

GAHC010109792019



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

Case No. : WP(C) 3228/2019

1:SYEDA MISHALI NAZA
D/O SYED ATIKUR RAHMAN, R/O AHMED APARTMENT, MILAN NAGAR-II,
NEAR E.COM TOWER, VIP, P.O. GUWAHATI AIRPORT, DIST.-KAMRUP(M),
ASSAM, PIN-781015

VERSUS

1:THE STATE OF ASSAM AND 3 ORS.
REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM, DISPUR,
GUWAHATI-781006

2:THE ASSAM PUBLIC SERVICE COMMISSION
REP. BY ITS CHAIRMAN JAWAHAR NAGAR
GUWAHATI-781022

3:THE SECRETARY
ASSAM PUBLIC SERVICE COMMISSION
JAWAHAR NAGAR
KHANAPAR-781022

4:THE PRINCIPAL CONTROLLER OF EXAMINATIONS
ASSAM PUBLIC SERVICE COMMISSION
JAWAHAR NAGAR
KHANAPARA-78102

Advocate for the Petitioner : MR. P MAHANTA

Advocate for the Respondent : GA, ASSAM

Linked Case : WP(C) 3344/2019

1:GIRBANI DEKA
W/O- RANJAN ENGTI
R/O- HNO. 54/37

SEUJI PATH
NEAR NABAGRAHA TEMPLE
KHARGULI
GHY- 03
DIST- KAMRUP(M)
ASSAM

VERSUS

1:THE STATE OF ASSAM AND 3 ORS
REP. BY THE CHIEF SECRETARY TO THE GOVT OF ASSAM
DISPUR
GUWAHATI- 781006

2:THE APSC
REP. BY ITS CHAIRMAN
JAWAHAR NAGAR
GUWAHATI- 781022

3:THE SECRETARY
APSC
JAWAHAR NAGAR
KHANAPARA- 22

4:THE PRINCIPAL CONTROLLER OF EXAMINATIONS
APSC
JAWAHAR NAGAR
KHANAPARA
GUWAHATI- 781022

Advocate for the Petitioner : MR. P MAHANTA
Advocate for the Respondent : GA
ASSAM

Linked Case : WP(C) 3346/2019

1:ANGSHUMAN HAZARIKA
S/O- KULA DHAR HAZARIKA
R/O- H NO. 11
CHANDMARI
RAGHUNATH CHOUDHURY NAGAR
NEAR HOLY CHILD SCHOOL
P.O- SILPUKHURI
PIN- 781003
ASSAM

VERSUS

1:THE STATE OF ASSAM AND 3 ORS
REP. BY THE CHIEF SECRETARY TO THE GOVT OF ASSAM
DISPUR
GUWAHATI- 781006

2:THE ASSAM PUBLIC SERVICE COMMISSION
REP. BY ITS CHAIRMAN
JAWAHAR NAGAR
GUWAHATI- 781022

3:THE SECRETARY
APSC
JAWAHAR NAGAR
KHANAPARA- 781022

4:THE PRINCIPAL CONTROLLER OF EXAMINATIONS
APSC
JAWAHAR NAGAR
KHANAPARA
GUWAHATI- 781022

Advocate for the Petitioner : MR. P MAHANTA
Advocate for the Respondent : GA
ASSAM

Linked Case : WP(C) 3334/2019

1:ASHIM SAIKIA
S/O- PRANAB KR SAIKIA
R/O- H NO. 23
NANDANPUR PATH
OPP BHABENDALOY
P.O- BELTOLA
KAMRUP(M)
ASSAM

VERSUS

1:THE STATE OF ASSAM AND 3 ORS
REP. BY THE CHIEF SECRETARY TO THE GOVT OF ASSAM
DISPUR
GUWAHATI- 781006

2:THE ASSAM PUBLIC SERVICE COMMISSION
REP. BY ITS CHAIRMAN

JAWAHAR NAGAR
GUWAHATI- 22

3:THE SECRETARY
APSC
JAWAHAR NAGAR
KHANAPARA- 781022

4:THE PRINCIPAL CONTROLLER OF EXAMINATIONS
APSC
JAWAHAR NAGAR
KHANAPARA
GUWAHATI- 781022

Advocate for the Petitioner : MR. P MAHANTA
Advocate for the Respondent : GA
ASSAM

