

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

W.P.(C) No. 690 of 2022

All Manipur Government Non Formal Education Supervisor Welfare Association, a registered Association having Regd. No. 350 of 1992 under the Trade Union Act, 1996 represented by the General Secretary Shri Aribam Birjit Sharma, aged about 58 years, S/O (L) A. Brajamani Sharma of Yaiskul Police Lane, P.O Imphal & P.S. Imphal West, District, Imphal West, Manipur-795001.

.... Petitioner

Versus

1. The State of Manipur represented by the Commissioner/Secretary (Edn(S), Government of Manipur, at Babupara. P.O. Imphal & P.S. Imphal West, District Imphal West, Manipur-795001.
2. The Director of Education (S) Government of Manipur, at Lamphelpat. P.O & P.S. Lamphel, District Imphal West, Manipur-795004.
3. The State Project Director/SSA Manipur, Babupara, Imphal-West, Manipur-795001.

.... Respondents

B E F O R E

HON'BLE MRS. JUSTICE GOLMEI GAIPHULSHILLU

For the petitioner : Mr. K. Roshan, Advocate

For the respondents: Mr. S. Nepolean, GA

Date of hearing : 02.02.2024

Date of order : **07.03.2024**

J U D G M E N T & O R D E R
(C A V)

[1] Heard Mr. K. Roshan, learned counsel appearing on behalf of the petitioner and Mr. S. Neplean, learned GA appearing on behalf of the respondents.

[2] The instant writ petition has been instituted on behalf All Manipur Government Non Formal Education Supervisor Welfare Association under Article 226 of the Constitution of India with the following prayer :

"(i) Admit the writ petition and issue rule Nisi calling upon the respondents to show cause as to why a writ/order/direction of certiorari or any other appropriate writ/order/directive (s) should not be issued for quashing and setting aside the impugned order bearing No. 3/11/2021-SS/SIS: Imphal, the 23rd February, 2022, in the facts and circumstances of the present petition;

(ii) To show cause as to why a writ in the nature of Mandamus or any other appropriate writ/order/directive (s) should not be issued directing the respondents to for a direction to direct the respondents to utilize the services of the petitioner's Association as per rules under the Education Guarantee Scheme and Alternative and innovative Education, under the SSA, Manipur.

(iii) Make the Rule absolute;

(iv) to pass any appropriate order or direction(s) which may be appropriate to be passed under such facts and circumstance of the instant case, for the ends of justice.

And to pass appropriate interim order staying/suspending the operation of the order dated 23.02.2022 pending disposal of the present petition for the ends of justice."

[3] The petitioner has filed the present petition in his representative's capacity as the General Secretary of the All Manipur Government Non Formal Education Supervisor Welfare Association, a registered Association having Regd. No. 350 of 1992 under the Trade Union Act, 1996, having been authorized by the members and is praying inter-alia for quashing and setting aside the impugned order bearing No. 3/11/2021-SS/SIS: Imphal, the 23rd February, 2022 and for

a direction to the respondents to utilize the services of the petitioner's Association as per rules under the Education Guarantee Scheme and Alternative and innovative Education, under the SSA, Manipur coupled with the prayer for staying/suspending the operation of the Order dated 23.02.2022 by passing reasoned and speaking order within a stipulated period of time, in the facts and circumstances of the present case.

[4] The members of the All Manipur Government Non Formal Education Supervisors Welfare Association were serving as Supervisors of the Non Formal Education (NFE) Govt. of Manipur on contract basis which was under a centrally sponsored scheme. The services were extended from time to time and they rendered their services to the satisfaction of the superiors for more than 10 (ten) years. Their Association moved before the Hon'ble Gauhati High Court, Imphal Bench by filling a writ petition being WP(C) No. 258 of 2001 and 397 of 2005 praying inter-alia for giving preferential treatment to the members of the Association under the upcoming new scheme. The Hon'ble High Court, Imphal Bench was pleased to dispose of the above said writ petition vide Order dated 10.05.2001 in favour of the Association thereby directing the State respondents to give the petitioners preferential treatment at the time of engagement or employment under the new scheme which was expected to be introduced.

