

GAHC010129872020



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

WP(C) Nos. 3807/2019, 3879/2020, 7274/2021,
5818/2023 & 1260/2024

I. WP(C) No.3807/2019

1. Shri Tarique Anwar Laskar,
S/o Anwar Hussain Laskar,
Resident of Village-Bishnapur,
PO-Lala, District, Hailakandi, Assam,
Pin-788163.
2. Jaynal Uddin Choudhury,
S/o Jalal Uddin Choudhury,
Resident of Boalipar Pt-III, Hailakandi,
Assam, Pin-788155.
3. Pritom Misra,
S/o Bijit Kumar Misra,
Resident of Nutan Para, W/N-VI, Kalibari Road,
Hailakandi, Assam, Pin-788151.
4. Dipak Das,
S/o Dilip Das,
Resident of Kalinagar Pt-I, Hailakandi,
Assam, Pin-788801.

5. Jamil Ahmed Laskar,
S/o Mozibur Rahman Laskar,
Resident of Barnagad, Hailakandi,
Assam, Pin-788150.
6. Burhana Begum Laskar,
S/o Abdul Latif Laskar,
Resident of Mahammedpur Pt-II,
Hailakandi, Assam, Pin-788163.
7. Smt. Anjali Suklabadya,
S/o Manik Lal Suklabadya,
Resident of Village-Abdullapur Pt-I,
PS-Lala, Dist.-Hailakandi, Assam, Pin-788163.
8. Tarin Aktar Choudhury,
S/o Baktar Uddin Choudhury,
Resident of Village-Jalalpur, Lala, Hailakandi,
Assam, Pin-788163.
9. Jahir Ahmed Barbhuiya,
S/o Late Nurul Rahman Barbhuiya,
Resident of Rongpur Pt-III, Hailakandi,
Assam, Pin-788163.
10. Saleha Begum Laskar,
D/o Abdul Khaliq Tapadar,
Resident of Lala Road, Ward No.IV, Hailakandi,
Assam, Pin-788151.
11. Sumita Kanoo,
S/o Prem Chand Kanoo,
Resident of Rangabak, Dist.-Hailakandi,
Assam, Pin-788161.
12. Abdul Kaiyum Laskar,
S/o Somar Uddin Laskar,
Resident of Paloicherra Punji Pt-III, Hailakandi,
Assam, Pin-788162.
13. Swadhin Singha,
S/o Swapan Singha,

Resident of Purbakittarbond Part-I, PO-Amala,
PS-Lala, Dist.-Hailakandi, Assam, Pin-788164.

14. Monowara Begum Laskar,
S/o Late Sawkat Ali Laskar,
Resident of Niamothpur,
Hailakandi, Assam, Pin-788163.

15. Avijit Misra,
S/o Late Asit Misra,
Resident of Katlicherra, Dist.-Hailakandi,
Assam, Pin-788165.

16. Samina Yeasmin Laskar,
S/o Samsir Uddin Laskar,
C/o Nurul Islam Laskar,
Boalipar Pt-II, Hailakandi, Assam, Pin-788155.

17. Arpita Misra,
S/o Late Asit Misra,
Resident of Village-Lalpani, PO-Lalpani,
PS-Katlicherra, Dist.-Hailakandi,
Assam, Pin-788165.

18. Sahanara Begom Barbhuiya,
D/o Khalil Uddin Barbhuiya,
Resident of Brojopur, Hailakandi,
Assam, Pin-788155.

19. Fakrul Amin Barbhuiya,
S/o Liaquath Ali Barbhuiya,
Resident of Vichingcha Pt-II, Hailakandi,
Assam, Pin-788151.

20. Pinaki Paul,
S/o Prabir Kanta Paul,
Resident of Panchgram Colony,
Hailakandi, Assam, Pin-788802.

21. Rashma Begom Laskar,
D/o Kalamdar Ali Laskar,
Resident of Brajapur Pt-I, Hailakandi,

Assam, Pin-788155.

22. Anwarul Islam Laskar,
S/o Abdur Rahman Laskar,
Resident of Algapur Pt-I, Hailakandi,
Assam, Pin-788150.

23. Abdus Salam Barbhuiya,
S/o Abdul Matlib Barbhuiya,
Resident of Algapur Pt-IV, Hailakandi,
Assam, Pin-788150.

24. Dilwar Hussain Laskar,
S/o Sobir Hussain Laskar,
Resident of Vill-Katanala N.C., PO-Sultanicherra,
PS-Jamira, Dist.-Hailakandi,
Assam, Pin-788162.

25. Nurul Alam Barbhuiya,
S/o Nashir Uddin Barbhuiya,
Resident of Vill-Ratanpur Pt-II, PO-Ratanpur,
PS-Hailakandi, Dist.-Hailakandi, Assam, Pin-788155.

26. Sri Akhtar Hussain Laskar,
S/o Nashir Uddin Laskar,
Resident of Ward No.XI, Hashim Choudhury Road,
PO-R.P. Road, Dist.-Hailakandi, Assam, Pin-788155.

27. Bibha Rani Das,
D/o Binode Behari Das,
Resident of Vill-Paikan, PO-Paikan, PS-Hailakandi,
Dist.-Hailakandi, Assam, Pin-788155.

28. Bijit Sharma,
S/o Binoy Bhusan Sharma,
Resident of Vill-Paikan, PO-Paikan,
PS-Hailakandi, Dist.-Hailakandi, Assam, Pin-788155.

29. H.M. Fakrul Alam Laskar,
S/o Abdul Wahid Laskar,
Resident of Bashbari, Hailakandi,
Assam, Pin-788152.

30. Badrul Hoque Laskar,
S/o Lutfur Rahman Laskar,
Resident of Algapur Pt-V, Hailakandi,
Assam, Pin-788150.
31. Taj Uddin Laskar,
S/o Late Jahir Uddin Laskar,
Resident of Sayedbond Pt-I, Hailakandi,
Assam, Pin-788163.
32. Arup Chakraborty,
S/o Ashit Baran Chakraborty,
Resident of Panchgram, Hailakandi,
Assam, Pin-788802.
33. Ataur Rahman Laskar,
S/o Abdul Muktadir Laskar,
Resident of Bhatasangjurai, Hailakandi,
Assam, Pin-78815.
34. Zakir Hussain Barbhuiya,
S/o Nurul Islam Barbhuiya,
Resident of Vichingcha Pt-II, Hailakandi,
Assam, Pin-788151.
35. Dilwar Hussain Laskar,
S/o Azir Uddin Laskar,
Resident of Kapnarpar, Hailakandi,
Assam, Pin-788850.
36. Moazzam Akram Mazumder,
S/o Gias Uddin Mazumder,
Resident of Vill-Bowarghat Pt-II,
PO-Bowarghat, PS-Hailakandi,
Dist.-Hailakandi, Assam, Pin-788164.
37. Jabed Ahmed Tapader,
S/o Sofique Uddin Tapadar,
Resident of Vill-Itarkandi Pt-I, PO-Ratakandi,
PS-Hailakandi, Dist.-Hailakandi,
Assam, Pin-788152.