Linked Case : WP(C) 3368/2019

1:NIVEDITA SAIKIA
D/O- BANESWAR SAIKIA
R/O- KUSHAL NAGAR
SOUTH HAIBARGAON
P.O- HAIBARGAON
DIST- NAGAON
PIN- 782002
ASSAM

VERSUS

1:THE STATE OF ASSAM AND 3 ORS
REP. BY THE CHIEF SECRETARY TO THE GOVT OF ASSAM
DISPUR
GUWAHATI- 781006

2:THE ASSAM PUBLIC SERVICE COMMISSION
REP. BY ITS CHAIRMAN
JAWAHAR NAGAR
GUWAHATI- 781022

3:THE SECRETARY
APSC
JAWAHAR NAGAR
KHANAPARA- 781022

4:THE PRINCIPAL CONTROLLER OF EXAMINATIONS
APSC
JAWAHAR NAGAR
KHANAPARA
GUWAHATI- 781022

Advocate for the Petitioner : MR. P MAHANTA
Advocate for the Respondent : GA
ASSAM

Linked Case : WP(C) 3364/2019

1:JYOTISHA SAIKIA
DAUGHTER OF LATE GOJEN SAIKIA
RESIDENT OF HOUSE NO. 44
CHANDMARI COLONY
P.O. CHANDMARI
PIN- 781003
DISTRICT- KAMRUP(M)
ASSAM.

VERSUS

1:THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT OF
ASSAM
DISPUR
GUWAHATI- 781006.

2:THE ASSAM PUBLIC SERVICE COMMISSION
REPRESENTED BY ITS CHAIRMAN
JAWAHAR NAGAR
GUWAHATI- 781022.

3:THE SECRETARY
ASSAM PUBLIC SERVICE COMMISSION
JAWAHAR NAGAR
KHANAPARA- 781022.

4:THE PRINCIPAL CONTROLLER OF EXAMINATIONS
ASSAM PUBLIC SERVICE COMMISSION
JAWAHAR NAGAR
KHANAPARA
GUWAHATI- 781022.

Advocate for the Petitioner : MR. P MAHANTA

Advocate for the Respondent : GA
ASSAM

Linked Case : WP(C) 3377/2019

1:NAVIN KUMAR RAY
S/O- RAM UDGAR RAY
R/O- VILL- AGBANDHA SAIDING
P.S. MARGHERITA
P.O. AGBANDHA SAIDING
DIST- TINSUKIA
PIN- 786187
ASSAM

VERSUS

1:THE STATE OF ASSAM AND 3 ORS.
REP. BY THE CHIEF SECY. TO THE GOVT. OF ASSAM
DISPUR
GHY-6

2:THE ASSAM PUBLIC SERVICE COMMISSION
REP. BY ITS CHAIRMAN
JAWAHAR NAGAR
GHY-22

3:THE SECRETARY
ASSAM PUBLIC SERVICE COMMISSION
JAWAHAR NAGAR
KHANAPARA- 781022

4:THE PRINCIPAL CONTROLLER OF EXAMINATIONS
ASSAM PUBLIC SERVICE COMMISSION
JAWAHAR NAGAR
KHANAPARA
GHY-781022

Advocate for the Petitioner : MR. P MAHANTA
Advocate for the Respondent : GA
ASSAM

