

GAHC010270792022



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

Case No. : WP(C)/236/2023

SUMITRA SHARMA
D/O- TULSI RAM SHARMA, W/O- SHIVA PRASAD SHARMA, R/O-
SARUTARI, BYRNIHAT, SONAPUR, P.O. AND P.S. SONAPUR, DIST.
KAMRUP(M), ASSAM, PIN- 782402 AND ALSO A RESIDENT OF MESEB
COLONY-2, LUMNONGRIM, G.S. ROAD, BYRNIHAT, RI-BHOI, MEGHALAYA,
PIN- 793101.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, ELEMENTARY EDUCATION DEPARTMENT, DISPUR,
GUWAHATI-06.

2:THE MISSION DIRECTOR

AXOM SARBA SIKSHA ABHIYAN MISSION
KAHILIPARA
GUWAHATI-781019
ASSAM

3:THE MISSION DIRECTOR

SAMAGRA SHIKSHA ABHIYAN MISSION
KAHILIPARA
GUWAHATI-781019
ASSAM

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER CUM DISTRICT
MISSION CO-ORDINATOR

SAMAGRA SHIKSHA ABHIYAN MISSION
KAHILIPARA
GUWAHATI-781019

ASSAM

5:THE DEPUTY INSPECTOR OF SCHOOLS
CHATRIBARI
GUWAHATI-781008
ASSA

Advocate for the Petitioner : MR. R DE

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

20.01.2023

Heard Mr. R De, learned counsel for the petitioner and Mr. A Phukan, learned Standing counsel, Department of School (Elementary) Education, Assam for the respondent Nos. 1 & 5. Also heard Mr. P Nayak, learned Standing counsel, Sarba Siksha Abhiyan (SSA), Assam for the respondent Nos. 2, 3 & 4.

The petitioner, namely, Sumitra Sharma, daughter of Tulsiram Sharma pursuant to the Advertisement dated 30.06.2017 issued by the Mission Director, Sarba Siksha Abhiyan (SSA), Assam applied for the post of Assistant Teacher in Lower Primary School under the Sarba Siksha Abhiyan, Assam on contractual basis. During the time of her application for the said post, she submitted the marksheet of her CTET qualification.

The petitioner obtained 50 (fifty) marks out of total marks of 150 (one hundred fifty) in the CTET examination held on September, 2016, which is equivalent to 33.33%.

Though the petitioner submitted all the details along with her marksheet in the online application process, which has been subsequently verified by the respondent authorities in the SSA, Assam, on being selected for the post pursuant to the said Advertisement dated 30.06.2017 issued by the Mission Director, Sarba Siksha Abhiyan, Assam, the said Mission Director on 08.09.2017 appointed her as an Assistant Teacher in

Lower Primary School on contractual basis and was posted at Mangal Chandi Hindi Lower Primary School in the district of Kamrup (Metro).

Later, the respondent authorities in the SSA, Assam on due verification came to know that the petitioner did not pass her CTET examination, whereas one of the eligibilities for appointment to the post of Assistant Teacher on contractual basis as issued by the respondent authorities in the SSA, Assam in the Advertisement dated 30.06.2017 was that the candidate should be CTET qualified amongst others.

After issuing Show-cause Notice to her on 21.03.2022 and considering her reply dated 28.03.2022, the authorities in the SSA, Assam by order dated 09.06.2022 terminated the service of the petitioner as contractual Assistant Teacher of said Mangal Chandi Hindi Lower Primary School, District–Kamrup (M).

Being aggrieved, the petitioner has preferred this writ petition.

Mr. Nayak, learned Standing counsel, SSA, Assam placed before the Court that in the Order of Appointment of the petitioner dated 08.09.2017 issued by the Mission Director, SSA, Assam, one of the conditions for appointment clearly reflects that “in case of detection of any ineligibility of the candidate concerned in future as per terms and condition of the advertisement or NCTE norms, the authority reserves the right to terminate his/her services.”

Mr. Nayak also clarified that the minimum qualifying percentage for CTET is 60% of marks for the General Category candidates and 55% of marks for the SC/ST/OBC/MOBC candidates. In that circumstance, a General Category candidate is required to obtain 90 marks out of total 150 marks as 60% to pass CTET Certificate and a Reserved Category candidate is required to obtain 82.50 marks out of total 150 marks as 55%.

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

As Mr. A Phukan, learned Standing counsel, Department of School (Elementary) Education, Assam and Mr. P Nayak, learned Standing counsel, SSA, Assam have accepted the notices on behalf of the respondent Nos. 1, 5 and 2, 3, 4 respectively, no formal notice need to be issued to those respondents.

Petitioner shall serve requisite extra copies of this writ petition including the Annexures appended thereto to Mr. A Phukan, learned Standing counsel, Department of

School (Elementary) Education, Assam as well as Mr. P Nayak, learned Standing counsel, SSA, Assam by 23.01.2023, obtaining necessary acknowledgements from them in that regard.

List accordingly.

JUDGE

Comparing Assistant