

HIGH COURT OF TRIPURA
AGARTALA

WP(C) 650 OF 2024

1.SRI GOUTAM DAS

S/o Sri Gouranga Das, Vill- Radhanagar, P.O.- Agartala, P.S.- West Agartala, District- West Tripura, Pin- 799001, age-55.

2.SRI TUTAN ROY,

S/o Lt. Nikhil Ch. Roy, Vill.- No. 1 Goutamnagar, PO and PS Bishalgarh, District- Sephahijal, Tripura, Pin- 799102, age-50.

3.SMT. SUKRITI BISWAS,

W/o Sri Gopal Nama, Vill- Montala, P.O.- Algapur, P.S.- Dharmanagar, District- North Tripura, Pin- 799253, age-51.

4.SMT. JHUMELI DEBBARMA,

W/o- Dr. Shyama Debbarma, Vill. and P.O. and P.S.- Lefunga, District- West Tripura, Pin- 799210. age- 48 years.

5.SRI UMASANKAR ACHARJEE,

S/o Lt. Sampad Kr. Acharjee, Vill- Krishnanagar, P.O.- Agartala, P.S.- West Agartala, District- West Tripura, Pin- 799001, age-49 years.

6.SRI RAGHU PATI SINGH,

S/o Sri Bhumeswar Singh, Vill. and P.O.- Abhoy Nagar, P.S.- East Agartala, Pin- 799005, age-45 years.

7.SMT. SUJATA DAS,

D/o Sri Bhasan Chandra Das, Vill.- 67, H.G.B. Road, P.O. Agartala, P.S.- West Police Station, District- West Tripura, Pin- 799001, age-46.

8.SRI NIRMAL KANTI SAHA,

S/o Lt. Ram Kamal Saha, Vill- Indranagar Purba Kali Bari (Choudhuri Tilla), P.O.- Indranagar, P.S.-N.C.C., District- West Tripura, Pin- 799006, age-47.

9.SRI RAMJATAN PASHI,

S/o Lt. Balaam Pashi, Vill and Po- Baligaon, PS- Kamalpur, District- Dhalai, Tripura, age-48.

10.SRI RAMU ROY,

S/o Lt. Nrayan Roy, Vill- Bankumari, Jogendranagar (Nath Para), Po- Jogendranagar, Ps- East Agartala, District- West Tripura, Pin- 799004, age-45

11.SRI SUBHANKAR DATTA,

S/o Lt. Ajit Kumar Datta, Vill.- East Shibnagar (Piya Basanti Apartment), P.O. Agartala College, P.S.- East Agartala, District- West Tripura, Pin-799004, age-45.

---Petitioners.

Versus

1.The state of Tripura

(To be represented by the Principal Secretary, Department of Tribal Welfare, Government of Tripura), New Secretariat Building, New Capital Complex, Kunjaban, P.S- New Capital Complex, Agartala, West Tripura, PIN 799010.

2.Tripura Tribal Welfare Residential Educational Institutions

Society, (TTWREIS), to be represented by it's Member Secretary, Gurkhabasti, Agartala, West Tripura, Pin- 799006.

3.The Director,

Tribal Welfare Department, Govt. of Tripura, Gurkhabasti, P.N Complex, Agartala, West Tripura, Pin- 799006

4.Union of India,

To be represented by the Secretary, Ministry of Tribal Affairs, 416, 4th Floor, B-Wing, Shastri Bhawan, New Delhi-110001.

5.National Education Society for Tribal Students (NESTS),

To be represented by it's Commissioner/Joint Commissioner, (An autonomous Organization under Ministry of Tribal Affairs, Govt. of India, Ground Floor, Gate- 3A, Jeevan Tara Building, Parliament Street, New Delhi-110001

---Respondents.

ALONG WITH
WP(C) 652 OF 2024

1.Sri Sudhir Debbarma

S/O-Lt. Baishakh Debbarma, R/o- Old Gayangfung Para, P.O- Yeakharai Bazar, P.S- Kalyanpur, Dist- Khowai Tripura, PIN-799203, Age-52.

