

GAHC010286432023



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

Case No. : I.A.(Civil)/383/2024

NABADWIP NANDI
S/O LATE JAGADISH CH. NANDI, P.O. AND P.S.-KOKRAJHAR, DIST-
KOKRAJHAR, ASSAM, PIN-783370

VERSUS

THE STATE OF ASSAM AND 9 ORS.
THROUGH THE CHIEF SECRETARY TO THE GOVT. OF ASSAM, DISPUR,
GUWAHATI-781006

2:THE PRINCIPAL SECRETARY TO THE GOVT OF ASSAM
GENERAL ADMINISTRATION DEPARTMENT
DISPUR
GUWAHATI-781006
ASSAM

3:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-781006
ASSAM

4:THE SECRETARY TO THE GOVT. OF ASSAM
DEPARTMENT OF SCHOOL EDUCATION
DISPUR
GUWAHATI-781006
ASSAM

5:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-781019

ASSAM

6:THE BODOLAND TERRITORIAL COUNCIL
THROUGH THE PRINCIPAL SECRETARY
BTC
KOKRAJHAR
ASSAM

7:THE DIRECTOR OF EDUCATION
BTC
KOKRAJHAR
ASSAM

8:THE DEPUTY COMMISSIONER
KOKRAJHAR
ASSAM

9:THE DISTRICT ELEMENTARY EDUCATION OFFICER
KOKRAJHAR
ASSAM

10:THE DEPUTY INSPECTOR OF SCHOOLS
KOKRAJHAR
ASSA

Advocate for the Petitioner : MR. P J PHUKAN

Advocate for the Respondent : GA, ASSAM

Linked Case : WP(C)/4305/2023

NABADWIP NANDI
S/O LATE JAGADISH CH. NANDI
P.O. AND P.S.-KOKRAJHAR
DIST-KOKRAJHAR
ASSAM
PIN-783370

VERSUS

THE STATE OF ASSAM AND 9 ORS.
THROUGH THE CHIEF SECRETARY TO THE GOVT. OF ASSAM

DISPUR
GUWAHATI-781006

2:THE PRINCIPAL SECRETARY TO THE GOVT OF ASSAM
GENERAL ADMINISTRATION DEPARTMENT

DISPUR
GUWAHATI-781006

ASSAM

3:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT

DISPUR
GUWAHATI-781006

ASSAM

4:THE SECRETARY TO THE GOVT. OF ASSAM
DEPARTMENT OF SCHOOL EDUCATION

DISPUR
GUWAHATI-781006

ASSAM

5:THE DIRECTOR OF ELEMENTARY EDUCATION

ASSAM

KAHILIPARA
GUWAHATI-781019

ASSAM

6:THE BODOLAND TERRITORIAL COUNCIL
THROUGH THE PRINCIPAL SECRETARY

BTC

KOKRAJHAR

ASSAM

7:THE DIRECTOR OF EDUCATION

BTC

KOKRAJHAR

ASSAM

8:THE DEPUTY COMMISSIONER

KOKRAJHAR

ASSAM

9:THE DISTRICT ELEMENTARY EDUCATION OFFICER

KOKRAJHAR

ASSAM

10:THE DEPUTY INSPECTOR OF SCHOOLS

KOKRAJHAR

ASSAM

Advocate for : MR. P J PHUKAN

Advocate for : GA

ASSAM appearing for THE STATE OF ASSAM AND 9 ORS.

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

Date : 13.02.2024

Heard Mr. P. J. Phukan, learned counsel for the applicant. Also heard Mr. P. N. Sarma, learned standing counsel, Education department; Mr. B. Gogoi, learned standing counsel, Finance department and Mr. P. Nayak, learned standing counsel for the BTC.

2. This Interlocutory Application has been filed praying for modification of the order dated 04.08.2023 passed in WP(C)/4305/2023. The learned counsel for the applicant/writ petitioner submits that in view of order dated 04.08.2023, the petitioner had two prayers in view of the enhancement of age from 60 to 61 years by the appropriate authority in the Education department, Government of Assam. His prayer was not required to be considered. However, in respect of the other prayer seeking promotion, this Court had disposed of the writ petition with the following direction:-

“5. In that view of the matter, in the meantime, if the Department is proceeded to promote any employee, who is junior to the petitioner, as would be evident from the gradation list maintained by the Department then the case of the petitioner shall be considered by the Department in respect of his promotion as per the provision of law. In this regard, the petitioner is granted liberty to approach the Department by filing a detailed representation ventilating his grievances in respect of non-consideration of his case for promotion. The petitioner shall file his representation before the Director of Education, BTC within a period of 2 (two) weeks from the date of receipt of a certified copy of this order and the Director of Education, BTC, upon receipt of such representation will look into the matter and after considering all necessary facts shall pass a reasoned speaking order disposing of the said representation. Any such order is passed, a copy of the same shall be furnished to the petitioner. This entire exercise shall be completed before 31.08.2023”.

3. It is submitted by the learned counsel for the petitioner that in the said paragraph the petitioner was directed to file his representation before the Director of Education, BTC and thereafter the said authority will look into the matter and passed a reasoned order.

4. The submission of the learned counsel for the applicant is that in matters of promotion it is the Secretary of the department, who is the appropriate authority. And therefore instead of Director of Education, BTC the representation is required to be filed before the Secretary to the Government of Assam, Department of School Education, Dispur. It is Opposite party No. 4 in the said Interlocutory Application as the said authority was the appointing authority of the writ petitioner.

5. The limited prayer in this Interlocutory Application is for modification of the order to the extent of modifying towards Director of Education, BTC appearing in paragraph of the said order to "Secretary to the Government of Assam, Department of School Education, Dispur" .

6. Mr. P. N. Sarma, learned standing counsel, Education department and Mr. B. Gogoi, learned standing counsel, Finance department and Mr. P. Nayak, learned standing counsel, BTC does not object to the prayer made.

7. Since no objections are raised by the respective learned standing counsel, this Court is of the view that the limited prayer made in the Interlocutory Application can be allowed.

8. Accordingly, the petitioner is now permitted to file a fresh representation before the "Secretary to the Government of Assam, Department of School Education, Dispur" within a period of 3 (three) weeks from the date of receipt of a certified copy of this order passed in the Interlocutory Application and the

entire exercise be completed within a period of 30 days from the date of receipt of the representation by the Respondent No.4, Secretary to the Government of Assam, Department of School Education, Dispur.

10. The order dated 04.08.2023 passed in WP(C)/4305/2023 is modified to the extent indicated above.

11. This order shall be read together with the order dated 04.08.2023 passed in WP(C)/4305/2023.

12. Interlocutory Application is accordingly allowed and disposed of.

JUDGE

Comparing Assistant