38. Pompy Biswas,
S/o Narayan Biswas,
Resident of Odalbakra, Lalganesh,
PO-Odalbakra, PS-Dispur, Dist.-Kamrup Metro,
Assam, Pin-781034.
39. Piu Das Malo,
S/o Late Pintu Chandra Das,
Resident of Bongaigaon, Assam, Pin-783380.
40. Manash Protim Das,
S/o Yadav Das,
Resident of Vill-Gorumora Koibortta, PO-Gorumora,
PS-Pulibor, Dist.-Jorhat, Assam, Pin-785703.
41. Shila Roy (Majumder),
S/o Sunil Roy,
Resident of Vill-Dakshin Lumding, Durga Colony,
PO-Lumding, PS-Lumding, Dist.-Hojai,
Assam, Pin-782447.
42. Ila Sarkar,
W/o Gopal Chandra Sarkar,
Resident of Vill-Shantipara Part-II, PO-NPS Lamding,
Dist.-Hojai, Assam, Pin-782447.
43. Biswamoti Pegu,
S/o Dinesh Pegu, resident of Dhakuakhana,
PO-Dhakuakhana, PS-Dongara,
Dist.-Lakhimpur, Assam, Pin-787055.
44. Atul Kumar Mandal,
S/o Late Khitish Mandal,
Resident of Garajan, Hailakandi,
Assam, Pin-782128.
45. Smt. Utpala Roy,
D/o Late Swadesh Roy,
Resident of Millonpur Adarsha Nagar,
PO-Nagaon Sadar, PS-Nagaon,
Dist.-Nagaon, Pin-782001.

46. Zulfiqure Ahmed Mazumder,
S/o Jamil Uddin Mazumder,
Resident of Uttarmohanpur, PO-Kaptanpur Pt-XVIII,
PS-Sonai, Dist.-Cachar, Assam, Pin-788119.
47. Monoj Karmakar,
S/o Swapan Karmakar,
Resident of Cachar, Assam, Pin-788030.
48. Sajul Haque Choudhury,
S/o Jamil Ahmed Choudhury,
Resident of Bagpur Pt-III, Cachar, Assam, Pin-788101.
49. Samarjit Singha,
S/o Sushil Chandra Singha,
Resident of Burunga Pt-II, Cachar,
Assam, Pin-788815.
50. Mizanur Rahman Laskar,
S/o Mizazur Rahman Laskar,
Resident of Gonirgram Pt-II, PO-Gonirgram,
PS-Katigorah, Dist-Cachar, Assam, Pin-788025.
51. Rinku Kumar Das,
S/o Rinu Kumar Das,
Resident of Sibnarainpur, Cachar,
Assam, Pin-788804.
52. Tapazul Ali Barbhuiya,
S/o Hazi Tayab Ali Barbhuiya,
Resident of Vill-Tarapur Part-VI, PO-Tarapur,
PS-Silchar Sadar, Dist.-Cachar, Assam, Pin-788003.
53. Sabul Alom Barbhuiya,
S/o Kuti Mia Barbhuiya,
Resident of Kachdaram Pt-II, Cachar, Assam, Pin-788119.
54. Sima Rani Das,
D/o Amit Das,
Resident of Athaalikandi, Cachar, Assam, Pin-788003.
55. Didarul Islam Barbhuiya,
S/o Abdul Motahir Borbhuiya,

Resident of Vill-Alitkar, Cachar, Assam, Pin-788015.

56. Pranay Kanti Banik,
S/o Pranesh Chandra Banik,
Resident of Vill-Muktaram Road, Kanakpur Pt-II,
PO-Kanakpur, PS-Silchar, Dist.-Cachar,
Assam, Pin-788005.

57. Nuwairah Begum Laskar,
W/o Kamal Hassan Laskar,
Resident of Algapur Pt-II, Cachar, Assam, Pin-788101.

58. Abdul Hyee Khadem,
S/o Hussain Ahmed Khaden,
Resident of Gonirgram, Cachar,
Assam, Pin-788025.

59. Y. Sinthoibi Devi,
D/o Late Y. Kameswar Singha,
Resident of Nayagran, Cachar, Assam, Pin-788106.

60. Samsul Hoque Laskar,
S/o Hazi Lalu Mia Laskar,
Resident of Kachdaram Pt-II, Cachar,
Assam, Pin-788119.

61. Ahsanul Hoque Mazumder,
S/o Faridur Rahman Mazumder,
Resident of Vill-Algapur Pt-II, PO-Algapur (East),
PS-Silchar Sadar, Dist.-Cachar, Assam, Pin-788101.

62. Azad Hussain Laskar,
S/o Achaddar Ali Laskar,
Resident of Berabak Pt-II, Cachar, Pin-788115.

63. Nurul Hassan Laskar,
S/o Ahmed Rashid Laskar,
Resident of Baroshali, Cachar, Assam, Pin-788119.

64. Mufidul Islam Laskar,
S/o Abdul Monim Laskar,
Resident of Neairgram Pt-I, Cachar, Assam, Pin-788013.

65. Nasim Uddin,

S/o Imad Uddin,
Resident of Katigorah, Cachar, Assam, Pin-788805.

66. Mamlin Laskar,
S/o Mainul Hoque Laskar,
Resident of Gosaipur Pt-II, Cachar,
Assam, Pin-788030.

67. Md. Samsul Haque,
S/o Hazi Moinul Haque,
Resident of Vill-Sapormoina, PO-Tolengram,
PS-Lakhipur, Dist.-Cachar, Assam, Pin-788103.

68. Sampa Das,
D/o Jitendra Das,
Resident of Bahadurpur, Cachar, Assam, Pin-788002.

69. Arup Chakraborty,
S/o Arun Chakraborty,
Resident of Inathpur (Netaji Lane), Karimganj,
Assam, Pin-788712.

70. Raihan Ahmed Barbhuiya,
S/o Sahab Uddin Barbhuiya,
Resident of Nutan Ramnagar Pt-IV, Cachar,
Assam, Pin-788119.

71. Naz Parbin Laskar,
D/o Inamur Rahman Laskar,
Resident of Ghagrapar Pt-I, Cachar, Assam, Pin-788801.

72. Bijoya Singha,
D/o Kumar Singha,
Resident of Gossaipur Pt-I, Cachar, Assam, Pin-788030.

73. Syeda Amina Islam,
D/o Late Fakrul Islam,
Resident of Barenga, Cachar, Assam, Pin-788005.

74. Sawdha Begum Choudhury,
D/o Ala Uddin Choudhury,
Resident of Sayedbond Pt-I, PO-Kalibari Bazar, PS-Algapur,
Dist.-Hailakandi, Assam, Pin-788150.

75. Dairul Islam Barbhuiya,
S/o Abdul Aziz Barbhuiya,
Resident of Nischitpur, Cachar, Assam.
76. Th. Leina Singha,
D/o Th. Babasana Singha,
Resident of Singerband, Cachar, Assam, Pin-788126.
77. Indrajit Nomosudra,
S/o Jayanta Nomosudra,
Resident of Serulbag, PO-Laxmibazar, PO-Karimganj,
Dist.-Karimganj, Assam, Pin-788710.
78. Snigdha Das Roy,
W/o Suprio Roy,
Resident of Laxmibazar Road, Karimganj, Assam, Pin-788710.
79. Bilal Uddin,
S/o Abdul Karim,
Resident of Ghatudharam, Karimganj, Assam, Pin-788806.
80. Islam Uddin,
S/o Mutachin Ali,
Resident of Purvaduttapur, PO-Anglabazar, PS-Bodorpur,
Dist.-Karimganj, Assam, Pin-788806.
81. Abdul Rouf,
S/o Muslim Ali,
Resident of Jalapur, Karimganj, Assam, Pin-788806.
82. Rafijul Khan,
S/o Ikbali Khan,
Resident of Hajipur, Karimganj, Assam, Pin-788806.
83. Taj Uddin,
S/o Tomiz Uddin,
Resident of Keutkuma, Karimganj, Assam, Pin-788719.
84. Pappu Rajbhar,
S/o Nantu Rajbhar,
Resident of Nilambazar Station Road, PO-Nilambazar,
PS-Nilambazar, Dist.-Karimganj, Assam, Pin-788722.

.....Petitioners.