2.Smt. Meenakshi Kalai,

W/o-Sri Sujit Kalai, R/o- Agartala, Ps-East Agartala, Dist- West Tripura, Pin-799001, age-45.

3.Smt. Kalpana Daru,

W/o-Joy Kanta Noatia, R/o- Morsumpathar, P.O-Kalaban, PS-R.K. Pur, District- Gomati Tripura, Pin-799125,age-46.

4.Sri Litan Deb,

S/O- Sanjoy Deb, R/o- Bardowali, P.O.- A.D. Nagar, PS- A.D. Nagar, District- West Tripura, Pin- 799003, age-47.

5.Sri Kumar Debbarma,

S/O- Late-Sambhucharan Debbarma, R/o-Amtali, P.O.-Brajaapur, P.S.- Bishalgarh, District- Sepahijala, Pin-799102, age-48.

6.Smt. Sankari Roy Das,

D/o- Arun Chandra Roy, R/o-A.D. Nagar, Road No 6, P.O. A.D. Nagar,
P.S.-A.D. Nagar, Dist.-West Tripura, Pin-799003, age-46.

7.Smt. Panna Rani Debbarma,

W/o- Kritu Debbarma, R/o-- Baramaidan bazar, P.S-Kalyanpur, Dist.-
Khowai Tripura, Pin- 799203, age-44.

8.Smt. Tinku Senchoudhuri,

W/O- Ratan Gon Choudhury, R/o- Kalikapur, Hrishyamukh, P.O.
Hrishyamukh, P.S.- BELONIA, Dist- South Tripura, PIN 799156, age-
48.

9.Sri Amitabha Pal,

S/O Late Phanindra chandra Pal, R/o- Badharghat, MatriPalli, Agartala,
Pin-799003, age-47.

10.Smt. Kanika Das,

D/O- Jagadish Das, R/o- -Subhasnagar, P.O-Birendranagar, P. S- Jirania,
Dist- West Tripura, Pin-799045, age-45.

11.Smt. Jharna Banik,

W/o- Satyajit Bandyopadhyay, R/o- Subhashpalli, North Badharghat,
P.O.- A.D Nagar, P.S.- A.D. Nagar, Dist.- West Tripura, Pin-799003,
age-49.

12.Sri Dhiman Chakraborty,

S/o Lt. Anil Chandra Chakraborty, R/o- Kulai Thakur Pally, P. O Kulai
Bazar, P.S Ambassa, Dist- Dhalai Tripura, PIN-799204. age-48.

---Petitioners.

Versus

1.The State of Tripura (to be represented by the Principal Secretary,
Department of Tribal Welfare, Government of Tripura), New Secretariat
Building, New Capital Complex, Kunjaban, P.S- New Capital Complex,
Agartala, West Tripura, PIN 799010.

**2.Tripura Tribal Welfare Residential Educational Institutions
Society, (TTWREIS),**

To be represented by it's Member Secretary, Gurkhabasti, Agartala, West
Tripura, Pin- 799006.

3.The Director,

Tribal Welfare Department, Govt. of Tripura, Gurkhabasti, P.N
Complex, Agartala, West Tripura, Pin-799006.

4.Union of India,

To be represented by the Secretary, Ministry of Tribal Affairs, 416, 4th
Floor, B-Wing, Shastri Bhawan, New Delhi-110001.

5.National Education Society for Tribal Students (NESTS),
To be represented by it's Commissioner/Joint Commissioner,
(An autonomous Organization under Ministry of Tribal Affairs, Govt. of
India, Ground Floor, Gate- 3A, Jeevan Tara Building, Parliament Street,
New Delhi-110001.

---Respondents.

**BEFORE
HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA**

For the Petitioner(s) : Mr. P. Roy Barman, Sr. Counsel.
Mr. Samarjit Bhattacharjee, Advocate.

For the Respondent(s) : Mr. P. Gautam, Sr. G.A.
Mr. Bidyut Majumder, Dy.SGI.
Mr. P. Maishan, Advocate.

