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

Case No. : WP(C)/7722/2016

MAMUNI BEGOM
D/O ABUL KASHEM ALI, VILL. JHARNARCHAR PT. V, MOLLAPARA
HABITATION, P.O. PADMERALGA, P.S. FAKIRGANJ, DIST- DHUBRI, ASSAM,
PIN-783339

VERSUS

THE STATE OF ASSAM and 10 ORS.
REP. BY THE COMMISSIONER and SECY. TO THE GOVT. OF ASSAM, SOCIAL
WELFARE DEPTT., ASSAM, DISPUR, GHY-6

2:THE DIRECTOR
SOCIAL WELFARE DEPTT.
ASSAM
UZANBAZAR
GHY-1

3:THE DISTRICT SOCIAL WELFARE OFFICER
DHUBRI
ASSAM
DIST- DHUBRI
ASSAM

4:THE CHILD DEV. PROJECT OFFICER
BIRSHING JARUA ICDS PROJECT
DHUBRI
ASSAM

5:THE BOARD OF SECONDARY EDUCATION
ASSAM
REP. BY ITS CHAIRMAN
BAMUNIMAIDAM

GHY-21

6:THE CONTROLLER OF EXAMINATIONS
BOARD OF SECONDARY EDUCATION
ASSAM
BAMUNIMAIDAM
GHY-21

7:THE HEAD MASTER OF KATHULIPARA NABA JYOTI HIGH SCHOOL
VILL. SALMARA PT.II
P.O. CHOUDHURIRCHAR
P.S. FAKIRGANJ
DIST- DHUBRI
ASSAM
PIN-783349

8:THE SUPERINTENDENT OF KATHULIPARA SR. MADRASSA
VILL. SALMARA PT.II
P.O. CHOUDHURIRCHAR
P.S. FAKIRGANJ
DIST- DHUBRI
ASSAM
PIN-783349

9:THE HEAD MASTER OF 1550 NO. MADHYA KATHULIPARA LP SCHOOL

VILL. SALMARA PT.II
P.O. CHOUDHURIRCHAR
P.S. FAKIRGANJ
DIST- DHUBRI
ASSAM
PIN-783349

10:THE I/C MEDORTARY STATE DISPENSARY
MEDORTARY
JALESWAR
VILL. and P.O. MEDARTARY
P.S. FAKIRGANJ
DIST- DHUBRI
ASSAM
PIN-783330

11:MONEZA KHATUN @ MONIZA KHATUN
W/O ABU BAKKER SIDDIQUE
VILL. JHARNARCHAR PT. V
MOLLAPARA HABITATION
P.O. PADMERALGA
P.S. FAKIRGANJ

DIST- DHUBRI
ASSAM
PIN-78333

Advocate for the Petitioner : MR. H R AHMED, MR. R MAZUMDAR,MR A ISLAM

Advocate for the Respondent : SC, SOCIAL WELFARE, MR. T C CHUTIA,SC, SEBA,MR. B K SARMA,MR. J AHMED(R- 8,9,&11),MR. M AHMED(R-10),MR. N HUSSAIN(R-10),MR. P A AHMED(R- 8,9&11)

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 29.05.2026

Heard Mr. H R Ahmed, Learned Counsel for the Petitioner. Also heard Ms. M Bhattacharjee, Learned Addl. Senior Government Advocate, appearing for Respondent No. 1 to 4, Mr. D K Roy, Learned Standing Counsel, Board of Secondary Education, Assam, appearing for Respondent Nos. 5 & 6 and Mr. J Ahmed and Mr. P A Ahmed, Learned Counsel, appearing for the Respondent Nos. 8, 9 & 11. None appears for Respondent No. 10.

2. The Petitioner, by way of instituting the present Writ Petition, has assailed the selection and appointment of the Respondent No. 11, as Anganwadi Worker in No. 196 Mollapara Mini Anganwadi Centre. The Petitioner has also assailed an order

dated 14.10.2015, issued by the Director of Social Welfare, Assam, rejecting the claim of the Petitioner, with regard to the eligibility of the Respondent No. 11 to be appointed as an Anganwadi Worker in the said Anganwadi Centre.

