

GAHC010187812020



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

Case No. : WP(C)/28/2021

BONDITA BORAH
D/O GOBIN CHANDRA BORAH
RESIDENT OF VILLAGE CHETIAGAON, WARD NO/ 5, PO AND PS NORTH
LAKHIMPUR, DIST LAKHIMPUR, ASSAM 787001

VERSUS

THE STATE OF ASSAM AND 16 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, DEPARTMENT OF PERSONNEL (B) DISPUR GUWAHATI 781006

2:THE ASSAM PUBLIC SERVICE COMMISSION
REPRESENTED BY THE CHAIRMAN
JAWAHARNAGAR
KHANAPARA
GUWAHATI 781022

3:THE CHAIRMAN
ASSAM PUBLIC SERVICE COMMISSION
JAWAHARNAGAR
KHANAPARA
GUWAHATI 781022

4:SRI AARON TERON
S/O- NAREN TERON
VILL.- RUKASEN
P.O. AND P.S.- DIPHU
DIST.- KARBI ANGLONG.

5:SRI BHOMKLARCHEN SINGNAR
S/O- SRI KANGBURA SINGNAR
VILL.- CHEPHONGSAJIR

P.O. AND P.S.- DIPHU
DIST.- KARBI ANGLONG.

6:SRI BARNEL BEY
S/O- SRI LONGKI BEY
VILL.- RONGKIMI
P.O. AND P.S.- DIPHU
DIST.- KARBI ANGLONG.

7:UJJAL NATH
S/O- LIPIKA NATH
R/O- BLOCK ROAD
CHOUDHURY VILLA
RAMKRISHNA NAGAR
DIST.- KARIMGANJ
ASSAM
PIN- 788166.

8:PRANAB DAS
S/O- PRADIP CHANDRA DAS
R/O- NEAR NETWORK COUNTER
P.O.- IRONGMARA
DIST.- CACHAR
ASSAM
PIN- 788011.

9:PARTHA JYOTI DAS
H/NO.- 47
LANE NO. 27
VIVEKANANDA ROAD
SILCHAR
DIST.- CACHAR
ASSAM
PIN- 788007.

10:PATHIKRIT AHMED
S/O- SAMSUDDIN AHMED
R/O- NEAR ELLAHI MASJID
ELLAHI MASJID ROAD
DEORAIL BADARPUR
DIST.- KARIMGANJ
ASSAM
PIN- 78886.

11:REBIKA MAIBANGSA
D/O- NRIPENDRA MAIBANGSA
R/O- DIRIK
HALFLONG

DIST.- DIMA HASAO
ASSAM.

12:DIVIDITA JOHARI
D/O- BONIL JOHARI
R/O- JOHAYA RAJEE
HALFLONG
DIST.- DIMA HASAO
ASSAM.

13:ABRINA HALFLONGBAR
D/O- AJIT HALFLONGBAR
R/O- SURAT NAGAR
HALFLONG
DIST.- DIMA HASAO
ASSAM.

14:THANGHOULIEN LIEUTHANG
S/O- PAWKHOLAL LIEUTHANG
CIRCUIT HOUSE ROAD
HALFLONG
DIST.- DIMA HASAO
ASSAM.

15:PHOJEN BATHARI
S/O- JAPAN BATHARI
R/O- MAHUR
DIST.- DIMA HASAO
ASSAM.

16:SATLUNSANG LUNKIM
S/O- LHUNHAO LUNKIM
R/O- MAHUR
DIST.- DIMA HASAO
ASSAM.

17:VISHAL THAPA
S/O- LT. PREM THAPA
R/O- KANA BASTI
HALFLONG
DIST.- DIMA HASAO
ASSAM

Advocate for the Petitioner :

Advocate for the Respondent : SC, PERSONNEL DEPT.

Linked Case : WP(C)/5169/2020

NAVIN KUMAR RAY
S/O RAM UDGAR RAY

VILLAGE AGBANDHA SAIDING
PO AGBANDHA BENGALI GAON
PS MARGHERITA

DIST TINSUKIA
ASSAM 786187

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
PERSONNEL (A) DEPARTMENT
DISPUR GUWAHATI 781006

2:THE ASSAM PUBLIC SERVICE COMMISSION
REPRESENTED BY ITS CHAIRMAN JAWAHARNAGAR
KHANAPARA
GUWAHATI ASSAM 781022

3:THE SECRETARY
THE ASSAM PUBLIC SERVICE COMMISSION
KHANAPARA
GUWAHATI
ASSAM 781022

4:THE JOINT SECRETARY
THE ASSAM PUBLIC SERVICE COMMISSION
KHANAPARA
GUWAHATI
ASSAM 781022

5:THE PRINCIPAL CONTROLLER OF EXAMINATIONS

THE ASSAM PUBLIC SERVICE COMMISSION
KHANAPARA
GUWAHATI
ASSAM 781022

Advocate for : MR. S BANIK
Advocate for : SC

APSC appearing for THE STATE OF ASSAM AND 4 ORS.