Date of hearing and date of
delivery of Judgment & Order : **28.11.2025**

Whether fit for reporting :

YES	NO
	✓

JUDGMENT & ORDER (ORAL)

Heard Mr. Purusuttam Roy Barman, learned senior counsel appearing for the petitioners. Also heard Mr. Pradyumna Gautam, learned senior G.A. appearing for respondents-State, Mr. Bidyut Majumder, learned Deputy SGI appearing for respondents-Union of India and Mr. Pradyot Maishan, learned counsel appearing for the respondent No.2.

2. The gravamen of the grievances of the petitioners, as gathered from the pleadings, is that the petitioners in WP(C) No.650 of 2024 were appointed against different non-teaching posts under Tripura Tribal Welfare Residential Educational Institutions Society (for short, TTWREIS) during the period from 2003 to 2010, and in WP(C) No.652 of 2024, all the petitioners, who are teaching staff, were appointed under TTWREIS from 2003 to 2011 as Graduate Teachers and Trained

Graduate Teachers (TGT). The TTWREIS is a society under the control of Tribal Welfare Department, Government of Tripura.

3. On 23.03.2020, a Memorandum of Understanding (MoU) was executed between TTWREIS and the National Education Society for Tribal Students (for short, NESTS), a society under control of Ministry of Tribal Welfare, Govt. of India, for providing good quality modern education including a strong component of inculcation of values, awareness of the environment, adventure activities and physical education to the tribal children. The relevant clauses of said MoU regarding roles and responsibilities of the First Party i.e. NESTS, are extracted hereunder:

“3. ROLES AND RESPONSIBILITIES OF THE FIRST PARTY

3.1. Operationalisation of the scheme in all its contours.

3.2. Plan, construct, establish, endow and administer the Schools and to do all acts and things necessary for or conducive to tribal education.

3.3. Provide good quality modern education- including a strong component of inculcation of values, awareness of the environment, adventure activities and physical education to the tribal children.

3.4. Provide facilities, at a suitable stage for instruction through a common medium all over the county as per the language norms of CBSE.

3.5. Offer a common core-curriculum of NCERT to ensure uniformity in standards.

3.6. Facilitate CBSE affiliation of schools.

3.7. Facilitate conduct of training / capacity building programmes for teaching and non-teaching staff in coordination with the Second Party.

3.8. Transfer the admissible Recurring Costs based on the actual requirement as to be projected by the Second Party in the beginning of the financial year for onward transmission to the schools through PFMS.

3.9. Shall provide detailed standards and norms for recruitment of Teaching and Non-Teaching Staff as

formulated by the Ministry of Tribal Affairs, Government of India.

3.10. Shall provide detailed standards and norms for continuation of existing staff as formulated by the Ministry of Tribal Affairs, Government of India.

3.11. Shall review the existing MoUs signed by the Second Party or the State Government with Non-Governmental Organizations (NGOs) regarding running of the existing schools and may allow the Second Party to enter into a fresh MoU only if the academic results are found good and any other benchmarks as decided by the Ministry of Tribal Affairs, Government of India is met.

3.12. If need be, could entrust the recruitment of teachers for States to an independent agency duly ensuring reservation quota prescribed therein.

3.13. Aid, establish and conduct other institutions as may be required for the furtherance of the Society's objectives in any part of India.

3.14. Do all such things as may be considered necessary, incidental or conducive to the attainment of all or any of the objectives of the Society.

3.15. Carry out any other activities required for implementation of the Scheme, as directed by Ministry of Tribal Affairs, Government of India from time to time."

4. The NESTS also issued guidelines, in terms of said MoU on 05.06.2024 [Annexure-39 of WP(C) No. 650 of 2024] regarding the absorption of regular employees from Eklavya Model Residential School (EMRS) into NESTS.

