

GAHC010112492023



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

**Case No. : I.A.(Civil)/1439/2023**

MASUK AHMED BARBHUIYA  
S/O LATE SOFIQUL HOQUE BARBHUIYA, VILLAGE CHIPORSANGAN PART  
III, PO CHIPORSANGAN, PS ALGAPUR, DIST HAILAKANDI, ASSAM 788801

VERSUS

THE STATE OF ASSAM AND 4 ORS  
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.  
OF ASSAM, EDUCATION DEPARTMENT (ELEMENTARY) DISPUR,  
GUWAHATI 06

2:THE DIRECTOR OF ELEMENTARY EDUCATION

KAHILIPARA  
GUWAHATI 19

3:THE STATE LEVEL COMMITTEE (SLC) FOR COMPASSIONATE  
APPOINTMENT

REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM  
DISPUR GUWAHATI 06

4:THE DISTRICT LEVEL COMMITTEE (DLC)  
HAILAKANDI FOR COMPASSIONATE APPOINTMENT  
REPRESENTED BY THE DEPUTY COMMISSIONER  
HAILAKANDI  
ASSAM 788151

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER

HAILAKANDI  
ASSAM

78815

**Advocate for the Petitioner** : MR. S B LASKAR

**Advocate for the Respondent** : GA, ASSAM

Linked Case : WP(C)/434/2022

MASUK AHMED BARBHUIYA  
S/O LATE SOFIQUL HOQUE BARBHUIYA  
VILLAGE CHIPORSANGAN PART III  
PO CHIPORSANGAN  
PS ALGAPUR  
DIST HAILAKANDI  
ASSAM 788801

VERSUS

THE STATE OF ASSAM AND 4 ORS  
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.  
OF ASSAM  
EDUCATION DEPARTMENT (ELEMENTARY) DISPUR  
GUWAHATI 06

2:THE DIRECTOR OF ELEMENTARY EDUCATION

KAHILIPARA  
GUWAHATI 19

3:THE STATE LEVEL COMMITTEE (SLC) FOR COMPASSIONATE  
APPOINTMENT

REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM  
DISPUR GUWAHATI 06

4:THE DISTRICT LEVEL COMMITTEE (DLC)  
HAILAKANDI FOR COMPASSIONATE APPOINTMENT  
REPRESENTED BY THE DEPUTY COMMISSIONER  
HAILAKANDI  
ASSAM 788151

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER

HAILAKANDI  
ASSAM

788151

-----

Advocate for : MR. S B LASKAR

Advocate for : GA

ASSAM appearing for THE STATE OF ASSAM AND 4 ORS

**BEFORE  
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK**

**ORDER**

**26-05-2023**

Heard Mr. A M Barbhuiya, learned counsel for the applicant/writ petitioner and Ms. H Terangpi, learned Standing counsel, Department of School Education, Assam for the opposite party/respondent Nos. 1, 2 & 5. Also heard Mr. G Pegu, learned Government Advocate, Assam for the opposite party/respondent Nos. 3 & 4.

**2.** Petitioner's father, namely, Safiquel Hoque Barbhuiya, an Assistant Teacher of Bokrihour M.V. School, a provincialised upper primary school under the Hailakandi Education Block of district- Hailakandi died in harness on 10.08.2007.

**3.** Petitioner filed his application for compassionate appointment on 18.08.2007 for the post of L.P. School Teacher/Grade-IV post.

**4.** However, the District Level Committee (DLC) for compassionate appointment, District- Hailakandi in its meeting held on 05.10.2021 found that the petitioner did not enclose the Next of Kin Certificate of the said deceased, namely, Safiquel Hoque Barbhuiya and accordingly, rejected the case of the petitioner for his compassionate appointment. The said decision of the DLC for compassionate appointment, Hailakandi dated 05.10.2021 was communicated to the petitioner on 11.10.2021.

**5.** Being aggrieved with the same, the petitioner preferred the connected WP(C) No. 434/2022 on 18.01.2022.

**6.** During the deliberation of said WP(C) No. 434/2022, it was placed before the Court by the learned Government Advocate on 29.07.2022 that the case of the petitioner was earlier considered by the DLC for compassionate appointment, Hailakandi on 30.11.2012 and in that

meeting, the said DLC rejected the case of the petitioner.

**7.** In view of the above, the petitioner on 17.11.2022 prayed for withdrawal of the connected WP(C) No. 434/2022 that was filed challenging the order of the DLC for compassionate appointment, Hailakandi dated 05.10.2021 rejecting his case for compassionate appointment on the ground of non-production of the Next of Kin Certificate of his deceased father.

**8.** As the applicant/writ petitioner prayed for withdrawal of said WP(C) No. 434/2022, with liberty so that he can challenge both the decisions of the DLC for compassionate appointment, Hailakandi dated 30.11.2012 as well as dated 05.10.2021, noted above, though such prayer on behalf of the applicant/writ petitioner was accepted on 17.11.2022, however in the said order dated 17.11.2022 the Court while granting liberty to the present applicant/writ petitioner to file afresh but with the rider "as and when a new cause of action arises".

**9.** Hence, the applicant/writ petitioner has filed this Interlocutory Application so as to delete the said portion, "*as and when a new cause of action arises*" from the said order dated 17.11.2022 passed in the connected WP(C) No. 434/2022.

**10.** Perused the records of WP(C) No. 434/2022 and the order dated 17.11.2022 passed earlier in the connected WP(C) No. 434/2022.

**11.** After hearing the learned counsels for the parties and considering the entire aspect of the matter, the observation made in the order dated 17.11.2022 passed in the connected WP(C) No. 434/2022 i.e. "*as and when a new cause of action arises*" as available in the last part of the 2<sup>nd</sup> Paragraph of the said order dated 17.11.2022 be deleted from the said order passed in the connected WP(C) No. 434/2022 and which shall not be a part of the said order any further.

**12.** To that extent, the order dated 17.11.2022 passed in the connected WP(C) No. 434/2022 stands corrected.

**13.** This order shall be read together with the order dated 17.11.2022 passed in said WP(C) No. 434/2022.

**14.** Accordingly, this Interlocutory Application stands allowed to the extent above.

**JUDGE**

**Comparing Assistant**