

GAHC010133362022



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

Case No. : WP(C)/4872/2022

MAINA SARKAR AND 39 ORS
D/O.- LT. JUGAL SARKAR
VILL- SONAPUR 1 NO. JYOTINAGAR
P.O.- SONAPUR, P.S.- SONAPUR
DISTRICT- KAMRUP (M), ASSAM
PIN- 782402

2: MD. SEKANDAR ALI SHEIKH
S/O.- MD SHAHJALAL SHEIKH
VILL- BURICHATAM NO. 1
P.O.- GOLADANGI
P.S.- GOSSAIGAON
DISTRICT- KOKRAJHAR
ASSAM
PIN- 783361

3: SADANANDA SARMAH
S/O.- LATE TIRTHANATH SARMAH
VILL- GOHAIN TEKELA FCI GODOWN
P.O.- CHENGELIGAON
P.S.- JORHAT
DISTRICT- JORHAT
ASSAM
PIN- 785010

4: MADHUSMITA PHUKON SAIKIA
C/O.- LATE JAGNESWAR PHUKON
VILL.-AMGURI TOWN
WARD NO-7
P.O.- AMGURI
P.S.- AMGURI
DISTRICT- SIVASAGAR
ASSAM
PIN-785680

5: ABDUL MALEQUE CHOUDHURY
S/O.- ABDUL MANNAN CHOUDHURY
VILL.- BANTIPUR
P.O.-JARABARI
P.S.-BARPETA
DISTRICT-BARPETA
ASSAM
PIN- 781314

6: KAMAL UDDIN AHMED
S/O.- MAHIR UDDIN
VILL AND P.O.- NALIGAON
P.S.-SARTHEBARI
DISTRICT- BARPETA
ASSAM
PIN-781352

7: ROBIUL ISLAM
S/O.- EBAD ALI SHEIKH
VILL.- PATAKATA PT-II
P.O.-BAGRIBARI
P.S.-GOURIPUR
DISTRICT- DHUBRI
ASSAM
PIN-783349

8: LOVELY DAS
W/O.- BIJOY DAS
VILL- LAKSMISHAR WARD NO. 8
P.O.- LAKSMISHAR
P.S.- HAILAKANDI
DISTRICT- HAILAKANDI
ASSAM
PIN-788152

9: BANDANA DAS
D/O.- NAVA KANTA DAS
VILL- BAHBARI P.O.- KUMARIKATA

P.S.-TAMULPUR
DISTRICT- BAKSA
ASSAM
PIN-781360

10: MD SHAZIDUR RAHMAN
S/O.- MD AZIZAR RAHMAN
VILL.- PUBER GAON PT-II

P.O.- MANKACHAR. P.S.-MANKACHAR
DISTRICT- SOUTH SALMARA
ASSAM
PIN-783131

11: GITIKA NATH
W/O.- GAUTAM NATH
VILL-TIPLAI
P.O.-TIPLAI

P.S.- RANGJULI
DISTRICT- GOALPARA
ASSAM
PIN- 783130

12: MD. JUL HOQUE
S/O.- ABDUL MOTALEB
VILL.- MAHCHARA
P.O.- KACHUMARA
P.S.-KACHUMARA
DISTRICT- BARPETA
ASSAM
PIN-781127

13: NITUMONI DEURI
W/O.- CHANDRA DEURI
P.O.- BORDEURI
P.S.- NARAYANPUR
DISTRICT- LAKHIMPUR
ASSAM
PIN- 784164

14: BARNALI BORA
D/O.-BINOD BORA
VILL.- JAGI BHAKATGAON
P.O.- JAGIROAD
P.S.- JAGI BHAKATGAON
DISTRICT- MORIGAON
ASSAM
PIN- 782411

15: PUBALI BARUAH
D/O.- BINANDRA CHANDRA BARUAH
VILL.- BEZGAON BORAGAON
P.O.- KACHAMARI
P.S.- SADAR
DISTRICT- NAGAON
ASSAM

PIN- 782002

16: ABDUS SELIM CHOWDHURY
S/O.- MD ABDUR RASHID CHOWDHURY
VILL.- BATADRAVA BORBHETI
P.O.- BORBHETI
P.S.- BATADRAVA
DISTRICT- NAGAON
ASSAM
PIN- 782122