[5] Thereafter, a letter being No. 12(HC)/105/2001-SE (SCERT), dt. 11.09.2001 was issued by the Deputy Secretary Education (S), Government of Manipur informing the Director of Education (S) Govt. of Manipur regarding the decision of the Government to recommend to the Society to consider the cases of the members of the Association for suitable accommodation in the EGS & AIE and in other scheme that may be initiated in the new future and their suitability or otherwise may be examined by the State and District Level Committee

respectively in order to be given them for preferential treatment on the basis of their experience.

[6] The issue of the petitioner's Association was placed before the State Cabinet vide the Memorandum for Cabinet under file No. 31/17/2003-SE(S)/SSA by the Commissioner of Edn(S) Manipur in the year 2003. The memorandum for Cabinet is reproduced as under:

" MEMORANDUM FOR CABINET

Subject: Engagement of Education Workers on contract basis under SSA.

- 1. Sarva Shiksha Abhiyan (SSA) is a Centrally Sponsored Scheme The scheme is an effort to universalized elementary education by community ownership of the school system. It aims to provide useful and relevant Elementary Education for all children in 6 to 14 age group by 2010. The assistant under the programme of SSA is 75:25 during the Xth plan and 50/50 sharing basis thereafter between Central Government and State Government.*
- 2. Government had conveyed approval to the engagement of 420 Education Workers (Shiksha Karmi/Oja) under Sarva Shiksha Abhiyan (SSA) for implementation of the scheme on contract basis @ Rs. 4000/- P.M. for a period of 3 (three) months w.e.f. 1.1.2005 with the approval of the State Cabinet in its meeting held on 30.11.2004. The period 3 (three) months had already been expired on 31.03.2005 vide this Government letter No. 31/17/2003-SE (S) SSA dt. 4.3.2005.*
- 3. The engagement could not be completed within the stipulated within the stipulated point of 3 (three) months due to technical difficulties during the financial year 2004-2005.*
- 4. A large number of employees of the erstwhile NFE Scheme filed writ petitions in the Hon'ble High Court Imphal Bench. The details of Hon'ble High Court's orders are shown as Annexure-B. The important point among other highlighted by the Hon'ble Court has been to give preferential treatment to erstwhile NFE employees who have rendered more than 2 years service if the work under EGS and AIE, is similar and the erstwhile NFE employees possess the necessary qualifications. In this regard the Executive Committee of the Sarva Shiksha Abhiyan. State Mission Authority has already approved a system to give preference to the erstwhile NFE employees based on the length of service and qualifications, the details of which are enclosed as Annexure-C.*

In view of the above facts and circumstances the following proposal are place before the Cabinet for consideration and decision.

- (i) Extension of the Engagement of 420 (four hundred twenty) Education Workers (Shiksha Karmi/Oja) under Sarva Shiksha Abhiyan for a period from 31.03.2005 to 31.03.2007.*
- (ii) While considering engagement/appointment of 420 Education Workers (Shiksha Karmi/Oja) engagement of retrenched employees of the erstwhile NFE in case of those who are found qualified and possessing requisite qualifications for implementation of the different programme under Sarva Shiksh Abhiyan Scheme for the engagement/appointment and also when the State Mission Authority consider them fit.*

The Hon'ble Minister Education (S), Manipur has see the Memorandum for Cabinet.

The Hon'ble Chief Minister, Manipur has also approved the proposal for placing the matter before the Cabinet for consideration.

