

GAHC010243992022



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

Case No. : WP(C)/7677/2022

JOHIRUL ISLAM AND 10 ORS
S/O- LT. ROSTAM ALI, R/O- VILL- BIRSHING PART-II, P.O. AND P.S.
FAKIRGANJ, DIST.- DHUBRI, ASSAM, PIN- 783331

2: MD. MOKSED ALI
S/O- LT. FAJAL
R/O- VILL- BIRSHING PART-II
P.O. AND P.S. FAKIRGANJ
DIST.- DHUBRI
ASSAM
PIN- 783331

3: ABUL HASHEM @ ABDUL HASHEM
S/O- MONSER ALI
R/O- VILL- CHAR BARI
P.O. PURANDEARA
P.S. MANKACHAR
DIST.- SOUTH SALMARA
ASSAM
PIN-

4: AFSAR UDDIN AHMED
S/O- LT. SOHAR ALI
R/O- VILL- CHALAKURA CHAR
P.O. MAJER CHAR
P.S. AND DIST.- DHUBRI
ASSAM
PIN- 783325

5: PRADIP PAUL
S/O- LT. GANARANJAN PAUL
R/O- HAILAKANDI
WARD NO.1
P.O.

P.S. AND DIST.- HAILAKANDI
ASSAM
PIN- 788151

6: SAMSUL HUDA
S/O- ABUL KHAIER SIDDIQUE
R/O- VILL. AND P.O. KATHPARA
P.S. RUPAHIHAT
DIST.- NAGAON
ASSAM
PIN- 782120

7: MD. SAIFUL ISLAM CHOUDHURY
S/O- LT. KASIM UDDIN
R/O- VILL. AND P.O. KATHPARA
P.S. RUPAHIHAT
DIST.- NAGAON
ASSAM
PIN- 782120

8: BAKUL RABHA
S/O- LT. KATIRAM RABHA
R/O- VILL. BARANGABARI
P.O. KACHUBARI
P.S. TAMULPUR
DIST.- BAKSA BTAD
ASSAM
PIN- 781367

9: KASTORAM DAS
S/O- LT. CHANDRAKANTA DAS
R/O- VILL. AND P.O. DONGPAR
P.S. TAMULPUR
DIST.- BAKSA
BTAD
ASSAM
PIN- 781368

10: KHARGESWAR RABHA
S/O- GANGADHAR RABHA
R/O- VILL- BARANGABARI
P.O. KACHUBARI
P.S. TAMULPUR
DIST.- BAKSA
BTAD
ASSAM
PIN- 781367

11: NABA KALITA
S/O- LT. GOPAL KALITA
R/O- NOONMATI
RAMNAGAR
P.S. NOONMATI
DIST.- KAMRUP (M)
ASSAM
PIN- 78102

VERSUS

THE STATE OF ASSAM AND 6 ORS
REP. BY THE PRINCIPAL SECY. TO THE GOVT. OF ASSAM, EDUCATION
(ELEMENTARY) DEPTT., DISPUR, GHY-06

2:THE MISSION DIRECTOR
AXOM SARBA SIKSHA ABHIYAN MISSION-CUM- THE MISSION DIRECTOR
SSA
ASSAM
KAHILIPARA
GHY-19

3:THE DISTRICT MISSION COORDINATOR
SSA
HAILAKANDI
ASSAM
PIN- 788151

4:THE DISTRICT MISSION COORDINATOR
SSA
DHUBRI
ASSAM
PIN- 783301

5:THE DISTRICT MISSION COORDINATOR
SSA
BAKSA
ASSAM
PIN- 781368

6:THE DISTRICT MISSION COORDINATOR
SSA
NAGAON
ASSAM
PIN- 782001

7:THE DISTRICT MISSION COORDINATOR
SSA

KAMRUP AT AMINGAON
ASSAM
PIN- 78103

Advocate for the Petitioner : MR B SINHA

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR

ORDER

Date : 15.02.2023

Heard Mr. B.Sinha, learned counsel for the petitioners. Also heard Mr. P.N. Sarma, learned standing counsel, Elementary Education for the respondent No.1 and Mr. B.Choudhury, learned standing counsel, SSA for the respondent Nos. 2 to 7.

2. The petitioners are serving as Head/Assistant Cooks on contractual basis in the respective Kasturba Gandhi Balika Vidyalyaya (KGBV) on fixed remuneration since 2008 after being selected by the District Level Authority. The engagement of the petitioners are on the basis of the agreement for a period of 11(eleven) months which are renewed from time to time.

3. The KGBVs were funded by the Govt. of India under the Ministry of Education as per the approval of the Project Approval Board (PAB) with 90:10 fund sharing pattern of the Government of India and Government of Assam. The petitioners before this Court are aggrieved by the circular dated 03.11.2022 by which they are being transferred from their respective KGBVs to the Netaji

Subhash Chandra Bose Avasiya Vidyalaya, (NACBAV) for boys. The NACBAVs are institutions in the same nature as KGBVs and the only difference is that the KGBVs are residential schools for girls whereas, NACBAVs are residential schools of boys. By the said circular dated 03.11.2022, the petitioners are being transferred to the NACBAVs in their respective districts and the said transfer for joining of the existing male staff of KGBVs to NACBAVs are to be completed by the 13th November, 2022.

4. Mr. B.Choudhury, learned standing counsel, SSA submits that the Samagra Shiksha Assam had already sanctioned 10(ten) numbers of new NACBAV in 10 Blocks and initiatives are being taken for operationalization of the NACBAV and the classes will start at an early date.

5. The Additional Deputy Commissioner (ADF) and the District Mission Coordinator, issued an order dated 21.11.2022, transferring the petitioner No.5 along with 2(two) others to Netaji Subhash Chandra Bose Avasiya Vidyalaya, Hailakandi with a direction to join in the said NACBAV on or before 30th November, 2022. The order further indicates that the said transferred staffs will continue their work in the existing KGBV till operationalization of the new NACBAV and will start their work as soon as the new NACBAV starts functioning.

6. It is the claim of the petitioner that if the circular dated 03.11.2022 is not interfered with, then they would be jobless and their means of earning would be affected. However, the order dated 21.11.2022 speaks otherwise inasmuch as the order protects the contractual service of the petitioners.

7. As the present matter pertains to transfer of contractual employees and keeping in mind the limited scope of the judicial review with regard to such matters and particularly, taking into account that the order dated 21.11.2022 clearly protects the contractual service of the petitioners, I find no merit in this present writ petition and accordingly the same is dismissed.

JUDGE

Comparing Assistant