

GAHC010249712022



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

Case No. : WP(C)/8411/2022

RAKHI DEVI AND 46 ORS
D/O LATE KRISHNA BAHADUR CHETRY, R/O VILL- BHALUKGHATA, P.O.-
BHALUKGHATA, P.S.-BOKO, DIST- KAMRUP, ASSAM, PIN-781123

2: KUSHAL MALI
S/O ANANDI MALI
R/O VILL- BIRPARA
P.O.-BIRPARA
P.S.-BOKO
DIST- KAMRUP
ASSAM
PIN-781123

3: THULEMA RABHA
D/O LATE RAHIN RABHA
R/O VILL-NALAPARA
P.O.-NALAPARA (HAHIM)
P.S.-BOKO
DIST-KAMRUP
ASSAM
PIN-781129

4: SAHJAHAN ALI
S/O SULTAN ALI
R/O VILL-NO. JAMBARI
P.O.-JAMBARI
P.S.-BOKO
DIST-KAMRUP
ASSAM
PIN-781141

5: EUSUF ALI AHMED
S/O MD SONA UDDIN
R/O VILL NO. JAMBARI

P.O.-JAMBARI
P.S.-BOKO
DIST-KAMRUP
ASSAM
PIN-781141

6: MD. KASHER ALI
S/O LATE SONALI SHEIKH
R/O VILL- ALOKJARI
P.O.-BHALUKGHATA
P.S.-BOKO
DIST- KAMRUP
ASSAM
PIN-781123

7: MD. JAHIDUR RAHMAN
S/O MD. SULTAN ALI
R/O VILL-BARPARA
P.O.-BOKO
P.S.-BOKO
DIST-KAMRUP
ASSAM
PIN-781123

8: MD. NACHIM ALI
S/O LATE KACHIM ALI
R/O VILL-PAYRANGA
P.O.-BOKO
P.S.-BOKO
DIST-KAMRUP
ASSAM
PIN-781123

9: JAIN UDDIN
S/O HANIF ALI
R/O VILL-HABIPARA
P.O.-HABIPARA
P.S.-CHHAYGAON
DIST-KAMRUP
ASSAM
PIN-781136

10: SHOKIM UDDIN AHMED
S/O AZIM UDDIN
R/O VILL-CHOUDHURY PAM
P.O.-KALATOLI
P.S.-CHHAYGAON
DIST-KAMRUP

ASSAM
PIN-781136

11: NURUL ISLAM
S/O MUNNAF ALI
R/O VILL- BHITORDUAR
P.O.-BHITORDUAR
P.S.-CHHAYGAON
DIST- KAMRUP
ASSAM
PIN-781137

12: ABDUL BARAQUE
S/O LALCHAN ALI
R/O VILL- NO. 1 KALIPANI
P.O.-PANI KHATIE
P.S.-CHHAYGAON
DIST- KAMRUP
ASSAM
PIN-781137

13: HAYET ALI
S/O SHUKUR ALI
R/O VILL-DAKSHIN MOHIMARI
P.O.-MOHIMARI
P.S.-CHHAYGAON
DIST-KAMRUP
ASSAM
PIN-781137

14: SAYFUL ISLAM
S/O TAIZUDDIN AHMED
R/O VILL-NO. 1 KALIPANI
P.O.-PANI KHATIE
P.S.-CHHAYGAON
DIST-KAMRUP
ASSAM
PIN-781137

15: MOBEDA HOQUE CHOUDHURY
D/O ABDUL KUDDUS
R/O VILL- NO. TAPAR PATHAR
P.O.-TAPAR PATHAR
P.S.-CHHAYGAON
DIST-KAMRUP
ASSAM
PIN-781137

