

# THE HIGH COURT OF MEGHALAYA AT SHILLONG.

WP(C) No. 167 of 2015

Dr. Solony Bareh,  
D/o Late P. Kharnary,  
R/o Kharnary Cottage,  
Golden Estate,  
Lawjynriew, Nongthymmai,  
Shillong-14,  
East Khasi Hills District,  
Meghalaya.

... **Petitioner**

**- Versus -**

1. The State of Meghalaya,  
Represented by the Commissioner and  
Secretary,  
To the Govt. of Meghalaya,  
Department of Education,  
Shillong.
2. Shillong College  
Boyce Road, Laitumkhrah,  
Shillong – 793003,  
East Khasi Hills District,  
Meghalaya.
3. The Principal,  
Shillong College,  
Boyce Road, Laitumkhrah,  
Shillong – 793003,  
East Khasi Hills District,  
Meghalaya.

...**Respondents**

**BEFORE  
THE HON'BLE MR JUSTICE SR SEN**

For the Petitioner	:	Ms. A. Paul, Adv.
For the Respondents	:	Mr. L.R. Das, Adv Mr. S. Sen Gupta, Addl. Sr. GA
Date of hearing	:	<b>22.05.2018</b>
Date of Judgment & Order	:	<b>28.05.2018</b>

## JUDGMENT AND ORDER

Heard Ms. A. Paul, learned counsel appearing on behalf of the petitioner as well as Mr. L.R. Das, learned counsel appearing on behalf of the respondent No. 2 and 3 and Mr. S. Sen Gupta, learned Addl. Sr. State counsel appearing on behalf of the respondent No. 1.

2. The brief fact of the petitioner's case in a nutshell is that:

*"The Petitioner through this application under Article 226 of the Constitution of India is challenging the selection process conducted for filling up the post of Assistant Professor in Khasi Department, Shillong College, Shillong pursuant to the Advertisement published in Mawphor on 17.05.2015.*

*The Petitioner having a Ph.D Degree in folklore from NEHU, Shillong fulfilled all criteria as stipulated in the Advertisement for filling up the post of Assistant Professor and also fulfills the UGC norms and has the requisite teaching experience.*

*The Petitioner applied for the said post and on receipt of the Call Letter appeared for the Written Test which was conducted on 27.06.2015. As she was not called for the personal interview which was held on 13.7.2015, the Petitioner filed an application under RTI Act of 2005 seeking information with regard to the selection process. In response to her RTI application, the Petitioner was furnished with a response dated 14.7.2015 which she received on 15.7.2015. From the result sheets of the written test conducted the Petitioner came to learn that result sheets. From the result sheets it is evident that the candidates are marked for 25 marks for the written test, 15 marks for weightage for M.A*

*(1<sup>st</sup> class) and 20 marks for weightage for M.Phil, adding upto a total aggregate of 60 marks. The Petitioner has been awarded 9 marks out of 25 marks in the written test but not given any marks under the columns weightage of M.A. (1<sup>st</sup> Class) and weightage of M.Phil and is shown to have got a total of 9 out of 60 even though the Petitioner has double M.A in Khasi and linguistics respectively from NEHU and has done her M.Phil in folklore from Guwahati University.*

*The Respondents having acted most illegally and arbitrarily in not awarding the Petitioner any marks under the columns reserved for weightage for M.A. and M.Phil and marking her only for the written test conducted, thereby depriving her of 35 marks reserved under the aforesaid two categories, even though the Petitioner fulfills all requisite criteria and is fully qualified for the post of Assistant Professor the Respondents have deliberately deprived her of an equal opportunity of employment by not following the due procedure established under the law for filling up the post of Assistant Professor for serving certain vested interest.*

*Being highly aggrieved by such illegal and arbitrary action of the Respondents the humble Petitioner has approached this Hon'ble Court for redressal of her genuine grievances."*

3. The learned counsel for the petitioner submits that the post of Assistant Professor in the Department of Khasi at Shillong College was advertised and published in the Local daily Newspaper "Mawphor" where prescribed qualification was mentioned. Accordingly, the petitioner applied for the post being an eligible candidate possessing all the requisite qualification. But unfortunately, she was not called for the personal interview. Thereafter,

through RTI the petitioner received the information that in many columns, she has not been given any marks. As a result, she was disqualified and stated that as the entire selection process is totally vitiated without following any norms, the same needs to be set aside.

4. In reply to the submission advanced by the learned counsel for the petitioner, the learned counsel for the respondent No. 2 and 3 submits that the petitioner does not possess a degree in M.A. (High Second Class) as she obtained only 53.13% marks and her M.Phil in Folklore from Guwahati University is not in Khasi language literature. Similarly, her Ph.D (folkloristic) from NEHU, Shillong is also not in Khasi language literature, as such she was found disqualified. So, the petition may be dismissed.

5. In reply, the learned counsel for the petitioner further submits that in the case of the petitioner 55% marks is not necessary as the petitioner belongs to reserved category.

6. After hearing the submissions advanced by the learned counsel for the parties, I perused the case record placed before me and on perusal of the Annexure-2 of the writ petition, it is found mentioned that an application was invited on a plain paper with attested copies of certificates invited from candidates having U.G.C norms and teaching experience in Khasi. The required qualifications were M.A. (High Second Class) to be applied to the Principal, Shillong College. So, on perusal of the Annexure-2, it is clear that a candidate must possess U.G.C norms in Khasi and M.A (High Second Class).

7. On further perusal of the Annexure-C at Page 41 of the affidavit-in-opposition filed on behalf of the respondent No. 3, it is understood that M.A. (High Second Class) has been categorized at the mark of 55%. It is an

admitted fact that the petitioner did not obtained 55% marks, rather she obtained 53.13% marks which is below 55% marks.

8. From Page 21 of the writ petition it also appears to me that the petitioner's educational qualification was BA, B. Ed, MA Khasi, MA Linguistics, M.Phil Folklore from Guwahati University, Guwahati and Ph.D(Folklore) from NEHU, Shillong and National Eligibility Test for lectureship (NET). Besides that, she also has teaching experience, but the fact still remains that after perusal of Annexure-1 Page 42 of the writ petition, there were many other candidates who got more than 53.13% marks, some even got almost 60% marks, e.g. Serial No. 25, i.e., Ms. Carefulness Nongrum (59.81%) . So, after careful scanning of the record placed before me and after applying my conscious thought, I find that the petitioner does not possess the requisite marks as required under M.A. (High Second Class), which has been fixed at 55% marks, rather the petitioner obtained 53.13% marks. Moreover, her M. Phil or Ph.D Degree cannot be considered of pure Khasi literature. Therefore, I find no fault that the respondent did not call the petitioner for the interview. Besides that, there is also no logic that the petitioner should get the concession like reserved category, because the post is meant for Khasi language and the qualification already prescribed is M.A. (High Second Class).

9. Accordingly, the instant writ petition is rejected and stands disposed of.

Interim order if any, shall stand vacated.

10. No order as to costs.

**JUDGE**

*D. Nary*