-Versus-

1. The State of Assam,
Represented by the Commissioner and Secretary to the
Govt. of Assam, Education (Elementary) Department,
Dispur, Guwahati-781006.
2. The Mission Director,
Sarba Siksha Abhiyaan, Kahilipara,
Guwahati-781019.
3. The Director,
Elementary Education, Kahilipara, Guwahati-781019.
4. Shaila Sultana Choudhury,
D/o Saleh Ahmed Choudhury,
W/o Abu Saher Barbhuiya,
Resident of Vill-Rajyeswarpur Pt-3, PO-Amala,
Dist.-Hailakandi, Pin-788164,
School Name-677 No Anwarpar LPS, Katlichhara Block,
Hailakandi.
5. Faizul Hoque,
S/o Abdul Gafur,
School-655 No Rupergool LP School, Vill-Keutkuna,
PO-Singaria Bazar, Dist.-Karimganj, Pin-788719.
6. Pallab Kanti Chakraborty,
S/o Late Pijush Kanti Chakraborty,
Resident of Ward No.1, Kalibari Road, PO-Malugram,
Dist.-Cachar, Pin-788002,
15 Joy Kumar Balika Vidyalaya.
7. Abdur Rajjaque Mazumder,
S/o Abdul Bari Mazumder,
Resident of Vill-Tarinipur Pt-3, PO-Sialtek, Dist.-Cachar,
Assam, Pin-788802,
School Name-860 Bhoter Chalk LPS.
8. Abu Bakkar Tapader,

S/o Rofique Tapader,
Resident of Vill-Tarinipur Part-3, PO-Sialtek, Dist.-Cachar,
Assam, Pin-788802,
School Name-Jagodishpur Part-5 New LPS.

9. Surojit Sarma,
S/o Binod Sarma,
Resident of Mohaprobu Soroni, Sonai Road,
Silchar, Dist.-Cachar, Assam, Pin-788005,
School Name-1070 Digabor LPS.

10. Ratul Biswas,
S/o Gopash Biswas,
Resident of J.B. Road, Near PNB, Kalain Dist-Cachar,
Pin-788815, School Name-4 No Natanpur LPS.

11. Aparna Debroy,
D/o Bhubon Mohan Debroy,
Resident of Vill-Rongpur, PO-Katlicherra, Dist.-Hailakandi,
Assam, Pin-788161, School Name-183 Bara Jamira LPS.

12. Abul Kashim Laskar,
S/o Aftab Uddin Laskar,
Resident of Vill & PO-Basbari Part-I, Dist.-Hailakandi,
Pin-788152, School-Humayun Nagar Egs(18230123005)
Hailakandi.

.....Respondents.

Advocate for the petitioners :- Mr. K.N. Choudhury, Sr. Counsel,
Assisted by N. Gautam.

Advocate for the respondents :- Mr. D. Saikia, Advocate General -cum-Sr.
Counsel, assisted by Mr. S. Bora, Standing
Counsel for SSA and Mr. P.N. Sharma Standing
Counsel for Elementary Education Deptt.

II. WP(C) No.3879/2020

1. Suraj Kumar Das,
S/o Sushen Kumar Das,

Resident of Vill-Tulargram Part-I,
PO-Sonaimukh, Dist.-Cachar, Assam, Pin-788119.

2. Sujoy Das,
S/o Sudhamoy Das,
Resident of Vill-Chantilla,
PO-Chantilla, Dist.-Karimganj, Assam, Pin-788736.

3. Joya Sutradhar,
S/o Bhulu Sutradhar,
Resident of Goragram, PO-Sonapur,
Dist.-Cachar, Assam, Pin-788817.

4. Rafat Mamun Mazumder,
S/o Late Abul Hussain Mazumder,
Resident of Nazrul Sarani, Hailakandi Town,
PO-Ratanpur Road, Dist.-Hailakandi, Assam, Pin-788155.

5. Nur Ahmed Choudhury,
S/o Late Moin Uddin Choudhury,
Resident of Kajidahar Part-I, PO-Kajidahar, Dist.-Hailakandi,
Assam, Pin-788115.

6. Sabubur Rahman,
S/o Abdul Mannan,
Resident of Dewakuri, PO-Lalarchak, Dist.-Hailakandi,
Assam, Pin-788713.

7. Rashid Ahmed Tapadar,
S/o Late Moin Uddin Tapader,
Resident of Tarinipur Pt-III, Hailakandi, Assam, Pin-788802.

8. Kalpita Paul,
D/o Santosh Kumar Paul,
Resident of Chotojalenga Pt-IV, PO-Dwarbond,
Dist.-Cachar, Assam, Pin-788113.

9. Sufian Ahmed,
S/o Aftab Uddin,
Resident of Panchgram, PO-Panchgram,
Dist.-Hailakandi, Assam, Pin-788802.

10. Rekha Talukdar Dey,

D/o Nilmoni Talukdar,
Resident of Bishnupur, PO-Rajabari, Dist.-Jorhat,
Assam, Pin-785014, PO-Tarapur Part-VII, Dist.-Cachar,
Assam, Pin-788008.

11. Salman Laskar,
S/o Bangul Hoque Laskar,
Resident of Dakshin Mohanpur Pt-VII, Dist.-Cachar, Assam.

12. Aynal Hoque Laskar,
S/o Sur Uddin Laskar,
Resident of Dakshin Mohanpur Part-VII, Dist.-Cachar, Assam.

.....Petitioners.

Versus

1. The State of Assam,
Represented by the Commissioner and Secretary to the
Govt. of Assam, Education (Elementary) Department,
Dispur, Guwahati-781006.

2. The Mission Director,
Sarba Siksha Abhiyaan, Kahilipara,
Guwahati-781019.

3. The Director,
Elementary Education, Kahilipara, Guwahati-781019.

4. Shaila Sultana Choudhury,
D/o Saleh Ahmed Choudhury,
W/o Abu Saher Barbhuiya,
Resident of Vill-Rajyeswarpur Pt-3, PO-Amala,
Dist.-Hailakandi, Pin-788164,
School Name-677 No Anwarpar LPS, Katlichhara Block,
Hailakandi.

5. Faizul Hoque,
S/o Abdul Gafur,
School-655 No Rupergool LP School, Vill-Keutkuna,
PO-Singaria Bazar, Dist.-Karimganj, Pin-788719.

6. Pallab Kanti Chakraborty,
S/o Late Pijush Kanti Chakraborty,

Resident of Ward No.1, Kalibari Road, PO-Malugram,
Dist.-Cachar, Pin-788002,
15 Joy Kumar Balika Vidyalaya.

7. Abdur Rajjaque Mazumder,
S/o Abdul Bari Mazumder,
Resident of Vill-Tarinipur Pt-3, PO-Sialtek, Dist.-Cachar,
Assam, Pin-788802,
School Name-860 Bhoter Chalk LPS.

8. Abu Bakkar Tapader,
S/o Rofique Tapader,
Resident of Vill-Tarinipur Part-3, PO-Sialtek, Dist.-Cachar,
Assam, Pin-788802,
School Name-Jagodishpur Part-5 New LPS.

9. Surojit Sarma,
S/o Binod Sarma,
Resident of Mohaprobu Soroni, Sonai Road,
Silchar, Dist.-Cachar, Assam, Pin-788005,
School Name-1070 Digabor LPS.

10. Ratul Biswas,
S/o Gopash Biswas,
Resident of J.B. Road, Near PNB, Kalain Dist-Cachar,
Pin-788815, School Name-4 No Natanpur LPS.

11. Aparna Debroy,
D/o Bhupon Mohan Debroy,
Resident of Vill-Rongpur, PO-Katlicherra, Dist.-Hailakandi,
Assam, Pin-788161, School Name-183 Bara Jamira LPS.

