

GAHC010129602021



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

Case No. : WP(C)/4181/2021

MD. CHOUKAT ALI
S/O LATE SADER ALI, VILL-SOLMARI BHAIRA, P.O.-BELSOR, DIST-
NALBARI, ASSAM, PIN-781304

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF
ASSAM, EDUCATION, SECONDARY DEPARTMENT, ASSAM, DISPUR,
GUWAHATI-6

2:THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM
FINANCE DEPARTMENT
ASSAM
DISPUR
GUWAHATI-6

3:THE DIRECTOR
SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19

4:THE INSPECTOR OF SCHOOLS
NALBARI
P.O AND DIST- NALBARI
ASSAM
PIN-

5:THE HEAD MASTER
GANDHIYA HIGH SCHOOL
VILL AND P.O.-GANDHIYA

DIST-NALBARI
ASSAM
PIN

6:THE TREASURY OFFICER
NALBARI
P.O AND DIST-NALBARI
ASSAM
PIN

Advocate for the Petitioner : MR. M ISLAM

Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

19.02.2024

Heard Mr. M. Islam, learned counsel for the petitioner. Also heard Mr. N.J. Khataniar, learned Standing Counsel, Secondary.

It is submitted at the bar that pursuant to the order dated 09.08.2022 passed in Review Petition No. 52/2022 which was preferred by the State of Assam against the order passed by the Co-ordinate Bench, the review petition was disposed of on the following directions:

18. In the circumstance, we require the individual writ petitioners to make an application before the Secretary to the Government of Assam in the Secondary Education Department stating in detail the dates of appointment, the names of the institutions where they were appointed, the procedure adopted for such appointments, the posts to which the appointments were made as well as the post creation number, if available. Upon the individual applications being submitted, the Secretary to the Government of Assam in the Secondary Education Department shall call for the individual records from the respective schools where the writ petitioners were appointed. From the records, the Secretary shall verify as to what was the

number of sanctioned posts in respect of the posts where the individual petitioners were appointed and also to find out as to whether on the day when the appointments were made, any of the sanctioned posts, if available, were vacant.

19. If the answer is in the affirmative, it has to be understood that irrespective of the manner of appointment of the writ petitioners, they were appointed against sanctioned vacant posts. If the conclusion arrived at would be contrary that no sanctioned vacant posts were available on the day the appointments were made, the conclusion may be arrived at that the persons concerned were not appointed against any sanctioned vacant post. If the conclusion arrived at is that the persons concerned were appointed against the sanctioned vacant posts, the provisions of the two judgments dated 30.09.2015 in WP(C) No. 2921/2015 and other writ petitions and 22.02.2017 in WP(C) No.7485/2015 requiring their regularization as a onetime measure would be applicable and also be complied with.

The learned Standing Counsel, Education Department submits that notwithstanding the directions, this particular petitioner has never approached the authority by filing an individual application. It is submitted that the petitioner was also as a party respondent in the review petition.

The learned counsel for the petitioner submits that although he was arrayed, he was not aware of the order passed. However, he craves liberty of the Court to now approach the authority and file necessary representation.

Such prayer is not objected to by the respective Department counsel.

Under such circumstances, taking into consideration the prayer made by the learned counsel for the parties, the writ petitioner is permitted to file an individual representation as directed by this Court by order dated 09.08.2022 passed in Review Petition No. 52/2022 and upon such an application being filed by the petitioner, the concerned authorities will look into the claims and after verifying the same expeditiously address the issues raised and pass an speaking

order. This exercise be completed after receipt of individual application within a period of 30 (thirty) days from the date of filing of such application.

In terms of the above, the writ petition stands closed.

Needless to say that if any grievances remain unaddressed, petitioner is at liberty to approach this Court.

Interim order if any, stands vacated.

JUDGE

Comparing Assistant