5. Mr. Roy Barman, learned senior counsel submits that 3(three) types of institutions are run by the TTWREIS, namely, Ashram Schools, Residential Schools and Eklavya Model Residential Schools. The entire guidelines of absorption of employees are extracted hereunder:

"NESTS/Admin/GBM/31/2020-21-Part(1) Dated:05th June, 2024

***The Principal Secretary,
Tribal Development/Welfare Department,***

*(Madhya Pradesh, Maharashtra, Chhattisgarh,
Tripura, Himachal Pradesh)*

**Sub: Guidelines for absorption of regular employees
at NESTS**

This is with reference to the absorption/continuation of regular staff of EMRSs as employees of NESTS. In this regard, a meeting of Committee of NESTS and concerned states, constituted for framing guidelines for absorption of regular employees was held in the Office of NESTS, New Delhi on 18.05.2024. After considering all aspects the committee recommendations were submitted for approval after taking legal opinion. Following guidelines have been approved, as recommended by committee, for absorption of regular teaching and non-teaching staff, recruited by State Societies in EMRS:-

- i. Regular teaching and non-teaching staff who meet the eligibility requirement of RRs of NESTS as per sanctioned post of NESTS will be considered for absorption at the initial stage.*
- ii. The regular TST teaching staff who do not meet the eligibility requirement of RRs of NESTS will be given the option as under:*
 - a. Existing teachers who do not possess the CTET/STET qualification will be allowed to attain the qualification within two years. If they clear the CTET/STET within this time frame, they will be considered for absorption. However, their date of joining for the purpose of seniority will be the actual date of joining in regular plus time taken to clear CTET/STET exam.*
 - b. Existing teachers who do not possess the subject combinations in degree/PG in respect of TGT/PGT will be allowed to attain the qualification within three years. If they clear the degree/PG, as the case may be, within this time frame, they will be considered for absorption. However, their date of joining for the purpose of seniority will be the actual date of joining in regular service plus time taken to acquire degree/PG.*
 - c. In respect of non-teaching staff, absorption will be considered only if they possess the required qualification as per RRs of NESTS. In respect of employees who do not possess the required qualification, a maximum period of*

three years may be considered to acquire the qualification as per RRs.

- iii. *With regard to single seniority list of NESTS the following has been decided:*
 - a. *Seniority of absorbed employees will be considered from their date of joining as regular staff in the respective State Societies in case of (i) above.*
 - b. *In case two staff having the same date of joining, the staff who is senior in age will be considered as senior.*
 - c. *In case there are two staff who have the same date of joining as well as age, the staff having the higher marks in the minimum degree required as per NESTS RRs will be considered as senior.*
 - d. *For staff (teaching and non-teaching) who are being absorbed, the promotion will be subject to these staff fulfilling the eligibility for the promotional post. NESTS will issue separate guidelines in this regard.*
- iv. *For staff being considered for absorption, one time document verification will be carried out by NESTS before issuing absorption orders. If at the time of document verification, the qualification as per NESTS RR is not available with the staff, the offer of absorption may not be issued.*
- v. *If the regular employee of a state society is working in a post which is not sanctioned by the DoE for NESTS, the employee will not be considered for absorption.*
- vi. *In case of Staff Nurse, the mandatory experience as mentioned in RRs of NESTS would be relaxed by considering the service being rendered in EMRSs.*
- vii. *The employees whose age is beyond 60 years, as on the date of effect of this decision, would not be considered for absorption.*
- viii. *To address the issue of absorption of staff having same nature of work as well as similar designations, a concordance table is attached as annexure. The absorption would be considered according to this table.*
- ix. *The absorption would be subject to the consent given by the staff.*

The instructions contained in this letter are effective from the date of the committee meeting i.e. 18.05.2024.

This issues with the approval of the competent authority.

*(Anupam Sonalkar)
Joint Commissioner”*

6. For effecting such absorption, the NESTS authority also issued a letter to the Principal Secretary, Tribal Welfare Department, Government of Tripura, on 23.09.2024 [Annexure-40 of WP(C) No.650 of 2024] for necessary document verification. In said letter dated 23.09.2024, against the State Tripura, numbers of non-teaching staffs were mentioned to be total $58+58= 116$ Nos. who were proposed to be absorbed, and similarly, in case of PGT & TGT, total $22+48= 70$ Nos. of teaching staffs were proposed for such absorption along with two principals. Thereby total 188 numbers of employees/officials from Tripura were proposed to be absorbed.