17: BAILA YESMIN
D/O.- LATE EAKUB ALI
VILL.- BARBARADI
P.O.- BHAGERPAR
P.S.-BARPETA
DISTRICT- BARPETA
ASSAM
PIN-781309

18: RAFIQUUL ISLAM
S/O.- HUSSAIN ALI
VILL.- BHAIRAGURI
P.O.- BHAIRAGURI
P.S.- BARPETA
DISTRICT- BARPETA
ASSAM
PIN- 781311

19: SALEH AHMED
S/O.- YEARISH ALI
VILL- PACHGRAM
P.O.- KATIRAIL
P.S.- KATIGORAH
DISTRICT- CACHAR
ASSAM
PIN- 788804

20: TULUMONI SARKAR
C/O.- NIRMAL ROY
VILL.- KONWARPUR
P.O.- KALAKHOWA
P.S.-LALUK
DISTRICT- LAKHIMPUR
ASSAM
PIN- 784160

21: KHIROD DEKA

S/O.- MAHESH DEKA
VILL.- CHURATA BORI
P.O. AND P.S.- MIKIRBHETA
DISTRICT- MORIGAON
ASSAM
PIN-782106

22: DHIREN PARE
S/O.- NIMAI PARE
VILL.-TARUNGAON
P.O.- KAWLI
P.S.- TAMULPUR
DISTRICT- BAKSA
ASSAM
PIN-781360

23: JYOTIRUPA MAZUMDAR
D/O.- TAPAN MAZUMDAR
VILL.- CHHAMARIA SATRA
P.O.- P CHHAMARIA
P.S.- BOKO
DISTRICT- KAMRUP (R)
ASSAM
PIN- 781136

24: MOZNUR HOSSAIN
S/O.- TAKDIR HOSSAIN
VILL.-SATSIA P.O.- JAMADARHAT

P.S.- FAKIRGANJ
DISTRICT- DHUBRI
ASSAM
PIN- 783330

25: KHALIUR RAHMAN
S/O.- NUR JAMAL
VILL- OZAGAON
P.O.- NIZ KHARUPETIA
P.S.- DHULA
DISTRICT- DARRANG
ASSAM
PIN- 784115

26: RIMPI KALITA
D/O.- BIREN KALITA
VILL.- KUMATIBARI
P.O.- GOPALPUR
P.S.- RANGIA

DISTRICT.-KAMRUP
ASSAM
PIN- 781354

27: PRITANJALI SAIKIA
D/O.- SNIGDHA SAIKIA
VILL.- MORAN HATKHULA
P.O.- MORAN HAT
P.S.- MORAN
DISTRICT.- DIBRUGARH
ASSAM
PIN-785670

28: PARVEEN SULTANA CHOUDHURY
D/O.- ABDUL BARI CHOUDHURY
VILL.- BHATI SANG JURAI
P.O.- ALGAPUR
P.S.- ALGAPUR
DISTRICT.- HILAKANDI
ASSAM
PIN- 788150

29: HELMINA SULTANA
S/O.- NAJIBUDDHIN AHMED
VILL.- MALIKUCHI
P.O.- NALBARI
P.S.-NALBARI
DISTRICT- NALBARI
ASSAM
PIN- 781335

30: AKLIMA KHATUN
D/O.-AKBOR ALI
VILL.- KADAMGURI
P.O.-KAOIMARI
P.S.-RUPAHIHAT
DISTRICT-NAGAON
ASSAM
PIN-782140

31: PRANITA TALUKDAR
D/O.- LT. HALIRAM TALUKDAR
VILL.- KHALIHAGURI
P.O.- TIHU
P.S.- TIHU
DISTRICT- NALBARI
ASSAM
PIN- 781371

32: PROVA KALITA
S/O.- AMAL KALITA
VILL.- POTIYORI
P.O.- CHAMAGURI SATRA

P.S.- KAMALBARI
DISTRICT- MAJULI
ASSAM
PIN- 785110

33: ABU KALAM MOLLAH
S/O.- ADBUS SATTAR MOLLAH
VILL.- KATDANGA
P.O.-MOHURIR CHAR

P.S.- SOUTH SALMARA
DISTRICT- DHUBRI
ASSAM
PIN-783128

34: MAMIR UDDIN
S/O.- HAZRAT ALI
VILL.- BANTIPUR
P.O.- JARABARI
DISTRICT- BARPETA
ASSAM
PIN-781314

35: SELINA BEGUM BARBHUYAN
W/O.- MASTAQUE AHMED
VILL.- DEWAR GOOL
P.O. ANGALAR BAZAR
P.S.-BADARPUR
DISTRICT- KARIMGANJ
ASSAM
PIN- 788806