*(R.K. Angousana Singh)
Commissioner Education (S), Govt. of Manipur."*

[7] Thereafter, the Commissioner Edn (S), Govt. of Manipur vide the letter bearing No. 31/17/2003-SE (S)/SSA, imphal the 27th October, 2006 conveyed approval to the engagement of 420 Education Workers (Shiksha Karmi/Oja) under the SSA for implementation of the Scheme on contract basis @ Rs.4000/- p.m for a period of 3(three) months w.e.f 01.01.2005 to 31.2.2005 with the approval of the State Cabinet in its meeting held on 30.11.2004. However, the engagement could not be completed within the stipulated period of 3(three) months during the financial year 2004-2005 as the period of 3(three) months had expired on 31.03.2005.

[8] A large number of employees of the erstwhile NFE Scheme filed writ petitions before the Hon'ble Gauhati High Court, Imphal Bench. And the Hon'ble Court disposed the petitions with the directions to give preferential treatment to the erstwhile NFE employees who have rendered more than 2 years service if the work

under EGS and AIE is similar and the erstwhile NFE employee possesses the necessary qualifications. In this regard the Executive Committee of the Sarva Shiksha Abhiyan, State Mission Authority has already approved a system to give preference to the erstwhile NFE employees based on the length of service and qualifications and had placed the proposal of (i) Extension of the engagement of 420 Education Workers (Shiksha Karmi/Oja) under SSA for a period from 31.03.2005 to 31.03.2007. (ii) While considering engagement/appointment of 420 Education Workers (Shiksha Karmi/Oja) engagement of retrenched employees of the erstwhile NFE in case of those who are found qualified and possessing requisite qualifications for implementation of the different programme under the SSA Scheme for the engagement/appointment and also when the State Mission Authority consider them fit before the Cabinet.

[9] The State Project Director, SSA State Mission Authority Manipur issued Order dt. 18.09.2008 stating that pursuant to the Gauhati High Court's order dt. 03.09.2007 in WP(C) No. 118 of 2007 the Chairman of the Executive Committee of SSA State Mission Authority Manipur after due consideration of the letter dt. 22.02.2007 is pleased to order that the writ petitioners along with other similarly situated retrenched contract employees of the erstwhile NFE programme would be duly considered while engaging contractual employees of the SSA State Mission Authority in related areas with the approval of the State Government.

[10] The Association being aggrieved submitted representation dt. 15.05.2017 addressed to the Hon'ble Chief Minister, Manipur but it was of no avail and no actions were taken up, thereafter again in 2021 another representation dt. 22.01.2021 was submitted and the same was forwarded vide letter dt. 22.03.2021 even then no actions were taken up. The learned counsel for the petitioner further submitted

that the petitioner presently learnt that some contract teachers are to be appointed under the SSA Scheme.

[11] Since 2006 petitioner's Association has been submitting representation after representations and even after the approval of the Government of the members of the petitioners Association were not accommodated and the order of the Hon'ble Gauhati High Court Imphal Bench dated 10/5/2001 have not been complied with and implemented till date however presently it is learnt that some contract teachers are to be appointed under the SSA Scheme, and on learning of the same Representation dated 24/11/2021 was submitted seeking for consideration of the members of the Association as contract teachers under the SSA Scheme on humane ground since most of the members are having very few years at their disposal for service. Petitioner approached the Hon'ble High Court by filling writ and in compliance of Order dated 20.12.2021 respondents issued order dt. 23.02.2022 rejecting the petitioner's representation illegally and arbitrarily in violation of the rights of the petitioner guaranteed by the constitution of India. Hence the present petition is filed.

