

GAHC010135812021



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

Case No. : WP(C)/4411/2021

KHARIF UDDIN AHMED
S/O- LT. BASIR AHMED, R/O- VILL- DWIGUMPAR, P.O. BORDEKPUR,
(KAMALPUR P.S.), DIST.- KAMRUP (R), ASSAM, PIN- 781380

VERSUS

THE STATE OF ASSAM AND 6 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, IRRIGATION
DEPTT., DISPUR, GHY-06

2:THE CHIEF ENGINEER
ASSAM
IRRIGATION DEPTT.
CHANDMARI
GHY-03

3:SELECTION COMMITTEE FOR PROMOTION
REP. BY THE CHAIRMAN CUM THE SUPERINTENDENT OF ENGINEER
RANGIA INVESTIGATION CIRCLE
IRRIGATION
RANGIA
KAMRUP (R)
PIN- 781354

4:THE EXECUTIVE ENGINEER
RANGIA DIVISION IRRIGATION
RANGIA CUM MEMBER SECRETARY OF SELECTION COMMITTEE
KAMRUP (R)
ASSAM
PIN- 781354

5:DIPAK CHANDRA SARMA

(HSLC PASSED
U/R)
C/O- OFFICE OF THE EXECUTIVE ENGINEER
RANGIA DIVISION (IRRIGATION)
RANGIA
KAMRUP (R)
ASSAM
PIN- 781354

6:DAIBAKI KALITA
(CLASS VIII PASSED
U/R)
C/O- OFFICE OF THE EXECUTIVE ENGINEER
RANGIA DIVISION (IRRIGATION)
RANGIA
KAMRUP (R)
ASSAM
PIN- 781354

7:DIPAK NATH
(OBC CLASS- VIII PASSED)
C/O- OFFICE OF THE EXECUTIVE ENGINEER
RANGIA DIVISION (IRRIGATION)
RANGIA
KAMRUP (R)
ASSAM
PIN- 78135

Advocate for the Petitioner : MR. B CHETRI

Advocate for the Respondent : SC, IRRIGATION

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 06.09.2021

Heard Mr. B. Chetri, learned counsel for the petitioner. Also heard Mr. N. Upadhyay, learned standing counsel for the Irrigation Department, representing respondent nos.1 to 4.

Aggrieved by the constitution of the DPC as well as recommendations selection and appoint of respondent nos.5, 6 and 7 to the next promotional post, the aggrieved petitioner has filed this writ petition under Article 226 of the Constitution of India.

Issue notice including notice on the prayer for interim relief returnable on 22.11.2021.

As the respondent nos.1 to 4 are represented, requisite additional copies of the writ petition be furnished to the learned standing counsel in course of the day today.

The petitioner shall take steps within 2 (two) days for service of notice on the respondent nos.5 to 7 by registered post with A/D. In addition, the petitioner is permitted to serve notice through dasti by routing the process through the Registry of the Court and upon service, an affidavit of service shall be filed prior to the next date of listing.

In connection with the prayer for interim relief, the learned counsel for the petitioner has referred to the constitution of DPC (Annexure-11) and it is submitted that in the said meeting, Superintending Engineer, Rangia Investigation Circle (Irrigation), Rangia was also holding the post of Executive Engineer, Rangia Division (Irrigation), Rangia, i.c. and he had shown himself to be present in the meeting in his capacity as Chairman-cum-Superintending Engineer and also as Member Secretary-cum-Executive Engineer. It is further submitted that the constitution of the selection committee was violative of Rule 9(1) of the Assam Irrigation Establishment (Technical) Rules, 1990, which is required to be constituted with the following members, viz. (a) Superintending Engineer (Civil), (b) Superintending Engineer (Mechanical), (c) Superintending

Engineer (Electrical), (d) Executive Engineer (Civil), (e) Executive Engineer (Mechanical) and (f) Executive Engineer (Electrical). Accordingly, having noted that in the present case, the selection committee was constituted of 4 (four) members, out of which the Chairman and Member Secretary were in fact one person and the other two person being Assistant Engineer (T.C.), Rangia Investigation Circle and Accounts Officer, Rangia Division (Irrigation), Rangia, the Court is inclined to stay the promotion to respondent nos.5, 6 and 7 by staying the minutes of the selection committee for promotion dated 25.06.2021 (Annexure-11) as well as the consequential orders of promotion dated 08.07.2021 (Annexure-15, 16 and 17) till further orders.

The Court is inclined to record the submissions made by the learned counsel for the petitioner that on 31.08.2021, an advance copy of the writ petition was served on the learned standing for the Irrigation Department and it is alleged that on the same date, the petitioner was transferred out of Rangia Division (Irrigation) and the learned counsel for the petitioner alleges that the transfer was punitive for filing this writ petition. The Court has merely recorded the statement of the learned counsel for the petitioner without making any comment thereon.

List on 22.11.2021.

JUDGE

Comparing Assistant