

GAHC010260132019



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

Case No. : WP(C)/8352/2019

DHARMA JYOTI DEKA AND 50 ORS.
S/O SUKLESWAR DEKA OF VILL. BARUKATA, P.O. KHOLAGAON, DIST.
MORIGAON, ASSAM, PIN NO. 782105

2: KUSHESWAR SAIKIA
S/O BINANDA SAIKIA OF VILL. HATIAMUKHGAON
P.O. HATIAMUKH
DIST. MORIGAON
ASSAM
PIN 782411

3: JAGADISH KR. NATH
S/O NARESWAR NATH
VILL. BORBHAGIA
P.O. CHARAIBAHI
DIST. MORIGAON
ASSAM
PIN 782106

4: NALINI MEDHI
D/O SUREN MEDHI
VILL. GHULIGAON
P.O. JAGI BHAKATGAON
DIST. MORIGAON
ASSAM
PIN 782411

5: MAHESH DAS
VILL. BAHADALANI
P.O. BARPAK
DIST. MORIGAON
ASSAM

PIN NO. 782411

6: JURAN BISWAS
S/O JIBAN CH BISWAS OF VILL. JENGPARI
P.O. BARALIMARI
DIST. MORIGAON
ASSAM
PIN 782121

7: PUNESH CH. NATH
S/O RAMESWAR NATH OF VILL. NIZ CHAHARIA GAON
P.O. Lengeribari
DIST. MORIGAON
ASSAM
PIN 782121

8: BHARATI DEKA
D/O SURENDRA NATH DEKA OF VILL. NABAHAZIA
P.O. BORKULOI
DIST. MORIGAON
ASSAM
PIN 782411

9: ASHOK KUMAR BASUMATARY
S/O MANSING BASUMATARY OF VILL. JALAKIABARI AMARAGURI
P.O. JALAKIABARI
DIST. MORIGAON
ASSAM
PIN 782127

10: PANKAJ BAGLARY
S/O KANDRAPA BAGLARY
VILL. HARIAPAR
P.O. JHARGAON
DIST. MORIGAON
ASSAM
PIN 782411

11: RUNI PRABHA DEKA
D/O DULAL DEKA OF VILL. BETONI
P.O. DOMAL
DIST. MORIGAON
ASSAM
PIN 782105

12: ARUNA DEKA
W/O GIRIN CH. DEKA OF VILL MORIPACHITYA
P.O. AND P.S. MORIGAON
DIST. MORIGAON
ASSAM
PIN 782121

13: SWAPPAN KR. BORO
S/O MAINA RAM BORO OF VILL. BANMURI
P.O. TAPTALA
DIST. MORIGAON
ASSAM
PIN 782121

14: TURANTU KR. RABIDAS
S/O BABULAL RABIDAS OF VILL. BHUYANBARI PATHAR
P.O. CHATIA NTOLI
DIST. MORIGAON
ASSAM
PIN 782127.

