

GAHC010042522018



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

**Case No. : WP(C)/1334/2018**

NOZRUL ISLAM AND 22 ORS  
S/O- MD. HASSEN ALI, R/O- VILL- GORIABORI PATHER, P.O- DOLOIGAON,  
DIST- MORIGAON, PIN- 782126, ASSAM

2: JUSHNARA BEGUM  
W/O- ABDUL FATTAH  
R/O- VILL- HAIDUBI  
P.O- BATAMARI  
DIST- NAGAON  
PIN- 782122  
ASSAM

3: MOMTAZ BEGUM  
W/O- MD. ABDUL JABBAR  
R/O- VILL- HAIDUBI  
P.O- BATAMARI  
DIST- NAGAON  
PIN- 782122  
ASSAM

4: JOINAL ABEDIN  
S/O- ALI ASHED  
R/O- VILL- BHOMORA GURI  
P.O- LALOUNG GAON  
PIN- 782122  
DIST- HOJAI  
ASSAM

5: ANIL HAZARIKA  
S/O- LATE KHAGEN HAZARIKA  
R/O- VILL BATADRAVA  
P.O- BATADRAVA  
DIST- NAGAON  
ASSAM

PIN- 782122

6: IDRIS ALI  
S/O- HUSSAIN ALI  
R/O- VILL NO. 10 KATH PARA  
P.O- KATH PARA  
DIST- NAGAON  
ASSAM  
PIN- 782122

7: RABIUL AOUAL  
S/O- MD. EUNUS ALI  
R/O- VILL- SOLMARI  
P.O- MAGURMARI  
DIST- NAGAON  
PIN- 782124  
ASSAM

8: ABDUL MALIK  
S/O- LATE HASIM UDDIN  
R/O- VILL- KASOKHAITY  
P.O- MAGURMARI  
DIST- NAGAON  
PIN- 782124  
ASSAM

9: ABDUL JALIL  
S/O- LATE ABDUL WAHID  
R/O- VILL KASOKHAITY  
P.O- MAGURMARI  
DIST- NAGAON  
PIN- 782124  
ASSAM

10: MD. HUSSAIN AHMED CHOUDHURY  
S/O- LATE ABDUR RAHMAN CHOUDHURY  
R/O- VILL- BORJARUNI  
P.O- PHOLTOLI BAZER  
P.S- LANKA  
DIST- HOJAI  
PIN- 782124  
ASSAM

11: MATIUR RAHMAN  
S/O- MD. SHAM SUDDIN  
R/O- VILL- DIGHALI DUBA  
P.O- SALMARA  
DIST- NAGAON

PIN- 782124  
ASSAM

12: ALI AHMED  
S/O- LATE SHAFIR UDDIN  
R/O- VILL- SALMARA  
P.O- SALMARA  
DIST- NAGAON  
PIN- 782124  
ASSAM

13: ABDUL HAFIZ  
S/O- LATE HARIS ALI  
R/O- VILL- NAM DOBOKA GAON  
P.O- HINDU BLOCK  
P.S- DOBOKA  
DIST- HOJAI  
PIN- 782124  
ASSAM

14: JAKIR HUSSAIN  
S/O- LATE MONSUR ALI  
R/O- VILL- PUB SEWGURI  
P.O- SALMARA  
DIST- NAGAON  
PIN- 782124  
ASSAM

15: TAHIR UDDIN  
S/O- HAZI HUSSAIN ALI  
R/O- VILL NO. 3 BORGHULI  
P.O- BORGHULI/SHAPMARI  
P.S- ULUONI  
DIST- NAGAON  
PIN- 782124  
ASSAM

16: MUSLEH UDDIN  
S/O- ABDUL HAMID  
R/O- VILL- MAGURMURI  
P.O- MAGURMURI  
P.S- RUPAHI (HAT)  
DIST- NAGAON  
PIN- 782124  
ASSAM

17: ALAL UDDIN  
S/O- LATE TAHIR UDDIN

R/O- VILL- PACHIM LORIRMUH  
P.O- MAGURMURI  
P.S- RUPAHI (HAT)  
DIST- NAGAON  
PIN- 782124  
ASSAM

18: ZABUL HUSSAIN  
S/O- ABDUR RAHIM  
R/O- VILL- KORAIGURI  
P.O- MAGURMURI  
P.S- RUPAHI (HAT)  
DIST- NAGAON  
PIN- 782124  
ASSAM

19: RAFIQUUL ISLAM  
S/O- MD. HABIBUR RAHMAN  
R/O- VILL- MUWAMARI  
P.O- MUWAMARI  
P.S- SAMAGURI  
DIST- NAGAON  
PIN- 782124  
ASSAM

20: SHARIF AHMED BORBHUYAN  
S/O- MD. ABDUL NOOR BORBHUYAN  
R/O- VILL- BHADUATI  
P.O- JONGAL BLOCK  
P.S- JAMUNAMUKH  
DIST- HOJAI  
PIN- 782124  
ASSAM

21: AFTAB UDDIN TALUKDAR  
S/O- ABDUS SUKKUR TALUKDAR  
R/O- VILL NO.5 UDDALI  
P.O- UDDALI BAZAR  
P.S- LANKA  
DIST- HOJAI  
PIN- 782124  
ASSAM

22: JAMIR UDDIN LASKAR  
S/O- LATE SORAFATH ALI LASKAR  
R/O- VILL- CHANGMAJI  
P.O- CHANGMAJI  
P.S- DOBOKA

DIST- HOJAI  
PIN- 782124  
ASSAM

23: MUSLIM UDDIN  
S/O- MD. LATU MIYA  
R/O- VILL- BOKULGURI MAJORATI  
P.O- BARAPATIA  
DIST- NAGAON  
PIN- 782124  
ASSA

VERSUS

THE STATE OF ASSAM AND ANR  
REP. BY THE COMMISSIONER AND THE SECRETARY TO THE GOVT OF  
ASSAM, DEPTT. OF SECONDARY EDUCATION, DISPUR, GUWAHATI- 781006

2:THE DIRECTOR OF SECONDARY EDUCATION  
ASSAM  
KAHILIPARA  
GUWAHATI-1

**Advocate for the Petitioner : MR. A SARMA**

**Advocate for the Respondent : SC, EDU**

**BEFORE  
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

**ORDER**

**Date : 29-03-2023**

Heard Mr. A. Sarma, learned counsel for the petitioners as well as Mr. R. Mazumder, learned standing counsel for the Secondary Education Department appearing for all the respondents.

2. The petitioners claims that in course of their service, a notification dated 03.09.2001 was issued by the NCTE 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 another notification 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 impugned order dated 09.03.2018, 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 prior to 03.09.2001 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 respondent will 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**