

GAHC010164622023



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

Case No. : WA/420/2023

DR. PANKAJ KUMAR ROY
IN-CHARGE, PRINCIPAL/SECRETARY, UTTAR KAMPITH MAHAVIDYALAYA
(SR.), S/O LATE GIRISH CH. ROY, VILL.- JAGARA, P.O. AND P.S.- JAGARA,
DIST.- NALBARI, ASSAM, PIN - 781310.

VERSUS

1.THE STATE OF ASSAM AND 3 ORS B
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
HIGHER EDUCATION DEPARTMENT, DISPUR, GUWAHATI - 781006, ASSAM.

2:THE SECRETARY TO THE GOVT. OF ASSAM
HIGHER EDUCATION DEPARTMENT
DISPUR GUWAHATI - 781006 ASSAM.

3:THE DIRECTOR, HIGHER EDUCATION ASSAM
KAHILIPARA GUWAHATI- 781019 ASSAM.

4:UTTAR KAMPITH MAHAVIDYALAYA (SR.)
REP. BY ITS PRESIDENT OF THE GOVERNING BODY OF THE COLLEGE
SHRI KANAK KANTA DEKA
P.O. JAGARA DIST. NALBARI ASSAM PIN - 781310

Linked Case : I.A.(Civil)/2145/2024

DR. PANKAJ KUMAR ROY
IN-CHARGE PRINCIPAL/SECRETARY
UTTAR KAMPITH MAHAVIDYALAYA (SR.)
S/O LATE GIRISH CH. ROY
VILL.- JAGARA P.O. AND P.S.- JAGARA
DIST.- NALBARI ASSAM PIN - 781310.

VERSUS

1.THE STATE OF ASSAM AND 3 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
HIGHER EDUCATION DEPARTMENT
DISPUR GUWAHATI - 781006 ASSAM.

2:THE SECRETARY TO THE GOVT. OF ASSAM
HIGHER EDUCATION DEPARTMENT
DISPUR GUWAHATI - 781006 ASSAM.

3:THE DIRECTOR HIGHER EDUCATION ASSAM
KAHILIPARA GUWAHATI- 781019 ASSAM.

4:UTTAR KAMPITH MAHAVIDYALAYA (SR.)
REP. BY ITS PRESIDENT OF THE GOVERNING BODY OF THE COLLEGE
SHRI KANAK KANTA DEKA
P.O. JAGARA DIST. NALBARI ASSAM PIN - 781310.

Linked Case : WA/419/2023

DR PANKAJ KUMAR ROY
IN-CHARGE, PRINCIPAL/SECRETARY
UTTAR KAMPITH MAHAVIDYALAYA (SR.)
S/O LATE GIRISH CH. ROY
VILL.- JAGARA P.O. AND P.S.- JAGARA
DIST. NALBARI (ASSAM) PIN - 781310.

VERSUS

1.THE STATE OF ASSAM AND 12 ORS F
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
HIGHER EDUCATION DEPARTMENT
DISPUR GUWAHATI- 781006 ASSAM.

2:THE DIRECTOR
HIGHER EDUCATION ASSAM
KAHILIPARA GUWAHATI- 781019 ASSAM.

3:THE DEPUTY COMMISSIONER
NALBARI-CUM-CHAIRMAN
DISTRICT SCRUTINY COMMITTEE
NALBARI ASSAM PIN - 781335.

4:THE INSPECTOR OF SCHOOLS
NALBARI-CUM-MEMBER SECRETARY
DISTRICT SCRUTINY COMMITTEE
NALBARI ASSAM PIN - 781335.

5:THE HEADMASTER
GANGAPUKHURI BARKURIHA HIGH SCHOOL
P.O. BARKURIHA DIST. NALBARI
ASSAM PIN -781348.

6:THE SECRETARY TO THE GOVT. OF ASSAM
FINANCE ESTABLISHMENT (B) DEPARTMENT
DISPUR GUWAHATI- 781006 ASSAM.

7:THE SECRETARY TO THE GOV.T OF ASSAM
PENSION and PUBLIC GRIEVANCES DEPARTMENT
DISPUR GUWAHATI-781006 ASSAM.

8:THE SUPERINTENDENT OF POLICE NALBARI
DIST. NALBARI ASSAM PIN - 781335.

9:THE ADDL. DIRECTOR GENERAL OF POLICE
VIGILANCE AND ANTI CORRUPTION ASSAM
SRIMANTAPUR GUWAHATI PIN - 781032.

10:THE SECONDARY EDUCATION BOARD OF ASSAM (SEBA)
REP. BY ITS SECRETARY
BAMUNIMAIDAM DIST. KAMRUP (METRO)
ASSAM PIN - 781022.

11:DR. TARUN SARMA
S/O LATE RAM CHANDRA SARMA R/O VILL- BIDYAPUR
BYE LANE NO. 7 NEAR MNC BALIKA MAHA BIDYALAYA P.O.NALBARI P.S.
NALBARI DIST. NALBARI ASSAM PIN - 781335.