7. Vide letter dated 12.03.2024 (Annexure-II of said writ petition) the Secretary, Tribal Welfare Department, Government of Tripura, sent required informations with respect to absorption of said 188 nos. of employees into NESTS form both teaching and non-teaching staffs, excluding the present petitioners of both the present writ petitions.

8. Mr. Barman, learned senior counsel, submits that as per the said MoU and subsequent correspondences made by both the authorities, the present petitioners are also required to be absorbed but they were illegally and arbitrarily excluded from such absorption, despite the fact that similarly situated persons were already absorbed under NESTS.

9. Learned senior counsel also submits that all the petitioners in both the writ petitions were appointed against the sanctioned posts created for Eklavya Model Residential School and, therefore, as per the said MoU, all of them were also required to be absorbed. It is further submitted by him that the selection process for appointment of both teaching and non-teaching staff was a combined selection process conducted by TTWREIS for all the above said 3(three) categories of schools, and therefore, all the 3(three) categories of employees are required to be absorbed under NESTS.

10. The State-respondents have relied on a letter dated 23.02.2025 (Annexure-I of their additional counter affidavit) whereby the TTWREIS requested the absorption of left out 32 regular staff members (16 teaching and 16 non-teaching staffs) for including them in the zone of consideration for absorption into NESTS. According to the petitioners, all the present petitioners of both the writ petitions are from the group of said 32 Nos. of staff members. The entire letter dated 23.02.2025 is also extracted hereunder for convenience of reference and understanding:

**“OFFICE OF
TRIPURA TRIBAL WELFARE RESIDENTIAL
EDUCATIONAL INSTITUTIONS SOCIETY
(TTWREIS)
GURKHABASTI, AGARTALA**

*To
The Commissioner,
National Education Society for Tribal Students
(NESTS), (A Central Society under Ministry of Tribal
Affairs) Jeevan Tara Building, Patel Chowk, Gate
No.-
3, Government of India, New Delhi.*

*Subject: Request for Document Verification and
Absorption of Remaining 32 Regular
Staff of TTWREIS at NESTS.*

*Ref. letter(s): F.No.NESTS/Admin/GBM/31/2020-21-part(1), dated 29/02/2024
(E-Office No.22551)
F.No.NESTS/Admin/G9BM/31/2020-21-part(1), dated 05/03/2024
(E-Office No.22551)*

Sir,

The undersigned is directed to invite your kind attention to the letter from NESTS dated 29/02/2024, requesting the submission of point-wise relevant documents for the verification of employees to be absorbed into NESTS. In compliance with this directive, the State Society (TTWREIS) submitted the required documents for 220 regular teaching and non-teaching staff in the prescribed Excel format to the NESTS Committee at its headquarters in New Delhi on 07/03/2024, vide letter F.No.25-24/ TW/ REIS/ GoI /Estt./ 2023/15102-108, dated 05/03/2024.

2. Subsequently, NESTS, through its letter no. F.NESTS/Admin/GBM/31/2020-21-part(1), dated 23/09/2024, invited only 188 teaching and non-teaching staff for the Document Verification (DV) process in New Delhi, leaving out the remaining 220-180 = 32 regular staff members (Teaching & Non-Teaching).

3. It is pertinent to highlight that the 32 left-out staff members, although they got to be posted at Ashram Schools, Residentials Schools or the State Society Headquarters, were recruited through the same common recruitment process as the 188 who have been called for DV. There is no distinction in terms of recruitment procedures, roster maintenance, eligibility qualifications, recruitment rules, offer letter, appointment letter, etc., between the two groups, with the solitary distinction being in their place of posting. However, it is worth noting here that it was the State Society (TTWREIS) which had the prerogative of deciding their place of posting – not the candidates who accepted the offers of appointment without having any foreknowledge about where they would eventually be posted.

4. All of the aforesaid 220 staff members were recruited by the TTWREIS against sanctioned posts for EMRS, Ashram Schools, and other Residential Schools, with a common merit and seniority list being maintained. Their postings-whether at EMRSs, Ashram Schools, Residential Schools, or the State Society Headquarters-were determined solely by

TTWREIS based on institutional needs. Moreover, all such postings were amenable to transferability from one institution to another. Consequently, some staff initially posted outside EMRSs were later transferred to EMRSs, with vice versa of that happening too.