3. The facts, requisite for adjudication of the issues, arising in the present Writ Petition, is noticed as under :

3.1 The Child Development Project Officer (CDPO), Birshing Jarua ICDS Project, issued an advertisement on 04.12.2012, inviting applications for filling up of post of Anganwadi Worker, lying vacant in Anganwadi Centres under his jurisdiction. The said advertisement had also invited applications for the post of Anganwadi Worker in No. 196 Mollapara Mini Anganwadi Centre. In terms of the said advertisement, a candidate, to be eligible for consideration of her case for appointment against the post advertised, must be of 18 (Eighteen) years of age, as on 01.01.2012 and must have passed at least Class VIII examination. The Petitioner and the Respondent No. 11, having satisfied the eligibility criteria set-out, submitted their respective applications, for being considered for appointment against the

post of Anganwadi Worker against No. 196 Mollapara Mini Anganwadi Centre, (hereinafter, referred to as the Anganwadi Centre).

3.2 The Respondent authorities, upon scrutinizing the applications received, in pursuance to the said advertisement for the post of Anganwadi Worker against the said Anganwadi Centre, shortlisted the names of the candidates, so found eligible and accordingly, both the Petitioner and the Respondent No. 11 were shortlisted for appearing in the selection. The Petitioner, as well as Respondent No. 11, along with other candidates, appeared in the interview held on 08.09.2013. It is projected by the Petitioner that out of the 8 (Eight) candidates, appearing in the interview, 5 (Five) of them were outside the coverage area of the Anganwadi Centre and the Respondent No. 11 was under aged. Accordingly, it is projected that it is only the Petitioner and one Apsonara Begum, who were eligible for having their cases considered for the said selection process. Contrary, to the position highlighted by the Petitioner, herein, the Respondents proceeded to consider the cases of the persons found eligible and on such consideration being made, the Respondent No. 11

was recommended for engagement as Anganwadi Worker in the said Anganwadi Centre. Thereafter, the Respondent No. 11 was appointed in such capacity.

3.3 The Petitioner being aggrieved, with the selection and appointment of the Respondent No. 11, as an Anganwadi Worker in the said Anganwadi Centre, approached this Court, by way of institution of a Writ Petition being WP(C) No. 282/2014, assailing such said selection and appointment of the Respondent No. 11. A Coordinate Bench of this Court, vide order dated 29.08.2014, on noticing the issues arising in the said Writ Petition, proceeded to dispose of the same by granting liberty to the Petitioner, herein, to approach the Department of Social Welfare, Assam, agitating her grievance. It was further provided that in the event of any such approach being made, the said Authority shall deal with the matter, and upon hearing of the Parties, including the Respondent No. 11, herein, pass appropriate orders. It is projected that the Petitioner had submitted all requisite particulars before the Director of Social Welfare, Assam. However, it is contended that the Director of Social Welfare, Assam, without considering the contentions raised by the

Petitioner, with regard to the selection and appointment of the Respondent No. 11, proceeded, vide order dated 14.10.2015, to reject the said contentions raised by the Petitioner, and thereby, proceeded to uphold the engagement of the Respondent No. 11, as an Anganwadi Worker in the said Anganwadi Centre.

Being aggrieved, the Petitioner has instituted the present Writ Petition.

4. Mr. H R Ahmed, Learned Counsel for the Petitioner has submitted that in the advertisement dated 04.12.2012, it was clearly stipulated that the candidates, intending to apply for the post of Anganwadi Worker, as advertised, vide the said advertisement, should be of 18 (Eighteen) years of age, as on 01.01.2012. Mr. H R Ahmed, Learned Counsel for the Petitioner, by referring to the Admit Card, issued to the Respondent No. 11 by the Board of Secondary Education, Assam, has submitted that the date-of-birth of the Respondent No. 11, therein, is recorded as "01.10.1995". Accordingly, he submits that considering the cut-off date, as given in the advertisement, the Respondent No. 11 was ineligible to apply for the post of Anganwadi Worker, in

pursuance to the advertisement dated 04.12.2012, inasmuch as, she was below 18 (Eighteen) years of age, as on the cut-off date.

