

GAHC010157342023



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

**Case No. : WP(C)/4033/2023**

BIPUL CHANDRA BARMAN AND ANR  
S/O- LATE MADHAB CHANDRA BARMAN  
R/O- 8A, SARBODAY ASHRAM ROAD,  
GUWAHATI, CHANDMARI, SARBODAY NAGAR, BAMUNIMAIDAM,  
KAMRUP (M), GUWHATI-21

2: GADADHAR KALITA  
S/O- LATE HARI CHARAN KALITA

01  
CHANDANGIRI  
BARBARI  
SANKARDEV SISU NIKETAN  
HENGRABARI  
KAMRUP (M)  
GUWAHATI  
ASSAM  
PIN-78103

VERSUS

THE STATE OF ASSAM AND 8 ORS  
REP. BY THE COMMISSIONER AND SPECIAL SECRETARY TO THE  
GOVERNMENT OF ASSAM, PWD (ROADS ) DEPARTMENT  
DISPUR, GUWAHATI-06

2:THE COMMISSIONER AND SPECIAL SECRETARY  
TO THE GOVERNMENT OF ASSAM  
PWD (BUILDING AND N.H WORKS ) DEPARTMENT  
DISPUR  
GUWAHATI-06

3:THE CHIEF ENGINEER

PWD (BUILDING )  
CHANDMARI  
GUWAHATI-3  
DIST-KAMRUP (M)  
ASSAM

4:THE CHIEF ENGINEER  
PUBLIC WORKS DEPARTMENT (BORDER ROAD AND NEC WORKS)  
ASSAM GUWAHATI

5:THE CHIEF ENGINEER  
PUBLIC WORKS DEPARTMENT( EAP WORKS)  
ASSAM  
GUWAHATI

6:THE CHIEF ENGINEER  
PUBLIC WORKS DEPARTMENT( N.H WORKS)  
ASSAM  
GUWAHATI

7:THE CHIEF ENGINEER  
PUBLIC WORKS ROAD DEPARTMENT (N.H WORKS)  
ASSAM  
GUWAHATI

8:DEPUTY SECRETARY  
(ESTT) TO THE GOVERNMENT OF ASSAM  
PWD (BUILDING AND N.H) DEPARTMENT  
ESTT. BRANCH  
DISPUR  
GUWAHATI  
ASSAM  
PIN-781006

9:DEPUTY SECRETARY  
TO THE GOVERNMENT OF ASSAM  
PWD ESTT -B BRANCH  
(CONFIDENTIAL CELL)  
DISPUR  
GUWAHATI  
ASSAM  
PIN-78100

**Advocate for the Petitioner : MR. R SARMAH**  
**Advocate for the Respondent : SC, P W D**

**BEFORE  
HONOURABLE MR. JUSTICE SUMAN SHYAM**

**ORDER**

**Date : 21-07-2023**

Heard Mr. R. Sarma, learned counsel for the writ petitioners. Also heard Mr. P. Nayak, learned standing counsel, PWD, Assam appearing for the respondents.

The writ petitioners herein are serving as Executive Engineer (Civil) under the PWD, Assam. According to the petitioners, the date of their retirement is approaching fast. Since the gradation list of Executive Engineer (Civil) had been published by the department on 24-06-2023 and in view of the process initiated by the department for promoting a number of Superintending Engineer (Civil) in PWD to the next higher grade, there are possibilities of vacancies arising in the rank of Superintending Engineer (Civil), PWD. The writ petitioners have therefore, approached this Court seeking a direction upon the respondents to consider their cases for promotion to the rank of Superintending Engineer (Civil) without any undue delay. The prayer made in the writ petition *prima facie* appears to be innocuous and therefore, there cannot be any justifiable ground for this Court to decline the same, more so, when similar writ petitions filed by number of Superintending Engineer (Civil) in the PWD with a prayer of like nature, being W.P.(C) No. 3445/2023, had been disposed of by this Court by the order dated 16-06-2023.

However, at this stage, Mr. Nayak, learned standing counsel, PWD submits that although he would ordinarily not oppose the prayer made in the writ petition, yet, in view of the pendency of W.P.(C) No. 1567/2022 and the batch of connected writ petitions, wherein the central controversy is pertaining to the validity of the gradation list of

Executive Engineers (Civil) *vis-à-vis* the reserved category candidates, until and unless the said issue is finally resolved by an order of this Court, it may not be possible for the department to act on the gradation list published on 24-06-2023.

Responding to the above, Mr. Sarma submits that the gradation list regarding which the writ petitions are pending, is pertaining to the year 2022 and therefore, the same may not have any relevance in the facts of the present case.

Be that as it may, the other writ petitions are not listed before this Court. Moreover, this Court is informed that these writ petitions have already been heard in part by the Division Bench. If that be so, this Court cannot make any comment or observation pertaining to the issue involved in the aforesaid batch of writ petitions. As such, the present petition is being disposed of, at the stage of motion hearing, by providing that the case of the petitioners for promotion to the rank of Superintending Engineer (Civil) be considered, if they come within the zone of consideration as per the relevant rules and if vacancies are available in the rank of Superintending Engineer (Civil), subject further to the condition that there is no restraint on the operation of the gradation list of Executive Engineer (Civil) due to pendency of any court proceeding.

Writ petition stands disposed of accordingly.

**JUDGE**

GS

**Comparing Assistant**