

GAHC010112952023



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

**Case No. : WP(C)/3016/2023**

INDRAJIT BORA  
S/O- SRI BUDHIN BORA,  
R/O- HATICHUNGI GAON,  
P.O- CHENIJAN  
DISTRICT- JORHAT, ASSAM,  
PIN- 785010.

VERSUS

THE STATE OF ASSAM AND 5 ORS.  
REPRESENTED BY THE SECRETARY,  
SECONDARY EDUCATION DEPARTMENT,  
GOVERNMENT OF ASSAM,  
JANTA BHAWN, DISPUR, GUWAHATI,  
PIN- 781006.

2:THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM  
FINANCE DEPARTMENT  
JANTA BHAWN  
DISPUR  
GUWAHATI

PIN- 781006.

3:THE DIRECTOR OF SECONDARY EDUCATION  
ASSAM

KAHILIPARA  
GUWAHATI- 781019.

4:THE INSPECTOR OF SCHOOL  
JORHAT

P.O.- JORHAT  
DISTRICT- JORHAT

ASSAM  
PIN- 785001.

5:THE SCHOOL MANAGING AND DEVELOPMENT COMMITTEE OF  
CHENIJAN HIGH SCHOOL  
REPRESENTED BY ITS PRESIDENT

CHENIJAN  
P.O.- CHENIJAN

DISTRICT- JORHAT  
ASSAM  
PIN- 785010.

6:THE CHENIJAN HIGH SCHOOL  
CHENIJAN  
REPRESENTED BY ITS HEADMASTER

P.O.- CHENIJAN  
DISTRICT- JORHAT

ASSAM  
PIN- 785010

**Advocate for the Petitioner : MR. P D NAIR**

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

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

**ORDER**

**29.05.2023**

Heard Shri A Chetri, learned counsel for the petitioner. Also heard Shri U Sarma, learned Standing Counsel, Secondary Education Department, Assam.

**2.** Considering the facts and circumstances of the case and as agreed to by the parties, the instant writ petition is taken up for disposal at the motion stage.

**2.** The prayer in this writ petition is with regard to the regularization of the service of the petitioner.

**3.** The facts projected is that the petitioner was engaged as a Chowkidar against a sanctioned vacant Grade-IV post in the Chenijan High School, Jorhat pursuant to a resolution adopted by the School Management and Development Committee (hereinafter for short referred to as the SMDC) held on 24.03.2012 and 29.04.2012. The petitioner claimed to have joined the said post on 08.07.2012 and also claims to be rendering continuous service without any break. The petitioner relies upon a communication dated 30.05.2022 issued by the Head Master of the said School to the Inspector of Schools whereby a resolution of the General Meeting of the School dated 29.05.2022 has been forwarded wherein, the aspect of regularization of the services of the petitioner is there. The petitioner, accordingly prays for a direction for consideration of his case for regularization of his service.

**4** Shri Sarma, learned Standing Counsel, Higher Education Department submits that the relief claimed is on misconceived and erroneous grounds. He submits that the initial appointment of the petitioner done by the SMDC was without any power or jurisdiction, as the School in question was the provincialised school. Shri Sarma submits that since the initial appointment itself was not in accordance with law, the question of regularization of his service will not come in. He further submits that for claiming regularization, an incumbent has to fulfill certain criteria which are not met by the petitioner.

**5.** After hearing the parties, this Court finds force in the contention of the learned Standing Counsel of the Department that an SMDC does not have any power or jurisdiction to make any appointment in a provincialised school. Therefore, this Court

is of the opinion that the prayer made in the writ petition cannot be accepted. However, while rejecting the prayer of the petitioner, it is observed that the petitioner would be at liberty to participate in any ensuing selection process in the post of Grade-IV in the aforesaid School in which case, the experience gained by him may be a relevant factor for consideration of his candidature.

**6.** The writ petition is accordingly disposed of.

**JUDGE**

**Comparing Assistant**