5. *At the time of issuing appointment letters, it was not anticipated that only those posted at EMRS institutions would be considered for absorption into NESTS. However, in the circumstances explained above, excluding the remaining 32 regular staff members from consideration based solely on their place of posting warrants reconsideration.*

6. *It is, therefore, requested that the remaining 32 regular staff members (16 Teaching & 16 Non-Teaching), as listed in Annexure-I (teaching staff) and Annexure-II (non-teaching staff), may kindly be included in the zone of consideration for absorption into NESTS and called for DV as immediately as possible.*

Enclo: As stated

Yours faithfully,

Signed by

Subhasis Das

Date:23-02-2025 23:11:52

Subhasis Das, TCS SSG)

*Addl. Secretary to the Govt. of Tripura
Tribal Welfare Department"*

[Underscored emphasized]

11. Mr. Barman, learned senior counsel also relies on a reply given under the RTI Act on 26.11.2024 [Annexure-46 of the said writ petition], whereby information was furnished that total 172 posts were created vide memorandum dated 07.09.2001 [Annexure-41 of the said writ petition] for 3(three) Nos. of Residential Schools, namely, Khumulwng, B.C. Nagar and Kumarghat, all of the above said 3(three) schools are under Eklavya Model Residential School [EMRS]. It is also submitted on behalf of the petitioners that all of them were appointed against the posts created vide notification dated 07.09.2001.

12. In view of above submission, the Court, vide order dated 16.07.2025 directed the State-respondents/TTWREIS to inform by affidavit as to whether all the petitioners were appointed against the posts created vide said memorandum dated 07.09.2001 and, if not, against which category of school under TTWREIS they were so appointed. Now, in reply, the State-respondents submitted one additional affidavit and the relevant portion of the reply, as furnished, is reproduced below:

“2. That, I humbly submit that in compliance with the Order dated 16.07.2025 passed by the Hon’ble High Court of Tripura, in connection with case No.W.P.(C) 650 of 2024 and W.P.(C) 652 of 2024, the State Respondents has carried out exercise to collect information as to whether all the petitioners were appointed against the post created by memorandum dated 07.09.2001 (and not 07.09.2021), if not, then against the sanction post(s) of which category of school(s) of TTWREIS, each of them were appointed. On scrutiny of the records, it appears that in respect of Case No.W.P.(C) 652 of 2024 all the 12(twelve) petitioners (teaching staff) were appointed against the post created vide Memorandum dated 07.09.2001 (and not 07.09.2021 as observed by the Hon’ble Court).

And, in respect of case No.W.P.(C) 650 of 2024 (Sri Goutam Das & Ors. Vrs. the State of Tripura) pertaining to the Non-Teaching Staff, out of 11(eleven) petitioners, the following 7(seven) nos. petitioners were appointed against the posts created vide Memorandum dated 07.09.2001:

- (i) Petitioner No.1- Shri Goutam Das (Lower Division Clerk),*
- (ii) Petitioner No.2- Shri Tutan Roy (Store-Keeper),*
- (iii) Petitioner No.3- Smt. Sukriti Biswas (Lower Division Clerk),*
- (iv) Petitioner No.4-Smt. Jhumeli Debbarma (Hostel Superintendent),*
- (v) Petitioner No.5-Shri Umasankar Acharjee (Cashier),*
- (vi) Petitioner No.9-Shri Ramjatan Pashi (Cook-cum-Masalchi),*
- (vii) Petitioner No.10-Shri Ramu Roy (Cook-cum-Masalchi).*

However, in respect of the petitioner No.6, 7 and 8 who have been joined in the year 2011 vide advertisement No.01/2009, it is ambiguous to interpret their post creation individually/petitioner-wise, as the said advertisement was placed for the posts endorsed by forwarding and merging up of vacant posts created vide Memorandum dated 07/09/2001, 14/01/2009 for EMRS/Ashram/Residential Schools under TTWREIS. This is the reason for constitution of common Interview Board followed by same proceeding of interview and a Common Merit List was prepared for recruitment of 19 Nos. posts of LDC/ Store-keeper/Cashier including the petitioners 6, 7 & 8.”

