

GAHC010159672024



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

Case No. : WP(C)/4042/2024

DWIJENDRA TALUKDER AND 67 ORS.
S/O- LATE MANIRAM TALUKDER
VILLAGE AND P. O- NAGAON
DISTRICT- BARPETA, ASSAM
PIN- 781311

2: ZAHANGIR HUSSAIN
S/O- NIYAT ALI
VILL. AND P. O- PALHAZI
DISTRICT- BARPETA
ASSAM
PIN- 781309

3: BANJIT KR. CHOUDHURY
VILL- SUBAH
P. O- CHENGA
DISTRICT- BARPETA
ASSAM
PIN- 781305

4: ABDUR RAHIM
S/O- SABAN ALI
VILL- HABI DONGRA
DISTRICT- BARPETA
ASSAM
PIN- 781308

5: FAZLUR RAHMAN
S/O- SADEQUE ALI
VILL- PAHARPUR KATULY
P.O- HABIDONGRA
DISTRICT- BARPETA
ASSAM
PIN- 781308

6: HAFIZ KHAN
S/O- BANIS KHAN
VILL- HARIPUR
P. O- BAHARI HAT
DISTRICT- BARPETA
ASSAM
PIN- 781302

7: DILBAR HUSSAIN
S/O- KHORSHED ALI
VILL- BELORTARY
P. O- BARGHOL
DISTRICT- BARPETA
ASSAM
PIN- 781302

8: RAFIKUL ISLAM
S/O- KHORSHED ALI
VILL- BELORTARY
P. O- BARGHOL
DISTRICT- BARPETA
ASSAM
PIN- 781302

9: ALTAB ALI AHMED
S/O- LATE IDRISH ALI AHMED
VILL- PAHARPUR KATULY
P.O- HABIDONGRA
DISTRICT- BARPETA
ASSAM
PIN- 781308

10: ABDUL KHALEQUE
S/O- LATE KURAN ALI
VILL- GOPAL PUR
P. O- PAHUMARA
DISTRICT- BARPETA
ASSAM
PIN- 781308

11: SWAPNA TALUKDER
C/O- TILOK DEKA
VILLAGE AND P. O- NAGAON
DISTRICT- BARPETA
ASSAM
PIN- 781311

12: ABUL HUSSAIN
S/O- LATE HASMAT ALI
VILL. AND P. O- PALHAZI
DISTRICT- BARPETA
ASSAM
PIN- 781309

13: SADEK ALI
S/O- LATE KHABIR UDDIN
VILL. AND P. O- PALHAZI
DISTRICT- BARPETA
ASSAM
PIN- 781309

14: RABIA KHATUN
D/O- LATE IMAN ALI
VILL- MAILKUCHI
P. O- DHAKUWA
DISTRICT- BARPETA
ASSAM
PIN- 781309

15: NAZRUL ISLAM
S/O- LATE SUMSER ALI
VILL. AND P. O- SUKMANAH
DISTRICT- BARPETA
ASSAM
PIN- 781316

16: GOLAP HUSSAIN
S/O- LATE BILAYET HUSSAIN
VILL. AND P. O- PALHAZI
DISTRICT- BARPETA
ASSAM
PIN- 781309

17: SHAMSUN NEHAR
D/O- SHAMSUL ALOM
VILL. AND P. O- CHAPARBORI
DISTRICT- BARPETA
ASSAM
PIN- 781352

18: ZEAUL HOQUE
S/O- SAMSUDDIN AHMED
VILL- MAILKUCHI
P. O- DHAKUWA
DISTRICT- BARPETA

ASSAM
PIN- 781309

19: SORHAB ALI
S/O- LATE KAIM UDDIN
VILL- CHARAK PARA
P. O- DHAKUWA
DISTRICT- BARPETA
ASSAM
PIN- 781309

20: ABDUL MATIN AHMED
S/O- SAMSUDDIN AHMED
VILL- MAILKUCHI
P. O- DHAKUWA
DISTRICT- BARPETA
ASSAM
PIN- 781309

21: JOYNAL ABDIN
S/O- LATE DAGU MIAH
VILL. AND P. O- PALHAZI
DISTRICT- BARPETA
ASSAM
PIN- 781308

22: NURUL HUSSAIN
S/O- LATE AKKAS ALI
VILL. AND P. O- PALHAZI
DISTRICT- BARPETA
ASSAM
PIN- 781309

23: ABDUL BASED
VILL- MAILKUCHI
P. O- DHAKUWA
DISTRICT- BARPETA
ASSAM
PIN- 781309

24: MOMIN UDDIN
S/O- ABDUL MALEK
VILL- CHARAK PARA
P. O- DHAKUWA
DISTRICT- BARPETA
