

GAHC010227392018



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

Case No. : WP(C)/7212/2018

NURUL AMIN AND 6 ORS.
ASSTT. TEACHER,
TELICHAPARITUP ADARSHA
M.E. MADRASSA, P.O. SAIDARIA
DIST. NAGAON

2: BHUBAN CHANDRA DAS

ASSTT. TEACHER

BHORIDHOWA M.E. SCHOOL
P.O. BHORIDHOWA

DIST. NAGAON

3: DEEPAK BORGOHAIN
ASSTT. TEACHER

BHARIDHUWA M.E. SCHOOL
P.O. BHARIDHUWA

DIST. NAGAON

4: MD. ZAKIR HUSSAIN
ASSTT. TEACHER
TELIACHAPARITUP ADARSHA
M.E. MADRASSA
P.O. SAIDARIA
DIST. NAGAON

5: MD. SAFIKUL ISLAM

ASSTT. TEACHER

DAKAI BOSTY M.E. MADRASSA
P.O. DHUPAGURI

DIST. NAGAON

6: MD. MAFIDUL HOQUE
ASSTT. TEACHER
TELIACHAPARITUP ADARSHA
M.E. MADRASSA
P.O. SAIDARIA
DIST. NAGAON

7: TAGAR BORAH
ASSTT. TEACHER
DAKHIN JEWMARI M.E. MADRASSA
P.O.
DIST. NAGAO

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOV.T OF ASSAM,
EDUCATION (ELEMENTARY) DEPTT. DISPUR, GUWAHATI-6.

2:THE DIRECTOR OF ELEMENTARY EDUCATION

ASSAM
KAHILIPARA
GUWAHATI -19.

3:THE DISTRICT EDUCATION OFFICER

NAGAON
DIST. NAGAON
ASSAM.

4:THE DEPUTY INSPECTOR OF SCHOOLS

NAGAON DISTRICT CIRCLE

NAGAON

Advocate for the Petitioner : MR. S K DAS

Advocate for the Respondent : SC, ELEM. EDU

Linked Case : WP(C)/7345/2018

PRABHAT CH. MALAKAR AND 21 ORS.
ASSTT. TEACHER

SALAIMARI L.P. SCHOOL
P.O. KHOIRABARI

DIST. UDALGURI

2: GOBINDA DEBNATH
ASSTT. TEACHER

MAZARCHUBA BINAPANI L.P. SCHOOL
P.O. MAZARCHUBA
DIST. UDALGURI

3: KAMINDRA BASUMATARY
ASSTT. TEACHER

UMANANDA L.P. SCHOOL

P.O. JALUKBARI
DIST. UDALGURI

4: ARUN KUMAR ROY
ASSTT. TEACHER

NICHILAMARI M.E.. SCHOOL
P.O. NICHILAMARI
DIST. UDALGURI

5: CHANDAN CH. PAUL
ASSTT. TEACHER

KACHARIDAG L.P. SCHOOL

P.O. KHOIRABARI
DIST. UDALGURI

6: BIREN KALITA @ BIRENDRA KALITA
ASSTT. TEACHER

THAKURIAPARA L.P. SCHOOL

P.O. KHOIRABARI
DIST. UDALGURI

7: UTTAM MALAKAR
ASSTT. TEACHER

BALISITHA L.P. SCHOOL

P.O. KHOIRABARI
DIST. UDALGURI

8: BHABEN MAHANTA
ASSTT. TEACHER

JABANGAPATHAR L.P. SCHOOL

P.O KHOIRABARI
DIST. UDALGURI

9: RATUL SARMAH
ASSTT. TEACHER

PUB-GARANGAPARA RAJAPUKHURI L.P. SCHOOL

P.O. THAKURIAPARA
DIST. UDALGURI

10: JOY RAM DEKA
ASSTT. TEACHER

KACHARIDAG L.P. SCHOOL

P.O.KHOIRABARI
DIST. UDALGURI

11: SUDHANGSHU DEBNATH
ASSTT. TEACHER

JALUKBARI L.P. SCHOOL

P.O. JALUKBARI
DIST. UDALGURI

12: MAHENDRA CH. RABHA
ASSTT. TEACHER

JAMUGURI L.P. SCHOOL

KHOIRABARI

DIST. UDALGURI

13: ARPANA BORO
ASSTT. TEACHER

KACHARIPARA L.P. SCHOOL

P.O. PANIKHALI
DIST. UDALGURI

14: SANJEEP KR. SARMAH
ASSTT. TEACHER

JAMUGURI L.P. SCHOOL

P.O. KHOIRABARI
DIST. UDALGURI

15: RATAN CH. DEB
ASSTT. TEACHER

NICHILAMARI L.P. SCHOOL

P.O. NICHILAMARI
DIST. UDALGURI

16: SHYAMAL DEBNATH
ASSTT. TEACHER

JALUKBARI L.P. SCHOOL

P.O.JALUKBARI
DIST. UDALGURI

17: SAMAUN HOQUE
ASSTT. TEACHER

RANTHALI BAGISHA L.P. SCHOOL

P.O.KALAIGAON
DIST. UDALGURI

18: NIRANJAN DEBNATH
ASSTT. TEACHER

NICHILAMARI L.P. SCHOOL

P.O. NICHILAMARI
DIST. UDALGURI

19: HIRANYA NATH
ASSTT. TEACHER

THAKURIAPARA L.P. SCHOOL

P.O. KHOIRABARI
DIST. UDALGURI

20: SANTOSH CH. DEBNATH
ASSTT. TEACHER

NICHILAMARI L.P. SCHOOL

P.O. NICHILAMARI
DIST. UDALGURI

21: NIRMAL CH. PAUL
ASSTT. TEACHER

JAGANNATH BALIKA L.P. SCHOOL

P.O. NISILAMARI

DIST. UDALGURI

22: APARNA DAS
ASSTT. TEACHER

JABANGA PATHER L.P. SCHOOL

P.O.BHERGAON
DIST. UDALGURI
VERSUS

THE STATE OF ASSAM AND 3 ORS.
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM

