

GAHC010223552022



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

Case No. : I.A.(Civil)/3221/2022

ANURPA PATHAK
D/O SRI PRABHAT PATHAK, R/O HOUSE NO.5, LAKHI PATH, GANESH
NAGAR, JYOTI NAGAR, P.O. BAMUNIMAIDAN, P.S. CHANDMARI,
GUWAHATI, DIST. KAMRUP(M), ASSAM, PIN 781021.

VERSUS

RAJESH KUMAR DAS AND 5 ORS.
S/O ASHUTOSH DAS, R/O VILL. AMBAGAN, P.O. KHALIPUR, DIST. DHUBRI,
ASSAM-783325

2:THE STATE OF ASSAM
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
PANCHAYAT AND RURAL DEVELOPMENT DEPTT. DISPUR
GUWAHATI-6

3:THE COMMISSIONER

PANCHAYAT AND RURAL DEVELOPMENT DEPTT.
DISPUR GUWAHATYI-6

4:THE ASSAM PUBLIC SERVICE COMMISSION

REP. BY ITS CHAIRMAN
JAWAHAR NAGAR
KHANAPARA
GUWAHATI
ASSAM-781022.

5:THE UNDER SECRETARY

ASSAM PUBLIC SERVICE COMMISSION
JAWAHAR NAGAR
KHANAPARA
GUWAHATI-781022

6:THE PRINCIPAL CONTROLLER OF EXAMINATION

ASSAM PUBLIC SERVICE COMMISSION
JAWAHAR NAGAR
KHANAPARA
GUWAHATI-78102

Advocate for the Petitioner : MR. U K NAIR

Advocate for the Respondent : SC, P AND R.D.

Linked Case : WP(C)/4189/2022

RAJESH KUMAR DAS
S/O ASHUTOSH DAS
R/O VILL. AMBAGAN
P.O. KHALIPUR
DIST. DHUBRI
ASSAM-783325

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM PANCHAYAT
AND RURAL DEVELOPMENT DEPTT. DISPUR
GUWAHATI-6

2:THE COMMISSIONER AND SECRETARY
PANCHAYAT AND RURAL DEVELOPMENT DEPTT. DISPUR GUWAHATYI-6

3:THE ASSAM PUBLIC SERVICE COMMISSION
REP. BY ITS CHAIRMAN
JAWAHARNAGAR
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5:THE PRINCIPAL CONTROLLER OF EXAMINATION
ASSAM PUBLIC SERVICE COMMISSIONE
JAWAHARNAGAR
KHANAPARA
GUWAHATI-781022

Advocate for : MR. K M MAHANTA
Advocate for : SC
P AND R.D. appearing for THE STATE OF ASSAM AND 4 ORS.

Linked Case : I.A.(Civil)/3220/2022

ANURUPA PATHAK
D/O SRI PRABHAT PATHAK
R/O HOUSE NO.5
LAKHI PATH
GANESH NAGAR
JYOTI NAGAR
P.O. BAMUNIMAIDAN
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JAWAHAR NAGAR
KHANAPARA
GUWAHATI-781022

Advocate for : MR. U K NAIR
Advocate for : SC
P AND R.D. appearing for RAJESH KUMAR DAS AND 5 ORS.

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

Date : 05.01.2023

Heard the Mr. K K Mahanta, learned senior counsel for the petitioner. Also heard Mr. P P Dutta, learned counsel for the respondents in the APSC, Mr. P Nayak, learned counsel for the respondents in the PNRD and Mr. U K Nair, learned senior counsel assisted by Mr. M P Sharma, learned counsel for the respondent no. 6.

2. Heard the matter at some length.

3. As the issue also involves in what manner the provisions of Section 33 and 34 of the *Rights of Persons with Disabilities Act, 2016* had been implemented, we have also requested the presence of Mr. D Nath, learned Senior Government Advocate to assist the Court in providing the information as to in what manner the State Government has implemented the

aforesaid provisions and the records of such implementation may also be produced.

4. We are clarifying that by the expression implementation, as to in what manner in every establishment, the appropriate Government had indentified the post which would be suitable for persons with disability and further persons with which category of disability.

5. As our interim order dated 24.06.2022, a restrain order had also been passed to keep one post reserved for SC women to be not filled up and as after hearing the matter at some length, it appears that no claim has been made by any of the parties for the post kept vacant which is earmarked for SC women and the respondent no. 6 is already a selected woman candidate in the SC reserved category, we modify the interim order to such extent that the earlier direction to also not fill up one post reserved for women reservation for SC category shall now stand vacated, but while retaining the other provisions of the interim order.

6. The respondents may act accordingly.

7. The respondents to also provide the information to the Court as to what is the total number of disable persons already employed in the individual establishments under the Government of Assam and whether such number exceeds 4% of the number of post available for such establishment.

List on 07.02.2023.

JUDGE

Comparing Assistant