

GAHC010032722017



2026:GAU-AS:2510-DB

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

Case No. : WA/211/2017

1: THE STATE OF ASSAM and ANR. REPRESENTED BY THE COMMISSIONER
and SECY. TO THE GOVT. OF ASSAM, ELEMENTARY DEPTT., DISPUR,
GUWAHATI-6

2: THE DIRECTOR OF ELEMENTARY EDUCATION
KAHILIPARA GUWAHATI-1

VERSUS

1:L MRS BARNALI DEKA and ANR
W/O MR. RANJAN JYOTI DEKA,
R/O VILL. MUGKUCHI, DIST. NALBARI, ASSAM, PIN 781443

2:AMAL CH. DAS
S/O SRI ANGGAD CH. DAS
R/O VILL. KOCHPARA DASPORA P.S. BIJNI DIST. CHIRAN

Linked Case : WA/304/2018

1: THE STATE OF ASSAM and ANR. REPRESENTED BY THE COMMISSIONER
and SECY. TO THE GOVT. OF ASSAM EDUCATION ELEMENTARY DEPTT.
DISPUR GUWAHATI 781006.

2: THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM KAHILIPARA GUWAHATI 781019

VERSUS

1: MISS ANUPAMA BORA and 8 ORS
D/O SRI PRODIP BORA R/O VILL. HOWRAGHAT WARD NO. 1 P.O. and P.S.
HOWRAGHAT DIST. KARBI ANGLONG ASSAM PIN 782481

2:JUGAL CH. LASKAR
S/O LATE ANANDI RAM LASKAR R/O VILL. JAMUNA GAON P.O.
PANDITGHAT P.S. HOWRAGHAT DIST. KARBI ANGLONG ASSAM PIN 782481

3:UTPAL KUMAR DAS
C/O SRI PHANIDHAR DAS R/O VILL. ROWMARI
P.O. CHECHAPANI DIST. BAKSA BTAD ASSAM PIN 781360

4:SMT. NITALI DEKA
D/O DAYA RAM DEKA R/O VILL. NO. 2 GORESWAR
P.O. and P.S. GORESWAR DIST. BAKSA BTAD ASSAM PIN 781366

5:SMT. BINDIA DEKA
D/O BIPIN CH. DEKA R/O VILL. MUKUNDAPUR
P.O. BHOGPUR DIST. BAKSA BTAD ASSAM PIN 781366

6:SMT. NILIM RABHA
D/O KHAGEN RABHA R/O VILL. CHARANGBARI
P.O. and P.S. TAMULPUR DIST. BAKSA BTAD ASSAM PIN 781367

7:SUMIT CHANDRA
S/O LATE SANKAR CHANDA R/O VILL. URDHAGAON
P.O. PARAKHOWA P.S. DOBOKA DIST. HOJAI ASSAM PIN 782441

8:BABUL DAS
S/O RABINDRA KUMAR DAS R/O VILL. and P.O. RONGKUT
P.S. HOWRAGHAT PIN 782481

9:SMT. NIKUMANI DEKA
D/O SRI TARUN CH. DEKA R/O VILL. DALONGDIA P.O. BETNA
P.S. GORESWAR DIST. BASKA BTAD ASSAM PIN 781366

Linked Case : WA/183/2023

1: THE STATE OF ASSAM and ANR. REPRESENTED BY THE COMMISSIONER
and SECY. TO THE GOVT. OF ASSAM EDUCATION ELEMENTARY DEPTT.
DISPUR GUWAHATI 781006

VERSUS

1: SHRI DWADAS ADITYA DAS and 2 ORS
S/O DASARATH DAS R/O VILL. P.O. NIMUA
DIST. BAKSA ASSAM PIN 781315

2:BHASKARADITYA DAS
S/O DASARATH DAS R/O VILL. P.O. NIMUA
DIST. BAKSA ASSAMPIN 781315

3:ABHIJIT ROY
S/O SRI AJIT KR. ROY C/O JHANTU SARKAR
BIDHANPALLY WARD NO.3 BTAD KOKRAJHAR P.O. KOKRAJHAR
DIST. KOKRAJHAR ASSAM PIN 783370

For the Appellant(s) : Mr. D. Saikia, Advocate General, Assam, assisted by Mr. S.K. Talukdar, Standing Counsel, Department of School Education and Ms. P. Barua, Advocate.

For the Respondent(s) : Mr. H. Das, Advocate for respondent No.1 in Writ Appeal No.211/2017.

- B E F O R E -

**HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR
HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY**

19.02.2026

(Ashutosh Kumar, CJ)

All the three appeals, preferred by the State of Assam, have been heard together and are being disposed off by this common order.

2. We have heard Mr. D. Saikia, learned Advocate General, Assam for the State and Mr. H. Das, learned Advocate for respondent No.1 in Writ Appeal No.211/2017.

3. The records reveal that in Writ Appeal No.304/2018, though notices were issued and served on the respondents but nobody has appeared on their behalf today. In Writ Appeal No.183/2023, steps for service of notice upon the respondents were taken by way of *dasti*, but the respondents refused to accept the same. Therefore, service of notice upon the respondents in Writ Appeal No.183/2023 would be deemed to be completed.