Linked Case : WP(C)/5248/2020

BONANI PRIYA RAJKONWAR
D/O- JAYANTA RAJKONWAR
PRESENT R/O- H.NO. 19
BYE LANE NO. 3
BISHNUJYOTI PATH
HATIGAON
KAMRUP (M)
ASSAM
PIN- 781038
PERMANENT R/O- H.NO. 91
VILL- RONGCHANGI
OPP. RONGCHANGI MINI PHC
DIBRUGARH
ASSAM
PIN- 786184

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM
PERSONNEL (A)
DISPUR
GHY-6
DIST.- KAMRUP (M)
ASSAM

2:THE PRINCIPAL SECRETARY
GOVT. OF ASSAM
PERSONNEL (A)
DEPTT.
DISPUR
GHY-6
DIST.- KAMRUP (M)
ASSAM

3:THE ASSAM PUBLIC SERVICE COMMISSION
REP. BY ITS CHAIRMAN
JAWAHARNAGAR
KHANAPARA
GHY-22
DIST.- KAMRUP (M)
ASSAM

4:THE SECRETARY
ASSAM PUBLIC SERVICE COMMISSION
JAWAHARNAGAR
KHANAPARA
GHY-22
DIST.- KAMRUP (M)
ASSAM

5:THE JOINT SECRETARY
ASSAM PUBLIC SERVICE COMMISSION
JAWAHARNAGAR
KHANAPARA
GHY-22
DIST.- KAMRUP (M)
ASSAM

Advocate for : MR F KHAN
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 4 ORS

**BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

10.12.2021

The matter is taken up through video conferencing.

Heard Mr. M.K. Sharma, learned counsel for the petitioner in WP(C) No.28/2021; Mr. S. Banik, learned counsel for the petitioner in WP(C) No.5169/2020 and Mr. F. Khan, learned counsel for the petitioner in WP(C) No.5248/2020. Also heard Mr. D. Saikia, learned Advocate General, Assam; Mr. T.J. Mahanta, learned senior standing counsel, APSC; Ms. S. Kemprai and Mr. V. Rajkhowa, learned counsel, appearing for the newly impleaded private respondents.

The Assam Public Service Commission (APSC) had initiated a selection process for the posts of State Civil Servants in Assam vide its advertisement

dated 08.09.2020. As per the advertisement, the candidates had to first qualify a preliminary examination and then had to appear in the main written examination and *viva-voce*. For those who qualify in the preliminary examination, apart from the other subjects, it was also mandatory to qualify in any of the three languages, i.e. Assamese, Bodo and Bengali.

We must note at this juncture that Assamese is the official language in Assam but by law certain concessions have also been given to other languages, such as Bodo and Bengali, which are also spoken in parts of Assam. This qualifying paper in language was initially exempted for the candidates belonging to three Districts, i.e. Dima Hasao, Karbi Anglong and West Karbi Anglong, and thereafter it was extended to three more Districts of Barak Valley, which are Karimganj, Cachar and Hailakandi.

These writ petitions were filed before this Court challenging the exemption given to candidates of other Districts on the ground that this is violative of Articles 14 and 16 of the Constitution of India and on other grounds as well. During the pendency of these writ petitions, the preliminary examinations were held and some of the petitioners before this Court did not qualify that examination. Nevertheless, the issue raised by them was alive and required attention of this Court.

On previous dates, we were told by Mr. D. Saikia, learned Advocate General, Assam that the State Government is re-looking at the entire aspect of the matter and he hopes that a solution would be brought very soon. Today, we have been also informed by Mr. D. Saikia, learned Advocate General, Assam today that a Cabinet meeting held on 24.11.2021 has already taken a decision, which has also been conveyed to the APSC, that in the written examination, which is tentatively scheduled for January or February, 2022, the requirement

for qualifying in the language paper, i.e. Assamese, Bodo or Bengali, is removed.

The learned counsel for the petitioners, who have appeared before this Court today, have also expressed their satisfaction in the matter but have prayed that in the light of the statement made by Mr. D. Saikia, learned Advocate General, Assam, the matter may be only adjourned as there are other legal aspects, which need a consideration of this Court.

In view of the above, we adjourn the matter.

List again on **14th February, 2022.**

In the light of above and in order to remove any confusion, we direct that the APSC shall hold the written examination without the language paper.

JUDGE

CHIEF JUSTICE

Comparing Assistant