

GAHC010016272022



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

Case No. : WP(C)/524/2022

SMTI NISHAMONI KALITA
W/O ABANI KALITA, R/O RAJDEEP RESIDENCY, 3RD FLOOR, SIX MILE,
SACHAL ROAD, KHANAPARA, GUWAHATI, P.S.-DISPUR, DIST-
KAMRUP(M), ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED HEREIN BY THE COMMISSIONER AND SECRETARY TO
THE GOVT. OF ASSAM, SECONDARY EDUCATION DEPARTMENT, DISPUR,
GUWAHATI-6

2:THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM
SECONDARY EDUCATION DEPARTMENT
DISPUR
GUWAHATI
ASSAM-781006

3:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KHANAPARA
GUWAHATI-1

Advocate for the Petitioner : MR. A J RAJKHOWA

Advocate for the Respondent : SC, SEC. EDU.

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 22.02.2023

Heard Mr. S.Borthakur, the learned counsel appearing on behalf of the petitioners. Mr. S.N.Choudhury, the learned Secretary to the Government of Assam, Department of School Education is present in person. Mr. NJ Khataniar the learned Standing Counsel appears on behalf of the Secondary Education Department.

An order dated 21/2/2023 had been placed before this court. A perusal of the said order reveals that the Secretary to the Government of Assam, Department of School Education had duly taken note of the order passed by this Court on 20/7/2021 in W.P.(C) No. 3324/2012 as well as the orders passed in the instant writ petition and have passed the following order which is reproduced herein below :

“After careful consideration of the above and all other aspects and in compliance to the orders of the Hon’ble High Court dated 8/2/2023 and 15/2/2023 passed in W.P.(C) No.524/2022 the Director of Secondary Education, Assam is hereby allowed to issue the order of transfer of Smti Nishamoni Kalita, subject Teacher (Education) from Barpeta Govt. Higher Secondary School to a similar school in Guwahati having vacancies in similar position.”

Further to that, the learned Secretary has also informed this Court that the Director, Secondary Education department had also been instructed to find out a vacancy in a similar school in Guwahati in a similar position. He submits that this would take some time, but he further assures this Court that the same would be done within a period of 20 days from today.

Considering the said order passed on 21/2/2023 and the assurance so given by the learned Secretary to the Government of Assam, Department of

School Education, this Court closes the instant writ petition.

The appearance of the Secretary to the Government of Assam, Department of School Education is further dispensed with.

The order so placed before this Court by the learned Secretary to the Government of Assam, Department of School Education, Mr. S.N. Choudhury is kept on record and marked with the letter "X".

The learned counsel for the petitioner shall be at liberty to take a certified copy of the said order through the registry of this Court.

Before concluding, this Court would also like to take note of the statement made by the learned Secretary to the effect that the order dated 7/2/2022, was not brought to the attention of the Department by the counsel appearing on that date. It is under such circumstances, no order was passed for which the learned counsel Mr. N.J. Khataniar was only instructed about the order dated 5/2/2022. Taking into consideration said aspect of the matter, this Court is of the opinion that the submission of the learned counsel on 15/2/2022 was made bona fide and without malice. Accordingly, the observations so made in the order dated 15/2/2022 against the conduct of Mr. N.J. Khataniar stands expunged.

The Registry shall serve a copy of this order to Mr. N.J. Khataniar for his records.

JUDGE

Comparing Assistant