[12] The learned counsel for the respondent file affidavit in opposition on behalf of the respondent nos. 1, 2 & 3 as follows:

- "2. That, save and except those which are specifically admitted herein, the deponent denies all the allegations and contentions made by the petitioners in the Writ Petition.*
- 3. That, with reference to Pars Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9 & 10 of the writ petition, the answering respondent has no comment to offer.*
- 4. That, with reference to para no. 11 of the writ petition, the answering respondent begs to submit that there is no provision of appointment of any contract teachers under the Samagra Shiksha, Manipur (erstwhile SSA) at present.*
- 5. That, with reference to para nos. 12 & 13 of the writ petition, the answering respondent begs to submit that the All Manipur Non-formal Education Welfare Association had submitted representation dated the 24th November, 2021 for consideration of the members of the Association as contract teachers under the SSA Scheme in view of the*

order dated 10th May, 2001 passed in WP(C) No. 258 of 2001 and on humane ground within a stipulated period of time.

Further, the association filed WP(C) No. 941 of 2021 and the same was disposed on the 20th December, 2021 thereby directing to consider and dispose of the representation dated the 24th November, 2021 submitted by the petitioners Association. In this regard, the State Project Director, Samagra Shiksha, Manipur had issued order No. 3/11/2021-SS/SIS dated the 23rd February, 2022 in compliance of the Hon'ble High Court's order stated above thereby rejecting the claim of the petitioner for consideration of appointment as contract teachers under the SSA Scheme on the grounds stated therein.

6. That, with reference to Para No. 14 of the writ petition, the answering respondent begs to submit that the answering respondents vehemently deny the allegations made therein on the ground that:

It is to submit that preferences were extended to all the contract employees of the erstwhile Non-Formal Education (NFE) Scheme by relaxing age limit and providing five extra credit points, provided they fulfill the requisite educational qualification specified for each category of posts. As such maximum preference/weightage was extended to the members of the Association. However, those contract employees of the erstwhile Non-Formal Education (NFE) who have not fulfilled the above stated criteria were not selected under the Education Guarantee Scheme (EGS).

However, after the introduction of RTE Act, 2009 w.e.f 1st April, 2010, the norms for SSA were revised, and, as per the revised norms as stated in SSA framework of Implementation (in light of right to Education Act, 2009) under Sl. No. 4, column no. 3 of the Norms of interventions that:

All existing EGS centers which have been functioning under SSA for two years shall be converted to regular schools, or closed down when children are mainstreamed into neighboring schools. The process of up-gradation of EGS centres to regular schools must be completed within two years from the date of commencement of the RTE Act. No new EGS centres will be sanctioned from 2010-11 onwards.

In this regard, the state had upgraded 456 eligible EGS Centre as regular Primary Schools and the remaining 261 non-Eligible EGS Centre were closed and there is no EGS Centre in the State since 2013-14 as the same had been discontinued and they have not been restructured and absorbed as a component of SSA as alleged by the petitioners.

Further, it had also been provided in SSA framework of implementation (in light of Right to Education Act, 2009)

under Sl. No. 4, column no. 4 of the norms of interventions that:

For conversion of EGS centres to schools:

- a) All EGS centres upgraded primary schools will be provided teachers, infrastructures and facilities as mandated under RTE Act, 2009 as under:*
 - i) At least two teachers, additional teachers will be provided as per the enrollment in reach converted schools.*

In this regard, the state had established 791 new primary schools (including the upgraded 456 EGS Centre as regular Primary Schools) and 1951 regular primary teachers had been appointed through open advertisement for direct recruitment for the said posts.

Further, it is to submit again that there is no provision of appointment of any contract teachers under the Samagra Shiksha, Manipur at present and also, regular Primary Teachers as per the Relevant RR and RTE Act have been appointed for the newly established Primary Schools.

In view of the facts stated above, the order No. 3/11/2021-SS/SIS dated the 23rd February, 2022 was issued by the State Project Director, Samagra Shiksha, Manipur in compliance of the Hon'ble High Court's order dated 20.12.2021 passed in WP(C) No. 941 of 2021.

Lastly, it is also to submit that Guidelines No. 3.5(V) of the framework for implementation of SSA issued by MHRD had not laid down any guidelines with regard to restructure and absorption of EGS as a component of SSA as alleged by the petitioner. And, in view of the norms stated in SSA framework of implementation (in light of right to Education Act, 2009) under Sl. No. 4, column No. 3 and 4 of the Norms of interventions stated above, the service of the petitioners cannot be retained or utilized in Education Guarantee Scheme (EGS) as the scheme had already been discontinued.

