

GAHC010042452021



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

Case No. : Review.Pet./37/2021

THE STATE OF ASSAM AND 2 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF
ASSAM EDUCATION (SECONDARY) DEPARTMENT, DISPUR, GUWAHATI-6.

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

3: THE JOINT SECRETARY

SECONDARY EDUCATION DEPARTMENT
DISPUR
GUWAHATI-06

VERSUS

ABU BAKKAR SIDDIQUE AND 14 ORS.
S/O- SURAJ ALI, VILL.- SONARI GAON, P.O. NAGAON, DIST.- NAGAON,
ASSAM.

2:MD. AINUL HAQUE
S/O- ABDUL MANNAN
VILL.- MUBARAKPUR
P.O. SILCHAR ROAD
DIST.- KARIMGANJ
ASSAM.

3:MAFTUH ALAM TAPADAR
S/O- ABDUL SHAHID TAPADAR
VILL.- MUBARAKPUR
P.O. SILCHAR ROAD
DIST.- KARIMGANJ
ASSAM.

4:MD. SAMSUL HOQUE
S/O- ABDUL JALIL
VILL. NO. 3 THEKABARI
P.O. BALABARI
DIST.- DARRANG
ASSAM

5:MD. ISHAQUE ALI
S/O- MD. NARIMUDDIN
VILL.- MAJER GAON
P.O. MAJER GAON
DIST.- DHUBRI
ASSAM.

6:FAYZUL HAQUE
S/O- NEYEB ALI
VILL.- KALM BASSANI
P.O. AND DIST.- DHUBRI
ASSAM.

7:MD. NAZRUL ISLAM
S/O- MD. SUKUR ALI
VILL.- JHANAR CHAR PART-IV
P.O. JORUAR CHAR
DIST.- DHUBRI
ASSAM.

8:MD. MANSOOR AHMED
S/O- MD. KOBAD ALI
VILL.- OZA GAON
P.O. NIZ KHARUPETIA
DIST.- DARRANG
ASSAM.

9:MD. ABDUS SALAM
S/O- ABDUL MANNAN
VILL.- BARTHAL
P.O. ANGLAR BAZAR
DIST.- KARIMGANJ
ASSAM.

10:ABUL QUASIM
S/O- MD. KUBBAS ALI
VILL.- CHIRA KHOWA
P.O. KALAPANI
DIST.- DHUBRI
ASSAM.

11:MASIHUR RAHMAN
S/O- NAFSAR ALI
VILL.- SINDURAI
P.O. BELGURI
DIST.- DHUBRI
ASSAM.

12:JAMSHED ALI
S/O- SURAT ALI
VILL.- BISH KHAWA PART-II
P.O. BISH KHAWA
DIST.- DHUBRI
ASSAM

13:MD. YASHRA
S/O- MD. IMAN ALI
VILL.- CHAKIA
P.O. CHAKLA
DIST.- BONGAIGAON
ASSAM.

14:AHMED ALI
S/O- MD. RIYAZAT ALI
VILL.- SENIMARI
P.O. BARILIMARI
DIST.- NAGAON
ASSAM.

15:ABDUR RASHID
S/O- MD. MUZZAFAR ALI
R/O- VILL.- SALPARA
P.O. NIKHOLA
DIST.- DHUBRI
ASSAM

Advocate for the Petitioner : SC, SEC. EDU.

Advocate for the Respondent : MR A R BHUYAN

Linked Case : WP(C)/7099/2015

ABU BAKKAR SIDDIQUE and 14 ORS

S/O. SURAJ ALI
VILL. SONARI GAON
P.O. NAGAON
DIST. NAGAON
ASSAM.

VERSUS

THE STATE OF ASSAM AND 2 ORS
REP. BY THE COMM. and SECY. TO THE GOVT. OF ASSAM
EDUCATION SECONDARY DEPTT.
DISPUR
GHY.-06.

