GAHC010202432026

2026:GAU-AS:16497-DB

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

Case No. : I.A.(Civil)/3346/2026

THE STATE OF ASSAM AND 3 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM, DEPARTMENT OF SCHOOL EDUCATION, DISPUR, GUWAHATI-06.

2: THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI 19

3: THE DISTRICT ELEMENTARY EDUCATION OFFICER
NALBARI

NALBARI
ASSAM

4: THE DEPUTY INSPECTOR OF SCHOOLS
NALBARI

NALBARI
ASSA

VERSUS

KAMAL CH DAS AND 5 ORS.
S/O SRI MAHESWAR DAS, RESIDENT OF VILLAGE BHANUKUCHI, PO GUWAKUCHI, DIST NALBARI, ASSAM.

2:BIRAJ KALITA
S/O SRI MANESWAR KALITA
RESIDENT OF VILLAGE SAPLEKUCHI
PO KENDUKUCHI
DIST NALBARI
ASSAM

3:JITUMONI BARMAN

S/O SRI SURENDRA BARMAN

RESIDENT OF VILLAGE AND PO MUGDI
DIST NALBARI
ASSAM

4:HEMCHANDRA DAS

S/O LATE PARIKSHIT DAS

RESIDENT OF VILLAGE NO. 1
NATHKUCHI
PO NATHKUCHI
DIST NALBARI
ASSAM

5:SACHIN TALUKDAR

S/O ATUL TALUKDAR

RESIDENT OF VILLAGE BARGAON
PO TIHU
DIST NALBARI
ASSAM

6:THE DEPUTY COMMISSIONER
NALBARI

PO
PS AND DIST NALBARI
ASSA

Advocate for the Petitioner : MS. S CHUTIA,

Advocate for the Respondent : GA, ASSAM, MR. B BORAH(R1TO5),MR. I H SAIKIA(R1TO5),MR K KASHYAB(R1TO5),MR. K KALITA(R1TO5)

Linked Case : CRP/0/0

THE STATE OF ASSAM

REPRESENTED BY THECOMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM
DEPARTMENT OF SCHOOLEDUCATION
DISPUR
GUWAHATI-06.

2: THE DIRECTOR OF STATE COUNCIL OF EDUCATIONAL RESEARCH AND TRAINING SCERT
ASSAM KAHILIPARA GUWAHATI-19.

3: THE DISTRICT ELEMENTARY EDUCATION OFFICER

NALBARI
NALBARI
ASSAM.

4: THE DEPUTY INSPECTOR OF SCHOOLS

NALBARI NALBARI
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6:THE DEPUTY COMMISSIONER

NALBARI
PO PS AND DIST NALBARI
ASSAM

Advocate for : MR. NAYAN JYOTI KHATANIAR
Advocate for : appearing for KAMAL CH DAS

-BEFORE-

HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR
HON'BLE MR. JUSTICE KAUSHIK GOSWAMI

11.11.2026
(K. Goswami, J)

Heard Ms. S. Chutia, learned Advocate appearing for the applicants; Mr. K.N. Choudhury, learned Senior Advocate, assisted by Mr. K. Kalita, learned Advocate appearing for the respondent Nos. 1 to 5 and Ms. U. Sharma, learned Junior Government Advocate, Assam appearing for the proforma respondent No. 6.

2. This application has been filed for condoning the delay of 230 days in preferring the connected writ appeal against the judgment &

order dated 02.12.2025 passed by a learned Single Judge of this Court in WP(C) No.5641/2020.

3. The applicants have sought condonation of the delay in filing the connected writ appeal, on the ground that the certified copy of the judgment and order dated 02.12.2025, after being received by the concerned Department, was subjected to examination at various administrative and legal levels. The matter was placed before the then Secretary to the Government of Assam, Department of School Education on 22.12.2025 and thereafter before the Legal Consultant on 23.12.2025 for obtaining legal opinion. However, owing to the Legal Consultant being on leave on account of her mother's illness, the matter could be taken up for further consideration only on 13.01.2026, when it was advised that the relevant facts, records and documents be collected and compiled for proper examination. Accordingly, steps were initiated on 16.01.2026 for obtaining the requisite records from the Director of Elementary Education, Assam, who, upon examination of the matter, requested the learned Senior Standing Counsel, Elementary Education Department, Gauhati High Court, to take necessary steps for preferring an appeal. As the matter could not be finalized within the expected time, further communications and reminders were issued by the Department on 30.06.2026 and 01.08.2026. Thereafter, upon the request of the learned Senior Standing Counsel, the complete records of the case were collected and made available and the matter was entrusted to one of the learned Standing Counsel for preparation of the appeal. It is the case of the applicants that the delay so occasioned was neither

intentional nor deliberate, but arose out of *bona fide* administrative and procedural requirements, including examination of the matter at different levels, collection and scrutiny of records, obtaining legal opinion and securing necessary instructions from the competent authorities.

4. *Per contra*, learned Advocates appearing for the respondents objected to the condonation of delay on the ground of the same being not sufficiently explained.

5. We have considered the grounds assigned by the applicants in support of the prayer for condonation of delay and have perused the averments made in the instant application.

6. The explanation furnished indicates that upon receipt of the certified copy of the impugned judgment and order, the matter was subjected to examination at various administrative and legal levels and that steps were taken by the concerned Department for obtaining legal opinion, collecting the relevant records and seeking necessary instructions for preferring the appeal. The chronology of events, as explained in the instant application, reflects that the delay was occasioned, at least in part, by the administrative and procedural processes involved in taking a decision on behalf of the State authorities.

7. Having regard to the nature of the explanation furnished and bearing in mind that substantial justice is ordinarily to be preferred over technical considerations, we are of the considered view that the applicants have made out sufficient cause for condonation of the delay.

8. Accordingly, the delay of 230 days in preferring the connected writ appeal stands condoned.

9. The interlocutory application stands allowed and disposed off.

10. Registry to process the connected writ appeal and list the same on **29.01.2027**, under the appropriate heading.

JUDGE **CHIEF JUSTICE**

Comparing Assistant