

GAHC010012472015



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

Case No. : WP(C)/2479/2015

ASIR UDDIN AHMED and 2 ORS.
S/O LT. GOTU SHEIKH, R/O ABHAYAPURI ROUMARI, P.O. ABHAYAPURI,
DIST- BONGAIGAON

2: DEWAN MD. SHAMSUL ALOM
S/O ABDUL AWAL DEWAN
R/O BALAIPTATHAR
P.O. KALGACHIA
DIST- BARPETA

3: ANOWAR HUSSAIN
S/O LT. MOHI UDDIN AHMED
R/O VILL. and P.O. ISABPUR
DIST- BARPETA

VERSUS

THE STATE OF ASSAM AND 10 ORS
REP. BY THE COMMISSIONER and SECY. TO THE GOVT. OF ASSAM,
HIGHER EDUCATION DEPTT., DISPUR, GHY-6

2: THE DIRECTOR OF HIGHER EDUCATION
ASSAM
KAHILIPARA
GHY-19

3: THE DY. COMMISSIONER
BONGAIGAON
ASSAM

4: THE INSPECTOR OF SCHOOLS
BONGAIGAON
ASSAM

5:THE GOVERNING BODY
REP. BY THE PRESIDENT OF RAJIB GANDHI MEMORIAL COLLEGE
LENGTISINGA
P.O. LENGTISINGA
DIST- BONGAIGAON
ASSAM
PIN-783384

6:THE PRINCIPAL CUM MEMBER SECRETARY
RAJIB GANDHI MEMORIAL COLLEGE
LENGTISINGA
P.O. LENGTISINGA
DIST- BONGAIGAON
ASSAM
PIN-783384

7:THE MAGADH UNIVERSITY
BODHGAYA
BIHAR
REP. BY ITS REGISTRAR

8:THE CONTROLLER OF EXAMINATIONS
MAGADH UNIVERSITY
BODHGAYA
BIHAR

9:THE VICE CHANCELLOR
MAGADH UNIVERSITY
BODHGAYA
BIHAR

10:THE UNIVERSITY GRANTS COMMISSION
REP. BY THE SECY.
BAHADUR SHAH ZAFOR MARG
NEW DELHI-1

11:THE UNION OF INDIA
REP BY THE MINISTRY OF HUMAN RESOURCES DEVL.
NEW DELHI-

Advocate for the Petitioner : MR.H GUPTA

Advocate for the Respondent : MS.K BARPUJARI

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

23.05.2023

Heard Shri S. Banik, learned counsel for the petitioners. Also heard Shri Tahbildar, learned Standing Counsel, Higher Education Department, Shri A. Chamuah, learned UGC and Shri R. Islam, learned counsel for the respondent no. 6.

At the outset, Shri Banik, the learned counsel fairly submits that there were a series of litigations connected with this issue on two broad grounds namely termination from service and provincialisation and both the issues have been conclusively determined by this Court whereby the terminations have been set aside and so far as provincialisation of their services are concerned, the petitioners have been directed to approach the Jurisdictional Educational Tribunal.

Accordingly, Shri Banik, the learned counsel submits that substantially the grievances of the petitioners have been redressed. However, in this case, another point in support of the challenge to the termination order was taken which pertains to the jurisdiction of the Principal who had issued the termination order. It is submitted that the Principal was not even qualified under the law to hold the said post and therefore, could not have exercised the powers to terminate.

On the other hand, Shri Tahbildar, the learned Standing Counsel, Higher Education Department submits that though, on principle the petitioners may have a point, the incumbent who was holding the post of Principal at that time has not been made a party respondent in this proceeding by name. He, therefore, submits that no effective orders can be passed in this petition. The said view of the learned Standing Counsel is also endorsed by Shri A. Chamuah, the learned Standing Counsel, UGC as well as Shri R. Islam the learned Counsel for the respondent no. 6 who additionally

submits that there is no live cause of action at all to be adjudicated as the issue has been conclusively decided and no further appeal has been filed.

Considering the aforesaid submissions, this Court is also of the view that there is no live cause of action to be adjudicated. As regards to the point questioning the eligibility of the respondent no. 6, this Court is of the opinion that since the respondent no. 6 was not made party by name, the said issue cannot be gone into in this writ petition. Therefore, while closing the writ petition due to want of any live cause of action, liberty is given to the petitioners to raise that point in an appropriate manner, if so advised.

JUDGE

Comparing Assistant