4.1. Mr. H R Ahmed, Learned Counsel for the Petitioner, in support of his said submission, has further referred to the extract of the Admission Register of Kathulipara Naba Jyoti High School, wherein, the Respondent No. 11 was shown to have been admitted in the said School on 01.01.2008 and her date-of-birth was reflected, therein, as 01.10.1995. He submits that the said date-of-birth, as reflected in the Admission Register, is the same, as recorded in the Admit Card of the Respondent No. 11, herein. Mr. H R Ahmed, Learned Counsel for the Petitioner submits that after the admission of the Respondent No. 11 in the said School, in Class VIII, she had continued in the said School, till she had appeared in her Matriculation examinations, in the year 2011.

4.2. Mr. H R Ahmed, Learned Counsel for the Petitioner submits that the Respondent No. 11, to demonstrate that she was within the permissible age for applying against the post, advertised, vide the said advertisement dated 04.12.2012, had,

in her application submitted, in pursuance to the said advertisement, disclosed that she had only Class IX pass qualification. He submits that the said projection was made by further projecting that the Respondent No. 11, had pursued her studies in Kathulipara Sr. Madrassa (a Venture educational institution at the relevant point of time). Mr. H R Ahmed, Learned Counsel for the Petitioner submits that the Respondent No. 11, admittedly, having appeared in her Matriculation examination, after studying from Class VIII-X, in Kathulipara Naba Jyoti High School, she could not have pursued a parallel course of study in Kathulipara Sr. Madrassa, which is a separate and distinct institution. Mr. H R Ahmed, Learned Counsel for the Petitioner submits that the Respondent No. 11, being a Matriculate, the date-of-birth of the Respondent No. 11, as recorded in the documents issued by the Board of Secondary Education, Assam, would only be the document, which could be reckoned for the purpose of determining the age of the Respondent No. 11 and no other documents would be mandated to be so considered. He submits that considering the fact that the Respondent No. 11, basing on the date, as disclosed in her Admit Card, for the HSLC

examination, 2011, was admittedly, a minor, on the date she had applied for being recruited against the post of Anganwadi Worker in the said Anganwadi Centre. Mr. H R Ahmed, Learned Counsel for the Petitioner, accordingly, submits that the said engagement of the Respondent No. 11, would mandate an interference from this Court.

4.3. Mr. H R Ahmed, Learned Counsel for the Petitioner has further referred to the Birth Certificate, brought on record by the Respondent No. 11, wherein, her date-of-birth is shown to have been recorded as "01.01.1994". He submits that in addition to the authority issuing the said certificate, being not the competent authority, insofar as the registration of the birth of the Respondent No. 11 is concerned, submits that the birth of the Respondent No. 11, having been so recorded only on 19.11.2003, in absence of any material being brought on record, demonstrating compliance of the procedure, as laid down in the Registration of the Births and Deaths Act, 1969, for a delayed registration of a birth or a death, the said certificate would be of no consequence and would not mandate consideration by this Court.

4.4 In the above premises, Mr. H R Ahmed, Learned Counsel for the Petitioner submits that the selection and engagement of the Respondent No. 11 would mandate an interference along with the order dated 14.10.2015. After having made the said submissions, Mr. H R Ahmed, Learned Counsel for the Petitioner submits that the selection, in the present matter, was held on 08.09.2013 and admittedly, as on that date, the marriage of the Petitioner was already solemnized with the one Antaz Ali Sheikh of Village - Araiani Part-II in the District of Kokrajhar. Mr. H R Ahmed, Learned Counsel for the Petitioner submits that although the Petitioner has been given away in marriage by her father, on 03.07.2013, the Petitioner having submitted her application, prior to the said date and on the date of submission of her application, she being a resident within the coverage area of the Anganwadi Centre, in question, the Petitioner remained eligible for having her case considered for such engagement, in spite of the fact that on the date of this interview, the Petitioner was already given away in marriage and had moved to a different village.

