

GAHC010292462023



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

Case No. : WP(C)/7577/2023

MARAMEE MEDHI
W/O- BIPUL CH. RAY,
PERMANENT RESIDENT OF VILL- NORTH HOGMABIL,
P.O- HOGMABIL, SIDLI, DIST- KOKRAJHAR, BODOLAND TERRITORIAL
COUNCIL (BTC), ASSAM

VERSUS

THE BODOLAND TERRITORIAL COUNCIL AND 4 ORS
TO BE REP. BY THE SECRETARY BODOLAND TERRITORIAL COUNCIL
(BTC), KOKRAJHAR, WOMEN AND CHILD DEVELOPMENT DEPARTMENT,
KOKRAJHAR,
BODOLAND TERRITORIAL COUNCIL (BTC), ASSAM, PIN-783370

2:THE JOINT DIRECTOR AND CHIEF HEAD OF DEPARTMENT
BODOLAND TERRITORIAL COUNCIL (BTC)
KOKRAJHAR
ASSAM
PIN-783370

3:THE PROGRAMME OFFICER
DIVISIONAL INTEGRATED CHILD DEVELOPMENT SCHEME (ICDS) CELL
KOKRAJHAR

BODOLAND TERRITORIAL COUNCIL (BTC)
ASSAM
PIN-783370

4:THE CHILD DEVELOPMENT PROJECT OFFICER
(CDPO)
JALAH INTEGRATED CHILD DEVELOPMENT SCHEME (ICDS) PROJECT
MUSHALPUR

BASKA

BODOLAND TERRITORIAL COUNCIL (BTC)
ASSAM
PIN-781366

5:THE CHILD DEVELOPMENT PROJECT OFFICER
(CDPO)
KHOIRABARI INTEGRATED CHILD DEVELOPMENT SCHEME (ICDS)
PROJECT
MUSHALPUR
UDALGURI

BODOLAND TERRITORIAL COUNCIL (BTC)
ASSAM
PIN-78452

Advocate for the Petitioner : MR. R ISLAM

Advocate for the Respondent : SC, BTC

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 22/12/2023

Heard Mr. R. Mazumdar, learned counsel for the petitioner. Also heard Mr. R. S. Mushahary, learned standing counsel, BTC.

2. This writ petition is filed by the petitioner challenging the order dated 04.12.2023, whereby the petitioner is transferred from Jalah ICDS project of Khoirabari, district Udalguri named the petitioner appears in serial number 182 of the of the said order.

3. The petitioner had earlier approached the High Court by filing WP(C) 3286 of 2021 by order dated 16.07.2021. The respondents were directed to consider the representation and disposed of the same within the said period. Upon the post of UDA cum Accountant at Jalah ICDS project having fallen vacant and the

husband of the petitioner submitted the representation praying for transfer. Thereafter another writ petition has been filed being WP(C)/470/2023 and by order dated 01.02.2023 the writ petition was disposed of directing the authorities to consider the representation dated 26.12.2022 and unless there is any legal hurdle coming in the way of transfer, appropriate orders, be passed transferring the husband of the petitioner to the vacant post of UDA cum Accountant of Jalah ICDS project and till that decision was taken that said post was directed to be kept vacant if not already filled up. Thereafter, the department passed the order dated 01.03.2023 transferring the husband to Jalah ICDS project. But before he was released, another order was passed and he was again transferred to Goreswar ICDS project, which was put to challenge before this court by WP (C) No. 1620/2023 and by order dated 22.03.2023. While issuing notice, the order of transfer was stayed and in the post of UDA cum Accountant at Jalah ICDS project was directed not to be filled up with. Subsequently, the order stood cancelled and the petitioner was permitted to join in Jalah ICDS project. While the matter was thus situated, as many as 190 supervisors were sought to be transferred to different ICDS projects, which included the name of the petitioner at serial No.182, whereby she was transferred from Jalah ICDS project to Khoirabari ICTS project in Udalguri district.

4. On the basis of these issues, which has confronted the petitioner, she had filed a representation before the authorities vide representation dated 15.12.2023, it is submitted that the said representation is still pending and no orders have been passed. Having no other alternative, the petitioner has approached this court by filing the present writ petition and prayed for setting aside of the impugned order dated 04.12.2023 in so far as the writ petitioner is

concerned.

5. Learned counsels for both the parties have been heard. Mr. R. S. Mushahary, learned standing counsel, BTC for all the respondents prays for time for all the respondents.

6. Upon careful perusal of the pleadings on record, as well as the orders dated 16.07.2021 passed in WP(C)/3286/2021, dated 01.02.2023 passed in WP(C)/470/2023 and dated 22.03.2023 passed in WP(C)/1620/2023 passed by this court. It is seen that earlier the court considered the prayers of the petitioner as well as the husband of the petitioner for transfer to Jalah ICDS project and consequent thereto the husband of the petitioner was placed in Jalah ICDS project. These orders were passed considering the fact that both husband and wife are working under the same department as UDA and Supervisor and considering that they have a child of ten (10) years, and on the request made that they should be allowed to be posted in the same district, this court had considered their prayers and passed certain orders on the basis of these orders the department has also considered the prayer of the husband of the petitioner to post him at Jalah ICDS project. However, in view of this order dated 04.12.2023, whereby the petitioner has been sought to be transferred out of Jalah to Khairabari, this *prima-facie* appears to be issued without taking into consideration the spirit of the orders dated 16.07.2021 passed in WP(C)/3286/2021, dated 01.02.2023 passed in WP(C)/470/2023 and dated 22.03.2023 passed in WP(C)/1620/2023 passed by this court.

7. Under such circumstances, considering that the representation is stated to be pending, this court is of the considered view that the representation, which is filed on 15.12.2023 and enclosed at Annexure 10 page 45, be disposed of by the Joint Director cum Chief Head of the department Women and Child

Development Department, BTC Kokrajhar by passing a speaking order and considering the claims and the prayers made by the writ petitioner. This representation be disposed of and thereafter the copy of the speaking order be served on the petitioner also. The representation can be disposed of within a period of two (2) weeks from the date of receipt of a certified copy of this order.

8. Till the representation is disposed of, the impugned order dated 04.12.2023, to the extent, it relates to the writ petitioner i.e. whose name appears at serial number 182 shall remain stayed.

9. Liberty is granted to both the counsels to furnish a certified copy of this order before the concerned authorities.

JUDGE

Comparing Assistant