Linked Case : WP(C) 3348/2019

1:PANKAJ CHETRY
S/O- DHAN BAHADUR CHETRY

R/O- NS AREA PLOT X-55
P.O- DIGBOI
DIST- TINSUKIA
PIN- 786171
ASSAM

VERSUS

1:THE STATE OF ASSAM AND 3 ORS
REP. BY THE CHIEF SECRETARY TO THE GOVT OF ASSAM
DISPUR
GUWAHATI- 781006

2:THE ASSAM PUBLIC SERVICE COMMISSION
REP. BY ITS CHAIRMAN
JAWAHAR NAGAR
GUWAHATI- 781022

3:THE SECRETARY
APSC
JAWAHAR NAGAR
KHANAPARA- 781022

4:THE PRINCIPAL CONTROLLER OF EXAMINATIONS
APSC
JAWAHAR NAGAR
KHANAPARA
GUWAHATI- 781022

Advocate for the Petitioner : MR. P MAHANTA
Advocate for the Respondent : GA
ASSAM

Linked Case : WP(C) 3595/2019

1:MOKLESUR RAHMAN
S/O- LUFTOR RAHMAN
R/O- COLLEGE ROAD
MATHPARA BYLANE
P.O. KHALILPUR
DIST- DHUBRI
PIN- 783325
ASSAM

VERSUS

1:THE STATE OF ASSAM AND 3 ORS.
REP. BY THE CHIEF SECY. TO THE GOVT. OF ASSAM
DISPUR
GHY-6

2:THE ASSAM PUBLIC SERVICE COMMISSION
REP. BY ITS CHAIRMAN
JAWAHAR NAGAR
GHY-22

3:THE SECRETARY
ASSAM PUBLIC SERVICE COMMISSION
JAWAHAR NAGAR
KHANAPARA- 781022

4:THE PRINCIPAL
CONTROLLER OF EXAMINATIONS
ASSAM PUBLIC SERVICE COMMISSION
JAWAHAR NAGAR
KHANAPARA
GHY-22

Advocate for the Petitioner : MR. R B GOHAIN
Advocate for the Respondent : GA
ASSAM

Linked Case : WP(C) 3319/2019

1:PULAK DEKA
S/O- LT PRAFULLA DEKA
R/O- VILL- PATRAPUR
P.O. KENDUA
P.S. BAIHATA CHARIALI
PIN- 781121
DIST- KAMRUP
ASSAM

VERSUS

1:ASSAM PUBLIC SERVICE COMMISSION AND 4 ORS.
JAWAHAR NAGAR
KHANAPARA
GHY-22
REP. BY ITS CHAIRMAN

2:THE CHAIRMAN
ASSAM PUBLIC SERVICE COMMISSION

JAWAHAR NAGAR
KHANAPARA
GHY-22

3:THE SECRETARY
ASSAM PUBLIC SERVICE COMMISSION
JAWAHAR NAGAR
KHANAPARA
GHY-22
REP. BY ITS CHAIRMAN

4:THE PRINCIPAL CONTROLLER OF EXAMINATION
ASSAM PUBLIC SERVICE COMMISSION
JAWAHAR NAGAR
KHANAPARA
GHY-22

5:THE CONTROLLER OF EXAMINATIONS
ASSAM PUBLIC SERVICE COMMISSION
JAWAHAR NAGAR
KHANAPARA
GHY-22

Advocate for the Petitioner : MR. D GOSWAMI
Advocate for the Respondent : SC
APSC

Linked Case : WP(C) 3341/2019

1:SHALINI KHAN
D/O- SRI ROBIN KHAN
R/O- H NO. 120A
HONURAM BORO PATH
WALFORD KACHARI BASTI
GUWAHATI- 781005
DIST- KAMRUP(M)
ASSAM

VERSUS

1:THE STATE OF ASSAM AND 3 ORS
REP. BY THE CHIEF SECRETARY TO THE GOVT OF ASSAM
DISPUR
GUWAHATI- 781006

2:THE ASSAM PUBLIC SERVICE COMMISSION
REP. BY ITS CHAIRMAN

JAWAHAR NAGAR
GHY- 22

3:THE SECRETARY
APSC
JAWAHAR NAGAR
KHANAPARA- 22

4:THE PRINCIPAL CONTROLLER OF EXAMINATIONS
APSC
JAWAHAR NAGAR
KHANAPARA
GUWAHATI- 22

Advocate for the Petitioner : MR. P MAHANTA
Advocate for the Respondent : GA
ASSAM

