

GAHC010015312018



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

Case No. : WP(C)/444/2018

SANADHAN SINGHA
S/O- LATE THAMBAL SINGHA, R/O- VILL- RAJBARI, P.O- JUGIJAN, DIST-
HOJAI, PIN- 782429, ASSAM

2: SARAT CHANDRA SINGHA
S/O- LATE JUGAL SINGHA
R/O- VILL- GAURANAGAR (DAKHIN JAMUHANDAR)
P.O- PADUMPUKHURI
DIST- HOJAI
ASSAM
PIN- 782435

3: TAYABUR RAHMAN MAZUMDAR
S/O- ESARAT ALI MAJUMDAR
R/O- VILL MUSLIM PATTY
WARD NO. 15
P.O AND P.S- HOJAI
DIST- HOJAI
ASSAM
PIN- 782435

4: MOINUL HOQUE LASKAR
S/O- LATE MOMTAZ ALI
R/O- VILL- KANDULIMARI
P.O- JUGIJAN BAZAR
P.S- HOJAI
DIST- HOJAI
ASSAM

5: FAIZUR RAHMAN LASKAR
S/O- ASUDDAR ALI
R/O- VILL- MAHPARA
P.O- JUGIJAN BAZAR
P.S- HOJAI

DIST- HOJAI
ASSAM
PIN- 782435

6: ABDUL HAKIM LASKAR
S/O- LATE MUBARAK ALI
R/O- VILL- AMLI PUKHURI
P.O- JUGIRAM BAZAR
P.S- HOJAI
DIST- HOJAI
ASSAM
PIN- 782435

7: HABIZ TAHIR AHMED BARBHUJAN
S/O- MUBID ALI BARBHUYAN
R/O- VILL- BEDUATI
P.O- JUNGLE BLOCK VIA JAMUNAMUKH
DIST- HOJAI
PIN- 782428
ASSAM

8: MOJIBUR RAHMAN
S/O- JOHUR ALI
R/O- VILL- SALPARA
P.O- DAGAON
P.S- JURIA
DIST- NAGAON
PIN- 782124
ASSAM

9: NURUL HUDA SARKAR
S/O- LATE FAIZUL RAHMAN
R/O- VILL- PUB MUKANDA ALI
P.O- LETERIPAR
DIST- NAGAON
PIN- 782124
ASSAM

10: FAIZUL ISLAM
S/O- LATE SURUJ ALI
R/O- VILL NO.2
BARALIMARI
P.O- PUB BARALIMARI
DIST- NAGAON
PIN- 782124
ASSAM

11: KHALILUR RAHMAN CHOUDHURY

S/O- LATE WAHED ALI
R/O- VILL- DHING GAON
P.O- DAGAON
P.S- JURIA
DIST- NAGAON
PIN- 782124
ASSAM

12: ABDUS SATTAR
S/O- MD. ABDUL HAMID
R/O- VILL- SHIMOULUATI
P.O- ALITANGANI
P.S- JURIA
DIST- NAGAON
PIN- 782124
ASSAM

13: MORIOM BEGUM
W/O- HABIBUR RAHMAN
R/O- VILL- SHIMOLUATI
P.O- ALITANGANI
P.S- JURIA
DIST- NAGAON
PIN- 782124
ASSAM

14: HUSNARA BEGUM
D/O- LATE AHMED ALI
R/O- VILL- ALITANGANI
P.O- ALITANGANI
P.S- JURIA
DIST- NAGAON
PIN- 782124
ASSAM

15: RAFEZA KHATUN
W/O- ABDUS SAMAD
R/O- VILL- SHALPARA
P.O- DAGAON
P.S- JURIA
DIST- NAGAON
PIN- 782124
ASSA

VERSUS

THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM,

DEPTT. OF EDUCATION (ELEMENTARY) DISPUR, GUWAHATI- 06

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI- 19

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
NAGAON DISTRICT CIRCLE
PIN- 78200

Advocate for the Petitioner : MR. A SARMA

Advocate for the Respondent : SC, EDUCATION

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 03.04.2023

Heard Mr. K. Kalita, learned counsel for the petitioners. Also heard Mr. M. Phukan, learned standing counsel for the Elementary Education Department appearing for all the respondents.

2. The petitioners claims that in course of their service, a notification dated 01.09.2017 was issued by the Elementary Education Department requiring the teachers in the Elementary Education (LP/UP) classes to undergo D.El.Ed program which was made mandatory for all teachers. This was also followed up by an addendum dated 05.09.2017 issued by the Elementary Education, Govt. of Assam, clarifying that the qualification as required under the NCTE notification having D.El.Ed. qualification would not be applicable for teachers appointed before 03.09.2001. It is projected that in the meanwhile, under compelling circumstances, the petitioners have registered themselves for

acquiring D.El.Ed. qualification. Hence, on the ground that the petitioners are exempted from undergoing the D.El.Ed. Course, the present writ petition has been filed under Article 226 of the Constitution of India for a direction to the respondent authorities to exempt the petitioners from undergoing the course under the D.El.Ed. program in terms of the addendum dated 05.09.2017 issued by the Elementary Education Department, Govt. of Assam.

3. The learned counsel for the petitioners has submitted that this Court by an order dated 31.01.2018, taking note of the apprehension expressed by the petitioners, directed that no coercive action be taken against the petitioners, for not having the qualification of D.El.Ed.

4. The learned standing counsel for the Elementary Education Department has produced a copy of the notification dated 23.08.2010 for clarifying that while teachers appointed before 03.09.2001 were not required to obtain minimum qualification of B.Ed (Special Education) if their appointment was prior to 03.09.2001 and was in accordance with the recruitment rules.

5. The learned standing counsel for the Secondary Education Department has also accepted that vide addendum dated 05.09.2017, if the teachers were appointed prior to 03.09.2001 in accordance with the prevalent recruitment rules, they are not required to undergo the D.El.Ed. programme. It is also submitted that the respondent authorities are required to examine if the petitioners were appointed prior to 03.09.2001, in view of the disclosure made by the petitioners that few of them had joined their service after 03.09.2001.

6. Having noted that the respondent authorities do not dispute that the

Elementary teachers in LP/UP schools who were appointed prior to 03.09.2001 in accordance with the prevalent recruitment rules were not required to undergo D.El.Ed. program, the Court is of the considered opinion that there is no ground for the petitioners to apprehend that the respondents would take coercive action against them.

7. However, in view of the requirement of the addendum dated 05.09.2017 issued by the Elementary Education Department as well as in light of the NCTE notification dated 23.08.2010, the Court is of the considered opinion that the authorities in the Elementary Education Department will have a right to undertake the exercise to find out as to whether the petitioners were actually issued appointment orders prior to 03.09.2001 and whether their appointment was made in accordance of the rules, before accepting the contention of the petitioners that they are exempted from undergoing the D.El.Ed. program.

8. Accordingly, in light of the observations made above, this writ petition stands disposed of.

9. In the event the petitioners are aggrieved by any order that may be passed adverse to their interest, liberty is granted to the petitioners to approach the Court again.

JUDGE

Comparing Assistant