15: SHALMA ALAM
D/O MOFIZUDDIN AHMED
VILL. MORIPACHATIA WARD NO.2
P.O. MORIGAON
DIST. MORIGAON
ASSAM
PIN 782105

16: MONOWARA BEGUM
W/O MUMTAZ HUSSAIN OF VILL. BURABURI
P.O. BURABURI
DIST. MORIGAON
ASSAM
PIN 782411

17: BADANA BEGUM SHA
D/O RAMJAN ALI
OF VILL. MILANPUR WARD NO.11
P.O. MORIGAON
DIST. MORIGAON
ASSAM
PIN 782105

18: KHURSHIDA KHANAM

W/O ASADULLAH OF VILL. KURANIBARI
P.O. KURANIBARI
DIST. MORIGAON
ASSAM
PIN 782411

19: GULMEHERA KHATUN
W/O ABU TULAHA OF VILL AND P.O. MOIRABARI
DIST. MORIGAON
ASSAM
PIN 782126

20: SALIMA KHATUN
W/O ATAUR RAHMAN ANSARI OF VILL. LELABORI
P.O. GORAIMARI
DIST. MORIGAON
ASSAM
PIN 782411

21: INDIRA DEKA
VILL. MORIPACHATIA WARD NO.3
P.O. MORIGAON
DIST. MORIGAON
ASSAM
PIN 782105

22: KUKIL GOGOI
S/O BOLO RAM GOGOI OF VILL. BISHNUPUR
P.O. NAGSANKAR
DIST. MORIGAON
ASSAM
PIN 784183

23: THAGEMAI KONWAR
D/O MIHIRAM KONWAR OF VILL KUMURAGURI
P.O. KUMURAGURI
DIST. MORIGAON
ASSAM
PIN 782103

24: ABDUL MOTALIB
S/O ABDUL MONNAF OF VILL. BAHALARMUKH
P.O. LUCHANBORI
DIST. MORIGAON
ASSAM

PIN 782104

25: MAJIBUR RAHMAN
S/O NURUL HOQUE
OF VILL. SARUCHACA
P.O. AKARABARI
DIST. MORIGAON
ASSAM
PIN 782123

26: JASMIN BEGUM
D/O GULZAR HUSSAIN OF VILL NAGABANDA
P.O. NAGABANDA
DIST. MORIGAON
ASSAM
PIN 782127

27: MD. SOFIQUL ISLAM
S/O LT. ABDUL JABBAR OF VILL. HATIAMUKHGAON
P.O. HATIAMUKH
DIST. MORIGAON
ASSAM
PIN 782411

28: ABDUL MUMIN FARUKI
S/O ABDUL MOTIN OF VILL MORIMUSLIMGAON
P.O. SADAR
DIST. MORIGAON
ASSAM
PIN 782104

29: MD. SHOFIQUUL ISLAM
S/O SANSUL HAQUE OF VILL CHUTIAGAON
P.O. DHUMKURA
DIST. MORIGAON
ASSAM
PIN 782126

30: PRAKASH NATH
S/O NILA KT. KANTA OF VILL RUPAIBORI
P.O. AHATGURI
DIST. MORIGAON
ASSAM
PIN NO. 782412

31: ABDUL LATIF
S/O UMAR ALI
VILL. AND P.O. GORAIMARI
DIST. MORIGAON
ASSAM
PIN NO. 782104

32: RIAJ UDDIN AHMED
S/O BASIR UDDIN AHMED OF JAPARI
P.O. JAPTOLA
DIST. MORIGAON
ASSAM
PIN NO. 782105

33: ARFA BEGUM
W/O KUTUB UDDIN OF VILL. JAPARI
P.O. JAPTOLA
DIST. MORIGAON
ASSAM
PIN NO. 782105

34: WAHIDUR RAHMAN
S/O AKTAR HUSSAIN OF VILL GENAIBORI
P.O. LUCHONABORI
DIST. MORIGAON
ASSAM
PIN NO. 782104

35: FAZAR ALI
S/O AKIN ALI OF VILL LALARIPAM
P.O. GORAIMARI
DIST. MORIGAON
ASSAM
PIN NO. 782104

36: FIRDAUSI BEGUM
D/O HASHMAT ULLAH OF VILL AND P.O. MOIRABARI DIST. MORIGAON
ASSAM
PIN NO. 782126

37: SHAMSUL HAQUE
S/O ABDUL JABBAR
VILL AND P.O. JOROIMARI
DIST. MORIGAON
ASSAM

PIN NO. 782104

38: MONTU ALOM
S/O LT. HANIFAR RAHMAN
VILL. JAJORI SKP
P.O. BORMONIPUR
DIST. MORIGAON
ASSAM
PIN NO. 782445

39: EUSUF MULLAH
S/O ABDUL REZZAQUE MULLAH OF VILL AND P.O. NAGABANDA
DIST. MORIGAON
ASSAM
PIN NO. 782127

40: JAHANARA BEGUM
D/O ABDUL KARIM OF VILL AND P.O. NAGABANDA
DIST. MORIGAON
ASSAM
PIN NO. 782127

41: HARUN-UL RASHID KHAN
S/O SAHAR ALI LOF VILL CHUTIAGAON
P.O. DHUMKURA
DIST. MORIGAON
ASSAM
PIN NO. 782126

42: MOZIBUR RAHMAN
S/O MOFIZ UDDIN AHMED OF VILL. LELIBORI
