

GAHC010159682024



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

Case No. : WP(C)/4062/2024

KRISHNA RAM KALITA AND 64 ORS
S/O- MIHI RAM KALITA
VILL- ALIKASH
P. O- TUKRAPARA
DISTRICT- KAMRUP (R), ASSAM
PIN- 781137

2: SABITA KALITA
D/O- LATE BADAN CH. KALITA
VILL- BANGLIPARA
P. O- BHAWANIPUR
DISTRICT- BARPETA
ASSAM
PIN- 781352

3: RUPALI KALITA
D/O- LATE NARESWAR KALITA
VILL- MADHAYAN KORDOIGURI
P. O- KORDOIGURI
DISTRICT- BARPETA
ASSAM
PIN- 781318

4: PRANITA PATHAK
D/O- LATE KESHAB CH PATHAK
P. O- KORDOIGURI
DISTRICT- BARPETA
ASSAM
PIN- 781318

5: PARUL PATHAK
S/O- RAMANI KUMAR PATHAK
VILL. AND P. O- BARKAPLA
DISTRICT- BARPETA

ASSAM
PIN- 781307

6: BHASKAR THAKURIA
S/O-KHAGENDRA NATH THAKURIA VILL- JALIKHATA P. O- HELANA
DISTRICT- BARPETA
ASSAM
PIN- 781375

7: MUNNI PATHAK
D/O- LATE PRADEEP PATHAK
VILL- NORTH GUWAHATI
P. O- COLLEGE NAGAR
DISTRICT- KAMRUP (R)
ASSAM
PIN- 781137

8: RABIN CHOUDHURY
S/O- GOBINDA CHOUDHURY
VILL- BARBANG (JANPAR)
DISTRICT- BARPETA
ASSAM
PIN- 781325

9: HITESH BARMAN
S/O- LATE BHARAT CH. BARMAN
VILL- CHAMATA
P. O- PASCHIM CHAMATA
DISTRICT- NALBARI
ASSAM
PIN- 781306

10: PRASANTA CHPUDHURY
S/O- DIJEN CHOUDHURY
VILL- BORBANG(JANPAR)
P. O- BORBANG
DISTRICT- BARPETA
ASSAM
PIN- 781325

11: KABITA DEKA
D/O- LATE DADUL DEKA
VILL- MADHAYAN KORDOIGURI
P. O- KORDOIGURI
DISTRICT- BARPETA
ASSAM
PIN- 781318

12: ANJUMANI PATHAK
D/O-LATE GANESH PATHAK
VILL- CHAPARBARI
P. O- SARUPETA
DISTRICT- BARPETA
ASSAM
PIN- 781318

13: DHRUBA TALUKDER
S/O- LATE MAHINATH TALUKDER
VILL- BORBANG(TALUKDER SUBA)
P. O- BORBANG
DISTRICT- BARPETA
ASSAM
PIN- 781325