ASSAM
PIN- 781309

25: JEHERUL ISLAM
S/O- LATE ATOWAR RAHMAN
VILL- CHARAK PARA
P. O- DHAKUWA
DISTRICT- BARPETA
ASSAM
PIN- 781309

26: JAHIDUL ISLAM
S/O- LATE JAHUR UDDIN
VILL- BOGCHARA
P. O- ERA- BAMUNDI
DISTRICT- BARPETA
ASSAM
PIN- 781311

27: FARMAN ALI AHMED
S/O- LATE MANIR UDDIN
VILL- JADAVPUR
P.O- CHAKABAUSHI
DISTRICT- BARPETA
ASSAM
PIN- 781309

28: SHAMEZ UDDIN
S/O- LATE MUSLEM UDDIN
VILL- SALIMPUR
P.O- PAHUMARA
DISTRICT- BARPETA
ASSAM
PIN- 781309

29: BAHARUL ISLAM
S/O- ABDUL BASED MULLAH
VILL- KHANDAKARPARA
P. O- JOSHIHATI PARA
DISTRICT- BARPETA
ASSAM
PIN- 781316

30: SHAHJAHAN ALI AHMED
S/O- MUKSHED ALI
VILL- BAMONDONGRA
P. O- HABIDONGRA
DISTRICT- BARPETA
ASSAM
PIN- 781308

31: ATOWAR RAHMAN
S/O- SABDER ALI
VILL- MAILKUCHI
P. O- DHAKUWA
DISTRICT- BARPETA
ASSAM
PIN- 781309

32: KARNA DAS
S/O- BANESHAH DAS
VILL- BARADI
P. O- BHOGERPAR
DISTRICT- BARPETA
ASSAM
PIN- 781309

33: JAHANGIR HUSSAIN
S/O- LATE MAINUL HOQUE
VILL- GANAK PARA
P. O- MAKRIKUCHI
DISTRICT- BARPETA
ASSAM
PIN- 781305

34: ZAMIRUL KHAN
S/O- LOOKMAN KHAN
VILL- BELORTARY
P. O- BARGHOL
DISTRICT- BARPETA
ASSAM
PIN- 781302

35: SADULLAH SIKDER
S/O- LATE AKABBAR SIKDER
VILL- HARIPUR
P. O- BAHARI HAT
DISTRICT- BARPETA
ASSAM
PIN- 781302

36: JAHANARA BEGUM
D/O- KUWAT ALI
VILL- HARIPUR
P. O- BAHARI HAT
DISTRICT- BARPETA
ASSAM
PIN- 781302

37: JOYNAL ABDIN
S/O- TULU MIYA
VILL- BAHARI
P. O- BAHARI HAT
DISTRICT- BARPETA
ASSAM
PIN- 781302

38: NURMAHAMMAD ALI
S/O- HAZRAT ALI
VILL. AND P. O- BYASKUCHI
DISTRICT- BARPETA
ASSAM
PIN- 781370

39: JAHANGIR RAHMAN
S/O- LATE ABDUL ALI AHMED
VILL.AND P. O- BAGODI
DISTRICT- BARPETA
ASSAM
PIN- 781311

40: HAZRAT ZAKARIYA BHUYAN
S/O- AJMAT ALI BHUYAN
VILL. AND P. O- BHAIRAGURI
DISTRICT- BARPETA
ASSAM
PIN- 781311

41: RAMJAN ALI
S/O- LATE MUNSAR ALI
VILL- SALIMPUR
P.O- PAHUMARA
DISTRICT- BARPETA
ASSAM
PIN- 781309

42: ABDUR ROUF
S/O- LATE HATEM ALI
VILL- SALIMPUR
P.O- PAHUMARA
DISTRICT- BARPETA
ASSAM
PIN- 781309

43: ANOWAR HUSSAIN
S/O- ABUL HUSSAIN
VILL.AND P. O- JANIA

DISTRICT- BARPETA
ASSAM
PIN- 781314

44: JAINAL ABDIN
VILL. AND P. O- KAYAKUCHI
DISTRICT- BARPETA
ASSAM
PIN- 7813106

45: AFJALUR RAHMAN
S/O- MOINUL HOQUE
VILL- JADAVPUR
P.O- CHAKABAUSHI
DISTRICT- BARPETA
ASSAM
PIN- 781309

46: ABDUL KADER
VILL. AND P.O.- RAMAPARA
DISTRICT- BARPETA
ASSAM
PIN- 781308

47: DANES ALI
S/O- BADSHA MIYA
VILL- PAHARPUR KATULY
P.O- HABIDONGRA
DISTRICT- BARPETA
ASSAM
PIN- 781309

48: RAFIKUL ISLAM
S/O- AYUB ALI
VILL- PAHARPUR KATULY
P.O- HABIDONGRA
DISTRICT- BARPETA
ASSAM
PIN- 781309

