

**(1999) 02 GAU CK 0010****Gauhati High Court****Case No:** Civil Rule No. 315 of 1997

Dhanhazarika

APPELLANT

Vs

State of Assam and Others

RESPONDENT

**Date of Decision:** Feb. 23, 1999**Citation:** (1999) 1 GLT 280**Hon'ble Judges:** N.C. Jain, J**Bench:** Single Bench**Advocate:** Y.K. Phukan, D. Das and H.K. Mahanta, for the Appellant; H.N. Sarma, for the Respondent**Judgement**

N.C. Jain, J.

The Petitioner by way of this petition has claimed appointment on the ground that he was selected and placed in the merit list constituency wise at serial No. 2 as is evident from Annexure-2. According to the case of the Petitioner as has been disclosed in writ application, an advertisement was given by the Assam Government vide Annexure-1 giving the probable vacancies for ME/MV School as 5474. The Petitioner appeared in the interview in pursuance of the advertisement and he was placed at serial No. 2 in the list of candidates selected for appointment against vacant post in Biswanath Sub-Division in MV/ME school. It is further the case of the Petitioner that the candidate at serial No. 1 has already been given appointment in pursuance of the select list. The Petitioner approached the concerned authorities several times and he having not been appointed in accordance with the select list, he approached this Court by way of the present writ petition. The writ petition was filed on 20.1.97 and more than two years have elapsed. No factual averments made in the writ application has been controverted by filing affidavit-in-opposition.

2. The counsel for the Respondents has argued that the select list has already lapsed with the passage of time. Nothing has been placed on record to prove that the select list has lapsed. In any case I am not recording any finding on the point whether the select list has lapsed or not and whatever observation are going to be

made by me, the same would determine only the rights of the Petitioner and not of anybody else.

3. Admittedly, the select list was published on 29.1.96 and the Petitioner filed the present writ petition within one year of the publication of the select list. Select list remains valid for a period of one year in accordance with the Assam Elementary Education Provincialisation Rules 1977. The Petitioner has admittedly approached this Court within the aforesaid period. This Court is in dark whether another select list during these two years has been prepared or not and therefore I am not here to comment upon any such select list. Suffice to observe that the Petitioner's eight of appointment has come into being in pursuance of select list Annexure-2. No justifiable reason has been shown either by way of filing any affidavit-in-opposition or arguments defeating the right of the Petitioner. As a result of the Petitioner being placed at No. 2 in the select list, he had a legitimate expectation of being appointed.

4. For the reasons recorded above the petition would stand allowed. The Respondent No. 2 and 3 are directed to consider the case of the Petitioner for being appointed in accordance with select list where his position was at S1. No. 2 (Annexure-2) at the earliest and in any case within a period of two months from the date of receipt of a copy of the order of this Court. The relief is being granted to the Petitioner alone on the basis of averments made in the petition without deciding any other question. A certified copy of the judgment be given to the Petitioner's counsel forthwith on payment of requisite copying charges. With these observations, the writ petition stands disposed of.