16: KHOWAZ UDDIN
S/O HAZRAT ALI
R/O VILL- NO. TAPAR PATHAR
P.O.-TAPAR PATHAR
P.S.-CHHAYGAON
DIST-KAMRUP
ASSAM
PIN-781137

17: RAHIM BADSHA
S/O LATE JAMAL UDDIN
R/O VILL-BAGHMARA
P.O.-TAPAR PATHAR
P.S.-CHHAYGAON
DIST-KAMRUP
ASSAM
PIN-781137

18: MD. SALAM UDDIN
S/O LATE JABED ALI
R/O VILL-BAGHMARA
P.O.-TAPAR PATHAR
P.S.-CHHAYGAON
DIST-KAMRUP
ASSAM
PIN-781137

19: SUFIA KHATUN
D/O NATU MIAH
R/O VILL-KACHORI
P.O.-KALITOLI BAZAR
P.S.-CHHAYGAON
DIST-KAMRUP
ASSAM
PIN-781136

20: NASIM UDDIN AHMED
S/O KURBAN ALI
R/O VILL-SASATAR SUTI
P.O.-TAPAR PATHAR
P.S.-CHHAYGAON
DIST-KAMRUP
ASSAM
PIN-781137

21: AKMOL HUSSAIN
S/O HUSSAIN ALI
R/O VILL- 1 NO. MALI BARI PATHAR

P.O.-MALI BARI PATHAR
P.S.-BOKO
DIST- KAMRUP
ASSAM
PIN-781136

22: LATIFA KHATUN
D/O ABDUS SUBHAN
R/O VILL- 4 NO. MALI BARI PATHAR
P.O.-MALI BARI PATHAR
P.S.-BOKO
DIST- KAMRUP
ASSAM
PIN-781136

23: SHAMSUN NEHAR
D/O ABDUL HAKIM SARKAR
R/O VILL- 4 NO. MALI BARI PATHAR
P.O.-MALI BARI PATHAR
P.S.-BOKO
DIST- KAMRUP
ASSAM
PIN-781136

24: AMER HAMZA AHMED
S/O ABDUL BARIQUE
R/O VILL-LOTURADIA
P.O.-MAHTOLI
P.S.-BOKO
DIST- KAMRUP
ASSAM
PIN-781136

25: ABDUL KALAM AZAD
S/O ABDUL GANI AHMED
R/O VILL-NEULDOBA
P.O.-CHAMARIA
P.S.-BOKO
DIST- KAMRUP
ASSAM
PIN-781136

26: SHAGER ALI
S/O MOMER ALI
R/O VILL-BAR ARIKATI
P.O.-MAHTOLI
P.S.-BOKO
DIST- KAMRUP

ASSAM
PIN-781136

27: SOFER UDDIN
S/O KHALILUR RAHMAN
R/O VILL-BAR ARIKATI
P.O.-MAHTOLI
P.S.-BOKO
DIST- KAMRUP
ASSAM
PIN-781136

28: MOBARAK HUSSAIN
S/O MONSER ALI
R/O VILL-MORAKALOH
P.O.-KALATOLI
P.S.-KALATOLI
P.S.-BOKO
DIST- KAMRUP
ASSAM
PIN-781136

29: NASIM UDDIN AHMED
S/O ROSTOM ALI
R/O VILL-BATIAMARI
P.O.-MALIBARIPATHAR
P.S.-BOKO
DIST- KAMRUP
ASSAM
PIN-781136

30: ABU TAHER
S/O SAMSUL HOQUE
R/O VILL- NO. 2 MALIBARI PATHER
P.O.-MALIBARI
P.S.-BOKO
DIST- KAMRUP
ASSAM
PIN-781136

31: JOHIRUL ISLAM
S/O MOKSED ALI
R/O VILL-BEJORSUTI
P.O.-NAHTOLI
P.S.-BOKO
DIST- KAMRUP
ASSAM
PIN-781136

32: LALCHAN ALI
S/O FAZAR ALI
R/O VILL-BEJORSUTI
P.O.-MAHTOLI
P.S.-BOKO
DIST- KAMRUP
ASSAM
PIN-781136

33: MD. SAGAR ALI
S/O SIDDIK ALI
R/O VILL-PURANGAON
P.O.-MAHTOLI
P.S.-BOKO
DIST- KAMRUP
ASSAM
PIN-781136

34: NIRANJAN SARKAR
S/O NITAI SARKAR
R/O VILL-SALMARA
P.O.-MALIBARI BAZAR
P.S.-BOKO
DIST- KAMRUP
ASSAM
PIN-781136

35: SAMSUL HOQUE
S/O MAJIBAR RAHMAN
R/O VILL-BATIAMARI
P.O.-MAIL BARI PATHER BAZAR
P.S.-BOKO
DIST- KAMRUP
ASSAM
PIN-781136

