

GAHC010019372018



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

Case No. : WP(C) 539/2018

1:MUSHARRAF HUSSAIN
S/O- HATEM ALI, R/O- VILL- BAMUNDANGA PART-II, P.O- MARKHULA, P.S-
BAGUAN, DIST- GOALPARA, ASSAM, PIN- 783120

VERSUS

1:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM,
DEPTT. OF HIGHER EDUCATION, DISPUR, GUWAHATI-6

2:THE PRINCIPAL SECRETARY
TO THE GOVT OF ASSAM
HIGHER EDUCATION DEPTT.
DISPUR
GUWAHATI-6

3:THE DIRECTOR
OF HIGHER EDUCATION
ASSAM
KAHILIPARA
GUWAHATI- 19

4:THE PRINCIPAL
OF WEST GOALPARA COLLEGE
AMBARI
P.O- BALARBHITA
P.S- BAGUAN
DIST- GOALPARA
ASSAM
PIN- 783129

5:THE GOVERNING BODY
OF WEST GOALPARA COLLEGE
AMBARI

REP. BY ITS CHAIRMAN
C/O- THE PRINCIPAL OF WEST GOALPARA COLLEGE
AMBARI
P.O- BALARBHITA
P.S- BAGUAN
DIST- GOALPARA
ASSAM
PIN- 783129

6:HAFIZUR RAHMAN
S/O- MD. ABDUL MALEK
LECTURER OF POLITICAL SCIENCE DEPTT.
C/O- THE PRINCIPAL OF WEST GOALPARA COLLEGE
AMBARI
P.O- BALARBHITA
P.S- BAGUAN
DIST- GOALPARA
ASSAM
PIN- 783129

7:NITA MONI NATH
D/O- LATE NAKUL CHANDRA NATH
R/O- VILL- CHARING NATH GAON
P.O- CHARING
DIST- SIVASAGAR
ASSAM
PIN- 785661

8:MINHAZ UDDIN AHMED
S/O- LATE ABDUL HUSSAIN
R/O- VILL AND P.O- BALARBHITA
P.S- BAGUAN
DIST- GOALPARA
ASSAM
PIN- 783129

9:GAGAN CHANDRA NATH
S/O- LATE PURANDER CH NATH
R/O- VILL- CHINABARI
P.O AND P.S- BAGUAN
DIST- GOALPARA
ASSAM
PIN- 78312

Advocate for the Petitioner : MR. A R SIKDAR

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA**

O R D E R

09.02.2018

Heard Mr. A.R Sikdar, learned counsel for the petitioner.

Issue notice of motion returnable in four weeks.

As Mr. K. Gogoi, learned Standing Counsel for Higher Education Department accepts notice on behalf of the respondent Nos. 1, 2 and 3, no formal notice is required to be issued. However, extra copies of the writ petition be furnished to him within three days.

Petitioner is to take steps for service of notice upon the respondent Nos. 4 to 9 by registered post with AD cards within three days.

The petitioner was appointed as a Lecturer in English in the West Goalpara College by the resolution No.2 dated 06.08.2003. Although the regular procedure for recruitment was followed, but the concerned advertisement was only for two posts, which comprised of one sanctioned post and one non-sanctioned post. Depending on the merit position, the petitioner was appointed against the non-sanctioned post. In the year 2004, a policy decision was taken by the Government of Assam to rationalize and adjust such teachers, who were working against non sanctioned posts by regularizing their services against available sanctioned vacant posts in any other department or in any other college, as the case may be. It is the case of the petitioner that in the meantime, one sanctioned vacant post in English Department is available in the West Goalpara College, but the authorities in order to give effect to the aforesaid policy, now intends to take away the available sanctioned vacant post in the English department for regularizing the services of persons working against non-sanctioned post in some other department.

In the prima-facie view of this Court, rationalizing the post for regularization cannot go to the extent that if a sanctioned vacant post is available in a particular department and there are persons working against non-sanctioned post in that department, in the said circumstance

also, the sanctioned post would be used for regularizing the service of some other department in the name of rationalization.

In view of the above, in the interim, it is directed that the sanctioned vacant post in the Department of English shall not be utilized for regularizing the service of any other person in any other department until further orders.

List this matter again on 23.03.2018.

JUDGE

Comparing Assistant