5. *Per Contra*, Ms. M Bhattacharjee, Learned Addl. Senior

Government Advocate appearing for the State Respondents submits that the Respondent authorities, on consideration of the documents, placed on record by the Respondent No. 11, in support of her date-of-birth, had found that the date-of-birth of the Respondent No. 11, ought to be reckoned as "01.01.1994". She submits that the Respondent No. 11 had projected before the Director of Social Welfare, Assam, during the hearing held in the matter that an error had occasioned, in recording of her date-of-birth, in her HSLC Admit Card, and she had taken due steps for correction of the same, by approaching the Board of Secondary Education, Assam, for correction of her date-of-birth. Ms. M Bhattacharjee, Learned Addl. Senior Government Advocate submits that the date-of-birth of the Respondent No. 11, as reflected in her Birth Certificate, which is again found to have been issued by a competent authority, would mandate a consideration and accordingly, the date-of-birth of the Respondent No. 11, being recorded, therein, as "01.01.1994", the Respondent No. 11, was found to be eligible to participate in the selection process, for the post of Anganwadi Worker in the said Anganwadi Centre, in pursuance to the advertisement dated

04.12.2012. Accordingly, she submits that the selection and engagement of the Respondent No. 11 would not mandate an interference from this Court. Similarly, the order dated 14.10.2015, passed by the Director of Social Welfare, Assam, would also not mandate any interference from this Court.

6. Mr. J Ahmed along with Mr. P A Ahmed, Learned Counsel for the Respondent No. 11, at the outset, had submitted that the marriage of the Petitioner, having been solemnized on 03.07.2013, and on her marriage, she having moved out to Kokrajhar district, after 03.07.2013, the Petitioner cannot be held to be a resident, within the coverage area of the Anganwadi Centre, in question. Accordingly, it is submitted that the Petitioner would have no locus to assail the selection and engagement of the Respondent No. 11, as an Anganwadi Worker in the said Anganwadi Centre, in question. The Learned Counsel for the Respondent No. 11 further submits that the Petitioner's father had filed an FIR with the Fakirganj Police Station on 27.04.2016, *inter alia*, alleging, therein, that the Respondent No. 11 had participated in the selection process, held after the issuance of the advertisement dated 04.12.2012, by suppressing

her actual age. It is submitted that the Police, on completion of the investigation in the matter, had submitted a charge-sheet and the case is presently pending, at the trial stage, before the Ld. Trial Court.

6.1 With regard to the date-of-birth of the Respondent No. 11, the Learned Counsel for the Respondent No. 11 submits that the correct date-of-birth of the Respondent No. 11, is 01.01.1994. It is submitted that the said date-of-birth is found to be recorded in the Primary School Records of the Respondent No. 11. It is submitted that after completing her Class-VII from Kathulipara M.E Madrassa, the Respondent No. 11 had taken admission in Kathulipara Sr. Madrassa, and had studied, therein, till 31.12.2010. It is submitted that the Respondent No. 11, thereafter, took admission in Kathulipara Naba Jyoti High School and had passed her HSLC examination in 2011. It is, however, submitted that the date-of-birth in her HSLC records, was recorded as "01.10.1995", erroneously, in place of "01.01.1994". It is projected that Respondent No. 11 had approached the authorities of the Board of Secondary Education, Assam, by way of submitting an application praying for correction of her date-of-

birth, as recorded in her HSLC records. Such application was contended to have been submitted on 10.12.2013. The Learned Counsel for the Respondent No. 11 has further submitted that the Birth Certificate of the Respondent No. 11, available on record, would also go to indicate that the date-of-birth of the Respondent No. 11, is "01.01.1994" and not "01.10.1995".

6.2 In the above premises, the Learned Counsel for the Respondent No. 11 submits that in view of the overwhelming materials coming on record, which indicated the date-of-birth of the Respondent No. 11 to be "01.01.1994" and not "01.10.1995", the selection and engagement of the Respondent No. 11, as Anganwadi Worker in the said Anganwadi Centre, would not mandate any interference from this Court. It is further submitted that on such materials being placed before the Director of Social Welfare, Assam, during the hearing held in the matter, the Director of Social Welfare, Assam, had also concluded that the date-of-birth of the Respondent No. 11 is to be reckoned as 01.01.1994 and accordingly, it is submitted that this Court would be pleased to uphold the order dated 14.10.2025 and permit the Respondent No. 11 to continue in her engagement as Anganwadi

Worker in the said Anganwadi Centre.

