

GAHC010073242022



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

Case No. : WP(C)/2633/2022

MOUSMI SAIKIA
W/O- HRIKHIKESH DOWARAH
SONALI PATH
BHUYAN PATTI
NAGAON, ASSAM, PIN-782001

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, EDUCATION DEPARTMENT, ASSAM SECRETARIAT DISPUR,
GUWAHATI-781006, ASSAM

2:THE DIRECTOR
OF HIGHER EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-781019
KAMRUP (M)

3:THE GAUHATI UNIVERSITY
JALUKBARI
GUWAHATI-14
ASSAM

REP. BY THE VICE- CHANCELLOR

4:ANANDA RAM DHEKIAL PHUKAN COLLEGE
NAGAON
RRB ROAD
HAIBARGAON

DIST-NAGAON
PIN-782002
REP. BY THE PRINCIPAL OF THE COLLEGE

5:THE PRINCIPAL
ANANDA RAM DHEKIAL PHUKAN COLLEGE

NAGAON
RRB ROAD
HAIBARGAON

DIST.-NAGAON
PIN-78200

Advocate for the Petitioner : MR D DEKA

Advocate for the Respondent : SC, HIGHER EDU

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 08.04.2022

Heard Mr. D. Deka, learned counsel for the petitioner. Also heard Mr. K. Gogoi, learned standing counsel for the Higher Education Department and Mr. P.P. Phukan, learned standing counsel for the Higher Education Department.

2. Issue notice, returnable on 29.04.2022.
3. The learned counsel for the petitioner shall serve requisite extra copies of the writ petition to the learned standing counsel for the Higher Education Department and Gauhati University within two days. Moreover, the petitioner shall take steps within two working days for service of notice on the respondent nos. 4 and 5.

4. Heard both sides on the prayer for interim relief. The learned standing counsel for the Higher Education Department has opposed the prayer for interim relief by relying on the decision of this Court dated 29.03.2022 in WP(C)/2276/2022

5. The case of the petitioner is that pursuant to an advertisement dated 09.09.2020 for appointment of Assistant Professor in the Anandaram Dekhial Phukan College, Nagaon, the petitioner being otherwise qualified, offered her candidature for the post of Assistant Professor in the Department of Botany of the said college. It is projected that the petitioner is presently serving as an Assistant Professor and discharging her duty as Head of the Department in the Department of Herbal Science and Technology in the same college. However, it is alleged that the respondent no. 5 has not issued any call letter to the petitioner for appearing in the selection process. The learned counsel for the petitioner submits that the interview is slated to be held on 09.04.2022 in the office of respondent no. 5, i.e. the Principal of the said college. The learned counsel for the petitioner has referred to Annexure-4 of the writ petition which is a notification of the Gauhati University bearing no. M/TC/2022/31 dated 01.07.1992 containing resolution of the Executive Council of Gauhati University bearing no. 92/11/102, approving the recommendation of the Academic Council dated 26.02.1992. The resolution as per the said notification is as follows:

“Resolved that the M.Sc. degree holder of Gauhati University in Applied Botany and Biotechnology may be appointed as Lecturer in Botany for one post out of every five posts of lecturer in the Department of Botany of degree college affiliated to this University.”

6. For the above reason, the Court finds that the order dated 29.03.2022 in WP(C)/2276/2022 prima facie would not be attracted in this case. In view of

above, as an interim measure, the Court is inclined to direct the Anandaram Dekhial Phukan College, Nagaon (respondent no. 4) as well as its Principal (respondent no. 5) to permit the petitioner to participate in the selection process in respect of the post of Assistant Professor in Botany of the respondent no. 4 college in terms of advertisement dated 09.09.2020. It is also provided that this Court has not made any comment on the eligibility or otherwise of the petitioner to hold the said post.

7. As this order was passed in the last part of Court hours, it might not be possible for the petitioner to obtain a certified copy within the closing time of the office hours. Therefore, the Court permits the petitioner to produce a downloaded copy of this order from the website of this Court and to produce the same before the Principal of the said college (respondent no. 5).

8. List on 29.04.2022.

JUDGE

Comparing Assistant