

GAHC010120912016



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

Case No. : WP(C)/6675/2016

RAUNAK HUSSAIN and 10 ORS.
S/O. MD. HAFIZ, R/O. DIGBOI TOWN, P.O. and P.S. DIGBOI, DIST. TINSUKIA,
ASSAM.

2: SMTI. RANJU BARUAH
D/O. HEMAKANTA BARUAH
R/O. PANGEREE CHARIALI
P.O. and P.S. PANGEREE
DIST. TINSUKIA
ASSAM.

3: SRI SUKDEV KONWAR
S/O. D. KONWAR
R/O. BARJAN
P.O. and P.S. DIGBOI
DIST. TINSUKIA
ASSAM.

4: SRI BINANDA KONWAR
S/O. BALURAM KONWAR
R/O. BHIMPATHAR
P.O. and P.S. BHIMPATHAR
DIST. TINSUKIA
ASSAM.

5: SMTI. JONA SAIKIA

S/O. MONI RAM SAIKIA
R/O. DIGBOI TOWN
P.O. and P.S. DIGBOI
DIST. TINSUKIA
ASSAM.

6: SMTI. PRABINA KACHARI

W/O. PULIN BORGOHAIN
R/O. BAPAPUNG
P.O. and P.S. DIGBOI
DIST. TINSUKIA
ASSAM.

7: SMTI. MANJULA HAZARIKA

D/O. KAMAL HAZARIKA
R/O. DIGBOI TOWN
P.O. and P.S. DIGBOI
DIST. TINSUKIA
ASSAM.

8: SRI JAGANNATH DAS

S/O. LT. BALU RAM DAS
R/O. BALIJAN
P.O. BALIJAN
P.S. DIGBOI
DIST. TINSUKIA
ASSAM.

9: SMTI. ALPANA GOGOI

D/O. LAKHI KANTA GOGOI
R/O. NS AREA
X 55 BLOCK
P.O. and P.S. DIGBOI
DIST. TINSUKIA
ASSAM.

10: SMTI. LAWANU BARUAH

S/O. BORNAKANTA BARUAH
R/O. BAPAPUNG
P.O. and P.S. DIGBOI
DIST. TINSUKIA
ASSAM.

11: SRI NABIN BARUAH

S/O. HEMKANTA BARUAH
R/O. AMBIKAPUR
P.O. and P.S. PANGEREE
DIST. TINSUKIA
ASSAM

VERSUS

THE STATE OF ASSAM and 2 ORS.
REP. BY THE COMMISSIONER and SECY. TO THE GOVT. OF ASSAM,
EDUCATION ELEMENTARY DEPTT., DISPUR-06.

2:THE DIRECTOR
ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI -19.

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
TINSUKIA
DIST. TINSUKIA
ASSAM

Advocate for the Petitioner : MS.S GOHAIN

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 20-01-2023

Heard Mr. Y S Manna, learned counsel for the petitioners. Also heard Mr. N J Khataniar, learned Standing Counsel for the Elementary Education Department, Government of Assam.

2. Out of the total 11 petitioners in the present writ petition, the petitioners No. 2 and 3 have already got their grievance readdressed at the hands of the respondent authorities and accordingly, Mr. Y S Mannan, learned counsel for the petitioners submits that the names of the petitioners No. 2 and 3 be deleted from the array of the parties. Prayer is allowed.

3. The petitioners claim that they were initially appointed as stipendiary teachers in various schools by the Deputy Inspector of Schools of Margherita, in the district of Tinsukia. The petitioners continued as so. However, their appointments were terminated by the respondent authorities on the ground that their appointments were made de hors extant

Rules. Being aggrieved, the present petitioners filed a writ petition being Civil Rule No. 1497/1994, which was disposed of by this Court under its order dated 16.06.1994 setting aside the orders of termination with a liberty to the State to make an enquiry as to the legality of the appointments of the petitioners. A further liberty was given to the State to terminate the services of the petitioners, giving reasonable opportunity of being heard, if the appointments are found to be illegal.

4. Being aggrieved, the State preferred a writ appeal being WA No. 437/1994, wherein the Hon'ble Division Bench by its judgment dated 07.05.1996 directed the Chief Secretary of the State to make an enquiry within six months.

5. Thereafter, an advertisement was issued on 01.02.2012 whereby the applications were invited from the persons appointed during the period from 1991 to 2001 so as to verify their records. A Screening Committee was also constituted to examine the claim of the irregularly/illegally appointed teachers.

6. The petitioners appeared before the said Screening Committee. The screening process was completed and thereafter, three lists were prepared by the Department which includes firstly, the teachers who have received salary at some point of time having JBT/D.El.Ed., the next list was of those teachers who received salaries at some point of time but were not having JBT/D.El.Ed. The third list was prepared consisting of those teachers, who had neither received salaries nor qualified for training i.e. JBT/D.El.Ed.

7. In respect of the district of Tinsukia, a list of 209 teachers pertaining to list 2 was published. The present petitioners claim to belong to the category of the 2nd list of Tinsukia district.

8. Mr. Mannan claims that had that list been properly prepared, the petitioners' name could also have found place in that list inasmuch as, as many as names of 35 numbers of persons were repeated in the list. In the meantime, the petitioners No. 2 and 3 had been appointed on the basis of such list.

9. The petitioners claim that had this list been properly prepared, the petitioners could have been accommodated inasmuch as the petitioners No. 2 and 3 had already been appointed on the basis of such list.

10. The facts that had been narrated hereinabove are not in dispute.
11. The list 2, which is annexed as Annexure-K in the additional affidavit filed by the petitioners reflects that 209 persons were enlisted against Tinsukia district against list 2 i.e. the list of teachers, who received salary at some point of time but not having JBT/D.El.Ed. The petitioners herein claim to belong to the said category and they also claim that they received salary at some point of time. The list further discloses that names enlisted at Sl. Nos. 1 to 15, 17 to 21, 24 to 36, 40 and 42 pertaining to Tinsukia district were again repeated in the same list against Sl. Nos. 169, 172 to 175, 178 to 181, 183, 185 to 201 and 203 to 209.
12. If that be so and as agreed to by Mr. N J Khataniar, learned Standing Counsel for the Secondary Education Department of the Government of Assam, a reconsideration of the said select list is required. In the meantime, the petitioners have also filed representation before the respondent authorities raising their grievance by bringing to the notice of the respondent authorities the alleged anomalies in the list 2 pertains to Tinsukia district.
13. That being so and as agreed by the learned counsel for the parties, this Court is of the considered opinion that this writ petition can be disposed of with a direction to the Secretary to the Government of Assam in the Department of School Education to look into the alleged anomalies of the repetition of name and if it is found that the names of the persons are repeated, the list in question relating to Tinsukia district be re-casted and if after recasting of the names, the petitioners come within the zone of consideration and within the list of 209 in Tinsukia district, they may be appointed in terms of the policy of the Government in this regard.
14. The entire exercise be carried out within a period of three months from the receipt of a certified copy of this order. The petitioners are given a liberty to file a detailed and fresh representation before the respondent authorities along with the order passed today.
15. With the aforesaid terms, this writ petition stands disposed of.

JUDGE

Comparing Assistant