GAHC010074992026

2026:GAU-AS:11963

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

Case No. : WP(C)/2714/2026

RAJU SARMAH AND 2 ORS
S/O SUVAN CH SARMAH, R/O VILL. DULIAPATHER, P.O. DULIAPATHER, P.S. NARAYANPUR, DIST. LAKHIMPUR, ASSAM, PIN 784164

2: JYOTI BORAH
W/O GOLAB BORAH
R/O VILL- 1 NO. NOTGAON
P.O. - DRIKANG
P.S. NARAYANPUR
DISTRICT- LAKHIMPUR
ASSAM
PIN- 784164

3: KALPANA CHARINGIA
W/O NITUL BORAH
R/O JOYPUR
P.O. BHOGPUR
P.S. NARAYANPUR
DISTRICT- LAKHIMPUR
ASSAM
PIN- 78703

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM, ELEMENTARY EDUCATION DPETT. GOVT. OF ASSAM, DISPUR, GUWAHATI, ASSAM, PIN 781006

2:THE DIRECTOR OF ELEMENTARY EDUCATION
KAHILIPARA
GUWAHATI

ASSAM. PIN- 781019

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
LAKHIMPUR
ASSA

Advocate for the Petitioner : MR S BORTHAKUR, SR. ADV., P KHATANIAR

Advocate for the Respondent : SC, ELEM. EDU,

BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

Date : 21.08.2026

Heard Mr. S. Borthakur, learned Senior Counsel assisted by Mr. P. Khataniar, learned counsel for the petitioners and Ms. M. Phukan, learned Standing Counsel, Elementary Education Department, appearing for the respondents.

2. In this petition, under Article 226 of the Constitution of India, the petitioners have challenged the orders dated 30.01.2021 and 18.05.2022, issued by the Director of Elementary Education, appointing the petitioners as Tutors, with a further prayer for accommodating them as Teachers, w.e.f. 01.11.2020, along with all consequential reliefs.

3. Mr. S. Borthakur, learned Senior Counsel for the petitioners, submits that the petitioners were initially appointed as Assistant Teachers, in the year 1998 – 2001, in various Government Middle Schools of Lakhimpur district of Assam and after payment of salaries for 3 – 6 months, their salaries were stopped, as the petitioners along with many others were found to have been appointed against excess posts. But, the petitioners were never discharged from their services.

Thereafter, by a series of orders, dated 30.01.2021 and 18.05.2022, the petitioners were accommodated as Tutors, as per provisions of the Assam Education (Provincialisation of Services of Teachers and Re-organization of Educational Institutions) Act, 2017 (Act of 2017 hereinafter). Being aggrieved by such regularization as Tutors, instead of Teachers, they had approached this Court on the ground that their services could not have been accommodated as per provisions of the Act of 2017, because the said Act provides for provincialisation of services of teachers of venture educational institutions, whereas, the petitioners had been serving at Government Schools. Moreover, they have possessed all the necessary qualifications for appointment as teachers and therefore, they ought not to have been accommodated as Tutors, instead, they should have been accommodated as Teachers. Under such circumstances, the petitioners have approached this Court by filing the present petitions and that there are sufficient merits in these petitions and therefore, Mr. Borthakur has contended to allow these petitions.

4. Ms. M. Phukan, learned Standing Counsel for the Elementary Education Department, submits that in pursuance to the decision taken in a Review Meeting held on 17.07.2022, requiring preparation of a Cabinet Memorandum for upgradation of those Tutors under the illegal/irregular category, who had training Certificates, but were kept in the category of Tutors, inadvertently, during the last exercise, instead of Teachers, a proposal for upgradation of the services of the petitioners has already been submitted by the Director of Elementary Education, Assam to the Secretary to the Government of Assam,

Education (Elementary) Department, after verifying their service particulars, including their D.El.Ed. Certificates.

5. In reply, Mr. S. Borthakur, learned Senior Counsel for the petitioners submits that since the process has already been initiated by the respondent authorities for up-gradation of Tutors to Teachers, including the name of the petitioners herein, these writ petitions may be disposed of by directing the respondent authorities to complete the entire process within a definite time frame.

6. At this stage, Ms. M. Phukan, learned standing Counsel for the Elementary Education Department, submits that he has no objection in the event of disposing of these petitions by directing the respondent authorities to complete the entire process in a time bound manner. However, Ms. M. Phukan, submits that the respondent authorities may be granted six months time to complete the same.

7. Accordingly, without adjudicating individual claims of the petitioners on merit, this Court is inclined to dispose of these petitions, as agreed upon by learned counsel for both the parties, by directing the respondent authorities to complete the entire process of up-gradation of the petitioners from Tutors to Teachers, within a period of 4 (four) months from the date of receipt of the certified copy of this order.

8. The petitioners shall obtain a certified copy of this order and place the same before the respondent authorities within a period of 1 (one) week from today.

9. With the above observations and directions, the present writ petition stands disposed of.

JUDGE

Comparing Assistant