

GAHC010040282023



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

**Case No. : I.A.(Civil)/507/2023**

SMTI KALYANI CHOUDHURY  
ASSISTANT HEADMISTRESS, RAJGARH GIRLS HIGH SCHOOL, BIHUTOLI,  
RAJGARH ROAD, GUWAHATI-781007, DISTRICT- KAMRUP(M), ASSAM.

VERSUS

SMT. MANJU DEKA AND 6 ORS.  
WIFE OF SRI DEEPAK KUMAR NATH, RESIDENT OF SRIMANTAPUR,  
BHANGAGARH, BYE LANE NO. 3, HOUSE NO. 7, GUWAHATI-32, DISTRICT-  
KAMRUP(M), ASSAM

2:THE STATE OF ASSAM  
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE  
GOVERNMENT OF ASSAM  
EDUCATION ( SECONDARY) DEPARTMENT  
DISPUR  
GUWAHATI-6

3:THE DIRECTOR OF SECONDARY EDUCATION  
ASSAM  
KAHILIPARA  
GUWAHATI-19  
DISTRICT- KAMRUP(M)  
ASSAM.

4:THE INSPECTOR OF SCHOOLS  
KAMRUP METROPOLITAN DISTRICT CIRCLE  
PANBAZAR  
GUWAHATI-1.

5:THE HEADMASTER  
RAJGARH GIRLS HIGH SCHOOL

BIHUTOLI  
RAJGARH ROAD  
GUWAHATI-7  
DISTRICT- KAMRUP(M)  
ASSAM.

6:THE STATE LEVEL SELECTION BOARD  
REPRESENTED BY ITS CHAIRMAN  
STATE LEVEL SELECTION BOARD  
ASSAM

**Advocate for the Petitioner** : MR. K N CHOUDHURY

**Advocate for the Respondent** : MR. P P BARUAH

**BEFORE**  
**HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

**ORDER**

**Date :** 19.05.2023

Heard Mr. R. M. Deka, the learned counsel appearing on behalf of the applicant/ the respondent No.5 in the writ petition and Mr. P. P. Baruah, the learned counsel appearing on behalf of the petitioner. I have also heard Ms. D. Mushahary, the learned Standing counsel appearing on behalf of the Secondary Education Department.

2. The instant Interlocutory Application has been filed seeking modification/clarification of the order dated 05.08.2022 passed by this Court.

3. It appears from a perusal of the Interlocutory Application that pursuant to the order dated 17.09.2021 passed by this Court in WP(C) No.4486/2021 as well as the order of the Division Bench dated 05.03.2021 in Writ Appeal No.278/2017, the Director of Secondary Education Department had passed an order on 20.06.2022. In the said order, the Director of Secondary Education

after hearing the officials, on 15.02.2022 made certain observations in respect to the case of the applicant as well as also the case of the writ petitioner. Insofar as the case of the applicant i.e. Smti. Kalyani Choudhury, the Director of Secondary Education observed that the applicant – Smti. Kalyani Choudhury was originally appointed as a Senior Hindi Teacher of Rajgarh High School in the scale of pay of Rs.1375/- – Rs.3375/- per month, plus other allowances as admissible as per the rules for the period of 3 (three) months, vide the order dated 03.03.1994. Thereupon, the terms of appointment of the applicant was extended until further orders by the then Inspector of Schools, KDC, Guwahati vide order dated 10.03.1995. Later on, in pursuance to the Government letter dated 17.03.2001, the applicant was adjusted at Rajgarh High School against the post of Hindi Teacher, occurred due to the retirement of Smti. Labanya Talukdar, Hindi Teacher on 31.03.2000 in the scale of pay of Rs.3518/- – Rs.8750/- per month and other allowances as admissible w.e.f. 01.04.2000, vide Office order dated 21.03.2001. It was also observed that in the subsequent period in pursuance to the Government's approval on the recommendation of the State Selection Board communicated vide letter dated 11.12.2010, the applicant was promoted to the post of Assistant Headmistress of Rajgarh High School under District Kamrup (M) vide office order dated 30.01.2012.

