

GAHC010291102023



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

Case No. : WP(C)/7546/2023

SOMA HAZARIKA AND 20 ORS
W/O- KANGKAN HAZARIKA,
R/O- MANGALDAI,
P.O.- MANGALDAI,
P.S.- MANGALDAI, PIN- 784125,
ASSAM.
CO-ORDINATOR, SANSKRITI JR. COLLEGE,
SANKAR NAGAR, BHEBARGHAT,
P.S.- MANGALDAI, DIST.- DARRANG,
ASSAM, PIN -784125.

2: ANUWAR HUSSAIN
S/O- LT. JABED ALI

R/O- VILL.- KASOKHAITY

P.O.- MAGURMARI

P.S.- RUPAHIHAT

DIST.- NAGAON
ASSAM

PIN- 782140.
CO-ORDINATOR OF DEEPJYOTI VIDYAPITH
KASHOKHAITY

P.O.- MAGURMARI
PS.- RUPAHIHAT
DIST.- NAGAON
ASSAM.

3: NIKUNJA MOHAN KALITA
S/O- LATE BIPIN CH. KALITA

R/O- RAHA
GARMARI

P.O.- RAHA
P.S.- RAHA

DIST.- NAGAON
ASSAM
PIN- 782103.
PRINCIPAL CUM CO-ORDINATOR OF BHAKABARI H.S. SCHOOL

BHAKABARI
P.O.- PUB GUMARI
NAGAON
ASSAM.

4: MADHUCHANDA RONGPIPI
W/O- PRAHLAD KAKATI

R/O- DAKHIN TOR BAGAN
RAJAGAON

P.O.- BORPANI
P.S.- KACHUA

DIST.- NAGAON
ASSAM
PIN- 782450.

5: PRASENJIT PAUL
S/O- NABAGOPAL PAUL

P.O. ASSAM SACHIVALAYA

P.S.- DISPUR

DIST.- KAMRUP(M)
ASSAM

PIN- 781006.
CO-ORDINATOR OF NATIONAL INSTITUTION FOR TEACHERS EDUCATION
KHETRI

P.O.- KHETRI
P.S.- KHETRI
DIST.- KAMRUP(M)
PIN- 782403.

6: MANJULA GOSWAMI
D/O- BRINDABAN GOSWAMI

R/O- VILL- BALISATRA

P.O.- BALISATRA

DIST.- KAMRUP
ASSAM

PIN- 783384.
CO-ORDINATOR OF NAGRIGULI COLLEGE

P.O.- NAGRIGULI
DIST.- BAKSA
ASSAM

PIN- 781368.

7: RAMESH CH. KHAKHLARI
S/O- LT. TABIL CHARAN BORO

R/O- VILL- KHANDIKAR

P.O.- DHEPARGAON

P.S.- TAMULPUR

DIST.- BAKSA (NOW TAMULPUR)
ASSAM.
CO-ORDINATOR OF BARGHULI NEHERU H.S. SCHOOL

BARGHULI
DIST.- BAKSA (NOW TAMULPUR)

ASSAM
PIN- 781354.

8: BORNALI SARMAH
D/O- BHARAT SARMAH

R/O- VILL.- NABIN PATH

NEAR JAGIROAD COLLEGE

P.O.- JAGIROAD
P.S.- JAGIROAD

DIST.- MORIGAON
ASSAM
PIN- 78241.
CO-ORDINATOR OF AAKANKHYA JR. COLLEGE
JAGIROAD
MORIGAON
ASSAM
PIN- 782410.

9: MRILANI BORA BHUYAN
W/O- NABA BHUYAN

R/O- JURIA
P.S. JURIA

DIST.- NAGAON
ASSAM.
CO-ORDINATOR OF NAGAON ARTS COLLEGE AT JURIA

NAGAON
ASSAM.

10: LUTAN SARKAR
W/O- LATE SUBHAN SARKAR

R/O- VILL.- KHAJUABILL
P.O.- KOPATI
P.S.- ROWTA

DIST.- UDALGURI
ASSAM
PIN- 784113.
CO-ORDINATOR OF KOUPATI JATIYA BIDYALAYA AT KHAJUABILL
KOUPATI
DIST.- UDALGURI
ASSAM.

11: HUSNEARA BEGUM
W/O- IKBAL HUSSAIN

R/O- VILL.- BAHABARI

P.O. AND P.S.- KHARUPETIA

DIST.- DARRANG
ASSAM
PIN- 784115.

CO-ORDINATOR OF DARRANG MULTIPURPOSE KNOWLEDGE
FOUNDATION
KHARUPETIA
DARRANG
ASSAM.

12: PRANITA DEVI
W/O- PURNA BORAH

R/O- VILL.- L.B. ROAD

P.O.- SOOTEA

P.S.- SOOTEA

DIST.- BISWANATH
PIN- 784175.
CO-ORDINATOR OF NORMAL SCHOOL
SOOTEA
DIST.- BISWANATH
PIN- 784175.

