



**OFFICE OF THE
ASSAM INFORMATION COMMISSION
JONAKKEE COMPLEX, PANJABARI, GUWAHATI-781 037**

Case No. : SIC/TSK.11/2016
Appellant : Smt. Nandita Goswami Sarma
Respondent : The SPIO, office of the Director of Secondary Education,
Kahilipara, Assam
Date of hearing : 27.06.2016
Second Appeal heard by : Smt. Nilufer Alam Hazarika, IAS (Retd.)
State Information Commissioner, Assam

O R D E R
27.06.2016

The petitioner Smt. Nandita Goswami Sarma is absent without any intimation.

The Public Authority is represented by Dr. Bhupen Talukdar, AES, Joint Director & SPIO, Directorate of Secondary Education, Assam. He has submitted a written statement dated 23.06.2016 that the information sought for had been furnished to the petitioner vide letter dated 09.07.2014 that as per FRBM Act, 2005 there is no provision of appointment of candidates in 2nd position against one vacancy instead of 1st position. He has also informed that the matter is sub-judice as Ms. Sewali Kakoti and 28 others had filed WP(C) No.1955/13 and hence appointment could not be made in Vivekananda Vidyalaya H.S. School, Digboi, Tinsukia and Rastriya Vidyalaya H.S. School, Digboi, Tinsukia.

On perusal of judgment/order of the Gauhati High Court dated 07.08.2014, it appears that Hon'ble High Court had directed the State Authority not to give appointment to persons whose names are not included in the select list dated 06.04.2013 to the notified 254 vacancies but final merit list of Vivekananda Vidyalaya H.S. School, Digboi, Tinsukia and Rastriya Vidyalaya H.S. School, Digboi, Tinsukia enclosed by the SPIO shows that Smt. Nandita Goswami Sarma's name has appeared in the final merit list of both the schools as such is not covered by the judgment enclosed not to give appointment to persons whose names are not included in the select list dated 06.04.2013.

On perusal of records, it appears that the petitioner had filed two RTI applications dated 28.02.2014 to the SPIO, office of the Secondary Education Department requesting for information on appointment of English Teacher in Vivekananda Vidyalaya H.S. school, Digboi, Tinsukia as per merit list of 2013 and appointment of English Teacher in Rastriya Vidyalaya H.S. School, Digboi, Tinsukia as per the merit list of 2013. The petitioner had stated that as per the select list dated 06.04.2013, the candidate who had joined Chachoni Higher Secondary School, Dibrugarh was selected for 3 (three) schools being at Sl No. 1 of the merit list. Why appointment had not been given to the candidate at Sl. No. 2 of the same merit list till date when candidate at Sl. No. 1 did not join the post of Subject Teacher in Vivekananda Vidyalaya H.S. School, Digboi, Tinsukia and Rastriya Vidyalaya H.S. School, Digboi, Tinsukia. The said applications were forwarded to the office of the Director, Secondary Education vide letter dated 06.03.2014 and reply was furnished to the petitioner vide letter dated 04.04.2014 by Sri H.N. Sarma, AES, Deputy Director, Secondary Education that Smt. Mausumi Baruah was appointed as Post Graduate Teacher in English against vacant post of Chachoni Higher Secondary School under Dibrugarh District and hence, appointment of Sl. No. 2 of the said merit list does not arise.

The petitioner filed her First appeal dated 17.06.2014 before the Director, Secondary Education, Assam. She mentioned in her appeal that she had requested the SPIO, office of the Secondary Education vide letter dated 02.05.2014 that she had not received the desired information but the SPIO had advised her vide letter dated 08.05.2014 to submit an appeal directly to the Director, Secondary Education, Assam. These two letters however are not available on record. The Deputy Director and SPIO, Secondary Education, Assam vide letter dated 09.07.2014 in reply to her First Appeal petition informed that as per FRBM Act, 2005

there is no provision of appointment of candidates in 2nd position against one vacancy instead of 1st position. She stated that the information furnished was received on 24.07.2014 and was incorrect and mala-fide and not the desired information sought for through her petition. On the above grounds, the petitioner had filed her Second Appeal before the Commission on 20.08.2014.

On careful perused of records, it appears that vide letter dated 04.04.2014, the Deputy Director & SPIO, Secondary Education had informed the SPIO & Deputy Secretary to the Govt. of Assam, Education (Sec) department, Dispur with copy to Smt. Nandita Goswami Sarma that Smt Mausumi Baruah was appointed as Post Graduate Teacher in English against the vacant post of Chachoni Higher Secondary School, Dibrugarh. From the copy of the final merit list enclosed by the SPIO and Joint Director, Secondary Education, Assam, it appears that two separate final merit list had been published for two different schools i.e. Vivekananda Vidyalaya H.S. School, Digboi, Tinsukia and iii). Rastriya Vidyalaya H.S. School, Digboi, Tinsukia dated 25.06.2012 where the name of Smt. Mausumi Baruah's name appeared at Sl. No.1 of the select list for both the schools and the name Smt. Nandita Goswami Sarma appeared in Sl. No.2 in both the list. Smt. Mausumi Baruah had joined Chachoni Higher Secondary School, Dibrugarh as informed by the Deputy Director, Secondary Education, Assam as stated above.

In view of the facts and circumstances stated above, the Commission is of the view that the petitioner should be furnished documents and file which will contain the information that will answer her question why Smt. Nandita Goswami Sarma was not appointed when her name appeared is in Sl. No. 2 of both the select list and Sl. No.1 was not appointed in any of the two schools, action taken so far on her application for appointment and latest position of the same. The SPIO, office of the Director, Secondary Education, Assam should take necessary action in this regard and furnish the information to the petitioner within 21 days from the date of receipt of this order.

The Commission also observes that no hearing was taken by the Director of Secondary Education, Assam on the First Appeal filed by the petitioner. In view of the facts discussed above, the Commission remands the First Appeal dated 17.06.2014 to the Director, Secondary Education, Assam for hearing and disposal of the same with a speaking order within 30 days from the date of receipt of this remand order.

The petitioner will be at liberty to move the Commission with Second Appeal or Complaint petition as the case may be, if she is aggrieved by the decision of the First Appellate Authority or because of non-disposal of the First Appeal petition by the First Appellate Authority.

Sd/-

Nilufer Alam Hazarika, IAS (Retd.)
State Information Commissioner, Assam
Panjabari, Guwahati

Authenticated true copy.

Sd/-

Deputy Registrar
Assam Information Commission

Memo No. SIC/TSK.11/2016 /40 -A

Dtd. 27.06.2016

Copy to:

1. The SPIO, office of the Director of Secondary Education, Kahilipara, Guwahati, Assam, Pin-781019 for information and necessary action.
2. The First Appellate Authority/Director of Secondary Education, Kahilipara, Guwahati, Assam, Pin-781019 for information and necessary action.
3. Smt. Nandita Goswami Sarma, B'low No.27, Near Digboi Club, Digboi, Assam, Pin-786171 for information.
4. Computer Section for uploading in the Website.
5. Office File.

Deputy Registrar
Assam Information Commission