- 7. That, with reference to para no. 15 of the writ petition, the answering respondent begs to submit that it is to reiterate again that preferences were extended to all the contract employees of the erstwhile Non-Formal Education (NFE) Scheme by relaxing age limit and providing five extra credit points, provided they fulfill the requisite educational qualification specified for each category of post. And, those contract employees of the erstwhile Non-Formal Education (NFE) who have not fulfilled the above stated criteria were not selected.*
- 8. That, with reference to para nos. 16, 17 & 18 of the writ petition, the answering respondent begs to submit that in view of the factual position stated above, that the present writ petition is liable to be dismissed as devoid of merit.*

[13] The submission made by the learned counsel of the petitioner Mr. K. Roshan that the petitioners herein the members of the petitioner's association were utilized/serving as supervisors of the Non Formal Education (NFE), Govt. of Manipur on contract basis which is the centrally sponsored scheme and they rendered their services for more than 10 years and the association move a writ petition being WP(C) No. 258 of 2021 and WP(C) No. 397 of 2005 praying inter alia for giving preferential treatment to the members of the association before the Hon'ble Gauhati High Court and the Hon'ble High Court was pleased to pass vide order dated 10.05.2021 directing the State respondent to give the petitioner's preferential treatment at the time of engagement under the new scheme. Thereafter, the Deputy Secretary Edn.(S) issued her letter being No. 12(HC)/105/2001-SE(SCERT) thereby conveying the decision of the government to recommend to the society to consider the cases of the association for suitable accommodation in the EGS and AIE in other scheme that may be initiated in future and their suitability and otherwise to be examined by the State and District leveled committee to make preferential treatment for them on the basis of their experience.

[14] It is further submitted that the issue of the petitioner's association was placed before the State cabinet. Thereafter, the Commissioner Edn.(S), Govt. of Manipur vide the letter bearing No. 31/17/2003-SE(S)/SSA Imphal the 27th October, 2006 conveyed approval to the engagement of 420 Education Workers (Shiksha Karmi/Oja) under the SSA for implementation of the Scheme on contract basis @ Rs.4000/- p.m for a period of 3(three) months w.e.f 01.01.2005 to 31.2.2005 with the approval of the State Cabinet in its meeting held on 30.11.2004. However, the engagement could not be completed within the stipulated period of 3(three) months during the

financial year 2004-2005 as the period of 3(three) months had expired on 31.03.2005.

[15] Further, learned counsel for the petitioner submits that large no. of employees of the erstwhile NFE scheme file writ petitions before the Hon'ble Gauhati High Court and Hon'ble High Court disposed of the petitions with direction to give preferential treatment to them who have rendered more than 2 years in service if the work under EGS and AIE is similar and erstwhile NFE employees possess the necessary qualification. In this regard, the executive committee of the Sarva Shiksha Abhiyan, State Mission Authority has already approved a system to give preference to the erstwhile NFE employees.

[16] Further the learned counsel for the petitioner submits that the State Project Director, State Mission Authority has given its approval to the engagement of 83 (41 Project Officers and 42 Supervisor of erstwhile NFE). However, the Chairman/DC, Bishnupur District, SSA, Govt. of Manipur vide its order No. 1/5/2002-ED/ZEO-IV(B)SSA engaged 4 education workers for implementation of SSA in Bishnupur district excluding the members of the association. Being aggrieved the members of the association submitted representation dated 15.05.2017 but it was no avail and filed several representation.

