



GAHC010238692019



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

Case No. : WP(C)/7448/2019

SYED TAFIKUDDIN AHMED
S/O- SYED MAMTAZ ALI, R/O- VILL- TITKURI, P.O- TITKURI, DIST-
KAMRUP(R), PIN- 781354

VERSUS

THE ASSAM POWER DISTRIBUTION COMPANY LTD. (APDCL) AND 3 ORS
BIJULEE BHAWAN, PALTAN BAZAR, GUWAHATI- 781001, TO BE REP. BY
ITS DIRECTOR (PERSONAL)

2:CHIEF GENERAL MANAGER
APDCL
BIJULEE BHAWAN
PALTAN BAZAR
GUWAHATI- 781001

3:ASSAM POWER GENERATION CORP LIMITED
BIJULEE BHAWAN
PALTAN BAZAR
GUWAHATI- 781001
TO BE REP. BY ITS MANAGING DIRECTOR

4:GENERAL MANAGER
APGCL
BIJULEE BHAWAN
PALTAN BAZAR
GUWAHATI- 78100

Advocate for the Petitioner : MR. B K DAS, MR. H P NEOG,MR H P GUWALA

Advocate for the Respondent : SC, APDCL, MR D NATH, SC,APGCL(R-3 & 4)



**BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

Date : 10.02.2025

- 1.** Heard Mr. B. K. Das, learned counsel for the petitioner and Mr. K.P. Pathak, learned Standing counsel, APDCL for the respondents.
- 2.** By order dated 12.12.2024, this Court directed the respondent Assam Power Distribution Company Limited (APDCL) to file an additional affidavit and produce the records on 09.01.2025 to take up the matter for final consideration and accordingly, an additional affidavit has been filed.
- 3.** The respondent APDCL has taken a stand that they are not in a position to produce the record and accordingly, an explanation is given at para 2 of the said additional affidavit which is quoted herein below:-

“That as directed by the Hon’ble Court vide order dated 12.12.2024, the deponent made every possible effort to trace the records pertaining to the recruitment of Assistant Accounts Officer initiated vide advertisement dated 14.08.2018 so that an affidavit can be filed as directed. However, the relevant records remain untraceable and the only document which could be traced out by the undersigned was the provisional merit list of the shortlisted candidates. During the search, it came to light that an investigation was initiated by the Chief Minister’s Vigilance Cell into the recruitment of Office Cum Field Assistant (OCFA)/Sahayak which was initiated vide the same advertisement dated 14.08.2018. All the documents pertaining to the advertised posts in the said selection process



was being handled by the same officer and, several records pertaining to the selection process were seized by the Chief Minister's Vigilance Cell. Therefore, such records might be in the custody of Cheif Minister's Vigilance Cell. These developments were communicated by the Chief General Manager (HRA) APDCL to the Deputy General Manager (Law) vide letter dated 07.01.2025. Due to the unavailability of the records, the deponent is unable to file the affidavit as directed by the Hon'ble Court, for which he humbly apologizes before this"

4. It is the prima facie opinion of this Court subject to further deliberation that such reply is very evasive. The deponent who is allegedly a responsible officer holding the post of Chief General Manager (HRA), APDCL made a statement that such record which this Court has directed to be produced might be in the custody of the Officer of the Chief Minister's Vigilance Cell.

5. Such kind of evasive statement made on oath is not appreciated by this Court, for more reason that an officer who is responsible for conducting such selection is not aware of where such records are kept inasmuch as in the considered opinion of this Court, the Chief Minister's Vigilance Cell generally would not take away official records without issuing proper seizure.

6. Therefore, prima facie not being convinced with such explanation made in the aforesaid additional affidavit, and to ascertain veracity of such kind of evasive statement, this Court on the last occasion i.e., on 06.02.2025, requested Mr. M.Phukan learned Public Prosecutor, Assam to appear in the case and to obtain instruction in that regard and accordingly, he entered appearance in the case.



7. Mr. Phukan, learned Public Prosecutor, Assam submits that he has received instruction which was sought for by the Court on 06.02.2025.

8. The Superintendent of Police, CM's, Special Vigilance Cell, Assam has communicated to Mr. Phukan, learned Public Prosecutor, Assam by the communication dated 07.02.2025, the relevant portion of the said communication is quoted herein below:-

"Memo No. SVC/RSI/Case No.04/2021/453 dated Guwahati, the 07/02/2025

With reference to the subject cited above, I have the honour to inform herewith that, Vigilance P.S. Case No. 04/2021 was registered for alleged irregularities in the selection process conducted by APDCL for the post of Office-Cum-Field Assistant Sahayak and Light Vehicle Driver. After completion of investigation Charge Sheet has already been submitted and forwarded to the Hon'ble Court of Special Judge, Assam, Guwahati vide C.S. 02/2022 Dated 15.10.2022 along with Case Diaries and all connected documents.

In Vigilance P.S. Case No. 04/2021 the matter investigated upon was illegal appointment for the Post of Office-Cum-Field Assistant, Sahayak and Light Vehicle Driver and not for the post of Assistant Accounts Officer (AAO) and we have not seized any documents relating to the illegal appointment of Assistant Accounts Officer (AAO).

Submitted for favour of your kind information, with a request to apprise the matter before the Hon'ble Gauhati High Court, Guwahati accordingly. "

9. In view of the aforesaid, Mr. Chiranjib Adhikary, Chief General



Manager (HRA), APDCL shall personally remain present before this Court on the next date fixed, i.e., on 05.03.2025 to explain his conduct and thereafter, this Court shall pass a necessary order in this regard inasmuch as in view of the stand taken by the Superintendent of Police, CM'S Special Vigilance Cell, Assam, this Court is of the prima facie opinion that said officer has committed an offence under Section 195 IPC. This Court also requested to Mr. Phukan, learned Public Prosecutor, Assam to remain personally present on the next date.

10. The communication dated 07.02.2025 addressed to Mr. Phukan learned Public Prosecutor, Assam by the Superintendent of Police, CM'S Special Vigilance Cell, Assam be kept on record and marked as the document –X.

11. Copy of this order be furnished to Mr. K.P.Pathak, learned Standing counsel, APDCL so that he can communicate the same to Mr. Chiranjib Adhikary, Chief General Manager (HRA), APDCL through the Managing Director, APDCL.

12. Mr. Pathak shall also furnish a copy of this order to the Managing Director, APDCL. The Managing Director shall ensure compliance of the earlier order dated 12.12.2024.

13. List on **05.03.2025** as part heard.

JUDGE

Comparing Assistant