

GAHC010245062023



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

Case No. : WP(C)/6980/2023

PUNYA DEORI AND 4 ORS.

D/O- LATE GAJENDRA DEORI, R/O- VILL.- NAM DEORI, P.O. NAM DEORI,
P.S. AND DIST. JORHAT, ASSAM, PIN- 785001.

2: TUTUMONI BORAH

W/O- LATE NORESWAR BORAH

R/O- VILL.- CHENIJAN

R/O- VILL.- CHENIJAN

P.O. CHENIJAN

DIST. JORHAT

ASSAM

PIN- 785001.

3: BASANTI SAIKIA DUTTA

W/O- SRI AJIT DUTTA

R/O- VILL.- BALIGAON KURKATOLI

DIST. JORHAT

ASSAM

PIN- 785001.

4: SMTI RITA MONI SAIKIA DUTTA

W/O- NORENDRA DUTTA

R/O- VILL.- GOROKHIADOL

DIST. JORHAT

ASSAM

PIN- 785001.

5: SMTI TUTUMONI HAZARIKA

D/O- LATE DEOTI HAZARIKA

R/O- VILL.- GOROKHIADOL

P.O. GOROKHIADOL

DIST. JORHAT

ASSAM

PIN- 785001

VERSUS

DIRECTOR, ASSAM HANDLOOM AND TEXTILE AND 3 ORS
AMBARI, GUWAHATI, DIST. KAMRUP, ASSAM, PIN- 781001.

2:ASSISTANT DIRECTOR
ASSAM
HANDLOOM AND TEXTILE
SOLADHARA MAWALI
DIST. JORHAT
ASSAM
PIN- 785001.

3:SUPERINTENDENT
HANDLOOM PRODUCTION CENTRE
ASSAM HANDLOOM AND TEXTILE
TORAJAN
A.T. ROAD
PIN- 785001.

4:STATE OF ASSAM
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM
HANDLOOM AND SERICULTURE DEPARTMENT
ASSAM SACHIBALAYA
DISPUR
GUWAHATI-781006

Advocate for the Petitioner : MR A DASGUPTA

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

08.01.2024

Heard Mr. A. Dasgupta, learned Sr. Counsel assisted by Ms. B. Das, learned counsel for the petitioners. Also heard Mr. R. Dhar, learned Addl. Sr. Government Advocate for all the respondents.

2. This writ petition is filed by the petitioners who are all lady weavers

working under the Superintendent of Handloom and Textile, Handloom Production Centre, Jorhat. They were engaged by the Handloom and Textile Department on contract basis. Raw materials are supplied to the petitioners for making finished products and depending upon the amount of work. They are provided with yard and weave to produce certain quality of cloths with specific design as provided by the concerned authority.

3. It is submitted by the learned Sr. counsel for the petitioners that the petitioners are working since 1998. The learned Sr. counsel for the petitioners submits that by a Notification dated 15.03.2012 issued by the Labour and Employment Department, Government of Assam, revising the minimum wages payable to the employees of the establishment including Handloom Weaving Establishment in exercise of its power. Although the petitioners have been performing their work without any complaint, however, in spite of this Notification they have not been granted minimum scale of pay.

4. The learned Senior counsel for the petitioners has referred to the Judgment of Co-ordinate Bench rendered in W.P.(C) No. 3077/2012 (Smti Punya Deori & Ors Vs. The Director, Assam Handloom & Textile & ors), wherein the Co-ordinate Bench by order dated 19.12.2012 has held that in view of the Labour and Employment Department issuing the Notification dated 15.03.2012 under Sub Section 2 of Section 5 read with Clause (b) of sub Section 1 of Section 3 of the 1948 Act, revising the minimum rate of wage payable to the employees/workers in the scheduled employments. The Co-ordinate Bench held that the said notification, reveals that employment in Handloom and Weaving Establishment has already been notified as scheduled employment. It is submitted that in view of such categorical finding, there is no dispute that the petitioners who are employed as contract employees under the Handloom and

Weaving Establishment are engaged as weavers which is notified as a scheduled employment. Mr. Dasgupta has also referred to a Judgment of another Co-ordinate Bench of this Court rendered in W.P.(C) No. 8460/2019 vide order dated 25.11.2019, whereby the Co-ordinate Bench held that if the petitioners engaged as weavers are included in the Handloom and Weaving Establishment under Provisions of 1948 Act, then they are entitled to be granted a minimum of pay scale fixed by the Finance Department of the State on 08.08.2019, in pursuance to the directions of the Division Bench of this Court vide Judgment and Order dated 08.06.2017 passed in W.A. No. 45/2015.

5. Having heard the learned Sr. counsel for the petitioners and upon careful perusal of the writ petition, it is seen that there is a finding by a Co-ordinate Bench rendered in W.P.(C) No. 3077/2012 by Judgment and Order dated 19.12.2012 that weaving is included as a scheduled employment under the Handloom and Weaving Establishment under the Provisions of 1948 Act, and the said view has not been interfered with by any appellate authority as on date. That apart, there is a direction by another Co-ordinate Bench by Order dated 25.11.2019 passed in 8460/2019 to grant the benefit of minimum of pay scale by the Finance Department in terms of the Notification dated 08.08.2019 in terms of the directions of this Court passed in W.A. No. 45/2014 (Upen Das Vs. State of Assam).

6. Under such circumstances, this Court is of the considered view that the respondents are required to examine the cases of the petitioner and if found to be covered by the directions contained in the Judgment and Order dated 19.12.2012 passed in W.P.(C) No. 3077/2012 read with the Order dated 25.11.2019 passed in W.P.(C) No. 8460/2019, then the petitioners should not be deprived of the benefits of the minimum of pay scale as notified by the Finance

Department. If upon such verification, the respondents find that the petitioners are entitled to the benefits of minimum of pay scale and the same should be released without any further delay.

7. The entire exercise of examination and passing a speaking order in respect of the petitioners shall be conducted and completed within a period of 60 days from the date of receipt of certified copy of this order.

8. In view of the orders passed by this Court in W.P(C) No. 3077/2012 by Judgment and Order dated 19.12.2012 and W.P.(C) No. 8460/2019 by Order dated 25.11.2019, read with the Judgment and Order dated 08.06.2017 passed in W.A. No. 45/2014, the directions have been passed by this Court at the stage of motion without issuance of notice. The respondents are represented by Mr. R. Dhar, learned Addl. Sr. Government Advocate.

9. The writ petition accordingly stands disposed of in terms of the above.

10. Copy of this order be marked to the Office of the Addl. Sr. Government Advocate and the petitioner will furnish a certified copy before the Competent authority along with copy of the writ petition.

JUDGE

Comparing Assistant