12. Abul Kashim Laskar,
S/o Aftab Uddin Laskar,
Resident of Vill & PO-Basbari Part-I, Dist.-Hailakandi,
Pin-788152, School-Humayun Nagar Egs(18230123005)
Hailakandi.

.....Respondents.

Advocate for the petitioners :- Mr. J. Laskar.

Advocate for the respondents :- Mr. D. Saikia, Advocate General -cum-Sr.

Counsel, assisted by Mr. S. Bora, Standing
Counsel for SSA and Mr. P.N. Sharma Standing
Counsel for Elementary Education Deptt.

III. WP(C) No.7274/2021

Safatun Nessa Barbhuiya,
D/o Late Abdul Wahab Barbhuiya,
Resident of Vill-Bhabanipur, PO-Amala,
Pin-788164, PS-Lala, Dist.-Hailakandi, Assam.

.....*Petitioner.*

Versus

1. The State of Assam,
Represented by the Commissioner and Secretary to the
Govt. of Assam, Education (Elementary) Department,
Dispur, Guwahati-781006.
2. The Mission Director,
Sarba Siksha Abhiyan (Now known as Samagra Siksha
Abhijan), Assam, Kahilipara, Guwahati-781019.
3. The Director,
Elementary Education, Assam, Kahilipara, Guwahati-781019.

.....*Respondents.*

Advocate for the petitioner:- Mr. N.H. Laskar.

Advocate for the respondents :- Mr. D. Saikia, Advocate General -cum-Sr.
Counsel, assisted by Mr. S. Bora, Standing
Counsel for SSA and Mr. P.N. Sharma Standing
Counsel for Elementary Education Deptt.

IV. WP(C) No.5818/2023

1. Priyanka Upadhayaya,
D/o Hira Lal Upadhayaya,
W/o Bijay Kumar Dubey,
Resident of Vill-Silcoorie T.E., PO-Silcoorie,

PS-Silchar Sadar, Dist.-Cachar, Assam, Pin-788118.

2. Mufid Hussain Laskar,
S/o Abdul Mazid Laskar,
Resident of Vill-Didarkosh Pt-I, PO-Matinagar,
PS-Sonai, Dist.-Cachar, Assam, Pin-788099.

3. Sahanaz Aktar Laskar,
D/o Jamir Uddin Laskar,
W/o Diluwar Hussain Laskar,
Resident of Vill-Nutan Ramnagar Pt-V,
PO-Dakshin Mohanpur, PS-Sonai, Dist.-Cachar,
Assam, Pin-788119.

4. Muktar Hussain Mazumder,
S/o Jamal Uddin Mazumder,
Resident of Vill-Dakshin Krishnapur,
PO-Sonabarighat, PS-Silchar, Dist.-Cachar,
Assam, Pin-788013.

5. Bappon Das,
S/o Babul Das,
Resident of Vill-Purba Jaroilbari,
PO-Gobindaganj Bazar, PS-Ratabari,
Dist.-Karimganj, Assam, Pin-788733.

6. Suraiya Aktar Laskar,
D/o Rahmat Ali Laskar,
Resident of Vill-Vichingcha Pt-I, PO-Vichingcha,
PS & Dist.-Hailakandi, Assam, Pin-788151.

7. Krishanu Kar Purkayastha,
S/o Kaushik Kar Purkayastha,
Resident of Vill-Koyah T.E., PO-Koyah T.E., PS-Ratabari,
Dist.-Karimganj, Assam, Pin-788733.

8. Shahin Sultana Laskar,
D/o Lt. Ashraf Uddin Laskar,
W/o Abdur Rahman Barbhuiya,
Resident of Vill-Bakrihawar Pt-V, PO-Chiporsangon,
PS-Panchgram, Dist.-Hailakandi, Assam, Pin-788801.

9. Mahbubul Bari Choudhury,
S/o Lt. Azizur Rahman Choudhury,
Resident of Vill-Algapur Pt-I, PO-Kalibari Bazar,
PS-Algapur, Dist.-Hailakandi, Assam, Pin-788150.
10. Fakhar Uddin Barbhuiya,
S/o Mozid Ali Barbhuiya,
Resident of Vill-Dholai Molai Pt-II, PO-Dholai Molai,
PS-Katlicherra, Dist.-Hailakandi, Assam, Pin-788161.
11. Kakoli Rani Das,
D/o Mati Lal Das,
Resident of Vill-Rongpur, Karatigram,
Opp. Narsingh Sarani, Silchar, PO & PS-Silchar,
Dist.-Cachar, Assam, Pin-788009.
12. Nozmul Hussain Laskar,
S/o Lt. Gias Uddin Laskar,
Resident of Vill-Narainpur Pt-I,
PO-Chandpur West, PS-Hailakandi,
Dist.-Hailakandi, Assam.

.....Petitioners.

Versus

1. The State of Assam,
Represented by the Commissioner and Secretary to the
Govt. of Assam, Education (Elementary) Department,
Dispur, Guwahati-781006.
2. The Mission Director,
Sarba Siksha Abhiyan (Now known as Samagra Siksha
Abhijan), Assam, Kahilipara, Guwahati-781019.
3. The Director,
Elementary Education, Assam, Kahilipara, Guwahati-781019.

.....Respondents.

Advocate for the petitioners :- Mr. K. Mira.

Advocate for the respondents :- Mr. D. Saikia, Advocate General -cum-Sr.
Counsel, assisted by Mr. S. Bora, Standing

Counsel for SSA and Mr. P.N. Sharma Standing
Counsel for Elementary Education Deptt.

V. WP(C) No.1260/2024

1. Rathia Kanta Das,
S/o Jaharlal Das,
Resident of Vill-Nutan Kanchanpur, PO-Nutan Kanchanpur,
PS-Silchar Sadar, Dist.-Cachar, Assam, Pin-788007.
2. Fazlul Bari,
S/o Late Suaibur Rahman,
Resident of Vill-Uttar Kanchanpur Pt-I, PO-Panchgram,
PS-Panchgram, Dist.-Cachar, Assam, Pin-788802.
3. Fazal Hussain Barlaskar,
D/o Late Ajajur Rahman Barlaskar,
Resident of Vill-Water Works Road, Near Patshala School,
PO-Silchar, PS-Silchar, Dist.-Cachar, Assam, Pin-788001.
4. Majmul Houque Laskar,
S/o Fakar Uddin Laskar,
Resident of Vill-Neairgram Pt-I, Silchar,
PO-Neairgram, PS-Silchar, Dist.-Cachar, Assam, Pin-788030.

.....Petitioners.

Versus

1. The State of Assam,
Represented by the Commissioner and Secretary to the
Govt. of Assam, Education (Elementary) Department,
Dispur, Guwahati-781006.
2. The Mission Director,
Sarva Siksha Abhiyan, Kahilipara,
Guwahati-781019.
3. The Director,
Elementary Education, Kahilipara, Guwahati-781019.
4. Sri Pallab Kanti Chakraborty,
S/o Late Pijush Kanti Chakraborty,

Resident of Ward No.1, Kalibari Road, PO-Malugram,
Dist.-Cachar, Pin-788002,
School Name-15 Joy Kumar Balika Vidyalaya.

5. Shaila Sultana Choudhury,
W/o Abu Saher Barbhuiya,
Resident of Vill-Rajyeswarpur Pt-3, PO-Amala,
Dist.-Hailakandi, Pin-788164,
School Name-677 No Anwarpar LPS, Katlichhara Block,
Hailakandi.

6. Faizul Hoque,
S/o Abdul Gafur,
School-655 No Rupergool LP School, Vill-Keutkuna,
PO-Singaria Bazar, Dist.-Karimganj, Pin-788719.

7. Abdur Rajjaque Mazumder,
S/o Abdul Bari Mazumder,
Resident of Vill-Tarinipur Pt-3, PO-Sialtek, Dist.-Cachar,
Assam, Pin-788802,
School Name-860 Bhoter Chalk LPS.