13. From the said reply, it appears that out of the total 11 numbers of petitioners of WP(C) 650 of 2024, 7 (petitioner Nos. 1, 2, 3, 4, 5, 9 and 10) were recruited against posts created for EMRS. Regarding the other 3 petitioners, i.e. the petitioner Nos. 6, 7 & 8 the TTWREIS or the State could not give a specific reply. According to them, these above said 3 petitioners joined in the year 2011 pursuant to the advertisement No.01/2009, as the said recruitment process was held for 3 categories of schools, namely, EMRS, Ashram Schools and Residential Schools in a combined way. They could not furnish any reply in respect of petitioner no.11.

14. In case of 12 petitioners of WP(C) 652 of 2024, the State-respondents through their said affidavit submitted that all these petitioners were appointed against the posts created vide Memorandum dated 07.09.2001 [Annexure-43 of the said writ petition]. By the said Memorandum dated 07.09.2001, total 172 Nos. of teaching and non-teaching posts were actually created under the TTWREIS for 3 Nos. of residential schools. As per the information furnished by TTWREIS under RTI Act [Annexure-41 of the said writ petition], said three residential

schools are Eklavya Model Residential School [EMRS] of Khumlung, Birchandra Nagar, Kumarghat.

15. Mr. Barman, learned senior counsel, also submits that the other 3 persons, namely, Susmita Paul, Papri Marak Das and Smt. Anamika Saha (Deb) [appointed as Metron] appearing in (Annexure-II) i.e. the letter dated 12.03.2024, sent from the TTWREIS to the NESTS, recommending their names for absorption, were also recruited through the same recruitment process like above said petitioner Nos. 6, 7 & 8. According to him, the above said 3 petitioners were also appointed against the creation of above said 172 Nos. of posts. Learned senior counsel further contends that the denial of absorption was mainly on the ground that presently they were not posted at EMRS, despite the fact that they were originally appointed against the sanctioned posts meant for EMRS. Learned senior counsel further argues that total 77 Nos. of employees as mentioned in the recommended list were not presently posted at EMRS, but despite the same, their names were recommended for absorption.

16. Mr. Pradyumna Gautam, learned senior G.A., relies on the counter affidavit and the additional affidavits submitted by the State-respondents. Learned senior G.A. also submits that the obligation of absorption, if any, totally lies with NESTS, and the State/TTWREIS has no responsibility in this regard.

17. Mr. Bidyut Majumder, learned Deputy SGI, submits that the agreement between the NESTS and TTWREIS was confined only to the teaching and non-teaching staff who were appointed against the sanctioned posts of Eklavya Model Residential Schools, and therefore,

there is no contractual obligation on the part NESTS to absorb any other employees who were not appointed against the sanctioned post of EMRS. Learned Deputy SGI further submits that the writ petition itself is not maintainable, inasmuch as no contractual or any statutory right has been accrued in favour of the petitioners to claim for such absorption. Learned Deputy SGI also refers to a decision of the Hon'ble Apex Court in the case of *Ram Pravesh Singh & Ors. vs. State of Bihar & Ors.*, (2006) 8 SCC 381, and relevant paragraphs No.11, 12 and 13 are extracted hereunder:

“Contractual obligation

11. The licence granted to the Society under Section 3 of the Electricity Act, 1910 was revoked by the State Government on 25-4-1995. It is no doubt true that on such revocation, the Board took over the entire activities of the Society relating to distribution of power to the licensed areas. The Board also gave its concurrence to purchase the undertaking of the Society. But the Board neither entered into any contract with the Society, nor gave any assurance to the Society or its employees to absorb the employees of the Society into its service. Therefore, obviously, there is no contractual obligation on the part of the Board to absorb the services of the appellants.

