

GAHC010014032025



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

Case No. : WP(C)/461/2025

JIARUL ISLAM
S/O- MARFAT ALI, R/O- VILLAGE TETLIRTAL, P.O.- BARPALLY, P.S.
BARPETA, DIST.- BARPETA, ASSAM, PIN- 781314

VERSUS

THE STATE OF ASSAM AND 8 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT OF ASSAM,
TRANSFORMATION AND DEVELOPMENT DEPT, GUWAHATI-6

2:THE DEPUTY SECRETARY
ASSAM PUBLIC SERVICE COMMISSION
JAWAHARNAGAR
KHANAPARA
GUWAHATI-22

3:THE PRINCIPAL CONTROLLER OF EXAMINATIONS
ASSAM PUBLIC SERVICE COMMISSION
JAWAHARNAGAR
KHANAPARA
GUWAHATI-22

4:THE ADDITIONAL SECRETARY
TO THE GOVT OF ASSAM
TRANSFORMATION AND DEVELOPMENT DEPT
GUWAHATI-6
ASSAM

5:THE PRINCIPAL SECRETARY
HEALTH AND FAMILY WELFARE DEPARTMENT
GOVERNMENT OF ASSAM
JANATA BHAWAN

DISPUR
GUWAHATI-6
ASSAM

6:THE JOINT SECRETARY OF HEALTH SERVICES
BARPETA
ASSAM
PIN- 781301

7:THE PRINCIPAL CUM CHIEF SUPERINTENDENT
FAKHRUDDIN ALI AHMED MEDICAL COLLEGE AND HOSPITAL
JOTIGAON
BARPETA
ASSAM
PIN- 781314

8:DISABILITY REASSESSMENT COMMITTEE
FAKHRUDDIN ALI AHMED MEDICAL COLLEGE AND HOSPITAL
REPRESENTED BY ITS CHAIRMAN CUM MEDICAL SUPERINTENDENT
FAKHRUDDIN ALI AHMED MEDICAL COLLEGE AND HOSPITAL
JOTIGAON
BARPETA
ASSAM
PIN- 781314

9:DISTRICT MEDICAL BOARD
BARPETA
REPRESENTED BY THE JOINT DIRECTOR OF HEALTH SERVICES
BARPETA
ASSAM
PIN- 78130

Advocate for the Petitioner : MR S BORTHAKUR, MR SAURADEEP DEY,MR. B HUSSAIN

Advocate for the Respondent : GA, ASSAM, SC, HEALTH AND F W,SC, APSC

BEFORE
THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY
O R D E R

05.02.2025

1. Heard Mr. S Borthakur, learned counsel for the petitioner.
2. The present writ petition is filed assailing a notification dated

30.03.2023, whereby the Governor of Assam was pleased to notify the procedure for reassessment of disability of persons holding disability certificate(s) or UDID Card(s) issued by certifying authorities prescribed under Section 57 of the Rights of Persons with Disabilities Act, 2016.

3. Mr. Borthakur contends that when the Rights of Persons with Disabilities Act, 2016, a central legislation, itself has created an authority to issue certificate, the State will not be within its jurisdiction and competence to issue such a notification, which is having overriding effect upon the certificate issued by such statutory authority. It is the further contention of Mr. Borthakur that in the event State is not satisfied with such certificate, there is provision of appeal prescribed under Section 59 of the Rights of Persons with Disabilities Act, 2016.

4. Confronted with such an argument, the learned standing counsel for the Health Department seeks some time to complete her instruction, more particularly, as regards the authority under which the aforesaid notification dated 30.03.2023 was issued.

5. Prayer stands allowed.

6. List this matter again on 14.02.2025 for motion.

JUDGE

Comparing Assistant