8. Abu Bakkar Tapader,
S/o Rofique Tapader,
Resident of Vill-Tarinipur Part-3, PO-Sialtek, Dist.-Cachar,
Assam, Pin-788802,
School Name-Jagodishpur Part-5 New LPS.

9. Surojit Sarma,
S/o Binod Sarma,
Resident of Mohaprobu Soroni, Sonai Road,
Silchar, Dist.-Cachar, Assam, Pin-788005,
School Name-1070 Digabor LPS.

10. Ratul Biswas,
S/o Gopash Biswas,
Resident of J.B. Road, Near PNB, Kalain Dist-Cachar,
Pin-788815, School Name-4 No Natanpur LPS.

11. Aparna Debroy,
D/o Bhubon Mohan Debroy,
Resident of Vill-Rongpur, PO-Katlicherra, Dist.-Hailakandi,

Assam, Pin-788161, School Name-183 Bara Jamira LPS.

12. Abul Kashim Laskar,
S/o Aftab Uddin Laskar,
Resident of Vill & PO-Basbari Part-I, Dist.-Hailakandi,
Pin-788152, School-Humayun Nagar Egs(18230123005)
Hailakandi.

13. Monjurul Islam Laskar,
S/o Amin Ali Laskar,
Name of School-Kalakhal New LP School,
Resident of Vill-Dakshin Mohanpur Pt-VII,
PO-Dakshin Mohanpur, Dist-Cachar,
Pin-788119.

14. Kutub Islam Barbhuiya,
S/o Azom Ali Barbhuiya,
Name of School-977 No Selurpar LP School,
Resident of Vill-Dakshin Mohanpur Pt-II,
PO-Dakshin Mohanpur, Dist.-Cachar, Pin-788119.

.....Respondents.

Advocate for the petitioners :- Mr. M. Das.

Advocate for the respondents :- Mr. D. Saikia, Advocate General -cum-Sr.
Counsel, assisted by Mr. S. Bora, Standing
Counsel for SSA and Mr. P.N. Sharma Standing
Counsel for Elementary Education Deptt.

BEFORE

HON'BLE MR. JUSTICE ROBIN PHUKAN

Date on which judgment is reserved : **11.06.2026**

Date of pronouncement of judgment : **10.08.2026**

Whether the pronouncement is of the
operative part of the judgment? : N/A

Whether the full judgment has been pronounced?

: Yes

JUDGEMENT & ORDER (CAV)

Heard Mr. K.N. Choudhury, learned Senior Counsel assisted by Mr. N. Gautam, learned counsel for the petitioners in WP(C) No. 3807/2019; Mr. J. Laskar, learned counsel for the petitioners in WP(C) No. 3879/2020; Mr. N.H. Laskar, learned counsel for the petitioner in WP(C) No. 7274/2021, Mr. K. Mira, learned counsel for the petitioners in WP(C) No. 5818/2023; and Mr. M. Das, learned counsel for the petitioners in WP(C) No. 1260/2024. Also heard Mr. D. Saikia, learned Advocate General of Assam cum Senior Counsel for the State respondents in all the writ petitions.

2. In these batch of petitions, under Article 226 of the Constitution of India, the petitioners have challenged the recruitment of candidates to 11,319 numbers of vacant posts of Assistant Teachers, under the scheme of "Strengthening Elementary Education of Assam" as so indicated in the Notification, dated 06.09.2017, (ANNEXURE- C) and prayed for setting aside and quashing of appointment of 11,319 numbers of Assistant Teachers, under the aforesaid scheme, being the said appointments made without advertisement.

2.1. Further, the petitioner in WP(C) No. 1260 of 2024, has additionally challenged the letter, dated 10.01.2023, issued by the Secretary to the Government of Assam, Department of School Education, providing option in respect of service conditions of contractual teachers and State Pool of

Teacher, under Samagra Shiksha Assam, to the extent the same relates to the service of the 9731 numbers of Assistant Teachers of L.P. School, under the scheme of 'Strengthening Elementary Education of Assam'

3. As a common question of law is involved in this batch of five writ petitions, i.e. (i) WP(C) No. 3807/2019; (ii) WP(C) No. 3879/2020; (iii) WP(C) No. 7274/2021, (iv) WP(C) No. 5818/2023; (v) WP(C) No. 1260/2024, and as agreed upon, it is proposed to dispose of all these five writ petitions by this common judgment and order.

Background Facts:-

4. The background facts leading filing of the present petition is briefly adumbrated as under:-

“The petitioners are permanent resident in various Districts in the State of Assam, namely, Cachar, Karimganj, Hailakandi, Kamrup Rural, Kamrup Metro, Bongaigaon, Goalpara, Nagaon, Hojai, Dima Hasao and Sivasagar and all of them had cleared the TET examination in the year 2014. An advertisement (Annexure-A), was issued by the respondent authorities on 30/06/2017, for recruitment of Assistant Teachers from TET/CTET qualified candidates. The criteria spelt out in the said advertisement also indicate age criteria. The petitioners fulfilled all the required eligibility criteria, as spelt out in the said advertisement. The posts of Assistant Teachers at Lower Primary and Upper Primary Schools were on contractual basis, under the SARVA SHIKHA ABHIYAN (SSA) ASSAM. The advertisement also indicated District-wise,

Category-wise vacancy positions of posts. It is also indicated the category-wise numbers of vacancy might increase or decrease after approval from the concerned department, without however indicating as to whether the increase or decrease in the category-wise numbers of vacancy would resultantly increase or decrease district-wise vacancy.

At point No.11 of the said advertisement, dated 30/06/2017, under the "Criteria" it was indicated that the procedure of selection shall be as per the rule, and that marks obtained by the candidate in the TET/CTET, academic qualification, professional qualification and excellence at NCC (B or C Certificate), sports (participation in recognized sports at National Level representing the Assam), fine arts and cultural activities (representing the State of Assam officially at National Level) would be taken into consideration for preparing district wise select list. It was further indicated that there would be provisions of marks (as per norms) for NCTE recognised professional qualification.

The petitioners, however, considering the fixed numbers district-wise vacancy, did not participate in the recruitment process as the chances of their selection was bleak considering the huge numbers of applicants, who had participated in the process on an all Assam basis. On the same premise, those petitioners who had participated in the recruitment process responding to the Advertisement dated 30.06.2017, did not carry out the mandatory verification of documents as required. However, there was no bar for a candidate to participate in any of the district, the only

restriction being, the choice of District had to be singular.

The result of the said recruitment process was declared on 01/09/2017, and uploaded the same in the official website of SSA, by the respondent authorities vide Notification No. SSA/TT/Engagement of A T 2017/1095/2017/2966, 'ANNEXURE - B', dated 01/09/2017.

Thereafter, by a Notification, dated 06/09/2017, ANNEXURE-C, it was indicated, in substance, that 11,319 numbers of TET qualified candidates had been notified to be engaged as Assistant Teachers in respect of the advertisement, dated 30/06/2017. As the petitioners were contemplating to participate for the post in the Lower Primary Level, they were surprised to notice that as against 7042 numbers of posts advertised in all, for Lower Primary Level, Upper Primary - Social Science, and Upper Primary Maths and Science, total 11,319 candidates had been appointed against "increased Vacancy", which indicates that appointments to 11,319 numbers of posts have been made without any advertisement.

The petitioners had collected two appointment orders dated 08/09/2017 and 08/09/2017, ANNEXURES-D and E, respectively, wherein reference has been made to the advertisement dated 30/06/2017, and the same also indicates appointment on contractual basis in Pay-Band-2 Rupees 14000-49000/- and Grade Pay of Rs. 6200/- including other allowances as admissible to the State Government Employees. The other order of appointment indicated the Notification, dated 06/09/2017, and also indicated the engagement period of 11 months at a fixed pay

of Rupees 20,000/- per month.