36: MD. SHAHADOT HUSSAIN
S/O MD. HAKIM UDDIN
R/O VILL- BAR ARIKATI
P.O.-MAHTOLI
P.S.-BOKO
DIST- KAMRUP
ASSAM
PIN-781136

37: AFZALUR RAHMAN
S/O AFAJUDDIN

R/O VILL-BATIAMARI
P.O.-MALIBARIPATHER BAZAR
P.S.-BOKO
DIST- KAMRUP
ASSAM
PIN-781136

38: BAHARUL ISLAM
S/O ABDUL KADER
R/O VILL-BURAGAON
P.O.-BARUA PATHAR
P.S.-BOKO
DIST- KAMRUP
ASSAM
PIN-781136

39: HASSINA BEGUM
D/O FATHER RAHMAN
R/O VILL- 2 NO. BARUA PATHER
P.O.-BARUA PATHER
P.S.-BOKO
DIST- KAMRUP
ASSAM
PIN-781136

40: SANIARA KHATUN
D/O AFAZ UDDIN
R/O VILL- NO. 1 MALIBARI PATHER
P.O.-MALIBARI PATHER BAZAR
P.S.-BOKO
DIST- KAMRUP
ASSAM
PIN-781136

41: HAZRAT ALI
S/O SAYED ALI
R/O VILL- DEKACHANG
P.O.-DEKACHANG
P.S.-BOKO
DIST- KAMRUP
ASSAM
PIN-781136

42: MONOWARA MOSTAFA
D/O GOLAM MOSTAFA
R/O VILL-BAGURIGURI
P.O.-MALIBARI PATHER BAZAR
P.S.-BOKO

DIST- KAMRUP
ASSAM
PIN-781136

43: MD. SHOKIM UDDIN
S/O MD. ABDUR ROHMAN
R/O VILL-JOWKATA DIA
P.O.-DEKACHANG
P.S.-BOKO
DIST- KAMRUP
ASSAM
PIN-781136

44: JONAB ALI
S/O KANCHU SHEKH
R/O VILL-DEKACHANG
P.O.-DEKACHANG
P.S.-BOKO
DIST- KAMRUP
ASSAM
PIN-781136

45: BILLAL HUSSAIN
S/O ABDUR ROSHID
R/O VILL-DURAMARI
P.O.-DEKACHANG
P.S.-BOKO
DIST- KAMRUP
ASSAM
PIN-781136

46: ABIDA AHMED
D/O ASHRAF ALI AHMED
R/O VILL-DURAMARI
P.O.-DEKACHANG
P.S.-BOKO
DIST- KAMRUP
ASSAM
PIN-781136

47: SULTANA KULSUM BEGUM
W/O NURUL ISLAM
R/O JAMLAI SANTIPUR
P.S.-NAGARBERA
DIST- KAMRUP
ASSAM
PIN-78112

VERSUS

THE STATE OF ASSAM AND 10 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, ELEMENTARY EDUCATION DEPARTMENT,
DISPUR, GUWAHATI-781006

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-781019

3:THE MISSION DIRECTOR
AXOM SARBA SIKSHA ABHIJAN MISSION
KAHILIPARA
GUWAHATI-781019

4:THE DISTRICT LEVEL COMMITTEE
REPRESENTED BY ITS CHAIRMAN CUM DEPUTY COMMISSIONER
KAMRUP
AMINGAON
ASSAM
PIN-781031

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER
-CUM-DISTRICT MISSION COORDINATOR
SARBA SAIKSHA ABHIJAN
ASSAM
KAMRUP
AMINGAON
ASSAM
PIN-781031

6:THE BLOCK ELEMENTARY EDUCATION OFFICER
CHAMARIA
DIST-KAMRUP
ASSAM
PIN-781136

7:THE BLOCK ELEMENTARU EDUCATION OFFICER
GARAMARI
DIST-KAMRUP
ASSAM
PIN-781137

8:THE BLOCK ELEMENTARY EDUCATION OFFICER
BOKO
DIST-KAMRUP

ASSAM
PIN-781123

9:THE BLOCK MISSION COORDINATOR
CHAMARIA
DIST-KAMRUP
ASSAM
PIN-781136

10:THE BLOCK MISSION COORDINATOR
GARAMARI
DIST-KAMRUP
ASSAM
PIN-781137

11:THE BLOCK MISSION COORDINATOR
BOKO
DIST-KAMRUP
ASSAM
PIN-78112

Advocate for the Petitioner : MR. M AHMED

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

Date : 17-10-2023

Heard Mr. I.H. Laskar, learned counsel for the petitioners. Also heard Mr. B. Gogoi, learned counsel for the authorities under the SSA, Ms. D.D. Barman, learned Additional Senior Government Advocate for the Deputy Commissioner, Kamrup and Mr. Ganesh Pegu, learned counsel for the Elementary Education Department of Government of Assam.