49: ABUL KALAM AZAD
S/O- LATE FALU MIAH
VILL- SALIMPUR
P.O- PAHUMARA
DISTRICT- BARPETA
ASSAM
PIN- 781308

50: MD. JAKIR HUSSAIN
S/O- LATE RABI KHAN
VILL- HARIPUR
P. O- GOMAFULBARI
DISTRICT- BARPETA
ASSAM

51: AMBIA KHATUN
D/O- GANI MIAH
VILL- DONGRA
P. O- DHAKUWA
DISTRICT- BARPETA
ASSAM
PIN- 781308

52: AMINA KHATUN
D/O- LATE KADDUS ALI
VILL- TEMURA DONGRA
P. O- DHAKUWA
DISTRICT- BARPETA
ASSAM
PIN- 781309

53: JAMAL UDDIN
VILL. AND P. O- KAYAKUCHI
DISTRICT- BARPETA
ASSAM
PIN- 7813106

54: NAZMA SULTANA
D/O- JALAL UDDIN AHMED
VILL- JADAVPUR
P.O- CHAKABAUSHI
DISTRICT- BARPETA
ASSAM
PIN- 781309

55: LUTFAR RAHMAN
VILL- 2 NO. TUPAMARI
P. O- TUPAMARI
DIST- KAMRUP
ASSAM
PIN- 781127

56: SIRAJUL HOQUE
VILL. AND P. O- ANANDAPUR
DIST- BASKA
PIN-781344

57: MD. BINOD ALI
S/O- MUKSED ALI
VILL- PAHARPUR KATULY
P.O- HABIDONGRA
DISTRICT- BARPETA
ASSAM
PIN- 781309

58: MONJUWARA AHMED
D/O- LATE MANIR UDDIN
VILL- JADAVPUR
P.O- CHAKABAUSHI
DISTRICT- BARPETA
ASSAM
PIN- 781309

59: ARSHAD BABUL HUSSAIN
VILL- KADUWA
P. O- GOMAFULBARI
DISTRICT- BARPETA
ASSAM
PIN- 781309

60: ABDUR ROUF AHMED
VILL- SOHABIDOLONI
P. O- PALHAZI
DISTRICT- BARPETA
ASSAM
PIN- 781309

61: MD. SOLEMAN KHAN
S/O- LATE GIASH UDDIN AHMED
VILL- BETBARI
P. O- BARBALA
DIST- BARPETA
ASSAM
PIN- 781316

62: ABDUL MAZID
S/O- LATE ABDUL KHALEQUE
VILL- PAHARPUR KATULY
P.O- HABIDONGRA
DISTRICT- BARPETA
ASSAM
PIN- 781309

63: SHAHIDUL ISLAM

S/O- LATE ATOWAR RAHMAN
VILL- CHARAK PARA
P. O- DHAKUWA
DISTRICT- BARPETA
ASSAM
PIN- 781309

64: SOFIA BEGUM
D/O- LATE BILAYET HUSSAIN
VILL. AND P. O- PALHAZI
DISTRICT- BARPETA
ASSAM
PIN- 781309

65: AZMA AHMED
D/O- JALAL UDDIN AHMED
VILL- JADAVPUR
P.O- CHAKABAUSHI
DISTRICT- BARPETA
ASSAM
PIN- 781309

66: CHAND MAHMUD AHMED
S/O- LATE ARIF UDDIN
VILL- SAT SIA
P. O- JAMADARHAT
DIST- DHUBRI
PIN- 783330

67: RIJU KAKATI
C/O- ROHINI CHOUDHURY
VILL- BANIA KUCHI
P. O- LAU KHATA
DIST- BASKA
PIN- 781330

68: GETANJALI CHOUDHURY
C/O- GOBINDO BORO
VILL- BANIA KUCHI
P. O- LAU KHATA
DIST- BASKA
PIN- 78133

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM,
DEPARTMENT OF SCHOOL EDUCATION (ELEMENTARY DEPT.) DISPUR,

GUWAHATI-781006.

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-781019.

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
BARPETA
DISTRICT- BARPETA
ASSAM
PIN-781301.

4:THE DEPUTY INSPECTOR OF SCHOOLS
BARPETA
DISTRICT- BARPETA
ASSAM
PIN-781301

Advocate for the Petitioner : MR. A DEKA, MR N SARMA,MR. N HOSSAIN

Advocate for the Respondent : SC, ELEM. EDU,

BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR

ORDER

Date : 14.08.2024

- 1.** Heard Mr. A. Deka, learned counsel for the petitioner.
- 2.** Also Ms. N. Phukan, learned Standing counsel, Elementary Education Department, appearing for all the respondents.
- 3.** The petitioners, before this Court, were initially appointed as Assistant Teachers of Lower and Upper Primary Schools by the respective School Management Committee between the years 1989 to 1993. Thereafter, the District Elementary Education Officer, Barpeta, by different orders in the year 1992, gave provisional approval to the appointments of the petitioners.

However, when the schools, in which the petitioners were serving, were provincialised, the names of the petitioners were dropped.

4. In the meantime, the Govt. of Assam issued a policy decision by way of Notification dated 13.01.2003 issued by the Commissioner and Secretary to the Govt. of Assam, Education Department to streamline the procedure of adjustment of dropped teachers of ME/MEM/MV and High Schools of various districts in the State. The Notification dated 13.01.2003 is reproduced herein below:

“GOVERNMENT OF ASSAM

EDUCATION (ELEMNETARY) SECONDARY DEPARTMENT

NOTIFICATION

ORDERS OF THE GOVERNOR OF ASSAM

Dated Dispur, the 13th Jan, 03

No. (C) 26/2002/341/69 in order to streamline the procedure of dropped teachers of ME/MEM/MV and High Schools in various districts in the State the following criteria will be adopted with prospective effect:-

- 1. The teachers must have put at least two years of continuous service immediately preceding the taking over of the concerned schools by the Government.*
- 2. The appointment of dropped teachers must have been duly approved by the concerned District Elementary Education Officer/Inspector of schools.*
- 3. The appointment of dropped teachers by the Managing Committee must be commensurate with the enrolment of the students in the school at the time of provincialisation.*

- 4. The school wise norms of number of sanctioned posts to be maintained.*
- 5. The provincialisation particulars submitted by the then District Elementary Education Officer, Nagaon/Inspector of Schools and in the respective Directorates will be used as reference documents.*
- 6. Teacher fulfilling the above criteria will be considered for regularisation of their services subject to the availability of sanctioned post in the concerned districts.*

Sd/- Prem Saran

Commissioner & Secretary to the Govt. of Assam, Education Deptt.

Dtd. Dispur, the 13th Jan'03."