The said persons so recruited initially for a period of 11 months, with fixed monthly pay, are still continuing in service and it is apparent that in the garb of recruitment for a period of 11 months, total 11,319 numbers of candidates have been appointed like a regular service selectees.

It is the contention of the petitioner that the recruitment of 11,319 numbers of candidates for a period of 11 months in garb of such recruitment being in context with the advertisement, dated 30/06/2017, is illegal in as much as such recruitment of 11,319 numbers of candidates is on the different plank all together and not connected with advertisement dated 30/06/2017. Assuming but not admitting that such recruitment of 11,319 numbers of candidates is against "increased vacancy", the respondent authorities are not enjoined under the law to fill up such huge numbers of vacancies without notifying the same by way of separate advertisement so as to enable fair public participation. It is the further contention of the petitioners that the action of the respondent authorities in facilitating back door entry of 11,319 candidates and that too as a different pay structure and length of service goes to show illegalities which have unarguably prevailed in recruiting 11,319 candidates depriving the chance of participation of the petitioners and such illegal, arbitrary and discriminatory action of the respondent authorities affected the fundamental rights and legal rights of the petitioners and being aggrieved the petitioners approached this Court by filing present

petition seeking the relief(s) as aforesaid.

It is the further contention of the petitioners that they are not challenging the recruitment of 7042 numbers of candidates made pursuant to the Advertisement dated 30/06/2017, but, are challenging the back door entry of 11,319 numbers of candidates, without any advertisement. They are contemplating to apply for the post of Assistant Teacher at Lower Primary Level, the challenge is restricted to 9731 candidates so appointed beyond 5854 candidates, at Lower Primary Level.

Though the petitioners had represented to the authorities on several occasions such as on 22/12/2017, 30/01/2018 and 06/05/2019 ventilating their grievances yet the same failed to evoke any response."

5. The respondent No.1, the Commissioner and Secretary to the Government of Assam has filed an affidavit-in-opposition, wherein it has taken a stand that the Asom Sarba Siksha Abhiyan Mission had published advertisement for 7042 number of posts of contractual Assistant Teacher vide No.SSA/TT/Engagement of Asst. Teacher/1095/2017/1218, dated 30-06-2017. In the advertisement it was clearly mentioned that the number of vacancy may increase.

It is also stated that that in the meantime, a communication was received from Government of India vide Letter No. D.O. No. 17-2/2017-EE.17, dated 03-08-2017, regarding last chance to acquire the requisite minimum qualification by elementary level teachers within 31 March, 2019. In the letter, broad strategy was mentioned to complete the

training of untrained teachers by 31st of March, 2019, as a last chance.

As 31st of March, 2019 was the last date of acquiring professional qualification (2 year D.El.Ed/B.Ed etc.) by the elementary level untrained teachers, the matter was considered with utmost seriousness and considering the requirement of teacher in elementary level schools in the State, a decision was taken to fill up the "State Pool of teachers" from the remaining eligible candidates in order of merit of the above mentioned engagement process on the basis of the provision mentioned in the advertisement dated 30-06-2017, i.e. "number of vacancy may increase".

This was done keeping in view the emergent situation that as the National Institute of Open Schooling (NIOS) registration for admission into the 2 years D.El.Ed. was supposed to be closed on 15-09-2017. If the State Pool of teachers was to be filled up by fresh advertisement, it would not be possible to enroll the untrained Assistant Teachers of State Pool in NIOS, within 15-09-2017. Considering the same, these teachers were engaged against State Pool on the basis of provision mentioned in the advertisement, dated 30-06-2017, i.e. "number of vacancy may increase".

The entire process of engagement of 11319 Assistant Teachers under the scheme of "Strengthening Elementary Education of Assam" was carried out against the advertisement No. SSA/TT/Engagement of Asstt.Teacher/1095/2017/1218, dated 30-06-2017, under the provision i.e. "number of vacancy may increase". The 11319 numbers of Assistant Teachers under State Pool were engaged so that these teachers can get themselves trained by enrolling themselves in the NIOS for 2 years D.El.Ed. Programme, by 15-09-2017.

It is also stated that all total 24345 numbers of candidates had submitted their online applications in response of the advertisement No. SSA/TT/Engagement of Asstt. Teacher/1095/ 2017/1218, dated 30-06-2017.

The Department of Elementary Education or Sarba Siksha Abhiyan, Assam is in no way responsible for non submission of online application by the petitioners of this case. As 24345 candidates had submitted online applications, the petitioner in this case could have also submitted their online applications against the said advertisement. Non submission of online application by the petitioner is not the fault of Department of Elementary or Sarba Siksha Abhiyan, Assam, in as much as, no bar was imposed on the instant petitioners to participate in the process of appointment/ engagement pursuant to the advertisement dated 30-06-2017.

It is also stated that both the notifications as stated by the petitioner are contractual appointment. The candidates, who have already been serving, have no objections on regarding the period of engagement and that the petitioners are not being aggrieved by those notifications.

6. The petitioner had filed an affidavit in reply reiterating and reaffirming the statement and averment made in the petition. It is stated that the statement made by respondent No. 1 in the affidavit in opposition is an admission to the fact that recruitment of 11,319 persons as Assistant Teachers on contractual basis, under the scheme of 'Strengthening Elementary Education of Assam' was done without any advertisement inviting applications, from the eligible candidates for filling up said 11,319 posts in context.

7. Private respondent No.6 has filed his affidavit in opposition. His stand is that the averments that it was not indicated as to whether the increase or decrease in the category wise numbers of vacancy would resultantly increase or decrease district-wise vacancy so indicated, is a superfluous as the same would be automatic and related to increase or decrease in the category wise numbers of vacancy, for the advertisement itself indicates 'District-wise category-wise vacancy positions of posts'. The petitioners did not participate in the recruitment process nor did they carry out the mandatory verification of documents as required and as such they do not have any **locus-standi** to file the instant writ petition challenging the appointments of selected candidates, when the advertisement admittedly indicates increase or decrease of posts. The statements that the petitioners were contemplating to participate for the post in the Lower Primary Level and that they were surprised to notice that as against 7042 numbers of posts 11,319 numbers of candidates have been appointed against 'increased vacancy', which indicates that appointments to 11,319 numbers of posts have been made without any advertisement, are not true and correct as there being clear indication of increase or decrease in number of posts. The advertisement dated 30.06.2017, also indicates vacancies in the respective districts, which the petitioners belong to. It was specifically mentioned that the numbers of vacancy might increase or decrease and those candidates, who applied for the given posts and participated in process & appeared for the final verification, are only appointed/engaged. The candidates were engaged with a condition that they would qualify/acquire the professional

qualification (Diploma in Elementary Education) within 31.03.2019, which is also a condition under Advertisement dated 30.06.2017. Those who have qualified the said professional qualification have been continued in service by issuing Notification for extension engagement from time to time. The service rendered by the answering respondent and others are on contractual basis. There is no legal impediment in renewal or extension of the contract from time to time, if the conditions are fulfilled. The petitioners, who had deliberately chosen to be aloof from the process of engagement, under the advertisement, dated 30.06.2017, now cannot claim that there should have been separate advertisement for their own mistake. The petitioners are responsible for their own laches and negligence, for which the allegation that the petitioners have been deprived of the chance of participation is absolutely false and baseless. The engagement of 11,319 number of candidates was made and notified against the advertisement dated 30.06.2017, which would be more evident from the Notification dated 06.09.2017 (Annexure-C to the writ petition). Further, when the petitioners have not been challenging recruitment of 7042 numbers of candidates, so appointed in context, with the recruitment process initiated vide Advertisement, dated 30.06.2017, they also cannot challenge the recruitment of remaining 4,277 candidates for the reason that the Advertisement dated 30.06.2017, indicated probability of increased vacancy. The statements that the recruitment of 11,319 numbers of candidates is vitiated for non-advertisement, trampling the chance of participation and selection of the petitioners are not true and correct. The engagement of 11,319 numbers of candidates was made and notified against the advertisement, dated 30.06.2017,