P.O. GORIMARI
DIST. MORIGAON
ASSAM
PIN NO. 782104

43: SALIMA BEGUM
D/O ABDUL KHALEQUE RAZVI
VILL AND P.O. NAGABANDA
DIST. MORIGAON
ASSAM
PIN NO. 782127

44: ABU BAKKAR SIDDIQUE
S/O HUSSAIN ALI

VILL SHAPKATI
P.O. BORCHALA
DIST. MORIGAON
ASSAM
PIN NO. 782127

45: FERDOUSI BEGUM
VILL AND P.O. NAGABANDA
DIST. MORIGAON
ASSAM
PIN NO. 782127

46: MD. NOZRUL ISLAM
S/O NUR MOHAMMAD OF VILL. HATIMURIA
P.O. MOIRABARI
DIST. MORIGAON
ASSAM
PIN NO. 782412

47: ALINA SULTANA
D/O KUTUB UDDIN OF VILL AND P.O. MOIRABARI
DIST. MORIGAON
ASSAM
PIN NO. 782126

48: MD. JULHAS ALI
S/O KUTUB UDDIN OF MVILL. TENGAGURI KACHARIGAON
P.O. TENGAGURI
DIST. MORIGAON
ASSAM
PIN NO. 782127

49: MD. ABUL BASAR
S/O ABDUR RAHIM OF VILL DHINGARATI
P.O. LAHARIGHAT
DIST. MORIGAON
ASSAM
PIN NO. 782127

50: PURNIMA DEKA
D/O SUCHENDRA NATH DEKA OF VILL AND PO BAGHARA
DIST. MORIGAON
ASSAM
PIN NO. 782105

51: RUSOTOM ALI
S/O ABDUL HEKIM OF VILL. DURABANDHIGAON
P.O. LUCHONABORI
DIST. MORIGAON
ASSAM
PIN NO. 78210

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REP. BY THE CHIEF SECRETARY TO THE GOVERNMENT OF ASSAM,
DISPUR, GUWAHATI-6

2:THE COMMISSIONER AND SECRETARY
TO THE GOVERNMENT OF ASSAM
EDUCATION (ELEMENTARY) DEPARTMENT
DISPUR
GUWAHATI-6

3:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER
MORIGAON
DIST. MORIGAON
ASSAM
PIN 782105

5:THE COMMISSIONER AND SECRETARY
TO THE GOVERNMENT OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-6

6:THE SCREENING COMMITTEE
MORIGAON DISTRICT
REPRESENTED BY ITS CHAIRMAN-CUM-COMMISSIONER
MIDDLE ASSAM DIVISION
TEZPUR
SONITPUR
ASSAM
PIN 78400

Advocate for the Petitioner : MD H R AHMED

Advocate for the Respondent : SC, ELEM. EDU

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 11.04.2023

Heard Mr. H.R. Ahmed, learned counsel for the petitioners. Also heard Mr. G. Pegu, learned Govt. Advocate, Mr. R. Mazumdar, learned standing counsel for the Elementary Education Department and Mr. A. Chaliha, learned standing counsel for the Finance Department.

2. In brief, the case of the petitioners is that all the 51 petitioners were appointed in different Middle English Schools of Morigaon district between the year 1991 to 2001 by the Managing Committee of the said schools and by referring to the school certificates, it is projected that the petitioners have been rendering service in their respective schools from the date of their respective joining till the date certificates were issued. The authorities were of the opinion that various Assistant Teachers in the M.E. Schools were appointed between the year 1991 to 2001 *dehors* the rules and therefore, pursuant to direction contained in the order dated 02.03.2010, passed in WP(C) 1048/2004, the State was permitted to frame a policy for regularization of the teachers. However, liberty was granted to identify the teachers on field verification to be working.