14: SUBODH ROY
S/O- SANKHADHAR ROY
VILL. AND P. O- AMDAH
DISTRICT- BARPETA
ASSAM
PIN- 781325

15: PRADIP KALITA
S/O- LATE BADAN CH. KALITA
VILL- BANGLIPARA
P. O- BHAWANIPUR
DISTRICT- BARPETA
ASSAM
PIN- 781352

16: DWIJEN BEZBARUAH
S/O- LATE KESHAB BEZBARUAH
VILL- PARMATHA
P. O- ARIKUCHI
DISTRICT- NALBARI
ASSAM
PIN- 781339

17: DIGANTA LAHKAR
S/O- BHOGIRATH LAHKAR
VILL- TIHUDEKHATA
P. O- HELANA
DISTRICT- BARPETA
ASSAM
PIN- 781375

18: KAKALI THAKURIA

D/O- RAMANI THAKURIA
VILL- KOCHDIGA
P. O- HELANA
DISTRICT- BARPETA
ASSAM
PIN- 781375

19: DIPANJALI BORMAN
D/O- ARABINDRA BORMAN
VILL- NIZ DOMOKA
P. O- SORBHOG
DISTRICT- BARPETA
ASSAM
PIN- 781317

20: HIMANGSHU THAKURIA
S/O- KHAGENDRA NATH THAKURIA
VILL- JALIKHATA
P. O- HELANA
DISTRICT- BARPETA
ASSAM
PIN- 781375

21: KANAK CH. KALITA
S/O- LATE NARESWAR KALITA
VILL- BAMUNBORI
P. O- ASSAM SYNTEX
DISTRICT- NALBARI
ASSAM
PIN- 781355

22: SUSHIL CH. SARMA
S/O- LATE JITENDRA SARMAH
VILL- CHOURAKARA
P. O- SONESWAR
DISTRICT- KAMRUP (R)
ASSAM
PIN- 781382

23: DHRUBAJYOTI BORMAN
S/O- ARABINDRA BORMAN
VILL- SANKARDEV NAGAR
P. O- SARUPETA
DISTRICT- BARPETA
ASSAM
PIN- 781318

24: GOUTAM DEKA

S/O- NANDESWAR DEKA
VILL- GOMURA
P. O- BHALAGURI
DISTRICT- BARPETA
ASSAM
PIN- 781318

25: JATINDRA DAS
S/O- KUSHA RAM DAS
VILL- DHUPGURI
P. O- SIMLAGURI
DISTRICT- BAKSA (BTR)
ASSAM
PIN- 781313

26: THAKUR CH. DAS
S/O- CHANDRA KANTA DAS
VILL- UJAN BAHBARI
P. O- BARANGBARI
DISTRICT- BAKSA
ASSAM
PIN- 781315

27: SAIFUL ISLAM
S/O- TAJUR ISLAM
VILL- BAHABARI
P. O- KHARUPETIA
DISTRICT- DARANG
ASSAM
PIN- 784115

28: PROMILA NATH
VILL- TITKUCHI
P.O- HALDHA
DISTRICT- KAMRUP
ASSAM
PIN- 781012

29: SHAH SARPAT ALI ANCHARY
S/O- POGU SHEIKH
VILL- SHIMUL BARI
P.O- KACHUMARA
DISTRICT- BARPETA
ASSAM
PIN- 781127

30: MANO MAHAN SARKAR
S/O- AKUL SRAKAR

VILL- BARAMMARA
P. O- NAGAON
DISTRICT- BARPETA
ASSAM
PIN- 781311

31: ABDUL LATIF
S/O- ABDUL KARIM
VILL- SHILA
P. O- BHELLA
DISTRICT- BARPETA
ASSAM
PIN- 781311

32: ANOWAR HUSSAIN
S/O- MUSHARAF HUSSAIN
VILL- HABI RADHAKUCHI
P. O- RADHAKUCHI
DISTRICT- BARPETA
ASSAM
PIN- 781309

33: JOON KALITA
S/O- DIMBESWAR KALITA
VILL. AND P. O- BARDUWA
DISTRICT- NAGAON
ASSAM
PIN- 78

34: HIMANGSHU KALITA
S/O- PANCHANAN KALITA
VILL- HUDU KHATA PATHAR
P. O- HUDU KHATA
DISTRICT- BAKSA
ASSAM
PIN- 781318

35: ABDUL HANNAN
S/O- MATLEB ALI
VILL. AND P. O- BHAORIA BHITHA
DISTRICT- KAMRUP
ASSAM
PIN- 781136

36: PRATIVA DEKA
D/O- LATE DEHI RAM DEKA
VILL. AND P. O- NAGAON
DISTRICT- BARPETA

ASSAM
PIN- 781311

37: URBASHI TALUKDAR
D/O- LATE TARANI TALUKDER
VILL. AND P. O- NAGAON
DISTRICT- BARPETA
ASSAM
PIN- 781311

38: MAMONI TALUKDAR
D/O- LATE ARUN TALUKDER
VILL- DAMARBOWA
P. O- NAGAON
DISTRICT- BARPETA
ASSAM
PIN- 781311

39: AMAL PATHAK
S/O- LATE AURABINDA PATHAK
VILL. AND P. O- NAGAON
DISTRICT- BARPETA
ASSAM
PIN- 781311

40: RAJASHREE TALUKDAR
D/O- LATE ARUN TALUKDER
VILL- DAMARABOWA
P. O- NAGAON
DISTRICT- BARPETA
ASSAM
PIN- 781311

41: WAZED ALI
S/O- MD. ALA UDDIN
VILL- 1 NO. TUPAMARI
P. O- TUPAMARI
DISTRICT- KAMRUP
ASSAM
PIN- 781127

42: SHEIKH ABDULLAH
S/O- ABDUL MALEQUE
VILL- KACHUMARA NC
P.O- KACHUMARA
DISTRICT- BARPETA
ASSAM
PIN- 781127

43: NUR BHANU NESSA
D/O- ABDUL HAMID MONDAL
VILL- SALKATA
P.O- BARKOLIA SERSHOW
DISTRICT- DHUBRI
ASSAM
PIN- 783330

44: ANOWAR HUSSAIN MANDAL