[17] Further learned counsel for the petitioner submitted that the members of the Association learnt that some contract teachers are to be appointed under the SSA scheme. Being aggrieved the members of the association filed another writ petition being WP(C) No. 941 of 2021 and the Hon'ble Court disposed of the said petition with direction to the respondent to consider and disposed of the representation dated 24.11.2021 submitted by the petitioner's association within a period of 1(one) month. However, the respondent No. 3 in compliance thereof issued order bearing No. 3/11/2021-SS/SIS: Imphal, the 23rd February,

2022 rejecting the representation filed by the petitioner's Association on 6(six) grounds. The ground No.(V) states that, "From 2012-2013, there is no more Education Guarantee Scheme as the same was discontinued. And at present, there is no provision for appointment of any contract teacher under the Samagra Shiksha, Manipur erstwhile SSA." And in the ground No.(VI) it is stated as , "At the time of earlier appointments through advertisements preferences were extended to the erstwhile non-formal educational personal by relaxing age limit and providing five credits out of maximum credit points, provide they fulfill the requisite the educational qualification specified for each category of post. As such maximum preference/weightage were extended to the members of the Association."

[18] After hearing the learned counsel for the petitioner as well as learned counsel for the respondent it emerged that the members of the petitioner's association were appointed and serving as Supervisor of the Non Formal Education Government of Manipur on contract basis which is a centrally sponsored scheme. The Hon'ble Gauhati High Court was pleased to dispose of the said writ petitions being WP(C) No. 258 of 2001 and WP(C) No. 397 of 2005 vide order dated 10.05.2001 by directing the respondents to give the petitioner preferential treatment to the members of the petitioner at the time of engagement or employment under the new scheme. Thereafter, Deputy Secretary Education (S) Govt. of Manipur informed the Director of Education (S) Govt. of Manipur regarding the decision of the Government to consider cases of the members of the Association for suitable accommodation in EGS & AIE and in other scheme that may be initiated in future and their suitability or otherwise which may be examined by the State and District Level Committee respectively which make them preferential treatment on the basis of their experience.

[19] And the executive committee of the Sarva Shiksha Abiyan Authority has already approved a system to give preference to the erstwhile NFE employee based on the length of service and qualification. Further, it has also emerged that State Mission Authority Manipur after due consideration of the letter dated 22.02.2007 was pleased to order that the members of the petitioner's Association along with other similarly situated retrenched contract employees of the erstwhile NFE programme would be duly considered while engaging contractual employees of the SSA State Mission Authority in related areas with the approval of the State Government.

[20] Further, as per the submissions of the learned counsel for the petitioner that the petitioner's learnt that some contract teachers are to be appointed under the SSA Scheme after learning the same the petitioner's filed representation dated 24.11.2021 seeking for consideration of the members of the association as contract teachers under the SSA Scheme. However, the respondents vide order dated 23.02.2022 rejected the petitioner's representation stating that after the introduction of the Right to Education Act, 2009 effective from 01.04.2010 the norms of SSA was revised. As such, there is no more education guarantee scheme as the same was discontinued and at present there is no provision for appointment of any contract teachers under the Samagra Shiksha, Manipur erstwhile SSA. Further, it has emerged that earlier appointment through advertisements preferences were extended to the erstwhile Non Formal Education personal by relaxing age limit and provided 5 credit points out of the maximum credit points, provided they fulfill the requisite educational qualification specified for each category of post. Accordingly, it is seen that maximum preference/weightage were extended to the members of the Association. It is to be mentioned that the petitioner failed to satisfy the Court that similarly situated member's were absorbed and appointed on regular basis.

[21] Further, it is seen that guideline nos. 3.5(V) of the framework for implementation of SSA issued by MHRD has not laid down any guidelines with regard to restructure and absorption of EGS as a component of SSA.

[22] In the facts and circumstances as discussed above there is no ground to quash and set aside the impugned order bearing no. 3/11/2021-SS/SIS: Imphal dated 23.02.2022.

[23] Accordingly, the present writ petition is dismissed and disposed of.

JUDGE

FR/NFR

Lucy