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

Case No. : WP(C)/2619/2026

SANKARJIT DAS AND ORS
S/O- LATE PARESH CHANDRA DAS.
VILL.- BHEWL, P.O.- SINGALLA, P.S.- LALA, DIST.- HAILAKANDI.

2: MRIDUL SINGHA CHOUDHURY
S/O- HARASUNDAR SINGHA CHOUDHURY.
VILL.- RONGPUR PART-III
P.O. AND P.S.- KATLICHERRA
DIST.- HAILAKANDI
ASSAM
PIN- 788161

3: KRISHNA KUMAR PAUL
S/O- LATE DINOMOY PUL.
VILL.- RONGPUR PART-III
P.O. AND P.S.- KATLICHERRA
DIST.- HAILAKANDI
ASSAM
PIN- 788161.

4: UJJAL DEB
S/O- LATE UMESH CHANDRA DEB.
VILL.- RANGABAK PART-I
P.O. AND P.S.- KATLICHERRA
DIST.- HAILAKANDI
ASSAM
PIN- 788161.

5: ABDUS SALAM LASKAR
S/O- ABU BAKKAR LASKAR.
VILL.- BORJURAI
P.O.- BOALIPAR BAZAR
P.S. AND DIST.- HAILAKANDI
ASSAM

PIN- 788155.

6: GAYATRI DAS.
W/O- DEBOJIT GHOSH.
R/O- RABINDRA SARANI.
WARD NO. 04
HAILAKANDI TOWN
P.O.
P.S. AND DIST.- HAILAKANDI
ASSAM
PIN- 788151.

7: SANKAR NANDI
S/O- LATE MANINDRA CHANDRA NANDI.
VILL.- RONGPUR BOALIPAR
P.O.- APPIN GRANT
P.S.- KATLICHERRA
DIST.- HAILAKANDI
ASSAM
PIN - 788161

8: JAKIR HUSSAIN CHOUDHURY
S/O- MUSABBIR ALI CHOUDHURY.
VILL.- UTTAR JASNABAD PART- II
P.O.- LALAMUKH
P.S.- LALA
DIST.- HAILAKANDI
ASSAM
PIN - 788163

VERSUS

THE STATE OF ASSAM AND ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM,
DEPARTMENT OF SCHOOL EDUCATION, DISPUR, ASSAM, GUWAHATI-6.

2:THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-06.

3:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19.

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER
HAILAKANDI

DIST.- HAILAKANDI
ASSAM
PIN- 788151

5:THE BLOCK ELEMENTARY EDUCATION OFFICER
HAILAKANDI
DIST.- HAILAKANDI
ASSAM
PIN- 788151

6:THE BLOCK ELEMENTARY EDUCATION OFFICER
LALA
DIST.- HAILAKANDI
ASSAM
PIN- 788163

7:THE BLOCK ELEMENTARY EDUCATION OFFICER
KATLICHERRA
DIST.- HAILAKANDI
ASSAM
PIN- 78816

Advocate for the Petitioner : MR. H A LASKAR, MS D DUTTA,MR. S B LASKAR

Advocate for the Respondent : SC, ELEM. EDU, SC, FINANCE

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

09.09.2026

Heard Mr. S.B. Laskar, learned counsel for the petitioners. Also heard Ms. N. Phukan, learned Standing Counsel, Elementary Education Department.

2. The petitioners before the Court filed the writ petition praying for a direction to take an appropriate decision on the petitioners' claim for upgradation of their respective supernumerary posts of Tutor of LP/UP Schools to supernumerary posts of teachers along with salary benefits, pay scale at par with the post of Assistant Teacher of LP/UP School as applicable as per the

existing revision of Pay Rules by taking into consideration their qualification of the petitioners of Diploma in Elementary Education prior to their accommodation as Tutor in LP/UP Schools with effect from 01.11.2020.

3. The writ petitioners eight in numbers are appointed as Tutors in various LP/UP Schools in the district of Hailakandi. They were accommodated as Tutors pursuant to a policy decision taken by the Government dated 07.10.2020 by means of creating supernumerary posts in their respective LP/UP schools with effect from 01.11.2020 when they were originally appointed as Assistant Teachers in the period 1991 to 2001 but their original appointments were considered to be illegal or irregular. It is the submission of the learned counsel for the petitioners that the Government of Assam took a policy decision to accommodate these teachers whose appointments were illegal or irregular and were appointed prior to the year 2001 to the post of Tutors or Teachers by creating supernumerary posts. The present petitioners who completed their required Teachers Training Course prior to 2011.

