

GAHC010049132025



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

Case No. : Cont.Cas(C)/140/2025

DHANASHREE KALITA
D/O. JOY CHARAN KALITA, R/O. VILLAGE BARJAR, P.O- BARAMA, DIST-
NALBARI (ASSAM), PIN- 781346.

VERSUS

J. P. BRAHMA AND ANR
DIRECTOR OF EDUCATION, BODOLAND TERRITORIAL COUNCIL,
KOKRAJHAR, ASSAM

2:DR. RAIROOB BRAHMA
PRINCIPAL(I/C) AND SECRETARY AND THE SELECTION COMMITTEE FOR
ASSISTANT PROFESSOR
IN THE BARAMA COLLEGE
BARAMA
DIST- BAKSA (BTR)
ASSAM
PIN-781346

Advocate for the Petitioner : MR D MAHANTA,

Advocate for the Respondent : MR. P MAHANTA (R-2), P HAZARIKA(R-1),MR. S R RABHA (R-1),V KHAKHALARY(R-2),C SARMA(R-2),MS. P SAHARIA(R-2)

BEFORE
HON'BLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

15.09.2025

Heard Mr. D. Mahanta, learned counsel for the petitioner. Also heard Mr. P. Hazarika, learned counsel appearing for the respondent/contemnor No. 1 and Ms. P. Saharia, learned counsel for the respondent No. 2.

2. By way of this instant petition filed under Article 215 of the Constitution of India as well as Section 12 of the Contempt of Court's Act, 1971 read with Rule 9 of the Contempt of Court (Gauhati High Court) Rules 1977, the petitioner is drawing notice of this court to the willful and deliberate disobedience of the respondents towards the judgment & order of this court dated 22.01.2025 passed in WP(C) No. 3058/2024 and WP(C) No. 2276/2024.

3. The operating portion of the said judgment & order dated 22.01.2025 read as under:

“15. The advertisement does not provide for giving preference to a candidate who has a Ph.D.Degree though preference can be given to a candidate belonging to the BTC area. However, the same would be subject to the condition that candidates belonging to the BTC area had secured equal marks as other candidates, who do not belong to the BTC area. In this respect, it would be profitable to refer to the decision of the Hon'ble Supreme Court in the case of Chairman, Tangedco & Ors -vs- Priyadarshini, Civil Appeal No. 6470/2021, reported in 2021 (4) SCT 426 (SC), wherein it has referred to another decision in the case of Secretary, A.P. Public Service Commission vs- Y.V.V.R.Srinivasulu & Ors reported in (2003) 5 SCC 341 and held that preference in the context of all

such competitive scheme of selection would only mean that the other things being qualitatively and quantitatively equal, those with the additional qualification have to be preferred.

16. The petitioner in WP(C)/3058/2024 having secured higher marks than the petitioner in WP No.2776/2024 and Smti Karabi Das, there was no occasion to apply the preference clause in the advertisement, in terms of the Judgment of the Supreme Court quoted above. Consequently, the selection and recommendation of Smti Karabi Das by the Selection Committee as Assistant Professor, Department of Assamese is hit by Article 14 of the Constitution of India. The selection and recommendation of Smti Karabi Das as Assistant Professor (Assamese Department) is accordingly set aside. It is also seen that the writ petitioner in WP(C)/3058/2024 has secured the highest marks in the selection process. The Selection Committee/ State respondents are directed to make the selection and recommendation of the successful candidate, solely on the basis of the marks secured by the candidates, inasmuch as, there is nothing to show that the candidates that are mentioned in the tabulation sheet do not have the other eligibility criteria to be appointed to the said post. The said exercise should be concluded within a period of 3 weeks from the date of receipt of a copy of this order. Consequently, the order dated 26.04.2024 issued by the Secretary, BTC is hereby set aside.”

4. Reading the aforesaid paragraphs of the judgment & order dated 22.01.2025; it appears that the Selection Committee/State respondents were directed to make the selection and recommendation of the successful candidate solely on the basis of the marks secured by the candidates in the subject selection process.

5. It also appears that affidavit in opposition has been filed on behalf of the respondent/contemnor No. 2; however, in respect of the respondent No. 1, it appears that repeatedly time has been sought for obtaining necessary instruction for filing the affidavit in opposition in the matter. It further appears that on 29.07.2025 the learned counsel for the respondent/contemnor No. 1 was directed to inform the court

about the up to date status of the decision taken by the Secretary, Education Department, BTC, in order to comply with the directions passed by this court. It further appears that thereafter when the matter came before this court on 01.09.2025, the learned counsel appearing for the contemnor/respondent No. 1 submitted that he is contemplating to prefer one review petition against the judgment & order dated 22.01.2025 passed by this court and therefore sought listing the instant matter after two weeks.

6. Today, when the matter is called the learned counsel for the contemnor/respondent No. 1 once again by reiterating his submission that since they are contemplating to file a review petition, further time be granted to the contemnors.

7. This court depreciates such casual attitude of the contemnors wherein instead of filing response upon receipt of the show-cause notice of the contempt proceedings, repeatedly time on the pretext of filing a review petition is being taken.

8. Be that as it may, re-list the matter on 17.10.2025, on which date if the affidavit-in-opposition is not filed by the respondent No. 1, the concerned respondent/contemnor officer shall be present personally in the court.

JUDGE