

GAHC010087032020



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

Case No. : WP(C)/2625/2020

ALL ASSAM DIET OFFICERS ASSOCIATION
REP. BY THE PRESIDENT OF THE ALL ASSAM DIET OFFICERS
ASSOCIATION SRI RATUL NEOG, SAMAGURI, DIST.- NAGAON, PIN- 782140,
ASSAM

VERSUS

THE UNION OF INDIA AND 32 ORS.
REP. BY THE SECY., TO THE MINISTRY OF HUMAN RESOURCE
DEVELOPMENT, GOVT. OF INDIA, SHASTRI BHAWAN, NEW DELHI- 110115

2:THE COMM. TO THE GOVT. OF ASSAM
EDUCATION (ELEMENTARY) DEPTT.
DISPUR
GHY-06

3:THE DIRECTOR
STATE COUNCIL OF EDUCATIONAL RESEARCH AND TRAINING
ASSAM
KAHILIPARA
GHY-19

4:THE ASSAM PUBLIC SERVICE COMMISSION
REP. BY THE CHAIRMAN
JAWAHAR NAGAR
KHANAPARA
GHY
ASSAM
PIN- 781022

5:THE COMM. AND SECY. TO THE GOVT. OF ASSAM
FINANCE DEPTT.

DISPUR
GHY-06

6:THE COMM. AND SECY. TO THE GOVT. OF ASSAM
PERSONAL DEPTT.
DISPUR
GHY-06

7:DEVA KUMAR DUTTA
R/O- D1
ACHYUT APARTMENT
NILOMONI PHUKAN PATH
CHRISTIAN BASTI
GUWAHATI- 781005

8:HEMANTA NARAYAN DAS
LIBRARIAN CUM DOCUMENTATION OFFICER
R/O VILL -RAJA PUKHURI
PO- BHAGAWATI PARA
DIST- KAMRUP
GHY- 781132

9:NARENDRA NATH
JOINT DIRECTOR
R/O H NO-7
PRASHANTI PATH
SURVEY
PO- BELTOLA
KAMRUP
GHY-781028

10:AJANTA BRAHMA
JOINT DIRECTOR
R/O- ASSAM POLICE HOUSING COMPLEX
ZONE II
BLOCK-E
B.K. KAKATI ROAD
PO- ULUBARI
GHY-781007

11:BANDANA DUARI
DEPUTY DIRECTOR
R/O- FLAT NO. 502
MEGHAMALLAR
HILL VIEW APARTMENT
KAHILIPARA
GHY- 781026

12:BARKHA SAIKIA
DEPUTY DIRECTOR
R/O- RISCON ENCLAVE
G-1
HOCKEY STADIUM ROAD
GHY-781040

13:SUMONA ROY
DIRECTOR
R/O- H. NO. 44
3 A PARK APARTMENT
KANAKLATA PATH
LACHIT NAGAR
GHY- 781007

14:PIYANU BARUAH
ASST DIRECTOR
R/O- H. NO- 9
ASHOK PATH
KAHILIPARA ROAD
GHY- 781006

15:SUWALA DUTTA SAIKIA
DEPUTY DIRECTOR
R/O- BHAGADUTTAPUR
H. NO- 43
GHY- 781019

16:ABANI DEKA
SENIOR RESEARCH OFFICER
R/O- AKASHI NAGAR
BAMUNIMAIDAN
GHY-781021

17:SUBHAS KUMAR
ACCOUNTS OFFICER
R/O- JURIPAR
PANJABARI ROA
GHY-781022

18:MUKESH SHARMA
DEPUTY DIRECTOR
R/O- PRASANNA BHAWAN
NEAR NATUN PUKHURI
KAMAKHYA
GHY-781010

19:SHAHADAT ALI

SENIOR INSPECTING OFFICER
R/O-H. NO-35
LAKHIMI PATH
BELTOLA
GHY- 781028

20:JAYANTA KUMAR SHARMA
JOINT DIRECTOR
FLAT NO. 103 B BLOCK
SADANAND APARTMENT
SECOND RIGHT BYE LANE
LAKHIMI PATH
BELTOLA
GHY- 781028

21:LAKHI NARAYAN SONOWAL
JOINT DIRECTOR
R/O- H. NO-357
NANDANPUR
LOKHRA
GHY-781040

22:LAKSHMI KANTA DAS
S/O- LATE MOHENDRA MOHAN DAS
DEPUTY DIRECTOR
PATORKUCHI
BASISTHA
GHY- 781029

23:JOY CHANDRA LAHKAR
ADMINISTRATIVE OFFICER
R/O- PANJABARI
JURIPAR
BYE LANE NO-6
NAMGARH PATH
GHY-781022

24:GEETA DUTTA BARTHAKUR
DEPUTY DIRECTOR
R/O- LAKHIMI NAGAR
BYE LANE NO-2
H. NO-14
PO-BELTOLA
GHY-781028

25:GEETIMA KOTOKY
ASST LIBRARIAN
R/O- KAHILIPARA

ADARSHAPUR PATH
GHY- 781019

26:RUPAK KUMAT BHATTACHARYA
ASST DIRECTOR
R/O- PRAGARTI PATH
VILL MALIKUCHI
PO- BARDIGHELI
DIST- NALBARI
ASSAM
PIN-781334