Advocate for : MRA R BHUYAN
Advocate for : SC

SECONDARY EDUCATION appearing for THE STATE OF ASSAM AND 2 ORS

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

03/10/2023

Heard Mr. S M T Chistie, learned counsel for the review petitioners and Mr. N M Mazarbhuiya, learned counsel for the opposite parties/writ petitioners.

2. The opposite parties as writ petitioners filed the connected WP(C) No. 7099/2015 praying amongst others to modify the Notification No. DME.491/Apptt/2010/Pt.-I/9 dated 17.09.2015 issued by the Directorate of Madrassa Education, Assam specifying the criteria for selection of the eligibility and qualification for various posts like (i) Lecturer in case of Title Madrassas/Arabic Colleges; (ii) M.M. Assistant Teacher for Theological subjects in Senior Madrassas and Arabic Colleges; (iii) F.M. Assistant Teacher (Senior Section) for Theological subjects in Senior Madrassas and Arabic Colleges; (iv) F.M. Assistant Teacher (Pre-senior section) for theological subject in Senior Madrassa and Arabic Colleges; (v) Assistant Teacher H.S. (Pre-Senior Section) in Senior Madrassas and Arabic Colleges; (vi) Assistant Teachers Hindi (Graduate) for senior Section in Senior Madrassas/Arabic Colleges and (vii) Assistant Teacher Assamese (only for Barak Valley) for senior Section in Senior Madrassas/Arabic Colleges that was circulated by the Director of Madrassa Education to all the Principals/Superintendents of the

concerned Title Madrassas/Arabic Colleges and other Madrassa Educational Institutions.

3. Though, notice in said WP(C) No. 7099/2015 was issued on 23.11.2015, but the respondents in the Education Department did not file any affidavit in the matter.

4. As such, the Court by order dated 15.02.2021 granted time to the respondents in the Education Department on their prayer. However, as the respondent authorities failed to file its affidavit within the time so specified in terms of the order dated 19.01.2021, whereby time was granted up to 02.02.2021, the Court by order dated 15.02.2021 imposed cost directing (i) the Commissioner & Secretary, Govt. of Assam in the Secondary Education Department, (ii) the Director of Secondary Education, Assam and (iii) the Joint Secretary of the Secondary Education, Assam, the concerned authorities who looked after the matters of provincialised Madrassas in the State of Assam to pay Rs.25,000/- each from their salaries towards the cost by depositing the same in the Legal Services Authority of this High Court on or before 04.03.2021, obtaining necessary receipts.

5. In this review petition, the review petitioners by swearing an affidavit admitted the lapse on their part in filing the affidavit within the time, but specified that after the order of the Court dated 19.01.2021, the relevant instructions were furnished to the conducting Standing counsel on 29.01.2021 enabling him to file its affidavit in the matter stating that the said fact could not be placed by the concerned conducting counsel before the Court on 15.02.2021 for which the Court by the said order dated 15.02.2021 imposed the cost as noted above.

6. It has also been placed before the Court that on the basis of the said instruction issued earlier on 29.01.2021, the review petitioner, i.e., the respondent authorities in the Education Department on 12.03.2021 filed its affidavit in said WP(C) No. 7099/2015 as the Court by order dated 15.02.2021 and 10.03.2021 granted time to the respondent Education Department.

7. Admittedly, the fact that the Education Department on 29.01.2021 furnished the relevant instructions to the conducting counsel was not placed before the Court on 15.02.2021.

8. After hearing the learned counsels for the parties and considering the entire aspects of the matter, the order dated 15.02.2021 regarding imposition of cost of Rs.25,000/- each that was to be deducted from the salaries of (i) the Commissioner & Secretary, Govt. of Assam in the Secondary Education Department, (ii) the Director of Secondary Education, Assam and (iii) the Joint Secretary of the Secondary Education, Assam is hereby recalled.

- 9.** To that extent, the order dated 15.02.2021 passed in WP(C) No. 7099/2015 is hereby reviewed.
- 10.** This order shall be read together with the order dated 15.02.2021 passed in the connected WP(C) No. 7099/2015.
- 11.** Accordingly, this review petition stands allowed to the extent above.

JUDGE

Comparing Assistant