

GAHC010006432022



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

Case No. : WP(C)/284/2022

RUPAM KALITA
S/O OF UDDHAB CHANDRA KALITA R/O TOWN PATHSALA BHATTADEV
NAGAR DIST. BARPETA ASSAM-781325

VERSUS

THE STATE OF ASSAM AND 10 ORS
REP BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
INDUSTRIES AND COMMERCE DEPTT. ASSAM DISPUR GUWAHATI-781006

2:ASSAM PUBLIC SERVICE COMMISSION
REP BY ITS SECRETARY JAWAHAR NAGAR KHANAPARA GUWAHATI-
781022

3:PRINCIPAL CONTROLLER OF EXAMINATIONS
ASSAM PUBLIC SERVICE COMMISSION
JAWAHAR NAGAR KHANAPARA GUWAHATI-781022

4:ARCHAND CHETRI
R/O QUARTER NO. 69 TYPE IV SECTOR D BVFCL COLONY NAMRUP P.O.
PARBATPUR
DIBRUGARH ASSAM-786623

5:BIROJ PRAN BASUMATARI
R/O QUARTER NO. 22/IV/D SECTOR D BVFCL COLONY NAMRUP P.O.
PARBATPUR
DIBRUGARH ASSAM-786623

6:KRITARTHA SANKAR SARMAH
QUARTER NO. E 52 APL TOWNSHIP ASSAM PERO CHEMICALS LTD.
NAMRUP P.O. PARBATPUR
DIBRUGARH ASSAM-786623

7:TUSHAR PRATIM GOHAIN

R/O QUARTER NO. 171/IV/E BVFCL COLONY NAMRUP P.O. PARBATPUR
DIBRUGARH ASSAM-786623

8:SONMANI CHOUDHURY
ASSAM PETRO CHEMICALS LTD. NAMRUP QUARTER NO. D-27 P.O.
PARBATPUR DIBRUGARH ASSAM-786623

9:ISHAN MAZINDER BARUAH
BVFCL QUARTER NO. 449 TYPE III SECTOR-C P.O. PARBATPUR
DIBRUGARH
ASSAM-786623

10:PALLAB JYOTI KONWAR
R/O HOUSE NO. 23B KALI MANDIR PATH FATASHIL AMABRI GUWAHATI
DIST. KAMRUR (M) ASSAM-781025

11:NAYAN MONI GOGOI
R/O FLAT NO. 404 (A) PRIYA RESIDENCY VIDYA MANDIR PATH
BHETAPARA GUWAHATI-781028 DIST. KAMRUP (M) ASSA

Advocate for the Petitioner : MR. DITUL DAS

Advocate for the Respondent : SC, APSC

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 18.01.2022

Heard Mr. D. Das, learned counsel for the petitioner. Also heard Mr. T.J. Mahanta, learned Senior Counsel assisted by Mr. P.P. Dutta, learned counsel representing the Assam Public Service Commission [APSC] and Mr. Mr. A. Kalita, learned Standing Counsel, Industries and Commerce Department.

The present application has been filed assailing the selection of respondent nos. 4–11 as the Functional Manager/Project Manager/Deputy Director under the Industries and Commerce Department, Assam. The said selection has been done by the APSC, initiated vide advertisement dated 26.06.2020. The grievance of the petitioner is that the private respondents were

empanelled in a list of candidates whose applications have been rejected. Subsequent to such rejection, according to the learned counsel for the petitioner the persons were again brought under the additional list of candidates whose applications have been accepted, the said list was published on 03.11.2021. Subsequent to this, the final list was published on 09.11.2021 wherein the private respondents were selected for the post in question.

The learned counsel for the petitioner submits that only to accommodate the private respondents, the date of interview was postponed and the private respondents were brought in the list of accepted persons and only to accommodate them the entire process has been carried out. Therefore, he prays that an interim order needs to be passed at this stage restraining the private respondents from joining their respective posts in as much as the entire selection is a nullity and is illegal.

The learned Standing Counsel, Industries and Commerce Department has submitted that the most of the persons have already joined in their respective posts.

Mr. Mahanta, learned Senior Counsel representing the APSC submits that the rejection list [Annexure-5] is not a list of final rejection. The list itself provides that if there are any discrepancies in the list, the person aggrieved may contact the APSC for correction. Such declaration in the said list, according to Mr. Mahanta, learned Senior Counsel clarifies that this was not the final list rather a draft list wherein there was a scope for correction. Accordingly, an additional list of accepted candidates at Annexure-6 was published.

Issue notice returnable after 4 [four] weeks.

Mr. Kalita accepts notice on behalf of the respondent no. 1 and Mr. P.P.

Dutta accepts notice on behalf of the respondent nos. 2 & 3.

Extra copies be furnished to the Standing Counsel, APSC and Standing Counsel, Industries and Commerce within a period of 3 [three] days from today.

Notice be issued to the respondent nos. 4–11 through registered post with A/D.

The petitioner is also permitted to take dasti service upon the respondent nos. 4–11. However, the same may be routed through the Registry of this Court. An affidavit showing the proof of dasti service be filed thereafter.

The Registry to show the name of Mr. A. Kalita, learned Standing Counsel, Industries and Commerce Department in the cause-list.

The notice is made returnable after 4 [four] weeks.

As the inclusion of the private respondents in the Additional list is dated 03.11.2021 and the interview was held on 08.11.2021 and Select list was published on 09.11.2021 and most of the private respondents have already joined, this Court is not inclined at this stage, to restrain the private respondents from joining in the their respective posts. However, the appointment of the private respondents shall be subject to the final outcome of the present writ petition.

JUDGE

Comparing Assistant