4. The learned counsel for the petitioners submits that the Director of Elementary Education published a list of newly accommodated Tutors or Teachers in the Hailakandi District on 21.09.2022 wherein seven numbers of irregular/illegal teachers were accommodated as Teachers and 302 numbers of irregular/illegal Teachers were accommodated as Tutors. Individual accommodation orders were issued on 23.09.2022. The petitioners were appointed in the respective schools as reflected in the chart mentioned at Paragraph-5 of the writ petition. According to the petitioners, they have completed their diploma in Elementary Education from the State Council of Educational Research and Training prior to their accommodation as Tutors with effect from 01.11.2022. It is the submission of the learned counsel for the

petitioners that although they are qualified for the post of Assistant Teacher of LP/UP Schools and they have been accommodated as Tutors with a fixed pay salary of Rs. 10,800/-. It is the grievance of the petitioners that in the list of newly accommodated Teachers/Tutors of Hailakandi District published by the Director of Elementary Education, seven numbers of candidates have been accommodated as Teachers after having completed the Teacher Training Course. The petitioners are aggrieved that they have not been accommodated as Teachers in spite of having the qualification of Diploma in Elementary Education. They have filed their representations before the authorities concerned on 27.05.2024 which have not been disposed of. Being aggrieved, the writ petitioners are before this Court praying for a direction to upgrade all the accommodated Tutors to Teachers as they otherwise satisfy the norms required and they have also the qualification of Diploma in Elementary Education. The prayer before the Court is that they should be appointed as Teachers like other similarly situated persons who are appointed as they also satisfied the required eligibility criteria.

5. The respondents inspite of notices being issued have not filed any affidavit. Several opportunities were granted but not affidavit has been filed.

6. Today also when the matter is called up, the learned counsel for the Education Department prays for further time to file the affidavit.

7. The learned counsel for the petitioner has pressed into service a Judgment of a division bench of this Court rendered in *Mohor Ali Sheikh & Ors. Vs. State of Assam & Anr,* reported in *2024 (5) GLT 689* where the petitioners have referred to and relied upon the Paragraphs 175 and 179 to support his contention that the pay scale extended to the Tutors be considered to be in the appropriate scale by the department. The Judgment in *Mohor Ali Sheikh (Supra)*

pressed into service is a Judgment rendered by the Division Bench in respect of challenges which are made to the Assam Education (Provincialization of Services of Teacher and Re-organisation of Educational Institutions) Act, 2017. Several provisions of the said Act were challenged and the said writ petitions were disposed of. The Court however declined to interfer with the provisions. However, Section 3(1)(i) of the Act as well as the amended provision of the Amendment Act of 2018 were read down.

8. In the face of the submissions made before the Court and the prayers reflected in the writ petition, it is not understood as to how this Judgment is applicable in the facts of the present case. Mere reference to the Paragraph of 2 of the Judgment without proper submission before the Court does not make the Judgment pressed into service relevant for the purposes of the case presented before the Court. The petitioners claim is that their services as Tutors of LP/UP schools are to be upgraded to the post of Teachers along with the appropriate pay and benefits as have been done some of the persons within the district of Hailakandi. The said persons according to the petitioners who have been given the benefit by the respondent authorities, and who are stated to be also similar situated as the writ petitioners have not been arrayed as parties. No references made in the pleadings as to the status of their employment of the writ petitioners to lay prima facie material before the Court that other similarly situated person were given the benefit from which the writ petitioners have been deprived of.

8. Under such circumstances, the prayer made before this Court cannot be granted in the absence of specific and necessary facts being pleaded before the Court.

9. The Court therefore is disinclined to allow the prayers made in the writ

petition save and except that the representation stated to be filed and pending before the Director which was stated to have been filed on 27.05.2024 and if so filed, the grievances ventilated by the petitioners be examined in detailed by the Director, Elementary Education and thereafter a speaking order be passed thereupon and communicated to the writ petitioners.

10. Let this exercise be completed within a period of 90 days from the date of receipt of a certified copy of this order.

11. Accordingly the writ petition stands disposed of.

JUDGE

Comparing Assistant