2. The petitioners claim that they were earlier engaged as Sanyogi Siksha Karmi and their serves have been dispensed with in the year 2012 itself but the petitioners rely upon an order dated 27.06.2022 of this Court rendered in

WP(C)/4247/2022, which is extracted as below:

“Heard Mr. N.K. Kalita, learned counsel for the petitioners. Also heard Mr. P.N. Sharma, learned standing counsel for Elementary Education Department for respondent Nos. 1, 2, 5, 6 and 7. Ms. A. Tarana, learned counsel appearing on behalf of Mr. B. Gogoi, learned standing counsel, Sarba Siksha Abhijan, appears on behalf of respondent Nos. 3, 8 and 9 and Mr. P. Saikia, learned Govt. Advocate for respondent No.4.

2. Petitioners earlier served as Sanyogi Siksha Karmi under the Sarba Siksha Abhijan (SSA in short), Assam since 2005. However, the posts of Sanyogi Siksha Karmi under SSA, Assam were abolished in the year 2012 and since then, they are not in service.

3. Representatives of the petitioner’s association namely, All Assam Sanyogi Siksha Karmi Union along with the concerned departmental Minister of Education and concerned officials of the SSA had a meeting held on 23.02.2016 wherein 6(six) resolutions were taken. The same reads as under:

“ › The genuine list of Siksha Karmi’s will be submitted by the Sanyogi Siksha Karmi Union to the MD, SSA within a week. The list will be submitted genuine one there should not be any mismatch of date. The State Mission Office of SSA, Assam will verify the list as per record.

› It is decided that inclusion of Ka-shreni at elementary level will increase the enrolment and quality education. The Mission Director, SSA will submit the proposal to the Govt. of India.

(PAB, 3rd March, 2016) for inclusion of Ka-shreni at Elementary level.

› It is reiterated to create five number of posts against five number of classes in elementary level.

› It is resolved that preference will be given to the Sanyogi Siksha Karmi’s during the time of filling up of vacancies in Ka-shreni in future.

› Priority will be given to the Sanyogi Siksha Karmi’s against any vacancies under elementary department.

› The union will call off their ongoing agitation as assured in the meeting.”

4. It is the case of the petitioners that the State Government in the Education Department is contemplating to rename certain policies as per the New Education Policy (NEP). As such the petitioners Union made a representation dated 01.02.2022 before the Mission Director, SSA, Assam to consider their cases and to appoint them in terms of the resolution dated 23.02.2016 as teachers in Pre-Primary Schools under the New Education Policy to be adopted by the State Government.

5. However, as the representation is yet to be disposed of by the SSA, Assam, the petitioners have preferred this writ petition praying amongst others for a direction to the Mission Director, SSA, Assam to appoint or accommodate them as teachers in Kashreni/Foundation stage under the Elementary Education Department under the New Education Policy.

6. Learned standing counsel for the Elementary Education Department as well as SSA, Assam submits that the provisions of New Education Policy has not yet been adopted either by the State Government in the Elementary Education Department or by the SSA, Assam.

7. On that ground, the petitioners are allowed to file fresh representation before the Mission Director, SSA, Assam, along with the certified copy of this order with the copies of the writ petition including the annexures appended thereto on or before 15.07.2022 stating their grievances before the said authority obtaining necessary acknowledgement from him/her in that regard.

8. In the event of filing such representation by the petitioners, as directed above, within the stipulated period of time, the respondent authorities shall consider the case of the petitioners as per their entitlement, if any, being served as Sanyogi Siksha Karmi since 2005 and shall communicate the petitioners about the outcome of their representation.

9. With the above observation and direction, this writ petition stands disposed of."

3. The petitioners claim that being similarly situation they are also entitled to the same benefits. The purport of the order dated 27.06.2022 is that the writ petitioners therein may submit representation before the Mission Director of SSA and in the event of filing such representation, the respondent authorities shall pass a reasoned order on such representation and communicate the petitioners of any such order that may be passed.

4. The same order is also passed in respect of the present petitioners and the petitioners may also submit representation and in the event of representation being submitted, the Director may pass any reasoned order as advisable under the law.

5. We clarify that by allowing the petitioners to submit representation, we

are not expressing any view on the merit of the claim of the petitioners and it is for the Mission Director of SSA to pass any reasoned order as may be applicable as per law and whatever order is passed may be communicated to the petitioners.

Writ petition stands disposed of in the above terms.

JUDGE

Comparing Assistant