which would be more evident from the Notification, dated 06.09.2017 (Annexure-C to the writ petition). By issuing Notification, Dated 10.08.2018, the Mission Director, SSA, Assam the service of engaged teachers, under the scheme of 'Strengthening of Elementary Education' was extended up to 30th September, 2019. Further, the clause 12 of the advertisement, dated 30.06.2017, stipulates that the teachers, who will be engaged through this advertisement under relaxed qualification norms, will have to acquire professional qualification, specified in the NCTE notification within 31st March, 2019. Therefore, there is also presumption of extension till 31.03.2019. He also stated that he passed the professional qualification of Diploma in Elementary Education, for the Session 2017-19, from the National Institute of Open Schooling and accordingly, he has been issued Certificate on 04.03.2020. Thus, he has fulfilled the requirement of having professional qualification, within 31st March, 2019, and the service rendered by him and others are on contractual basis. The Govt. of Assam had issued a Notification vide No.PMA.38/2020/27, dated 1st July, 2020 in pursuance of Cabinet decision extending some benefits to the teachers who were engaged vide Notification No.648/2017/36, dated 06.09.2017, and he has also been extended the same benefit executing an agreement, dated 01.07.2020. Therefore, it is the policy decision of the Govt. Of Assam whereby the teachers, who were engaged vide Notification No.648/2017/36 06.09.2017, have been given extension.

8. The petitioner No. 70, in writ petition No. 3807 of 2019, has filed his affidavit-in-reply, wherein he has stated that the petitioners are eligible

and duly qualified to be selected and appointed as Assistant Teacher of Lower Primary, Assistant Teacher of Upper Primary and Science Graduate in Upper Primary. The advertisement dated 30.06.2017, was issued for filling up 7042 posts of Assistant Teachers of Lower Primary and Upper Primary Schools. But, the respondent authorities had notified that a total of 11,319 Nos. of candidates to be engaged as Assistant Teachers in respect of the advertisement dated 30.06.2017, against the advertised vacancy of 7042 Teachers. The additional posts were created/issued without any advertisement. It is also stated that the Government of India in the Ministry of Human Resource Development (Department of School Education & Literacy) vide letter, dated 03.08.2017, stated that registration of unqualified, untrained, teachers on NIOS Portal, should be completed between 16.08.2017 to 15.09.2017. It is also additionally stated that this one-time measure is only for the unqualified, in-service teachers, in Govt./Govt.-aided/Private schools. Thus, the State has committed a mala-fide exercise in appointing the private respondents as Assistant Teachers under SSA, Assam as by no stretch of imagination, it could be said that the appointees were unqualified in-service teachers in Govt./Govt.-aided/Private schools as none of the appointees were unqualified-in-service teachers in Govt./Govt.-aided/Private schools. So, in the absence of any statutory backing, the entire exercise is illegal and without any backing of law. Therefore, such exercise undertaken by the authorities to fill up the "State Pool of Teachers" is violative of Articles 14 and 16 of the Constitution of India. Recruiting 11,319 numbers of teachers, without any advertisement, lacks fairness and transparency. Such an exercise has caused serious prejudice to the petitioners. The

petitioner did not participate in the recruitment process as their chances were bleak against the initial advertisement dated 30.06.2017 for 7042 Nos. of post. It is also stated that vide Notification, dated 11.07.2024, the "Assam Elementary Education (Provincialization) Rules, 1977" was amended. By the said amendment the authorities has introduced "Special Recruitment Drive" by which the authorities has sought to recruit regular teachers from the existing contractual or State Pool teachers under the Samagra Shiksha Abhiyan, Assam (i.e. the private respondents in the instant writ petition). The action of the authorities in sanctioning and advertising 35,133 numbers of personal posts of Upper Primary and Lower Primary School teachers for the Special Recruitment Drive, under the Directorate of Elementary Education, Assam has seriously prejudiced the petitioners and others similarly qualified candidates of the State of Assam. In the said advertisement, it is categorically mentioned that only candidates who are working as Contractual and State Pool contractual teachers, under Samagra Siksha Assam, are eligible. In this regard, it is to be stated that a writ petition bearing No. W.P. (C) No. 5207 of 2024, challenging the *vires* of the 2024 Amendment of the Rules of 1977, is presently pending adjudication before this Court. It is also stated that as per the Ministry of Human Resource Development and NCTE Notifications, dated 03.08.2017, 15.09.2019 and 22.09.2017, the D.El.Ed. course is valid for only for those teachers who have joined the service on or before 10.08.2017. However, the state pool teachers, who were appointed vide appointment letter dated 08.09.2017, and thereafter, in pursuance to the appointment letters they have joined in service. It is also stated that Hon'ble Supreme Court, in **SLP (C) No. 23583-84 of**

2022 (Jaiveer Singh vs. The State of Uttarakhand & Ors), has categorically held that the one-time measure was only for those Teachers who were in-service and had completed their course, as on 01.04.2019. Thus, it is inconceivable that the respondent authorities have appointed the private respondents as Assistant Teachers let alone regularize them vide the Amendment of 2024 to the Rules of 1977, when the private respondents are not qualified to be appointed as Teachers in the first place. It is an admitted position that National Institute of Open Schooling degree was admissible only for in-service teachers, in view of the letter, dated 03.08.2017. Therefore, as on 03.08.2017, those state contractual pool Teachers who are recruited were not in service. As such, the respondent authorities by recruiting such teacher under Special Recruitment Drive are guilty of manifest arbitrariness, illegality and having taken recourse to an action which is not backed by statutory prescriptions and in-service teachers in Govt./Govt.-aided/Private schools, thus, seriously prejudiced the petitioners and other similarly qualified teachers which is in grave violation of the Constitution of India and other Statutory laws in force.

Submissions of learned counsel for the petitioners:-

9. Mr. Choudhury, learned Senior Counsel for the petitioners in **WP(C) No. 3807/2019**, submits that the Mission Director, SSA, Assam, being the respondent No. 2, had issued an advertisement being Annexure-A, at page No.58 of the petition, for filling up of 7042 numbers of posts. Thereafter, the result was declared vide Annexure-B, at page No.62 and total 6172 numbers of candidates were found to be eligible and they

were appointed accordingly. Subsequently, another 331 numbers of candidates were also appointed. He also submits that the petitioners have no grievance in appointing those candidates, as inspite of possessing requisite qualifications, the petitioners chosen not to apply for the said posts, due to availability of less numbers of candidates in their home districts. But, the petitioners are aggrieved for issuance of Notification dated 06.09.2017, by the Mission Director SSA, Assam as vide said Notification it was stated that 11,319 numbers of TET qualified candidate, have been notified to be engaged as teachers on contractual basis, pursuant to the advertisement dated 30.06.2017. Mr. Choudhury has pointed it out that appointment of 11,313 numbers of candidates is violation of the Rule of Law, and thereby, the right of the petitioners, under Articles 14 and 16(1) of the Constitution of India, are violated. Therefore, Mr. Choudhury has contended to set aside the appointment of 11,319 candidates.