12:THE BRANCH MANAGER
STATE BANK OF INDIA NALBARI BRANCH
P.O. AND P.S. NALBARI DIST.NALBARI
ASSAM PIN - 781335.

13:UTTAR KAMPITH MAHAVIDYALAYA (SR.)
REP. BY ITS PRESIDENT OF THE GOVERNING BODY OF THE COLLEGE
SHRI KAMALA KANTA DEKA P.O. JAGARA DIST.- NALBARI
ASSAM PIN -781310.

For the Appellant/Applicant : Ms. J. Bezbaruah, Advocate.
For the Respondent(s) : Mr. S. Das, Standing Counsel, Higher Education
Department.
: Mr. P.K. Roy, Senior Advocate assisted by Mr. S.K.
Chakraborty, Advocate and Mr. B. Das, Advocate for

respondent No.11 in WA No.419/2023.

: Mr. N. Das, Government Advocate, Assam for respondent Nos.3, 7, 8 & 9 in WA No.419/2023.

: Mr. A. Chaliha, Standing Counsel, Finance Department for respondent No.6 in WA No.419/2023.

- BEFORE -

HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI

HON'BLE MR. JUSTICE KARDAK ETE

21.08.2024

(Vijay Bishnoi, CJ)

WA No.420/2023 is filed by the appellant being aggrieved with the order dated 17.03.2023 passed by the learned Single Judge in WP(C) No.4074/2016, whereby the learned Single Judge had dismissed the writ petition and directed the respondents to take steps for appointment of regular Principal of Uttar Kampith Mahavidyala (Sr.), if they so desire.

2. Pursuant to the above direction given by the learned Single Judge vide order dated 17.03.2023, the Director of Higher Education, Assam vide Notification dated 06.07.2024 in reference to the Notification dated 29.02.2024 allowed the Principal/President of Governing Body of the Colleges concerned to publish advertisement and to complete the selection process for appointment to the post of regular Principal in respect of colleges as per list enclosed wherein the name of Uttar Kampith College is reflected at Serial No.10.

3. The appellant/applicant has preferred I.A.(Civil) No.2145/2024 seeking stay upon the said Notification dated 06.07.2024 in reference to the Government Letter dated 29.02.2024.

4. WA No.419/2023 is filed by the appellant being aggrieved with the order

dated 17.03.2023 passed by the learned Single Judge in WP(C) No.977/2016, whereby the writ petition was closed.

5. In WP(C) No.4074/2016, the appellant made a prayer before the writ court for setting aside and quashing the impugned order dated 27.06.2016 issued by the Director of Higher Education, Assam whereby the President of Governing Body of Uttar Kampith Mahavidyalaya was also directed to publish advertisement and complete the selection process for the post of regular Principal in the said college. The appellant also prayed that the respondents be directed to consider the representation dated 02.07.2016 filed by him before Director, Higher Education, Assam.

6. In WP(C) No.977/2016, the appellant prayed that direction be issued to the respondents for setting aside the provincialisation order dated 20.01.2014, issued by the Director of Higher Education, Assam whereby the services of respondent No.11 in WA No.419, Dr. Tarun Sarma, were provincialised. The appellant had also challenged the appointment of said Dr. Tarun Sarma as Principal of the Uttar Kampith Mahavidyala (Sr.). Certain other relief such as recovery of salary paid to Dr. Tarun Sarma/respondent No.11 etc. had also been prayed.

7. The learned Single Judge, after hearing the learned counsel for the parties, has disposed of the WP(C) No.977/2016 vide impugned order dated 17.03.2023 mainly on the ground that the issue regarding provincialisation of the services of Dr. Tarun Sarma and his appointment as Principal need not be taken into consideration on account of the fact that the said person has already superannuated on 31.12.2014. The learned Single Judge has also taken into consideration the fact regarding the issue of fake certificate of HSLC Examination possessed by Dr. Tarun Sarma, a criminal case has already been

filed and the same is pending adjudication before the competent Criminal Court.

8. The learned Single Judge, while taking into consideration the above referred facts and circumstances of the case, has dismissed WP(C) No.4074/2016 and closed WP(C) No.977/2016.

9. Having gone through the material available on record and after taking into consideration the fact that the person whose provincialisation of services and appointment on the post of Principal in the above referred Mahavidyala were under challenge, has already superannuated, we do not find any case for interference with the impugned orders passed by the learned Single Judge.

10. Since the post of Principal of the aforesaid Mahavidyala is lying vacant, we are also in agreement with the learned Single Judge that the respondents should initiate the process for appointment of regular Principal of the said Mahavidyala.

In such circumstances, no case for interference is made out.

Accordingly, WA No.420/2023 and 419/2023 are dismissed.

Resultantly, I.A.(Civil) No.2145/2024 filed by the appellant/applicant in WA No.420/2023 is also disposed of.

Needless to say that if the appellant applies for appointment to the post of regular Principal of the aforesaid Mahavidyala pursuant to the advertisement issued by the respondents, his case shall be considered strictly in accordance with law.

JUDGE

CHIEF JUSTICE

Comparing Assistant