4. In respect to the petitioner i.e. Smti. Manju Deka, the Director of Secondary Education had observed that the petitioner was originally appointed as the Assistant Teacher (Intermediate) in the Rajgarh High School in the scale of pay of Rs.1185/- – Rs.2395/- vide an order dated 30.01.1996. Later on, Smti. Manju Deka was allowed to draw graduate scale of pay with immediate effect as per the Government notification dated 30.12.1993 by the Inspector of Schools, KDC, Guwahati vide order dated 16.09.1998. It was observed that the

Government notification dated 30.12.1993 allowed graduate scale of pay to some existing teachers serving in intermediate scale of pay in different provincialized Secondary Schools till the issue of the said notification for which a list was annexed with the notification. However, as the petitioner Smti. Manju Dekha was appointed as Assistant Teacher (Intermediate) in the scale of pay of Rs.1185/- – Rs.2395/- in the year 1996 vide the office letter dated 30.01.1996 and later she was allowed to draw graduate scale of pay by the Inspector of Schools, Guwahati on 16.09.1998 which was in violation of the Government notification dated 30.12.1993, it was observed that the order allowing graduate scale of pay to the petitioner by the Inspector of Schools, KDC on 16.09.1998 on the strength of the Government notification dated 30.12.1993 was not found in order. Accordingly, it was mentioned that the petitioner Smti. Manju Dekha, Assistant Teacher is not found qualified for the post of Assistant Headmistress.

5. After recording those observations, the Director of Secondary Education further passed an order that as there was no break in service in respect to the applicant Smti. Kalyani Choudhury, the then Senior Hindi Teacher, (now Assistant Headmistress) of Rajgarh High School was found, hence, the Inspector of Schools KDC, Kamrup (metro), Headmistress of Rajgarh High School was directed to make necessary correction of the Service Book of the applicant. It was further directed that the SSB Branch of the Directorate is allowed to place the matter along with all relevant records in the next meeting of the State Selection Board in compliance with this Court's directions in its order dated 17.09.2021 passed in WP(C) No.4486/2021 and the order dated 05.03.2021 passed in Writ Appeal No.278/2017. It is against this order dated 20.06.2022 that the petitioner herein has challenged the said order. The challenge made in the writ petition was only in respect to the observations to the effect that the

petitioner was not entitled to the graduate scale on the strength of the order of the Inspector of Schools, KDC, Guwahati on 16.09.1998 and the petitioner was not found qualified for the post of Assistant Headmistress as she was not entitled to graduate scale.

6. It has been submitted by the learned counsel Mr. P. P. Baruah, that the petitioner herein is aggrieved by the observations so made by the Director of Secondary Education in its order dated 20.06.2022 wherein it has been held that the petitioner is not entitled to the graduate scale of pay in terms with the order dated 16.09.1998 issued by the Inspector of Schools KDC, Guwahati and the consequential observation that the petitioner is not qualified to the post of Assistant Headmistress. As regards the corrections so ordered vide the impugned order dated 20.06.2022 to the effect that there is no break in service in the Service Book of the applicant, the petitioner has no grievance. The learned counsel for the petitioner further drawn the attention of this Court to the order passed by the Division Bench dated 05.03.2021 in Writ Appeal No.278/2017 wherein the Division Bench had categorically directed the Selection Committee to make a fresh selection in accordance with law as directed by the Coordinate Bench of this Court within a period of 3 (three) months from the date a certified copy of the order was placed before the Director of Secondary Education. The learned counsel for the petitioner submitted that he has no objection for placing the relevant materials by the SSB Branch of the Directorate before the State Selection Board as has been directed in the order dated 20.06.2022.

7. It is under such circumstances, this Court therefore has to take note of the orders so passed on 05.08.2022 wherein this Court while issuing notice had

passed an order that the order dated 20.06.2022 issued by the Secondary Education Department shall remain stayed insofar as the writ petitioner Smti. Manju Dekha is concerned till the next returnable date.

8. Taking into account the submissions so made by the parties and upon perusal of the materials on record, this Court clarifies the order dated 05.08.2022 to the effect that the stay so granted by this Court on 05.08.2022 shall only be limited to the observations made in the order dated 20.06.2022 that the petitioner would not be entitled to the graduate scale in terms with the order passed by the Inspector of Schools, KDC, Guwahati on 16.09.1998 as well as the consequential direction that the petitioner is not qualified for the post of Assistant Headmistress. The order dated 05.08.2022 shall have no application in respect to the conclusions arrived at in the order dated 20.06.2022 passed by the Director of Secondary Education to the effect that there should be correction of the Service Book of the applicant – Smti. Kalyani Choudhury and that the SSB Branch of the Directorate should place the matter along with the relevant records in the next meeting of the State Selection Board. It is further made clear that the entitlement of the petitioner to the Graduate Scale and the qualification of the petitioner for the post of Assistant Headmistress shall be subject to the outcome of the writ petition.

9. With these clarifications, therefore, the instant application stands disposed of.

**JUDGE**

**Comparing Assistant**