36: PANKIL MALLICK
S/O.- JYOTISH MALLICK
VILL.- KONWARPUR

P.O.- KALAKHUWA
P.S.- LALUK
DISTRICT- LAKHIMPUR
ASSAM
PIN- 787023

37: KASHMIRI PHUKAN
D/O.- PRASHANTA DUTTA
VILL. AND P.O.- KOKCHABARI
P.S.- NARAYANPUR
DISTRICT- LAKHIMPUR
ASSAM
PIN-784165

38: SOFIQUL ISLAM
S/O. EUNUS ALI
VILL.- KASHIMPUR
P.O. AND P.S.- KACHUMARA
DISTRICT- BARPETA
ASSAM
PIN-781127

39: PARTHA PRATIM DUTTA
S/O. DEBA KANTA DUTTA
VILL.-JAGARAHABI
P.O.- SANTIPUR
P.S.-SIVASAGAR
DISTRICT- SIVASAGAR
ASSAM
PIN-785667

40: NIRMALI DAS
D/O. LT. RAJAT CHANDRA DAS
VILL.- HAJO
P.O. HAJO
P.S.-HAJO
DISTRICT- KAMRUP(R)
ASSAM
PIN-78110

VERSUS

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

2:THE PRINCIPAL SECRETARY OT THE GOV OF ASSAM
EDUCATION DEPARTMENT (ELEMENTARY)
DISPUR
GUWAHATI-781006

3:THE DIRECTOR
ELEMENTARY EDUCATION

KAHILIPARA
GUWAHATI-781019

4:THE EMPOWERED COMMITTEE FOR TET
ELEMENTARY EDUCATION
REPRESENTED BY THE MEMBER SECRETARY
KAHILIPARA
GUWAHATI-781019

5:THE BOARD OF SECONDARY EDUCATION
ASSAM
REPRESENTED BY ITS CHAIRMAN
BAMUNIMAIDAM
GUWAHATI-78102

Advocate for the Petitioner : MR S K SARKAR

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR

15.05.2024

O R D E R

Heard Mr. S.K. Sarkar, learned counsel for the petitioners. Also heard Mr. P.K. Borah, learned Standing Counsel, Elementary Education Department, Government of Assam, for respondent Nos.1, 2 and 3; Mr. B. Choudhury, learned Standing Counsel, SSA, for respondent No.4 and Mr. D.K. Roy, learned Standing Counsel, SEBA, for respondent No.5.

2. The respondent No.4, i.e., the Empowered Committee for TET, Elementary Education Department, Government of Assam issued an advertisement, dated 14.09.2021 in terms of the provisions of Section 23 of the RTE Act, 2009 to conduct Teacher Eligibility Test (TET) for Lower Primary and Upper Primary level for the State of Assam as per the guidelines laid down by the NCTE.

3. Pursuant to the advertisement, dated 14.09.2021, the petitioners herein participated in the TET examination and the results were declared on 15.12.2021. After the results were declared, some of the candidates were aggrieved and, therefore, submitted applications alleging setting of wrong questions, wrong answer keys awarded and discrepancies in downloading the OMR answer scripts, etc.

4. Accordingly, the Special Commissioner, Education Department, issued a Notification, dated 28.12.2021, constituting a Committee to re-check the queries as alleged by the candidates. Thereafter, the Subject Experts submitted their reports for 17 questions for the LP category and 13 questions for the UP category. Subsequently, the revised results were declared on 28.01.2022 whereby 8491 additional candidates passed in the LP category and 4286 additional candidates passed in UP category.

5. Prior to the issuance of the revised results on 28.01.2022, the petitioners herein filed WP(C) No.897/2022 alleging that certain questions as well as answers accepted by the SEBA were incorrect resulting in discrepancy in the results that were declared.

This Court disposed of the said writ petition by order, dated 11.02.2022, with the following directions:-

“3. Considering the nature of the grievance raised, we are of the view that it would be appropriate for the petitioner to file a detail representation before the Secretary, SEBA raising the specific instances as to which questions would be incorrect and which answers thereof were accepted by the SEBA, to be correct, although the same were incorrect and also to state the reasons thereof as to why the petitioners deem it to be incorrect.

4. Upon the detail representation being submitted, the Secretary, SEBA shall take up the matter with the other appropriate academic authorities under the SEBA and pass a

reasoned order on each of the assertions that may be made in the representation by giving reasons thereof. The detail representation be submitted on or before 17.02.2022 and a reasoned order thereof be passed within a period of fifteen days thereafter by the authorities in the SEBA, and the Secretary, SEBA shall ensure that the order is accordingly passed.