3. It is projected that pursuant to the screening process initiated by the respondent authorities, the petitioners had made an application to subject

themselves to screening process, pursuant to which the petitioners were issued call letters to appear before the concerned authorities with requisite documents as mentioned in the notices issued by the District Elementary Education Officer. It is submitted that although the petitioners had produced the working certificates issued by the respective authorities of the school, the same was not considered and the petitioners were placed in the category of illegally appointed teachers.

4. The learned counsel for the petitioners has produced a copy of order dated 05.11.2019, passed by this Court in WP(C) 94/2019 and it is submitted that by virtue of the said order, this Court had directed the authorities to ascertain the claim made by the petitioners as to whether they are working or not. It is submitted that as the petitioners are similarly situated, similar direction be issued in terms of order dated 05.11.2019, passed by this Court in WP(C) 94/2019 so that the authorities in the Elementary Education Department can re-verify as to whether the petitioners are working or not and take an appropriate decision. The relevant observations in the said order is extracted below:

“8. Learned counsel for the petitioners submits that as the petitioners were left out from such list for obvious reasons, their cases will not be considered by the authority for regularization and accordingly, has sought for a direction from this Court to include the name of the petitioners amongst the list of those teachers who were not recommended by the Screening Committee but found to be working.

9. As to whether the petitioners were working or not, is a pure question of fact which this Court is not inclined to examine. This Court has felt that it would be more appropriate if the authorities themselves ascertain the claim made by the petitioners that they are still working and could have been included in the list of such similarly situated teachers for further consideration of regularization.

10. Accordingly, the present petition is disposed of directing the petitioners to submit detail representations to the Director, Elementary Education Department, Assam so that the Director, Elementary Education Department, Assam upon consideration of such representation with the supporting documents may take a decision as to whether the petitioners were working at the time of consideration by the Committee so that, in the event, they are found to be working, their names may be included amongst those teachers who are not validly appointed but were found to be working so that their cases for regularization can be considered in terms of the observation and direction of this Court issued in the aforesaid writ petition, being WP(C) No. 1048/2004.

11. Learned counsel for the petitioners submit that the petitioners will submit a detail representation to the Director, Elementary Education Department, Assam within one week with the certified copy of this order.

12. The authorities accordingly will do the needful in terms of the observation and direction made above."

5. The learned standing counsel for the Elementary Education Department has submitted that although the petitioners have been found to be illegally appointed, but in view of the order dated 05.11.2019, passed by this Court in WP(C) 94/2019, the authorities in the Elementary Education Department be permitted to make a field verification as to whether the petitioners are working or not and then to take an appropriate decision.

6. Accordingly, the Court is of the considered opinion that it would be appropriate to grant an opportunity to the petitioners to submit individual representations before the Director of Elementary Education, Assam along with a certified copy of this order and copies of all the testimonials they are having. Such a representation shall be made within a period of 2 (two) weeks from the date of this order. On such representation being made, the office of the Director of Elementary Education, Assam shall acknowledge the receipt of such representation from the petitioners and the competent and/or designated

authority of the Directorate of Elementary Education Department shall consider such representation along with the supporting documents as produced by the petitioners and take an appropriate decision thereon. The authorities would take their decision within an outer period of 3 (three) months from the date of submission of representation by the petitioners.

7. It would be open to the authorities to the Elementary Education Department to inspect the respective schools of the petitioners and the relevant. In the event, the authorities find that the petitioners, though not validly appointed but are found to be working in the respective schools, they would take a decision regarding regularization of their services in terms of the order dated 02.03.2010, passed in WP(C) 1048/2004.

8. The authorities in the Elementary Education Department shall communicate their order/decision to the petitioners in their respective e-mail addresses to be provided by the petitioners.

9. With the aforesaid direction, this writ petition stands disposed of.

JUDGE

Comparing Assistant