5. Thereafter, the Govt. issued an Advertisement dated 06.11.2004 inviting full particulars from the dropped teachers along with necessary documents for the purpose of scrutiny. The Petitioners in response to the Advertisement dated 06.11.2004 submitted the particulars. The Commissioner and Secretary to the Govt. of Assam Education (Elementary) Department issued a Notification dated 10.07.2010 reconstituting the High Power Committee for examination of all pending cases of dropped teachers of LP/ME/MEM/ High School/ Higher Secondary Schools including non-teaching staff under Education (Elementary & Secondary) Department. The said Notification dated 10.07.2010 was modified by another Notification dated 06.03.2017, wherein, it was provided that the Committee will hold its meeting at periodic intervals to examine the cases of dropped teaching and /non-teaching staff of Education (Elementary/Secondary) Department and submits report to the Government. As no steps were taken, despite submitting their relevant documents as provided under the Advertisement dated 06.11.2004, some of the dropped teachers approached

this Court by filing Civil Rule 1571 of 1998 and other batch of Writ Petitions which were disposed of by judgment and order dated 1st of September, 2003 and the relevant portion of the said judgment reads as under :

“6. In view of the above, this bunch of cases will stand now disposed of with the following directions :

(i) The cases of the petitioners in each of the cases will be considered in accordance with the norms, criteria and eligibility conditions prescribed by the policy document dated: 13.1.2003 subject to the modification in Condition Nos.1 and 2, as stated above.

(ii) The Chief Secretary to the Government of Assam, shall within 7 days from today, constitute a Committee to examine the cases of the petitioners in the present bunch of cases and such other cases, as may be referred to the said Committee, from time to time, by this Court. As the said Committee will be executing and implementing the policy decision taken by the state, this Court considers it appropriate to leave it to the discretion of the Chief Secretary to the Government of Assam to decide on the composition of the Committee with the suggestion that the Committee may be a high powered Committee consisting of 3 members and the present Secretary to the Government of Assam, Education Department may act as the Member-Secretary.

(iii) The Committee, upon due verification of the cases before it, shall within 6 months from the date of its constitution, prepare district wise lists of "dropped teachers" eligible for regularization in terms of the norms and criteria laid down as per direction No. 1 above. The eligible persons, on being identified, shall be arranged in the district wise lists, in order of seniority.

(iv) Suitable adjustments in the placements assigned in the district wise lists, as may be required upon consideration of such other cases which may be referred to the Committee in the future, shall be made by the Committee.

(v) Appointment against available posts in each district shall be made on the basis of the lists prepared.

(vi) All appointments made would be prospective but will carry the benefit of past services for

the purpose of computation of pensionary benefits.

6.All the writ petitions shall stand closed in terms of the above direction."

6. Mr. A. Deka, learned counsel for the petitioners, submits that the petitioners have been working as dropped teachers in Barpeta district. Thereafter, the District Elementary Education Officer, Barpeta, by a Communication dated 10.12.2004, submitted the particulars of dropped teachers to the Director of Elementary Education, Assam in response to the Government Advertisement dated 06.11.2004. He also submits that by Notification dated 13.01.2003, the Government has taken a policy decision to streamline the procedure for attachment of dropped teachers and accordingly, in terms of the said policy, a High Power Committee was constituted by Notification dated 06.03.2017. He submits that the High Power Committee is still in existence, however, the case of the petitioners were never placed before the High Power Committee and therefore, the respondents be directed to place the case of the petitioners before the High Power Committee for consideration.

7. Ms. N. Phukan, learned Standing counsel, Elementary Education Department, submits that the High Power Committee, constituted by the Notification dated 06.03.2017, is still in existence and as the petitioner claim to be dropped teachers, their cases may be placed before High Power Committee for consideration.

8. After hearing the parties and on consideration of the materials available on record, this Writ petition is disposed of directing the respondent No. 1, 2 and 3 to place the case of the petitioners before High Power Committee constituted by the Notification dated 06.03.2017 for consideration.

9. Let such exercise be done and completed within a period of 4(four) months from the date of receipt of a copy of the order of this Court. The High Power Committee while considering the case of the petitioners shall also hear the petitioners in person and thereafter pass appropriate orders.

10. With the above observations and directions, this writ petition stands disposed of.

JUDGE

Comparing Assistant