4. The challenge in the present appeals is to the judgment dated 20.06.2017 passed by a learned Single Judge of this Court in WP(C) No.804/2017 and two other connected writ petitions, viz. WP(C) No.76/2017 and WP(C) No.1832/2017, directing consideration of candidature of the respondents also for appointment as Teachers in

Lower Primary and Upper Primary Schools, notwithstanding the fact that the respondents have Teacher Eligibility Test (TET) Certificate limited for being used only in Sixth Schedule areas of Assam.

5. The respondents had qualified the Teachers Eligibility Test (TET) conducted specifically for the Sixth Schedule Districts of Assam, namely, the Districts of Baksa, Chirang, Dima Hasao, Kokrajhar, Karbi Anglong and Udalguri, vide advertisement dated 22.09.2012 by the Sarva Shiksha Abhiyan, Assam. The TET Certificates given to them, pursuant to their training, explicitly state that the same would be valid only for the Sixth Schedule areas.

6. The dispute arose when two advertisements were issued in the year 2016 by the Director of Elementary Education, Assam, inviting TET qualified candidates to fill up 6134 vacant posts in Lower Primary Schools and 5144 in Upper Primary Schools in twenty one (21) non-Sixth Schedule Districts of Assam.

7. It has been contended that the advertisement in question never contained the proscription of candidates having obtained TET Certificate for Sixth Schedule areas only, from applying pursuant to the advertisement. Thus, the respondents applied and were also successful in merit, leading to their names appearing in the Select Lists for different districts but in non-Sixth Schedule ones.

8. Before appointing such candidates from the Select Lists, verification was made and it was found that some of the candidates, including the respondents, had Sixth Schedule Specific TET Certificates,

who, perhaps, could not have applied against the advertisement. In order to clear the doubt, the State of Assam issued a letter dated 08.12.2016 clarifying that the candidature of such candidates having a Sixth Schedule Specific TET Certificate ought not to be considered because such Certificate was invalid for non- Sixth Schedule areas.

This clarificatory stand of the Government excluded the respondents from consideration for final selection.

9. Mr. Das, learned Advocate for the respondent No.1 in Writ Appeal No.211/2017 has submitted that the afore-noted letter dated 08.12.2016 was legally impermissible, arbitrary, discriminatory and a step undertaken by the State midway through the appointment process. It was thus argued that the respondents met all the advertised eligibility criteria and their exclusion at a later stage violates Articles 14 & 16 of the Constitution of India.

10. Mr. Saikia, learned Advocate General, Assam, however, has submitted that there was a purpose for holding Special Sixth Schedule Specific TET, namely, addressing the Teacher shortages in remote Sixth Schedule areas by relaxing standards and restricting its validity to those districts to prevent migration of qualified locals and ensuring level-playing field for general TET holders in the non-Sixth Schedule areas. It was further submitted by the learned Advocate General that this is a separate recruitment drive for non-Sixth Schedule Districts. In the Sixth Schedule Districts, another exercise is required to be undertaken, which would be area specific. In such a scenario, it has been argued, allowing cross-applications would deprive the general TET qualifiers.

11. The learned Single Judge quashed the letter dated 08.12.2016 on the ground that an impermissible change in the rules of the game had been made post selection process commencement and directed the candidature of the respondents to be considered on merit and qualifications.

12. In our estimation, with utmost humility at our command, the reasoning is not correct. The learned Single Judge overlooked the respondents' TETs restricted validity and the Government's intent to protect education in Sixth Schedule areas. The clarification, in our view, dated 08.12.2016, does not change anything midway but only enforces the eligibility. The TET Certificates of all the respondents specifically declare that it is valid only for the Sixth Schedule Districts. This is akin to a negative covenant that it shall not be considered for the districts not falling under the Sixth Schedule areas.

13. Thus the clarificatory letter, referred to above, cannot be said to have changed the rules of the game midway. The respondents did not have the required eligibility and, therefore, they were not selected. [Refer to **Parimal Kumar & Ors. -Vs- The State of Jharkhand & Ors. :: 2025 Scc OnLine SC 210.**]

14. The Constitution Bench judgment in **Tej Prakash Pathak -Vs- Rajasthan High Court :: 2024 INSC 847** has clarified that the recruitment process commences from the date of issuance of the advertisement and concludes with the filling up of notified vacancies and the eligibility criteria for being placed in the Select List, notified at the commencement of the recruitment process, cannot be changed midway through the

recruitment process unless the extant Rules so permit, or the advertisement, which is not contrary to the extant Rules, so permit. Even if such change is permissible under the extant Rules or the advertisement, the change would have to meet the requirement of Article 14 of the Constitution and satisfy the test of non-arbitrariness. It was also held that the Recruiting Bodies, subject to the extant Rules, may devise appropriate procedure for bringing the recruitment process to its logical end provided the procedure so adopted is transparent, non-discriminatory/non-arbitrary and has a rational nexus to the object sought to be achieved.

15. In the case at hand, the advertisement clearly specified that the candidates must have appropriate TET. The TET Certificates of the respondents is Sixth Schedule specific, which, as noted above, is neither arbitrary nor discriminatory and has a rational nexus to the object sought to be achieved. The clarificatory letter is only for the ease and convenience of all.

16. For the afore-noted reasons, we set aside the impugned judgment passed by the learned Single Judge and allow these appeals.

JUDGE

CHIEF JUSTICE

Comparing Assistant