

GAHC010252952022



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

Case No. : WP(C)/7992/2022

PRANAB PRASAD BORAH AND 3 ORS
S/O DULU BORAH, R/O VILL- MOHBHETI, P.O.-SRI RAMBONAMALI, DIST-
MAJULI, ASSAM, PIN-785105

2: BINOD CHETRY
S/O RAM BAHADUR CHETRY
R/O VILL- CHENG CHENG BIL
P.O.-MEN MEJI
P.S.-KHERONI
DIST-WEST KARBI ANGLONG
ASSAM
PIN-782435

3: DR. SIMA BHUYAN
D/O TARUN BHUYAN
R/O VILL AND P.O.-TETELI SARA
P.S.-KAMPUR
DIST-NAGAON
ASSAM
PIN-782426

4: BIAPPI SWARGIARY
S/O BIRENDRA SWARGIARY
R/O VILL-MAINADPURI KHANGKHALABARI
P.O.-UDALGURI
DIST-UDALGURI
ASSAM
PIN-78450

VERSUS

THE STATE OF ASSAM AND 19 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, EDUCATION (HIGHER) DEPARTMENT, DISPUR, GUWAHATI-06

2:ADDITIONAL SECRETARY TO THE GOVT. OF ASSAM
HIGHER EDUCATION DEPARTMENT
DISPUR
GUWAHATI-06

3:UNION OF INDIA
REPRESENTED BY THE SECRETARY TO THE DEPARTMENT OF
EMPOWERMENT OF PERSONS WITH DISABILITIES
MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT
ROOM NO. 517
B-II BLOCK
ANTYODAYA BHAWAN
CGO COMPLEX
LODHI ROAD
NEW DELHI-11003

4:THE DIRECTOR OF HIGHER EDUCATION
KAHILIPARA
DIST- MAJULI
ASSAM
PIN-785106

5:JOINT DIRECTOR OF HEALTH SERVICE
KAMALABARI
DIST-MAJULI
ASSAM
PIN-785106

6:JOINT DIRECTOR OF HEALTH SERVICE
HAMREN
DIST-WEST KARBI ANGLONG
ASSAM
PIN-72486

7:JOINT DIRECTOR OF HEALTH SERVICE
NAGAON
ASSAM TRUNK ROAD
HAIBORGAON
NAGAON
ASSAM
PIN-782001

8:THE CHAIRPERSON
DISTRICT DISABILITY BOARD
UDALGURI
ASSAM
DISTRICT SOCIAL WELFARE OFFICE

PIN-784509

9:THE GOVERNING BODY OF CHHAYGAON COLLEGE
CHHAYGAON
REPRESENTED BY ITS PRESIDENT
P.O.-CHHAYGAON
DIST-KAMRUP
PIN-781124

10:THE PRINCIPAL/SECRETARY OF CHHAYGAON COLLEGE
CHHAYGAON
P.O.-CHHAYGAON
DIST- KAMRUP
PIN-781124

11:THE GOVERNING BODY OF C.K.B. COLLEGE
TEOK
REPRESENTED BY ITS PRESIDENT
P.O.-JOGDUAR
TEOK
DIST- JORHAT
PIN-785112

12:THE PRINCIPAL/SECRETARY OF C.K.B. COLLEGE
TEOK
P.O.-JOGDUAR
TEOK
DIST- JORHAT
PIN-785112

13:THE GOVERNING BODY OF KALIABOR COLLEGE
NAGAON
REPRESENTED BY ITS PRESIDENT
P.O.-KUWARITOL
DIST- NAGAON
PIN-782137

14:THE PRINCIPAL/SECRETARY OF KALIABOR COLLEGE
NAGAON
P.O.-KUWARITOL
DIST- NAGAON
PIN-782137

15:THE GOVERNING BODY OF C.K.B. COMMERCE COLLEGE
JORHAT
REPRESENTED BY ITS PRESIDENT
JORHAT DIST- JORHAT
PIN-785001

16:THE PRINCIPAL/SECRETARY OF C.K.B. COMMERCE COLLEGE
JORHAT
DIST- JORHAT
PIN-785001

17:THE PRINCIPAL-CUM-CHIEF SUPERINTENDENT
GAUHATI MEDICAL COLLEGE AND HOSPITAL
GUWAHATI-781032

18:THE DIRECTOR OF MEDICAL EDUCATION
SIXMILE
KHANAPARA
GUWAHATI
PIN-781022

19:MEDICAL BOARD
CONSTITUTED FOR PHYSICAL VERIFICATION OF SELECTED PWD
CANDIDATES FOR APPOINTMENT IN THE POST OF ASSISTANT
PROFESSOR/LIBRARIANS IN VARIOUS PROVINCIAL COLLEGES
REPRESENTED BY ITS CHAIRMAN
GAUHATI MEDICAL COLLEGE AND HOSPITAL
GUWAHATI-781032