VILL- BALADMARI CHAR PT-1
P. O- BALADMARI CHAR
DISTRICT- GOALPARA
ASSAM
PIN- 783127

45: ARUP SARMAH
S/O- HAREN SARMA
VILL- CHALANTA PARA PT-1
P. O- CHALANTA PARA
DISTRICT- BONGAIGAON
ASSAM
PIN- 783388

46: SIMA TALUKDAR
D/O- LATE ARUN TALUKDER
VILL- DAMARABOWA
P. O- NAGAON
DISTRICT- BARPETA
ASSAM
PIN- 781811

47: JAIL HUSSAIN
S/O-MD. FAZAL HOQUE
VILL- 2 NO. TUPAMARI
P. O- TUPAMARI
DISTRICT- KAMRUP (R)
ASSAM
PIN- 781127

48: HAFIZUR TALUKDAR
S/O- NURMAHAMMAD
VILL- 2 NO. TUPAMARI
P.O- TUPAMARI
DISTRICT- KAMRUP (R)
ASSAM
PIN- 781127

49: RUHUL AMIN
S/O-LATE MAIZUDDIN ALI
VILL. AND P. O- BHAORIA BHITHA
DISTRICT- KAMRUP (R)
ASSAM
PIN- 781136

50: ABDUL JALIL AHMED
S/O- MOKACHAD ALI
VILL. AND P.O- MAHATOLI
DISTRICT- KAMRUP (R)
ASSAM
PIN- 78

51: JOYNAB BEGUM
D/O- SHAJAHAN ALI
VILL. AND P. O- BHAORIA BHITHA
DISTRICT- KAMRUP (R)
ASSAM
PIN- 781136

52: HAMIDA PARVIN
D/O- NEDU MIAH
VILL. AND P. O- MOHIMARI
DISTRICT- KAMRUP (R)
ASSAM
PIN- 781137

53: ABDUL KHALEQUE
S/O- MATLEB ALI
VILL. AND P. O- BHAORIA BHITHA
DISTRICT- KAMRUP (R)
ASSAM
PIN- 781136

54: SHAHIDA PARBIN
D/O-SHAH JAMAL
VILL- WARD NO.8
HOWLY
P. O- HOWLY
DISTRICT- BARPETA
ASSAM
PIN- 781316

55: SHAJAHAN ALI
S/O- TALEB ALI
VILL- SOULIA
P.O- RAVOTARY

DISTRICT- DHUBRI
ASSAM
PIN- 783127

56: ABDUS SALAM
S/O- ABDUL KADER
VILL- MATHAKATA
P. O- JAMADARHAT
DIST- DHUBRI
ASSAM
PIN- 783330

57: MD. RAFIQUUL ISLAM
S/O- LALMAMUD SK
VILL- JHAGRARPAT PT-IV
P. O- TIAMARI
DIST- DHUBRI
PIN-783331

58: AKMAL KHAN
S/O- LATE KADER KHAN
VILL. AND P.O- TUKRAPARA
DISTRICT- KAMRUP (R)
ASSAM
PIN- 781137

59: EMDADUL ISLAM
S/O- BASIRUL ISLAM
VILL. AND P. O- BHAORIA BHITHA
DISTRICT- KAMRUP (R)
ASSAM
PIN- 781136

60: ABDUS SATTAR CHOUDHURY
S/O- LATE MOFIZUDDIN
VILL. AND P. O- BHAORIA BHITHA
DISTRICT- KAMRUP (R)
ASSAM
PIN- 781136

61: NAZRUL HOQUE
S/O- LATE JOYNAL ABEDIN
VILL. AND P. O- BHAORIA BHITHA
DISTRICT- KAMRUP (R)
ASSAM
PIN- 781136

62: ABDUL LATIF

S/O-LATE MOFIZUDDIN
VILL. AND P. O- BHAORIA BHITHA
DISTRICT- KAMRUP (R)
ASSAM
PIN- 781136

63: BAHARUL ISLAM
S/O- BASIRUL ISLAM
VILL. AND P. O- BHAORIA BHITHA
DISTRICT- KAMRUP (R)
ASSAM
PIN- 781136

64: JOYNAL ABEDIN SAIKIA
S/O- JALAL SARKAR
VILL. AND P. O- HATIPARA
DISTRICT- KAMRUP (R)
ASSAM
PIN- 781141

65: SAIFUL ISLAM
S/O- OMAR ALI SARKAR
VILL- KANAHARA
P. O- TUKRAPARA
DISTRICT- KAMRUP (R)
ASSAM
PIN- 78113

VERSUS

THE STATE OF ASSAM 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
KAMRUP (R). DISTRICT- KAMRUP (R)
ASSAM
PIN-781031

4:THE DEPUTY INSPECTOR OF SCHOOLS

KAMRUP (R) DISTRICT- KAMRUP (R)
ASSAM
PIN-78103

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

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 various Lower and Upper Primary Schools by the respective School Management Committee between the years 1988 to 1989. Thereafter, the appointments of the petitioners were given provisional approval by the District Elementary Education Officer, Kamrup by various orders between the years 1990 to 1991. 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 13.1.2003 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 Kamrup (R) district. Thereafter, the District Elementary Education Officer, Kamrup, by a Communication dated 09.07.2004, 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