7. I have heard the Learned Counsel for the Parties and also perused the materials available on record.

8. The issue, arising in the present Writ Petition, is as to whether the Respondent No. 11 was eligible to submit her application for the post of Anganwadi Worker in No. 196 Mollapara Mini Anganwadi Centre, in pursuance to the advertisement dated 04.12.2012. In the said advertisement dated 04.12.2012, it was stipulated that the age of the candidate should be 18 (Eighteen) years, as on 01.01.2012. The Respondent No. 11 had submitted her application on 17.12.2012, and had, therein, disclosed that she had Class IX pass qualification. The application of the Respondent No. 11, as brought on record by the Petitioner, has not been disputed by the Respondent No. 11, in the affidavit filed by her. The Petitioner, in the present Writ Petition, has brought on record the Admit Card issued to the Respondent No. 11, for appearing in her High School Leaving Certificate Examination, 2011. In the said Admit Card, the date-of-birth of the Respondent No. 11 is

recorded as "01.10.1995". The Petitioner had further brought on record, an extract of the Admission Register of Kathulipara Naba Jyoti High School, received by the Petitioner, under the provisions of the Right to Information Act, 2005, and, therein, it is seen that the date-of-birth of the Respondent No. 11 was recorded as "01.10.1995". Although the Respondent No. 11 has contended that in her Matriculation records, her date-of-birth was erroneously recorded as 01.10.1995 and she has approached the authorities of the Board of Secondary Education, Assam, for correction of the same, way back in the year 2013, no material has been brought on record, with regard to the decision taken by the authorities of the Board of Secondary Education, Assam, in this connection. Accordingly, for the purpose of the present Writ Petition, it has to be held that the date-of-birth of the Respondent No. 11, as recorded in her Admit Card for the HSLC examination, 2011, is "01.10.1995".

9. Construing the date-of-birth of the Respondent No. 11, as "01.10.1995", it is found that as on 01.01.2012, the Respondent No. 11 was below 18 (Eighteen) years of age and accordingly, she is found to be not eligible to apply for the post of Anganwadi

Worker in the said Anganwadi Centre, in pursuance to the advertisement dated 04.12.2012. It is to be noticed, herein, that the extract of the Admission Register and the details as set-out, therein, along with the Admit Card of the Respondent No. 11, as brought on record in the present Writ Petition by the Petitioner, has not been disputed by the Respondent No. 11, in the affidavit filed by her, in the present proceedings.

10. Having drawn the said conclusions, this Court would now examine the contentions raised by the Respondent No. 11, in the present Writ Petition, that she was pursuing her studies in Kathulipara Sr. Madrassa till 31.12.2010, and thereafter, had taken admission in Kathulipara Naba Jyoti High School, from where she had appeared in her HSLC examination in the year 2011. A perusal of the extract of the Admission Register, brought on record by the Petitioner, would reveal that the Respondent No 11 had taken admission in Kathulipara Naba Jyoti High School, on 01.01.2008, in Class VIII. Therein, it is further demonstrated that Respondent No. 11, prior to the taking of admission in the said School, was pursuing her studies in Class VII in Kathulipara M.E Madrassa. The said disclosure, with regard to the earlier

School of the Respondent No. 11, is found to be matching with the contentions raised by the Respondent No.11, in her affidavit, wherein, she has made a categorical statement to the effect that she had passed Class VII from Kathulipara M.E Madrassa and had left the said School on 31.12.2007. The difference being that the Respondent No. 11, in her affidavit, has submitted that after 31.12.2007, she had taken admission in Kathulipara Sr. Madrassa and had pursued her studies.

11. The said contention of the Respondent No. 11, is clearly contrary to the position, as coming on record from the extract of the Admission Register of Kathulipara Naba Jyoti High School. The Respondent No. 11, could not have pursued her course of studies in two different streams and in two different schools, at the same very period of time. Either the Respondent No. 11 can be held to have pursued her course of studies in Kathulipara Naba Jyoti High School or in Kathulipara Sr. Madrassa. The materials coming on record would go to reveal that the Respondent No. 11 had actually pursued her course of studies in Kathulipara Naba Jyoti High School from Class VIII to X and had appeared in the HSLC Examination, therefrom, in

2011. Accordingly, reliance placed by the Respondent No. 11, on the documents from Kathulipara Sr. Madrassa, would be of no consequence and the same stands rejected.

