

GAHC010097912023



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

**Case No. : I.A.(Civil)/1384/2023**

ALL ASSAM ADDITIONAL (CONTRACTUAL) TEACHERS ASSOCIATION  
AND 4 ORS.  
REPRESENTED BY ITS PRESIDENT, VICE PRESIDENT, SECRETARY AND  
WORKING PRESIDENT.

2: SURESWAR DEKA (PRESIDENT)  
S/O- LATE RAMCHARAN DEKA  
VILL AND P.O- NAHIRA  
PIN-781132  
DIST- KAMRUP(ASSAM).

3: ABDUL HAI AHMED (VICE PRESIDENT)  
S/O- ABDUL KHALEQUE  
VILL- MANIKPUR  
P.O- KRISHNAI

DIST- GOALPARA  
PIN-783126.

4: KESHAB PHUKAN  
S/O- LATE BHOLEN PHUKAN  
R/O-TOWN BANTOR  
WARD NO-14  
P.O- KHELMATI  
PIN 787001. DIST- LAKHIMPUR  
ASSAM.( WORKING PRESIDENT)

5: MAHIDHAR KALITA (SECRETARY)  
S/O-PHALINDRA NATH KALITA  
R/O- MADHAB NAGAR  
KHANAPARA  
GUWAHATI-22

VERSUS

THE STATE OF ASSAM AND 25 ORS.  
REPRESENTED BY ITS COMMISSIONER TO THE GOVERNMENT OF  
ASSAM, (EDUCATION) DEPARTMENT, DISPUR, GUWWHATI-06

2:THE PRINCIPAL SECRETARY  
TO THE GOVERNMENT OF ASSAM  
EDUCATION DEPARTMENT  
DISPUR  
GUWAHATI-06.

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

4:THE FINANCE DEPTT.  
REPRESENTED BY COMMISSIONER AND SECRETARY  
DISPUR  
GUWAHATI-06.

5:THE RASHTRIYA MADHYAMIK SHIKSA ABHIJAN (RMSA)  
REPRESENTED BY ITS MISSION DIRECTOR  
KAHILIPARA  
GUWAHATI-19.

6:THE INSPECTOR OF SCHOOLS  
KAMRUP DISTRICT CIRCLE  
KAMRUP (METRO)  
ASSAM  
PIN- 781001.

7:THE INSPECTOR OF SCHOOLS  
BARPETA DISTRICT CIRCLE  
BARPETA  
ASSAM  
PIN-781301.

8:THE INSPECTOR OF SCHOOLS  
BONGAIGAON DISTRICT CIRCLE  
BONGAIGAON  
ASSAM  
PIN-783380

9:THE INSPECTOR OF SCHOOLS  
CACHAR DISTRICT CIRCLE  
CACHAR  
ASSAM

783380.

10:THE INSPECTOR OF SCHOOLS  
GOALPARA DISTRICT CIRCLE  
GOALPARA  
ASSAM  
788103.

11:THE INSPECTOR OF SCHOOLS  
GOLAGHAT DISTRICT CIRCLE  
GOLAGHAT  
ASSAM  
PIN-785621.

12:THE INSPECTOR OF SCHOOLS  
DIBRUGARH DISTRICT CIRCLE  
DIBRUGARH  
ASSAM  
PIN-786001

13:THE INSPECTOR OF SCHOOLS  
DHEMAJI DISTRICT CIRCLE  
DHEMAJI  
ASSAM  
PIN-787057.

14:THE INSPECTOR OF SCHOOLS  
HAILAKANDI DISTRICT CIRCLE  
HAILAKANDI  
ASSAM  
PIN-788163.

15:THE INSPECTOR OF SCHOOLS  
JORHAT DISTRICT CIRCLE  
JORHAT  
ASSAM  
PIN-785013.

16:THE INSPECTOR OF SCHOOLS  
KAMRUP(RURAL) DISTRICT CIRCLE  
KAMRUP(R)  
ASSAM  
PIN-781031.

17:THE INSPECTOR OF SCHOOLS  
KARIMGANJ DISTRICT CIRCLE  
KARIMGANJ  
ASSAM

PIN-788720

18:THE INSPECTOR OF SCHOOLS  
NAGAON DISTRICT CIRCLE  
NAGAON  
ASSAM  
PIN-782002.

19:THE INSPECTOR OF SCHOOLS  
SONITPUR DISTRICT CIRCLE  
SONITPUR  
ASSAM  
PIN-784001.

