

GAHC010163222022



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

Case No. : WP(C)/5376/2022

JAHIDUL ISLAM AND 6 ORS

S/O- JALIL MOLLAH,

VILL-BORBARADI,

P.S- BARPETA,

PIN-781309, ASSAM

PRINCIPAL CUM COORDINATOR ASHFIQA RIDWAN D,EL.ED COLLEGE,

HAHCHARA BAGODI, P.O- BAGODI, P.S AND DIST- BARPETA, ASSAM, PIN-781039

2: MD. ABDUL MALEQUE

S/O-LATE MAINUDDIN AHMED

VILL AND P.O-AMBARI

P.S- ABHAYAPURI

DIST- BONGAIGAON

PIN-783384

ASSAM

COORDINATOR OF MAINUDDIN AHMED MEMORIAL ACADEMY

P.O-AMBARI

P.S- ABHAYAPURI

DIST- BONGAIGAON

PIN-783384

ASSAM

3: NUR RAHMAN

S/O- ABIR ALI

VILL AND P.O - PIRADHARA

P.S- ABHAYAPURI

DIST- BONGAIGAON

PIN-783384

ASSAM

COORDINATOR OF PIRADHARA HIGH MADRASSA
D.EL.ED STUDY CENTER
PIRADHARA
DIST- BONGAIGAON
PIN-783384
ASSAM

4: SAHIDUL ISLAM
S/O- LATE MOINUDDIN

VILL AND P.O - CHAKLA
P.S- ABHAYAPURI
DIST- BONGAIGAON
PIN-783384
ASSAM

PRINCIPAL CUM COORDINATOR C.K COLLEGE
D.EL.ED STUDY CENTER
CHAKLA
DIST- BONGAIGAON
PIN-783384
ASSAM

5: SAIDUL ALAM
S/O- A.K ABDUL MALIK

VILL- BORPOKA

P.O - TARABARI

P.S- RUPAHIHAT
DIST- NAGAON
PIN-782125
ASSAM

PRINCIPAL CUM COORDINATOR OF BRAHMAPUTRA COLLEGE OF
EDUCATION
ASSAM

6: GUNESWAR BHARALI
S/O- LAVARAM BHARALI
R/O- NAGAON
KATHALGURI
P.S-BOGINADI
DIST- LAKHIMPUR
ASSAM.

COORDINATOR OF UNITED TRIBAL COLLEGE AT BILMUKH
P.O- BILMUKH
P.S- GHILAMARA
DIST- LAKHIMPUR
ASSAM
PIN-787056

7: SAJINA YASMIN
W/O- DOST MOHAMMAD SAHABUDDIN

VILL- MOAMARI

P.O AND P.S- KHARUPATIA
DIST- DARRANG

PIN-784115
ASSAM

PRINCIPAL CUM COORDINATOR OF DIKSHA ACADEMY AT KHARUPATIA
TOWN

DIST- DARRANG

ASSA

VERSUS

THE STATE OF ASSAM AND 3 ORS
COMMISSIONER AND SECRETARY, DEPARTMENT OF ELEMENTARY
EDUCATION , GOVT. OF ASSAM, DISPUR, GUWAHATI-781006

2:THE PRINCIPAL SECRETARY
TO THE GOVT. OF ASSAM
(ELEMENTARY) EDUCATION DEPARTMENT
DISPUR
GUWAHATI-781006
ASSAM

3:THE DIRECTOR
STATE COUNCIL OF EDUCATIONAL RESEARCH AND TRAINING
OPEN AND DISTANCE LEARNING
KAHILIPARA
GUWAHATI-19
ASSAM

4:THE EXECUTIVE CHAIRMAN
CUM DIRECTOR

ODL CELL
SCERT
GUWAHATI-19
ASSA

Advocate for the Petitioner : MR. M U MAHMUD

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

Date : 11-12-2023

Heard Mr. M.U. Mahmud, learned counsel for the petitioners. Also heard Mr. B. Gogoi, learned counsel for the SCERT and Mr. S.M.T. Chistie, learned counsel for the respondents in the Elementary Education Department of Government of Assam.

2. The State of Assam had adopted the scheme providing for study centre for D.El.Ed mode course for recommendation of teachers trainees for D.El.Ed. (ODL mode) course. It is stated that certain issues have arisen regarding the implementation of the scheme and therefore, the State authorities had disallowed further functioning of the study centre till the process be brought to its logical end and the employees under the scheme were released on 01.05.2022.

3. In the prevailing circumstance, the petitioner Jahidul Islam and others also operated study centre under the scheme which had been disallowed to function further as indicated above but before the study centre of the petitioners would be disallowed from further functioning they had already taken in students for the purpose of teachers trainees.

4. The materials produced before the Court shows that at some level in the Education Department or in the SCERT there appears to be a view that such arrangement is to be discontinued but again in some other level involving the entities of the same Department, communications are available which gives an indication that the arrangement has to continue. In the resultant confusion the petitioner institute had gone ahead with the further intake of students. It is stated that there is a clear instruction not to intake further students and from the instruction onwards the petitioner institute had not taken any further students.

5. This writ petition is instituted for a decision by the respondent authorities as to what would be the fate of the students who had already taken admission and have also paid their fees during the period of confusion prior to the clear instruction not to intake any further students.

6. Mr. B. Gogoi, learned counsel for the SCERT upon instruction has stated that it would be for the Elementary Education Department to take a decision on the same. Accordingly, we direct the Secretary to the Government of Assam in the Elementary Education Department to take a decision on the fate of the students who had already taken in during the period when the confusion remains and before the clear instruction not to intake further students was made by the departmental authorities.

7. From the institute point of view and also from the point of view of the students who had undertaken the course offered by the petitioner institute, we do not see any infirmity or illegality in their conduct and the entire issue has arisen as because there was a decision of the respondent authorities to discontinue the scheme of operating the study centre.

8. If the further students were taken in during the period of confusion when the authorities themselves were not clear whether it is discontinued or not to discontinue and their intake was done prior to the clear instruction not to intake further students, we are of the view that the students have some legal right of their own to be given a positive recognition of the course that they may have undertaken.

8. The Secretary to Government of Assam in the Elementary Education Department to pass necessary order taking note of all the attending facts and circumstances within a period of two months from the date of receipt of certified copy of this order.

9. Mr. M.U. Mahmud, learned counsel for the petitioners prays for a similar benefit to be given to the other students but we take note that it is not a PIL but the writ petition instituted by the writ petitioners herein and therefore, the order will be confined only to the writ petitioners and the students who have taken admission in the writ petitioner institute.

Writ petition stands disposed of in the above terms.

JUDGE

Comparing Assistant