20:THE BODOLAND TERRITORIAL COUNCIL
REPRESENTED BY THE SECRETARY
BTC
P.O.-KOKRAJHAR
DIST- KOKRAJHAR
PIN-78337

Advocate for the Petitioner : MR. P MAHANTA
Advocate for the Respondent : SC, HIGHER EDU

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

14-12-2022

Heard Mr. P. Mahanta, learned counsel for the petitioners and Mr. K. Gogoi, learned Standing counsel, Higher Education Department for the respondent Nos. 1, 2 & 4. Also heard Ms. K. Phukan, learned Central Government Counsel for the respondent No. 3; Mr. B. Gogoi, learned Standing

counsel, Health and Family Welfare Department for the respondent Nos. 5, 6, 7, 17, 18 & 19, Mr. G. Bokolial, learned Government Advocate, Assam for the respondent No. 8 and Mr. P. Nayak, learned Standing counsel, BTC for the respondent No. 20.

The petitioners are aggrieved with the communication under No. Ecf No. 22543/2 dated 03.11.2022 of the State Government in the Higher Education Department (Annexure-9 to this petition) whereby the Director of Higher Education, Assam was directed to reject the selection of the candidates who were rejected by the Medical Board of Gauhati Medical College & Hospital pertaining to their selection for appointment as Assistant Professors/Librarians in various provincialised Colleges/PDUAM/ Government Model Colleges of Assam as well as the consequential communication under No. DHE/CE/AC/921/2022/71 dated 21.11.2022 issued by the Director of Higher Education, Assam (Annexure-10 to this petition) to all the Principals of Government/PDUAM/GMC/ Provincialised Colleges of Assam directing them to issue fresh advertisement against the vacant posts of Assistant Professor/Librarian under the PwD category which were rejected by the Medical Board of Gauhati Medical College & Hospital, Guwahati.

It is stated by the petitioners that the petitioner No. 1 earlier preferred WP(C) No. 6800/2022 wherein the Court by order dated 27.10.2022 directed the authorities of Chhaygaon College not to re-advertise the post of Assistant Professor of Assamese in Chhaygaon College; the petitioner No. 2 preferred WP(C) No. 6821/2022, wherein the Court by order dated 27.10.2022 directed the authorities of C.K.B. College, Teok not to re-advertise the post of Assistant Professor of Economics in C.K.B. College, Teok; the petitioner No. 3 preferred WP(C) No. 6935/2022, wherein the Court by order dated 02.11.2022 directed the authorities of Kaliabor College, Nagaon not to re-advertise the post of Assistant Professor of Assamese in Kaliabor College, Nagaon and similarly, the petitioner No. 4 preferred WP(C) No. 6939/2022 wherein the Court by order dated 02.11.2022, directed the authorities of C.K.B. Commerce College, Jorhat not to re-advertise the post of Assistant Professor of Economics in C.K.B. Commerce College, Jorhat, where all the posts are under the PwD category and that those interim orders passed by the Court are still in force.

Issue notice, returnable by **8 (eight) weeks**.

As Mr. K. Gogoi, learned Standing counsel, Higher Education Department; Ms. K. Phukan, learned CGC; Mr. B. Gogoi, learned Standing counsel, H&FW Department, Mr. G. Bokolial, learned Government Advocate, Assam and Mr. P. Nayak, learned Standing counsel, BTC have accepted the notices on behalf of the respondent Nos. 1, 2 & 4; 3; 5, 6, 7, 17 to 19; 8 and 20 respectively, no formal notice need to be issued to those respondents.

Petitioners shall serve requisite extra copies of this writ petition including the annexures appended thereto to Mr. Gogoi, learned Standing counsel, Higher Education Department; Ms. Phukan, learned CGC; Mr. Gogoi, learned Standing counsel, H&FW Department, Mr. Bokolial, learned Government Advocate, Assam and Mr. Nayak, learned Standing counsel, BTC by tomorrow, i.e., 15.12.2022 obtaining necessary acknowledgment from them in that regard.

Petitioners shall take steps for service of notices on the respondent Nos. 9, 10, 11, 12, 13, 14, 15 & 16 by registered post with A/D by tomorrow, i.e., 15.12.2022, providing their correct and proper addresses with requisite postal stamps.

Until further order of the Court, the impugned communication under No. Ecf No. 22543/2 dated 03.11.2022 of the State Government in the Higher Education Department and the communication under No. DHE/CE/AC/921/2022/ 71 dated 21.11.2022 of the Director of Higher Education, Assam shall remain suspended with regard to the posts of Assistant Professor in the departments of (i) Assamese in Chhaygaon College; (ii) Economics in C.K.B. College, Teok, (iii) Assamese in Kaliabor College, Nagaon and (iv) Economics in C.K.B. Commerce College, Jorhat which are under PwD category.

List accordingly.

JUDGE

Comparing Assistant