27:KARABI DAS
DEPUTY DIRECTOR
R/O- H. NO.20
MITHILA PATH
JANAKPUR
KAHILIPARA
GHY-781019

28:HARMOHAN DEKA
ASST RESEARCH OFFICER
R/O- PUBERUN APARTMENTS
DAKHIN GAON
KAHILIPARA
GHY- 781019

29:ATUL KUMAR BHATTACHARYA
S/O- LATE NARENDRA NATH BHATTACHARYA
JOINT DIRECTOR

30:PROSHANTA KATOKEY
S/O- LATE SIBANATH KATOKEY
DEPUTY DIRECTOR
R/O- DESOIKASH
L. N. B ROAD
JORHAT
785015

31:SIDDHARTHA SARMA
S/O- LATE HORENDRA NATH SARMA
DEPUTY DIRECTOR
R/O- RAJAMAIDAM
NEW COLONY
JORHAT-1

32:MANJU PHUKAN
D/O-LATE KUSHAL KUMAR PHUKAN

DEPUTY DIRECTOR
R/O- S.N. BURAGOHAIN ROAD
NEAR MADHSB MANDIR NAMGARH
PO AND DIST- JORHAT
ASSAM
785001

33:RUKSANA SAIKIA
D/O- NURUL HUSSAIN
R/O- MEGHAMALLAR KALPAMALATI APARTMENT
FLAT NO- RC-603
A.K. ROAD
REHABARI
GHY-78100

Advocate for the Petitioner : MS D BORGOHAIN

Advocate for the Respondent : ASSTT.S.G.I.

BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR

ORDER

Date : 19.06.2023

Heard Ms. D.Borgohain, learned counsel for the petitioner. Also heard Mr. D.J.Das, learned CGC for the respondent No.1; Mr. N.J.Khataniar, learned standing counsel, Elementary Education for the respondent No.2; Mr. S.Bora, learned standing counsel, SCERT for the respondent No.3; Ms. P.Sharma, learned standing counsel, APSC for the respondent No.4; Mr. A.Chaliha, learned standing counsel, Finance for the respondent No.5; Mr. P.Saikia, learned Govt. Advocate for the respondent No.6 and Ms. N.Mahanta, learned counsel for the respondent Nos. 7 to 33.

2. The petitioner before this Court is aggrieved by the inaction of the State

respondents in restructuring the District Institute of Education and Training (DIET) in Assam despite necessary restructuring been done in respect of the State Council of Educational Research and Training (SCERT) in terms of the recommendation made by the Ministry of Human Resource Development (MHRD) for restructuring and strengthening the SCERT as well as the DIET in the State in terms of the report made in 2009 as well as the guidelines for implementing such recommendation.

3. Prior to the Institution of this writ petition, the petitioner had also approached this Court by filing WP(C)/9056/2019 which was disposed of by order dated 09.12.2019, directing the respondents to consider the representation dated 17.01.2018 submitted by the petitioner as expeditiously as possible preferably within a period of 4(four) months and at least before finalizing the restructuring of the SCERT, so that restructuring and reorganizing of both the DIET and SCERT can be completed at the same time and both can have similar benefits, from the date of receipt of a copy of the order of this Court along with a copy of the writ petition.

4. Thereafter, the Commissioner & Secretary to the Govt. of Assam, Elementary Education Department passed the speaking order dated 18th of May, 2020 and the operative portion reads as under:

“The Restructuring and Reorganization of the Directorate of SCERT, Assam and 83 posts sanctioned for SCERT, Assam in the year 2016-17 means strengthening of SCERT Assam as par Govt. of India Guidelines, 2012 vide Govt. letter No. PMA.337/2017/Pt/267 dated 13.02.2017. In Part IV: Special Provision under Rule 28 of

the Assam Education (Research and Training Gazetted) Service Order, 2017 provided that the existing faculties of SCERT, Assam absorbed in the posts as one time measures which is not taken as precedent. The DPC meeting held on 14.12.2017, recommended absorbing of the existing incumbents in position of SCERT by way of promotion, who are eligible under Service Order 2017 through Government Notifications dated 29.12.2017 under 4(d) of the APSC (L & F) Regulation 1951 in the posts created under restructuring and reorganization of SCERT. Their services have been extended from time to time for more than 28 months. The Personnel (B) Department advised vide their U/O letter no 288/2019 dated 13.05.2019 and U/O No. 883/2019 dated 05.11.2019 communicated dated 22.11.2019 for regularization of 32 incumbents with APSC. The Department will therefore, move APSC for regularization of posts of 32 incumbents promoted under restructuring and reorganization of SCERT, Assam in line with the views of the Sr. Standing Counsel, Education Department dated 29.04.2020. "

5. Being aggrieved with the speaking order dated 18th of May, 2020, the petitioner is before this Court by way of the present writ petition.

6. A perusal of the speaking order dated 08th of May, 2020 would indicate that 3 files have been processed for considering the case of the petitioner i.e., reorganizing and restructuring of DIET in Assam. The 3 files were processed as early as June, 2014 and January 2019 respectively. Further perusal of the order indicates that the respondents are initiating a process but at a very slow pace without taking into account that the restructuring has been initiated in terms of the guidelines of the MHRD which relates back as early as 2012.

7. At this stage, Mr. N.J.Khataniar, learned standing counsel, Elementary Education submits that a Cabinet Memorandum has been prepared, however,

the same is yet to be placed before Cabinet inasmuch as the file containing the said Cabinet Memorandum is with him for placing the same before this Court.

8. After hearing the parties, this Court is of the considered opinion that it would be in the ends of justice to dispose of the writ petition instead of keeping it pending by directing the respondents to expedite the restructuring and reorganizing the DIET in Assam inasmuch as the Cabinet Memorandum has already been prepared. Concerning that the processing of files has taken place as early as June, 2014, this Court directs the respondents to expedite the process and bring the same to its logical conclusion within a period of 4(four) months from the date of receipt of a copy of the order of this Court.

9. With the above observations and directions, this writ petition is disposed of.

JUDGE

Comparing Assistant