EDUCATION (ELEMENTARY) DEPTT. DISPUR
GUWAHATI-6.

2:THE DIRECTOR OF EDUCATION

BODOLAND TERRITORIAL COUNCIL
KOKRAJHAR
PIN -783370.

3:THE DISTRICT ELEMENTARY EDUCATION

OFFICER

UDALGURI
DIST. UDLAGURI
ASSAM
PIN - 784509.

4:THE DEPUTY INSPECTOR OF SCHOOLS

UDALGURI DISTRICT CIRCLE
UDALGURI
PIN - 784509.

Advocate for : MR. S K DAS
Advocate for : SC
ELEM. EDU appearing for THE STATE OF ASSAM AND 3 ORS.

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

22.05.2023

Heard Shri SK Das, learned counsel for the petitioners. Also heard Shri B. Kaushik, learned Standing Counsel, Elementary Education Department as well as Ms. D. Das Barman, learned State Counsel and Ms. RB Bora, learned Standing Counsel for the BTC.

2. At the outset, Shri Das, learned counsel for the petitioners has submitted that the issue involved was the subject matter of certain writ petitions which were already disposed of one of those being WP(C)/8294/2018 which was disposed of vide an order dated 03.05.2023.

3. The grievance of the petitioners was against the action of the respondents to initiate a proceeding by issuance of show-cause notice as to why the appointments may not be deemed to be illegal / irregular.

4. This Court vide the aforesaid judgment had disposed of the writ petition by making following observations:

“7. On a query of the Court, the learned standing counsel for the respondents has submitted that if the Court permits the respondent authorities to go ahead with the direction contained in the order dated 13.07.2018, the department would be bound to complete the process in a time bound manner, subject to condition that the petitioners shall cooperate with the exercise to be undertaken by the Director of Elementary Education, Assam.

8. On query made to the learned counsel for the petitioners, he also expresses that the petitioners would cooperate with the exercise to be undertaken by the respondent authorities, subject to condition that the matter be brought to a logical conclusion within a time bound manner and that till a final decision is

taken, the authority should not terminate the services of the petitioners. It is submitted that the petitioners are working in their respective schools till date.

9. In view of the submissions made by the learned counsel for the petitioners as well as the learned standing counsel for the respondents, the Court is inclined to provide that in the event, the Director of Elementary Education, Assam issues individual show-cause notices to the 4 (four) out of 5 petitioners herein, the petitioners would respond to the allegations made against them. In this connection, the learned standing counsel for the Elementary Education Department, upon instruction, has submitted that the petitioner no.3, namely, Kusum Bora has already been adjusted as Tutor after the screening process and accordingly, he has instruction that the show-cause notice would not be issued to the respondent no.3. Accordingly, the respondent authorities are exempted from issuing show-cause notice to the respondent no.3, namely, Kusum Bora and she would not be subjected to the re-screening process.

10. The said show-cause notices should be issued within the outer period of 4 (four) weeks from the date of receipt of certified copy of this order. The petitioners be given sufficient time of about 4 (four) weeks to submit their show-cause reply and thereafter, the competent authority i.e. the Director of Elementary Education, Assam shall give an opportunity to the petitioners of personal hearing and make an endeavour to dispose of the proceedings arising out in connection with the proposed show-cause notice within an outer period of 3 (three) months after the petitioners submit their respective show-cause reply.

11. The respondent authorities including the Director of Elementary Education, Assam is expected to adhere to the time schedule indicated in this order.

12. Till such time, the decision is taken, including decision for payment of arrear salary and current salary to the petitioners, the Director of Elementary Education, Assam or any other competent authority shall not disturb the petitioners from their service."

5. Shri Kaushik, learned Standing Counsel of the Department submits that this Court may clarify that there is no observation on the merits of the allegations. The aforesaid submission is also endorsed by Ms. Bora, learned Standing Counsel for the BTC which has also filed affidavit-in-opposition in WP(C)/7345/2018.

6. In view of the aforesaid submission, these two writ petitions are also disposed of with the same observations as quoted above with a clarification that the proceeding which may be initiated by the show-cause notice is required to be done in accordance with law without being influenced by any observation made in the present order.

7. At this stage, Shri Das, learned counsel for the petitioners has submitted that so far as WP(C)/7345/2018 is concerned, the services of the petitioner no. 17 has already been regularized which is also admitted by the Department in its affidavit.

8. In that view of the matter, the petitioner no. 17 is struck off from the array of the parties and there is existing cause of action so far as the said petitioner is concerned.

JUDGE

Comparing Assistant