20:THE INSPECTOR OF SCHOOLS  
TINSUKIA DISTRICT CIRCLE  
TINSUKIA  
ASSAM  
PIN-786125.

21:THE INSPECTOR OF SCHOOLS  
LAKHIMPUR DISTRICT CIRCLE  
LAKHIMPUR  
ASSAM  
PIN-7871001.

22:THE INSPECTOR OF SCHOOLS  
DARRANG DISTRICT CIRCLE  
DARRANG  
ASSAM  
PIN-784125.

23:THE INSPECTOR OF SCHOOLS  
MORIGAON DISTRICT CIRCLE  
MORIGAON  
ASSAM  
PIN-782411.

24:THE INSPECTOR OF SCHOOLS  
DHUBRI DISTRICT CIRCLE  
DHUBRI  
ASSAM  
PIN-783301.

25:THE INSPECTOR OF SCHOOLS  
SIVASAGAR DISTRICT CIRCLE  
SIVASAGAR  
ASSAM

PIN-785640.

26:THE INSPECTOR OF SCHOOLS  
NALBARI DISTRICT CIRCLE  
NALBARI  
ASSAM  
PIN-781335

**Advocate for the Petitioner** : MR. B P BORAH

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

**BEFORE  
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

**ORDER**

**22.05.2023**

Heard Shri PK Goswami, learned Senior Counsel assisted by Shri DP Borah, learned counsel for the applicants, who are also the writ petitioners in the connected writ petition.

**2.** By this application, certain interim directions have been sought for with regard to an advertisement dated 28.12.2022.

**3.** It is the case of the applicants-petitioners that pursuant to an advertisement published in the year 2010, they were selected and thereafter appointed as Graduate Teachers. After their appointments, there was introduction of TET. Since the said requirement was brought into force subsequently, the petitioners-applicants had come up before this Court challenging the action of the Department by which they were required to qualify in the TET examination. The said challenge was successful and this Court had held that the applicants-petitioners were not required to qualify for TET examination. Thereafter, a notification dated 01.07.2020 was issued which took care of the cases of the applicants-petitioners. However, in spite of such Notification, a

process was started for appointment of Graduate Teachers in different High Schools which would cause prejudice to the applicants-petitioners.

**4.** Accordingly, the connected writ petition was filed in which, this Court had passed an order dated 30.08.2019. By the said order, 5,924 posts of Graduate Teachers out of 14,000 posts were directed to be kept earmarked so that the interest of the parties could be protected. As noted above, vide the notification dated 01.07.2020, regular scale of payments were given to the petitioners and a decision was taken to keep in abeyance 5243 numbers of posts.

**5.** Shri Goswami, learned Senior Counsel has clarified that he would not raise any dispute with regard to the said 5243 numbers of posts, which as per the Court's order was 5924.

**6.** The purpose of filing the present interlocutory application is that a fresh recruitment process has been initiated vide an advertisement dated 28.12.2022 which appears to be pursuant to a Cabinet Decision. The contention of the applicants-petitioners is that prior to the said advertisement, there was a tweeter message which referred to a Cabinet decision with regard to release 3038 nos. of posts of Secondary Education Department out of 4330 frozen posts for recruitment.

**7.** Shri Goswami, learned Senior Counsel for the applicants fairly submits that the applicants are not against a general process of recruitment but their only grievance is not to fill up the posts which are the subject matter of the connected writ petition and have, in fact been frozen by order of this Court.

**8.** Shri B Kaushik, learned Standing Counsel, Secondary Education Department, Assam submits that though he does not have any instructions, it appears that the

recruitment process is not pertaining to the posts connected with the writ petition.

**9.** After hearing the parties, a *prima facie* case is made out, more so when this Court, in the connected writ petition, had passed the interim protection dated 30.08.2019 giving a specific direction for freezing certain numbers of posts. It further appears that no returns have been filed by any of the contesting respondents in the main writ petition.

**10.** Under those circumstances, the recruitment process initiated vide the advertisement dated 28.12.2022 cannot touch upon the posts which were directed to be earmarked and was also accepted by the Department vide the notification dated 01.07.2020.

**11.** Accordingly, it is directed that though there would be no restraint to any recruitment process, the numbers of posts which were directed to be kept earmarked by this Court vide its order dated 30.08.2019 passed in WP(C)/6138/2019 are not to be brought within the ambit of such recruitment process.

**12.** The interlocutory application, accordingly stands disposed of.

**JUDGE**

**Comparing Assistant**