

GAHC010011592014



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

Case No. : WP(C)/3160/2014

MONJILA KHATUN W/O- BODIOT ZAMAN, VILL.- SAKTOLA, P.O.-
AWLATOLI, P.S.- LAKHIPUR, DIST.- GOALPARA, ASSAM.

VERSUS

THE STATE OF ASSAM AND 5 ORS REP. BY THE COMMISSIONER AND
SECY. TO GOVT. OF ASSAM, SOCIAL WELFARE DEPT., DISPUR, GHY- 6.

2:THE DIRECTOR OF SOCIAL WELFARE DEPTT.
ASSAM UZANBAZAR GHY- 1.

3:THE DY. COMMISSIONER GOALPARA
P.O. P.S. and DIST.- GOALPARA ASSAM.

4:THE CHILD DEVELOPMENT PROJECT OFFICER LAKHIPUR ICDS
PROJECT P.O. and P.S.- LAKHIPUR DIST.- GOALPARA ASSAM.

5:THE SUPERVISOR OF PART- IV ANGANWADI CENTRE
C/O- THE CHILD DEVELOPMENT PROJECT OFFICER
LAKHIPUR ICDS PROJECT P.O. and P.S.- LAKHIPUR DIST.- GOALPARA.

6:MOSFIA YASMIN W/O- AMIRUL ISLAM SARKAR VILL.- SAKTOLA
P.O.- AWLATOLI P.S.- LAKHIPUR DIST.- GOALPARA ASSAM

Advocate for the Petitioner : MR.M U MONDAL

Advocate for the Respondent : SC, SOCIAL WELFARE

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : 28.03.2024

Heard Mr. A. R. Bhuiyan, learned counsel for the petitioner. Also heard Mr. A. Roshid, learned counsel appearing on behalf of the respondent No. 6. However, none appears on behalf of the respondents Social Welfare Department, Assam.

2. The petitioner by way of instituting the present proceedings, has presented a challenge to the action on the part of the respondent authorities in terminating her service as Anganwadi Worker in 8 No. Saktola Pt-IV Anganwadi Centre and engaging the private respondent No. 6 against the said post.

3. The petitioner in pursuance to a process of selection, was selected for engagement as Anganwadi Worker in 8 No. Saktola Pt-IV Anganwadi Centre vide order, dated 17.11.2009. Thereafter, the said engagement of the petitioner was put to challenge before this Court by some candidates who had participated in the said selection process but were not selected for the post, in question, by way of instituting WP(c) 5289/2009. This Court, vide order, dated 03.05.2011, disposed of WP(c) 5289/2009, by granting liberty to the petitioners therein to approach the Director of Social Welfare, Assam, by filing representations. The Director of Social Welfare, Assam, was directed to consider the claims of the petitioners in consultation with the jurisdictional Deputy Commissioner. The Deputy Commissioner was required to make necessary verification through the

jurisdictional Goan Burah/Ward Member of the Goan Panchayat and/or the President/Secretary of the Goan Panchayat.

4. In pursuance to the said directions passed by this Court in WP(c)5289/2009; the Director, Social Welfare Department, Assam, vide order, dated 16.08.2012, required the Deputy Commissioner, Goalpara, to look into the matter and submit his views with regard to the issue pertaining to the residential status of the persons involved. On the report from the Deputy Commissioner being made available; the Director, Social Welfare Department, Assam, vide order, dated 26.06.2013, proceeded to hold that the petitioner, herein to be not a resident within the concerned Anganwadi area and accordingly, the Child Development Project Officer, ICDS Project, Lakhipur, was directed to remove the petitioner from the engagement made in her case as an Anganwadi Worker for the Anganwadi Centre in question and to appoint a suitable person from the very same selection process.

5. It is seen that the petitioner, thereafter, had approached this Court by way of instituting WP(c)5289/2009 and this Court, vide order, dated 05.09.2013, upon examining of the matter, was pleased to reject the said writ petition. Being aggrieved; the petitioner, herein, approached the Division Bench of this Court by instituting WA 300/2013. The writ appellate Court vide order, dated 26.09.2013, on appreciating the contention of the petitioner that she was not given an opportunity of hearing before passing of the order, dated 26.06.2013, by the Director, Social Welfare Department, Assam, remanded back the matter to the Director, Social Welfare Department, Assam, to pass a fresh order after giving

due opportunity of hearing to the petitioner. Accordingly, the Director, Social Welfare Department, Assam, issued notices to all concerned parties including the petitioner and the respondent No. 6, in the present proceedings and upon hearing the parties involved; proceeded to issue the order, dated, 25.04.2014, rejecting the claim of the petitioner herein. Being aggrieved, the present proceedings has been instituted by the petitioner.

6. On a perusal of the said order, dated 25.04.2014, it is seen that the Director, Social Welfare Department, Assam, has recorded a finding to the effect that the petitioner was duly heard before passing of the order, dated 26.09.2013 and accordingly, upon further consideration of the matter and accepting the verification report as submitted by the Deputy Commissioner in the matter; the Director, Social Welfare Department, Assam, proceeded to interfere with the engagement as made in the case of the petitioner.

7. It is to be noted in the pleadings that has been brought on record by the petitioner in the present proceedings the findings as recorded by the Director, Social Welfare Department, Assam, in the order, dated 25.04.2014, to the extent that the petitioner was given a due opportunity of hearing before passing of the order on 26.09.2013, has not been disputed.

8. The petitioner's claim is solely based on a survey report wherein she has been shown to be a resident within the area covered by the Anganwadi Centre in question. It is to be noted that as per the pleadings brought on record by the petitioner the said survey report is the one which was prepared by herself after

her appointment as an Anganwadi worker in the said centre. On the other hand the verification report as regards residential status of the petitioner carried out by the jurisdictional Deputy Commissioner basing on the directions passed by this Court vide order dated 03.05.2011 in WP(C) No. 5289/2009, must be given credence.

9. The Director, Social Welfare Department, Assam, having based his findings in the order, dated 25.04.2014, on the verification report submitted in the matter by the jurisdictional Deputy Commissioner, such findings as recorded by the Director, Social Welfare Department, Assam, does not call for any interference by this Court. This Court in exercise of its powers under writ jurisdiction would not venture to make a roving enquiry in the matter.

10. In view of the above conclusions reached hereinabove, the orders dated 25.04.2013 and 13.05.2014 does not call for any interference and the same are accordingly upheld.

11. Accordingly, this writ petition is found to be devoid of merit and the same stands dismissed. However, there shall be no order as to costs.

JUDGE