the candidature of the petitioner are based on facts. It is submitted that as per the stipulation of the advertisement and even otherwise, the candidates are required to bring the original documents for verification as it is those documents based upon which marks are allotted. It is submitted that when the petitioner did not produce the original documents, the question of selecting the petitioner for appointment cannot arise.

7. Countering the arguments made on behalf of the petitioner, Ms. Bhattacharyya, learned Additional Senior Government Advocate has further submitted that marks are deduced from the photocopies of the documents which are submitted along with application for appointment and therefore it cannot be presumed that since marks have been given, the original documents were placed before the authorities.

8. Ms. Choudhury, learned counsel for the respondent no. 5 has submitted that though there may not be a dispute with regard to the marks claimed to be



obtained by the petitioner which is said to be higher than that of her client, the requirement to produce the original documents is of paramount importance as the entire selection is based on the marks allotted on various examinations which are required to be verified from the original records. She further submits that there is no challenge to the aspect of the remark that original documents were not produced by the petitioner.

9. Additionally, the learned counsel for the respondent no. 5 has submitted that the petitioner is a regular School / College going student and therefore was not eligible even for consideration and in this regard she has referred to the mark sheet of the petitioner in the Assam Higher Secondary Education Council which is dated 04.03.2022 whereas the advertisement is 28.10.2021.

10. The rival submissions made by the learned counsel for the parties have been duly considered and the materials placed before this Court have been carefully examined.

11. The claim that the petitioner had secured the highest marks (60) does not appear to be disputed. It is also not in dispute that the marks secured by the respondent no. 5 is 53.5. The reason which has been revealed in this proceeding for such rejection is that the petitioner had failed to produce the original documents and the said remark is clearly given in the chart prepared by the Committee in the minutes of meeting held on 09.02.2022. The said minutes have been brought on record in the affidavit-in-opposition filed by the respondent no. 2 on 08.09.2023. The minutes are also accompanied by other documents including another chart wherein the same remark of not producing the original documents have been given so far as the petitioner is concerned.

12. The controversy therefore attains one which involves a factual dispute.



However, to make an endeavour to resolve the dispute, this Court has taken a minute look at the averments made in the writ petition in support of the plea that the original documents were produced by the petitioner in the interview held on 09.02.2022. The said averments which appears to have been made in paragraph 4 has however been verified as true as per the records of the petitioner in the accompanying affidavit. Such verification appears to be faulty and in a writ petition wherein there is no scope for adducing any evidence by witnesses and their cross-examination, the pleadings and their verification in the accompanying affidavit is of paramount importance. Even otherwise the dispute which has emerged, as indicated above, is a factual one and therefore it would be difficult on the part of this Court to enter into such disputed facts. This Court has also noticed that there is no allegation of *mala fide* and in fact none of the Officers or Members of the Selection Committee has been made party by name.

13. Though a submission made on behalf of the respondent no. 5 that the petitioner was otherwise not eligible for consideration as she was a student, this Court will not go into those aspect as the said aspect is not a ground of the rejection of the candidature of the petitioner and therefore, the examination is confined to the impugned reasons cited, the legality of which has already been upheld in the above discussions.

14. The writ petition is accordingly dismissed.

JUDGE

Comparing Assistant