Statutory obligation

12. Section 3 of the Act dealt with grant of licence by the State Government to any person to supply energy in any specified area. Section 4 dealt with revocation of such licences. The provisions that would have effect when a licence was revoked, were listed in Section 5. Section 6 gave the option to the Electricity Board and the State Government to purchase the undertaking of a licensee, in the circumstances mentioned therein. Section 7 provided for vesting of the undertaking of the licensee sold to a purchaser under Section 5 or 6. Section 7-A provided for determination of the purchase price. None of these provisions of the Act required the purchaser of the undertaking to take over the services of the employees of the Society. The appellants have not been able to show any other statutory provision which entitles them

to seek absorption by the Board. Hence, there is no statutory obligation to absorb them into the Board's service.

Equitable considerations

13. Realising that the appellants had no contractual or statutory right, learned counsel for the appellants sought to derive support for the claim on equitable considerations, by placing reliance on an amalgam of the principles relating to legitimate expectation, fairness in action and natural justice, reiterating the contentions urged before the High Court."

18. Mr. Pradyot Maisan, learned counsel also submits in the same line like Mr. Gautam, learned senior G.A.

19. Now, on consideration of submission of both sides and also of the pleadings and materials as placed by both sides, it appears that it is the admitted position that 7 Nos. of petitioners i.e. the petitioner Nos. 1, 2, 3, 4, 5, 9 and 10 of WP(C) No. 650 of 2024 and all the 12 petitioners of WP(C) No.652 of 2024 were appointed against the sanctioned post meant for EMRS.

20. Now, regarding other 03 other petitioner of left out 4 petitioners of WP(C) 650 of 2024, it is stated in the additional affidavit submitted by the respondents-State, as indicated earlier, that they could not ascertain as to whether they were appointed against the posts, created for EMRS for the reason that by a common selection process and by preparation of a common seniority list and merging of vacant posts of all the three categories of school under TTWREIS, they were appointed. However, it is not specifically also not denied by the respondents-State or TTWREIS that said 4 persons were not appointed against the vacant posts meant for EMRS.

21. As said 7 petitioners of WP(C) 650 of 2024 and 12 petitioners of WP(C) 652/2024 were appointed against the posts sanctioned for EMRS, they are automatically entitled to be absorbed under NESTS as per the agreement entered by them with TTWREIS.

22. Now, regarding other left out 4 persons, there is no specific material that they were also appointed against the posts sanctioned for EMRS. But, in their case also it is admitted position that during a combined recruitment process, taken up for all the three categories of schools under TTWREIS, they were selected and appointed. According to the respondents-State, there were no distinction in terms of their recruitment procedure, roster maintenance, eligibility qualifications, recruitment rules etc. and they fall within the similar category of persons like said other petitioners. Therefore, any sort of difference in the treatment between them and the other petitioners will lead to an illegal discrimination. Even if, the contract (MoU) as entered between NESTS and TTWREIS created the contractual obligation upon the NESTS to absorb the employees who were employed in EMRS only, such contractual limitation or obligation leading to any discrimination to said 04 petitioners, cannot override their fundamental rights as protected under Article 14 of the Constitution.

23. In WP(C) 652 of 2024, the petitioners have also placed 3 Memorandums [Annexures-47,48 & 49] each dated 14.10.2011, whereby 3(three) persons namely Anamika Saha, Papri Marak and Susmita Pal were initially appointed as Matron temporarily on fixed pay basis in Ashram School situated at Sadhutilla, Karbook and Kanchanpur respectively. However, from the list of such employees as sent by

TTWREIS to NESTS proposing for their absorption, vide letter dated 12.03.2024 [Annexure-II to the said writ petition], names of these 3 persons are also found available there against Sl. Nos. 6, 15 and 25 at pages 168 and 169 of the paper book. Therefore, rejection of claim of the petitioners for such absorption will also lead to their discrimination with said three persons too.

24. In view of the above, both the writ petitions are allowed. The respondents are directed to take necessary steps for absorption of above said petitioners of both the writ petitions in NESTS, following the due procedure within four weeks of receipt of copy of this judgment, and thereafter to complete the entire process of such absorption within a reasonable time, not later than 4 (four) months from the said date of receipt of copy of the judgment.

25. Both the writ petitions are, accordingly, disposed of.

Interim application(s), if any, shall also stand disposed of.

JUDGE