

GAHC010032142023



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

Case No. : WP(C)/1147/2023

1. MD. JAKARIABUR RAHMAN AND 10 ORS
A/T, SOLOGURI RASUTI PAR L.P. SCHOOL,
S/O- NURUL AMIN,
R/O- DAKIABASTI, P.O.- DHUPAGURI,
P.S.- DHING, DIST.- NAGAON,
ASSAM.

2: MD. ASRAFUL ISLAM BHUYAN
A/T, BHUYANBARI SUBURA SMRITI ADARSHA MUKTAB SCHOOL
S/O- MD. FAZLUL ISLAM BHUYAN
R/O- VILLAGE- SOLOGURI
P.O.- SOLOGURI
P.S.- DHING
DIST.- NAGAON
ASSAM.

3: MD. ENAMUL HOQUE FORAZEE
A/T, 2 NO. KAMAL SUTIPAR MUKTAB SCHOOL
S.O.- SHIRAJUL ISLAM FORAZZEE
R.O.- VILLAGE- KAMAL SHUTI CHAR
P.O.- KANDHULIMARI
P.S.- DHING
DIST.- NAGAON
ASSAM.

4: MD. ANUWARUL HOQUE CHOWDHURY
A/T
UTTAR DHUNIABHETI RAHMAT ALI MUKTAB
R/O- VILLAGE- DHUNIABHETI
P.O.- DHUNIABHETI
P.S.- BATADRAVA
DIST.- NAGAON
ASSAM.

5: AZMATUN NEHAR

A/T

UTTAR DHUNIABHETI RAHMOT ALI MKB.

VILL. DHUNIABHETI

P.O.- DHUNIABHETI

DIST.- NAGAON

ASSAM.

6: MD. HASEN SHA HAZARIKA

A/T

SONSERI NUR BALIKA L.P. SCHOOL

S/O- ISMAIL HUSSAIN

VILLAGE- SONSERI

P.O.- KANDHULIMARI

P.S.- DHING

DIST.- NAGAON

ASSAM.

7: ABDUL SAMAD

A/T

UTTAR MOIRADHAI ABDUL RAHIM GIRLS L.P. SCHOOL

VILL.- ROWMARI

P.O.- ROWMARI BILL

DIST.- NAGAON

ASSAM.

8: MD. FAKAR UDDIN AHMED

A/T

BECHAMARI ADARSHA L.P. SCHOOL

S/O- ABDUL JABBAR

R/O- VILLAGE BECHAMARI

P.S.- DHING

DIST.- NAGAON

ASSAM.

9: MD. IMRAN CHOUDHURY

A/T

PACHIM KUBAIKATA LAKIA L.P. SCHOOL

S/O- MD. ABDUL MATIN

R/O- VILLAGE- KUBAIKATA

P.O.- DHANIABHETI

DIST.- NAGAON

ASSAM.

10: MUZZAMIL HOQUE

A/T

RAJABRI LATARIPAR ELAHIBOX L.P. SCHOOL

S/O- MD. UMAR ALI
R/O- VILLAGE- RAJABARI
P.O.- SOLOGURI
P.S.- DHING
DIST.- NAGAON
ASSAM.

11: DILUWARA BEGUM
A/T
PACHIM ROWMARI ADARSHA N.B. L.P. SCHOOL
W/O- RAJAB ALI
R/O- VILLAGE ROWMARI
P.O.- ROWMARI
P.S.- DHING
DIST.- NAGAON
ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
TO BE REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVT. OF ASSAM,
EDUCATION ELEMENTARY DEPARTMENT,
DISPUR, GUWAHATI-6.

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

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
NAGAON
NAGAON.

4:THE BLOCK ELEMENTARY EDUCATION OFFICER
BATADRAVA BLOCK
NAGAON.

5:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-5

Advocate for the Petitioner : MR. A R BHUYAN

Advocate for the Respondent : SC, ELEM. EDU

B E F O R E
HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR

02-03-2023

Heard Mr. A.R. Bhuyan, learned counsel for the petitioners. Also heard Mr. P.K. Borah, learned Standing Counsel, Elementary Education Department for Respondent No.1 to 4; and Mr. P. Nayak, learned Standing Counsel, Finance Department for Respondent No.5.

2. The petitioners were appointed as Assistant Teachers in different schools under Batadrava Block in the District of Nagaon and rendering their services as third and fourth teacher in their respective schools. All the schools in which the petitioners are presently employed and working, were provincialised in the year 2011. In the meantime, the Assam Venture Educational Institutions (Provincialisation of Services) Act, 2011 was struck-down by a Division Bench of this Court in the case of ***Chandan Kumar Neog and others Vs. State of Assam and others***, reported in ***2016(5) GLT 296***, as unconstitutional. The petitioner thereafter, filed a writ petition being W.P.(C) No.1689 of 2017 praying for salary at par with the provincialized teachers. However, by the order dated 19.04.2017, the said writ petition was dismissed. The petitioners, thereafter, filed an appeal against the order dated 19.04.2017, which was registered as Writ Appeal No.293 of 2017, and also filed a writ petition being W.P.(C) No.6703 of 2017 challenging the vires of Section 8(2) of the Assam Education (Provincialisation of Services of Teachers and Re-organization of Educational Institutions) Act, 2017.

3. Both the Writ Appeal No.293 of 2017 and W.P.(C) No.6703 of 2017 were heard together by a Division Bench of this Court and was disposed of by order

dated 05.03.2019 giving liberty to the petitioner to file representation before the appropriate authority enclosing the materials along with such representation to indicate that the appellants have been discharging their duties. W.P.(C) No.6703 of 2017 was also disposed of as being premature.

4. In terms of the order dated 05.03.2019 passed in Writ Appeal No.293 of 2017 and W.P.(C) No.6703 of 2017, the petitioners made a representation dated 8.4.2019 before the Commissioner and Secretary to the Government of Assam, Education (Elementary) Department praying for provincialisation of their services and release of salary, but the said representation has not yet been disposed of by the concerned authorities till date.

5. Accordingly, the petitioners are directed to file a fresh representation enclosing a copy of this writ petition along with the annexures appended thereto before the Secretary to the Government of Assam, Department of School Education/Respondent No.1, within a period of ten days from today. Thereafter, the Respondent No.1 shall consider and dispose of the appeal to be filed by the petitioners within two months from the date of receipt of the appeal. If the representation dated 8.4.2019 filed by the petitioners has already been disposed of by the concerned authority, the outcome of such consideration shall be communicated to the petitioners forthwith.

6. With the above observation and direction, this writ petition stands disposed of.

JUDGE