Linked Case : WP(C) 3696/2019

1:ABHIJIT RAJKUMAR
S/O CHANDRA MOHAN RAJKUMAR
H/NO- 22(A)
SHIV-BARI LANE (LANE NO 07)P.O.- VIVEKANANDA ROAD
SILCHAR
DIST.-CACHAR
STATE- ASSAM
PIN-788007

VERSUS

1:THE STATE OF ASSAM AND 3 ORS.
REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM
DISPUR
GUWAHATI-781006

2:THE ASSAM PUBLIC SERVICE COMMISSION
REP. BY ITS CHAIRMAN JAWAHARNAGAR
KHANAPARA
GUWAHATI-781022

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

4:THE PRINCIPAL CONTROLLER OF EXAMINATION
THE ASSAM PUBLIC SERVICE COMMISSION
JAWAHARNAGAR
KHANAPARA
GUWAHATI-781022

Advocate for the Petitioner : MR D DEKA
Advocate for the Respondent : GA
ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

Date : 23-10-2019

The respondent-Assam Public Service Commission (APSC) on 17.05.2018 advertised 165 nos. of different vacant administrative/civil/police service etc. posts in the State for which APSC conducted Combined Competitive (Preliminary) Examination on 30.12.2018 wherein about 60,275 candidates appeared, including the petitioners. By notification dated 13.03.2019 APSC notified that 3361 candidates have passed the said preliminary examination. Thereafter, on 20.03.2019 APSC uploaded the answer keys of the said Combined Competitive (Preliminary) Examination. The petitioners did not qualify the said Combined Competitive (Preliminary) Examination. But, they found that the answer keys, on the basis of which APSC on 13.03.2019 notified that 3361 numbers of candidates have passed the said preliminary examination to be wrong.

The respondent APSC on 02.05.2019 issued a Press Release (Annexure-N to WP(C) No.3228/2019), admitting the fact that the answer keys of the said preliminary examination were wrong on basis of which it selected as many as 3361 candidates pursuant to its advertisement dated 17.05.2018. However, in that said Press Release APSC had shown their concern that they do not want that the selected candidates should suffer for no mistake of theirs.

In the said Press Release, respondent APSC also stated that based on re-set answer keys, further 406 candidates were declared to have passed the said preliminary examination, added with those 3361 candidates who were already selected by it.

However, the APSC did not carry out any exercise nor initiated any process till date to find out who amongst those 3361 candidates (the candidates who passed said preliminary examination on the basis of wrong answer keys) actually passed the said preliminary selection on the basis of the revised answer keys.

Mr. C. Baruah, learned Standing Counsel, APSC during deliberation of the matter, submits that pursuant to the advertisement dated 17.05.2018 Combined Competitive (Main) Examination is already over, wherein altogether 4076 candidates, including said 3361 and 406 candidates, noted above, had already appeared and that the result of said main examination has not yet been declared.

Law is well settled by the Hon'ble Apex Court that - *If the key which was used for evaluating the answer sheets was itself defective the result prepared on the basis of the same could be no different and the result of the examination on the basis of such wrong key pertaining to the concerned question paper stands vitiated, which affect the result of the entire examination qua every candidate whether or not he was a party to the proceedings. It also goes without saying that if the result was vitiated by the application of a wrong key, any appointment made on the basis thereof would also be rendered unsustainable. It is not only necessary to maintain the purity of the selection process but also to ensure that no candidate should earn an undeserved advantage over others by application of an erroneous key.*

In this regard the respondent APSC shall clarify its stand by filing its affidavit before the next date fixed.

It is made clear that the respondent-APSC shall not declare the result of the Combined Competitive (Main) Examination pursuant to its advertisement dated 17.05.2018, without the leave of the Court.

List on **21.11.2019**.

In the meanwhile, all the parties shall complete the exchange of their pleadings.

JUDGE

Comparing Assistant