13: MD. SAHAJAHAN SHEIKH
S/O- LATE JOSMOT ALI

R/O- VILL. AND P.O.- HATSINGIMARI

DIST.- SOUTH SALMARA MANKACHAR

PIN- 783136.
CO-ORDINATOR OF HATSINGIMARI JUNIOR COLLEGE
VILL. AND P.O.- HATSINGIMARI
DIST.- SOUTH SALMARA MANKACHAR
PIN- 783136.

14: MADHU SUDHAN ROY
S/O- LATE JOGENDRA NATH ROY

R/O- VILL.- KISMAT HASDAHA PT-II

P.O.- KISMAT HASDAHA

P.S. AND DIST.- DHUBRI
ASSAM
PIN- 783334.

HEAD MASTER CUM CO-ORDINATOR OF 0735 NO. KACHARIHAT M.E.
SCHOOL STUDY CENTRE
P.O.- KACHARIHAT

DIST.- DHUBRI
ASSAM. PIN- 783334.

15: FILSUF UDDIN AHMED
S/O- KHABIRUDDIN AHMED

R/O- VILL- DALGAON

P.O. AND P.S.- DALGAON

DIST.- DARRANG
ASSAM
PIN- 784116.
PRINCIPAL CUM CO-ORDINATOR OF DALGAON ADARSHA JATIYA
BIDYALAYA
DALGAON
DARRANG
ASSAM.

16: ANJALI MAHANTA BARTHAHAKUR
W/O- LATE TILOOK CH. ADHIKARI

R/O- BORDOLOI NAGAR

ST. STEPHEN SCHOOL
BORDOLOI NAGAR

TINSUKIA
P.O.- TINSUKIA

P.S.- SADAR
DIST.- TINSUKIA

ASSAM
PIN- 786125.
CO-ORDINATOR OF DISTRICT INSTITUTE OF EDUCATION AND TRAINING
(DIET) TINSUKIA
TINGRAI HABI
700 NO. GATE
SRIPURIA
TINSUKIA
ASSAM.

17: JAHIRUL ISLAM
S/O- RAHIM UDDIN

R/O- VILL.- PACHIM SINGIMARI

P.O.- SINGIMARI

P.S.- RUPAHIHAT

DIST.- NAGAON

ASSAM

PIN- 782125.

CO-ORDINATOR OF MODERN ADARSHA BIDYAPITH

KASOKHAITY

MAGURMARI

RUPAHIHAT

NAGAON

ASSAM.

18: ZINNATUL ISLAM

S/O LATE KASUM

R/O- VILL.- GORIABORI PATHAR

P.O.- LUCHANABORI

P.S.- MOIRABARI

DIST.- MORIGAON

ASSAM

PIN- 782126.

CO-ORDINATOR OF MOIRABARI SENIOR MADRASSA (NOW AS
MOIRABARI NEW HIGH SCHOOL).

19: MD. MONOWAR HUSSAIN

S/O- MD. MADAN ALI

R/O- VILL.- FULGASSA

P.O.- CHIRAKUTI

P.S.- FAKIRGANJ

DIST.- DHUBRI

ASSAM

PIN- 783330.

CO-ORDINATOR OF CHIRAKUTI GIRLS HIGH MADRASSA

P.O.- CHIRAKUTI

DIST.- DHUBRI

ASSAM.

20: PRITAM PAUL
S/O- BHANU PAUL

R/O- RAMKRISHNA NAGAR

P.O. AND P.S.- R.K. NAGAR

DIST.- KARIMGANJ
ASSAM

PIN- 788166.
CO-ORDINATOR OF R.K. NAGAR JR. COLLEGE
RAMKRISHNA NAGAR
KARIMGANJ
ASSAM.

21: UTPAL DAS
S/O- LATE THANESWAR DAS

P.O.- ABHAYAPURI

P.S.- ABHAYAPURI

DIST.- BONGAIGAON
ASSAM.
CO-ORDINATOR OF SRIMANTA SANKARDEV ACADEMY
NEAR ABHAYAPURI POLICE STATION
BONGAIGAON
ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY COMMISSIONER AND SECRETARY,
EDUCATION DEPARTMENT (ELEMENTARY),
DISPUR, GUWAHATI- 781006.

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

3:THE SPECIAL COMMISSIONER
ELEMENTARY EDUCATION DEPARTMENT
DISPUR
GUWAHATI- 781006.

4:THE DIRECTOR
STATE COUNCIL OF EDUCATIONAL RESEARCH AND TRAINING
OPEN AND DISTANCE LEARNING

KAHILIPARA
GHY- 781019
ASSAM.

5:THE EXECUTIVE CHAIRMAN CUM DIRECTOR
ODL CELL
SCERT
KAHILIPARA
GUWAHATI-19
ASSAM

Advocate for the Petitioner : MR. M U MAHMUD

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 21.12.2023

Heard Mr. M.U. Mahmud, learned counsel for the petitioner. Also heard Mr. P. Nayak, learned counsel for the SCERT and Mr. SMT Chistie, learned standing counsel for the Elementary Education Department.

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 Soma Hazarika 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. P. Nayak, 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.

While considering the representation shall also take into account the prescription as made in the notification dated 26.04.2017.

Writ petition stands disposed of in the above terms.

JUDGE

Comparing Assistant