12. This Court is of the considered view that the date-of-birth of the Respondent No. 11, would be the one that is disclosed in the Admit Card, issued to her, for appearing in her HSLC examination, 2011. The Respondent No. 11, in support of her contention that her date-of-birth is 01.01.1994, has also relied upon a provisional Birth Certificate, issued by the Registrar of Birth and Death, Medortari State Dispensary, Dhubri. What is striking is that in the said Birth Certificate, the date-of-birth of the Respondent No. 11, is recorded as "01.01.1994", but the same is found to have been registered with the said authority, only on 19.11.2003. There is a clear procedure prescribed for delayed registration of births and deaths, however, in the affidavit, filed by the Respondent No. 11, no materials has been brought on record to demonstrate that the date-of-birth of the Respondent No. 11 was recorded on 19.11.2003, by strictly following the procedure mandated in this connection, under the provisions of Registration of Birth and Death Act, 1969.

Accordingly, this Court is of the considered view that the said Birth Certificate would not mandate a consideration, in the attending facts involved.

13. This Court further notices that although the Respondent No. 11, as on 17.12.2012, had appeared in her Matriculation Examination, she had, while submitting her application for engagement as Anganwadi Worker, in the said Anganwadi Centre, had disclosed her educational qualification as Class IX pass only. The said course of action, in all probability, was adopted by the Respondent No. 11, only to facilitate reliance on the documents, issued by the authorities of the Kathulipara Sr. Madrassa, wherein, her date-of-birth was recorded as "01.01.1994". Accordingly, this Court finds that the Respondent No. 11 had also taken recourse to suppression of relevant facts, while submitting her application, in pursuance to the advertisement dated 04.12.2012.

14. In view of the above discussions, this Court having found that the only reliable material, basing on which the date-of-birth of the Respondent No. 11, can be based to be the Admit

Card, issued to the Respondent No. 11, for her HSLC examination, 2011, wherein, her date-of-birth being recorded as "01.10.1995", this Court finds that the Respondent No. 11, as of 01.01.2012, was below 18 (Eighteen) years of age and accordingly, ineligible for applying against the post of Anganwadi Worker, in pursuance to the advertisement dated 04.12.2012. Accordingly, for the above reason, the selection and engagement of the Respondent No. 11, as Anganwadi Worker in No. 196 Mollapara Mini Anganwadi Centre, would mandate an interference and accordingly, the same stands set-aside.

15. It is directed that the setting aside of the engagement of the Respondent No. 11, would not also result in the respondents making recoveries of the honorarium, that was paid to her for the period she had discharged her duties as an Anganwadi Worker in the said Anganwadi Centre. According, it is directed that upon the interference made with the engagement of the Respondent No. 11, as an Anganwadi Worker in the said Anganwadi Centre, the Respondent authorities shall not effect recovery of the honorarium drawn by the Petitioner, w.e.f the date of her initial engagement till today.

16. Having interfered with the selection and engagement of the Respondent No. 11, this Court would now examine, as to whether, what further directions would be mandated to be issued in the matter. The Learned Counsel for the Petitioner has prayed that the Petitioner being a candidate from the area, within the coverage area of the Anganwadi Centre, and having the requisite qualification, would be required to be engaged against the post of Anganwadi Worker in No. 196 Mollapara Mini Anganwadi Centre, in pursuance to the advertisement dated 04.12.2012. The said submission of the Learned Counsel for the Petitioner was appreciated by this Court, however, this Court finds from the materials coming on record that before the interview for the said post could be held on 08.09.2013, the marriage of the Petitioner was solemnized on 03.07.2013 and she had moved away from her village to Ariani, Part-II village, situated in the district of Kokrajhar. It is to be noted that Anganwadi Centre, in question, is located within the district of Dhubri. Accordingly, the Petitioner is not found to be a resident within the coverage area or of the said Anganwadi Centre and accordingly, no direction can be issued to the Respondent authorities to consider the case of the

Petitioner, herein, for appointment against the said Anganwadi Centre. A vacancy, admittedly, now having arisen against the post of Anganwadi Worker in the said Anganwadi Centre, the Respondent authorities are directed to fill up the said post by making engagement against the same, following the procedure, holding the field, as on today, for such engagement.

17. With the above observations and directions, the present Writ Petition stands disposed of.

JUDGE

Comparing Assistant