

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE

The Hon'ble **JUSTICE BIBEK CHAUDHURI**

WPA 311 of 2023

**Nishumita Baraily and ors.
Vs.
Gorkhaland Territorial Administration Council and Ors.**

Mr. Ekramul Bari
...for the petitioners

Mr. Bikramaditya Ghosh
Ms. Bedashruti Bose
...for the State

Mr. Debajit Kundu
...for the respondent No.6

Ms. Supriya Singh
..for GTA

Item No. 03

Judgment on: 07.02.2023

BIBEK CHAUDHURI, J. : –

The petitioners were appointed as Assistant Teachers respectively on 23rd May, 2016, 25th September, 2014, 10th December, 2018 and 23rd May, 2016 in Lower Chongtong High School.

The above named writ petitioners filed WPA 574 of 2021 seeking liberty to approach before Gorkhaland Territorial Administration for their absorption. A Co-ordinate Bench vide order dated 23rd February, 2021 passed an order directing the GTA to dispose of the representation filed by the petitioners within a period of six weeks from the date by passing a reasoned order and such order shall be communicated to the petitioners. The Principal Secretary, Gorkhaland Territorial Administration, Darjeeling has passed the following order dated 23rd March, 2021.

“In compliance with the order of the Hon’ble High Court, Calcutta in Circuit Bench at Jalpaiguri in W.P.A. No. 574/2021, dated 23/02/2021, all the 4 petitioners, namely (i) Nishumita Baraily, (ii) Neekey Ghising, (iii) Urbashi Tamang and (iv) Ujay Gurung were duly requested to attend a hearing on 23/03/2021 vide memo no. 208(4)/IV-45/Edn/GTA/2020-21 dated 09/03/2021 before the undersigned with the certified copies of the court’s order and other relevant documents in original in support of their claim. All the 4 petitioners appeared in person as requested and heard them at length.

Seen and perused the order of the Hon'ble High Court dated 23/02/2021 wherein the Hon'ble High Court has been pleased to direct the undersigned to consider the representation of the petitioner if filed within a week from the date and pass a reasoned order. All the petitioners duly filed a representation s directed by the Hon'ble High Court. During the course of hearing and perusal of the representation filed by the petitioners, it is found that all the petitioners are engaged as voluntary teachers in their respective schools by the School Managing Committee on different dates stated in the writ petition. On perusal of the engagement letters of the petitioners, it is found that the respective School Managing Committee while issuing engagement order to the petitioners, had specifically stated in their engagement order as follows:-

1. No remuneration will be paid to you.
2. No assurance has been given by the School Managing Committee for your permanency in the future.
3. School Managing Committee abides by all rules and notifications issued by the concerned Education Department Govt. of West Bengal, but in case of the

department favour, the school Managing Committee will co-operate with you.

The School Managing Committee, while issuing the engagement order, has clearly stated that in case of all appointments /regularizations, the Committee has to abide by all the rules and notifications issued by the GTA and the School Education Department, Govt. of West Bengal. Hence, without following proper rules and notifications issued by the Education Department, Govt. of West Bengal, the representation of the petitioners for regularization cannot be considered at this stage. Hence, their prayer for regularization of appointment is rejected. Inform them accordingly.”

This is the second round of litigation where the petitioners have sought for their absorption in the vacant posts in the said school in respect of Assistant Teachers. On the strength of an order dated 29th December, 2014 passed in WP 34439 (W) of 2014 similarly placed teachers posted in different schools under the administration of GTA were absorbed against the vacant posts. The present

petitioners are praying for the similar relief in the instant writ petition stating, inter alia, that the order of the aforesaid writ petition was not placed before the Principal Secretary, GTA along with their representation which was rejected on 23rd August, 2021.

In view of such circumstances, the instant writ petition is **disposed of** giving liberty to the petitioners to file a fresh representation along with a copy of the order passed in WP 34439 (W) of 2014 before the Secretary, GTA who will consider the representation afresh and pass a reasoned order within three weeks from the date of receipt of such representation after giving an opportunity to the petitioners or their authorized representatives of hearing.

(Bibek Chaudhuri, J.)