5. After the reasoned order be passed by the authorities in the SEBA, the same be communicated to the petitioner.

6. We further provide that in order to substantiate their allegation of incorrectness in the questions and answers, one representative of the petitioner shall also be given a hearing by the Secretary in the SEBA to substantiate their claim.

6. Writ petition stands allowed with the above indications.”

6. In terms of the directions passed by this Court in WP(C) No.897/2022 by order, dated 11.02.2022, the petitioners submitted their representations before the Secretary, SEBA. Thereafter, the Secretary, SEBA, considered their representations and issued an order on 12.05.2022 and the relevant portion of the order reads as under:-

“In the instant case, the petitioners requested to review the answer keys of 17 questions in LP category and 13 questions in UP category. The Controller of Examinations, SEBA was asked to arrange to review the answer key through subject experts, wherever necessary. The Controller of Examinations accordingly arranged for verification of the answer keys through subject experts. On critical verification of the complied observations of the subject experts as well as revised result published for both the categories of examinations, it is observed that the answer keys of all the questions mentioned in the petition has already been reviewed at the time of publishing of revised result and thus the revised result will remain unaffected with recent verification done by the subject experts.

Hence, it is clear that there is no scope for further revision of the result of the General TET, 2021.

The representations submitted by the petitioners are disposed of on the above terms."

7. Being aggrieved with the order, dated 12.05.2022, the petitioners are before this Court by way of the present writ petition alleging that the respondent No.5 had failed to comply the directions passed by this Court in WP(C) No.897/2022.

8. Learned counsel for the petitioners submits that the revised results were declared on 20.01.2022 prior to the issuance of the order of this Court, dated 11.02.2022, passed in WP(C) No.897/2022. He, therefore, submits that the respondent No.5 should have constituted another Committee for re-evaluation of the results that were declared earlier. However, respondent No.5 did not take any such steps and had issued the impugned order, dated 12.05.2022.

9. Mr. D.K. Roy, learned Standing Counsel, SEBA, on the other hand, submits that on receipt of the order, dated 11.02.2022, passed by this Court in WP(C) No.897/2022, the SEBA had conducted a verification. However, as the answer keys of the questions were already revised earlier, it was found not necessary to do so.

10. After considering the submissions made by the learned counsel for the parties and on perusal of the order, dated 12.05.2022, passed by the Secretary, SEBA, what transpires is that after the results of the General TET for LP and UP were declared on 15.12.2021, there were some allegations with regard to setting of some wrong questions, wrong answer keys and discrepancies in downloading of OMR answer scripts, etc. Accordingly, the Special Commissioner, Education Department, constituted a Committee by Notification dated 28th December, 2021 comprising of Subject Experts to re-check the queries as alleged by those candidates. After going through the process and on receipt of the

recommendations of the Subject Experts for both UP and LP category TET, the revised results were declared on 20.01.2022. In the said revised results, 8491 additional candidates passed in the LP category and 4286 additional candidates passed in the UP category.

11. WP(C) No.897/2022 filed by the writ petitioners was disposed of by order, dated 11.02.2022, after the revised results were declared on 20.01.2022. With the disposal of WP(C) No.897/2022 by order, dated 11.02.2022, the petitioners made their representation before the respondent No.5 questioning the answer keys of 17 questions in LP category and 13 in UP category. Thereafter, on receipt of the representation, the Controller of Examinations, SEBA was asked to review the answer keys through Subject Experts, wherever necessary. While verifying the answer keys requested by the petitioners, it was found that all the questions for both LP and UP category were already reviewed and, therefore, no further review was necessary. Accordingly, the order, dated 12.05.2022, was passed by the respondent No.4.

12. This Court is of the considered opinion that as the representation made by the petitioners alleging discrepancies in 17 questions in LP category and 13 in UP category were already reviewed by the Committee constituted by the Notification, dated 20.12.2021, and the Subject Experts having given their recommendations for 17 questions of LP and 13 question of UP category, there was no necessity for the respondent No.5 to have again carried out another verification process inasmuch as the same had already been done. Therefore, this Court does not find any discrepancy in the order, dated 12.05.2021, issued by the respondent No.5.

13. Accordingly, this writ petition is dismissed. There shall, however, be no order as to costs.

JUDGE

Comparing Assistant