9.1. In support of his submission Mr. Choudhury has referred following decisions:-

- (i) **State of U.P. v. Neeraj Awasthi**, reported in(2006) 1 SCC 667, (Para No.55, 56, 57)
- (ii) **Union Public Service Commission vs. Girish Jayanti Lal Vaghela and Others**, reported in (2006) 2 SCC 482, (Para-12)

10. Mr. J. Laskar, learned counsel for the petitioners in WP(C) No. 3879/2020; Mr. N.H. Laskar, learned counsel for the petitioner in WP(C) No. 7274/2021, Mr. K. Mira, learned counsel for the petitioners in WP(C) No. 5818/2023; and Mr. M. Das, learned counsel for the petitioners in

WP(C) No. 1260/2024, have also subscribes the submissions of Mr. Choudhury, learned counsel for the petitioners in WP(C) No. 3807/2019.

Submission of learned counsel for the respondent No. 1,2 and 3.:-

11. Per contra, Mr. D. Saikia, learned Advocate General of Assam cum Senior Counsel for the State respondents, submitted that this batch of writ petitions are not at all maintainable. *Firstly*, Mr. Saikia has pointed it out that there is delay and laches on the part of the petitioners in approaching this Court. He also pointed it out that while the advertisement was published on 30.06.2017, the petitioners have approached the court on 22.05.2019, about two years later and there is no whisper in the writ petitions about the delay. *Secondly*, Mr. Saikia has pointed it out that the petitioners have not challenged the advertisement, what they have challenged is a Notification, dated 06.09.2017, issued by the Missions Director, SSA, Assam and without there being any challenge to the advertisement, they cannot successfully challenge the said Notification and on such count also the petitions becomes redundant. *Thirdly*, Mr. Saikia has pointed out that the petitioners in all the writ petitions did not participate in the selection process and as such they have no **locus-standi** to challenge the selection process. In support of said contention Mr. Saikia has referred to a decision of Hon'ble Supreme Court in **Meeta Sahai vs. State of Bihar**, reported in (2019) 20 SCC 17, (para 17). *Fourthly*, Mr. Saikia has submitted that the petitioners have not challenged any of the engagement order and at least they should have challenged one of the

engagement letters of the candidates so appointed. *Fifthly*, Mr. Saikia submitted that the respondent authorities had completed three recruitment processes in the meantime and appointed 35,000 numbers of contractual teachers, under special recruitment drive and barring 150 teachers, rest of the teachers have been regularized and now their status has been changed. *Sixthly*, Mr. Saikia has submitted that the respondent authorities had, in the meantime amended the Rule 1977.

11.1. Mr. Saikia also submitted that the respondent No.2, in the advertisement dated 30.06.2017, had clearly indicated that the category wise number of vacancies may increase or decrease, after obtaining approval from the concerned department. Further, he submitted that after the D.O. letter, No. 17-2/2017-EE.17, of the Addl. Secretary (EE-II), dated 3rd of August, 2017, wherein last chance was given to acquire the requisite minimum qualification by elementary level teachers within 31st March, 2019 and in the said letter, broad strategy was mentioned to complete the training of untrained teachers and to acquire professional qualification (2 year D.El.Ed./B.Ed., etc.) by 31st March, 2019 as a last chance. And under such emergent situation, a conscious policy decision was taken by the respondent authority to fill up the 'State Pool of teachers' from the remaining eligible candidates, in order of merit, of the recruitment process, initiated by advertisement dated 30-06-2017, and to prepare them, as per the New Education Policy and further to maintain the student teacher ratio, as required under Right to Education Act.

11.2. Mr. Saikia also submitted that there is no violation of the rights of the petitioners, as guaranteed under Articles 14 and 16 of the

Constitution of India, who had not even participated in the selection process. Under such circumstances Mr. Saikia has contended to dismiss the petitions.

12. In reply, Mr. Choudhury, learned counsel for the petitioners in WP(C) 3807/2019 submitted that the plea of delay is not taken by the respondent authorities in their affidavit in opposition. Mr. Choudhury has also pointed it out that though the Rule 1977 was amended by the respondent authorities, yet, the same is under challenge. He further submitted that that this an atrocious case and the attempt to justify the same has to be set at naught. He also pointed it out that there is violation of the Rule and the right of the petitioners, under Articles 14 and 16, has been violated herein this case. Further, referring to the D.O. letter No. 17-2/2017-EE.17, of the Addl. Secretary (EE-II), dated 3rd of August, 2017, Mr. Choudhury submitted that the condition stipulated therein is applicable only in case of in-service teachers. And as such the justification, so given by the respondent authorities cannot be accepted. Mr. Choudhury has also referred to a decision of Hon'ble Supreme Court in **Koushik Das and Others vs. State of West Bengal and Others** reported in (2025) 5 SCC 413, (para-46), in support of his submission.

Discussions and Analysis:-

13. Having heard the submissions of learned counsel for all the parties, this court has carefully gone through the petition and the documents placed on record. And also perused the decisions, so referred by learned

counsel for all the parties.

14. The basic facts herein these cases are not in dispute. Pursuant to the advertisement dated 30/06/2017, the respondent authorities had initiated the process for filling up of 7042 numbers of vacancies of Assistant Teachers, from TET/CTET qualified candidates, indicating District-wise, Category-wise vacancy positions. It is also indicated that the category-wise numbers of vacancies might increase or decrease, after approval from the concerned department. The petitioners, however, did not participate in the recruitment process considering the fixed numbers district-wise vacancies, as the chances of their selection was bleak, considering the huge numbers of applicants. There was, however, no bar for a candidate to participate in any of the District of Assam, the only restriction being, the choice of District had to be singular. The result of the said recruitment process was declared on 01/09/2017. Thereafter, a Notification, dated 06/09/2017, was issued indicating that 11,319 numbers of TET qualified candidates had been notified to be engaged as Assistant Teachers, in respect of the advertisement dated 30/06/2017. Thereafter, total 11,319 numbers of candidates were appointed against "increased Vacancy", which indicates that appointments to 11,319 numbers of posts were made without any advertisement.

14.1. The order of appointment indicated that in view of the Notification, dated 06/09/2017, the engagement was for a period of 11 months, at a fixed pay of Rupees 20,000/- (Rupees Twenty Thousand) per month. But, they are still continuing in service like a regular service selectees. The petitioners have not been challenging the recruitment of 7042 numbers

of candidates, made pursuant to the Advertisement, dated 30/06/2017, but, they have been challenging the back door entry of 11,319 numbers of candidates, without any advertisement. Since the petitioners had contemplated applying for the post of Assistant Teacher, at Lower Primary Level, the challenge is restricted to 9731 candidates so appointed beyond 5854 candidates at Lower Primary Level. The petitioners had also represented to the respondent authorities on 22/12/2017, 30/01/2018 and 06/05/2019, for ventilating their grievances, but the same failed to evoke any response.

Issues before this court:-

15. In view of the rival contentions, so made by the parties, the issues, to be addressed by this Court are formulated as under:-

- (i) Whether the petitioners, having not been participated in the selection process, have the **locus-standi** to challenge the same?
- (ii) Whether the rights of the petitioners, guaranteed under Articles 14 and 16 of the Constitution of India, are violated on account of the appointment of excess number of candidates, beyond the vacancies indicated in the advertisement?
- (iii) Whether the petitioners can challenge the selection process after delay of about 2 years, 3 years, 4 years, 6 years and 7 years, without offering any plausible explanation for the same?
- (iv) Whether the petitioners can challenge the Notification dated 06.09.2017 without challenging the advertisement

dated 30.06.2017?

(v) Whether the reason, assigned for appointment of 11,319 numbers of teachers is justified?

16. With regard to the issue No.(i), this Court finds that it is fairly well settled that generally, a person who did not participate in (or apply for) the selection process usually lacks **locus standi** (legal standing) to challenge it in the courts. Such a person is usually treated as a 'stranger' to the recruitment process. As they did not apply and participate in the process, they have no personal grievance or direct stake. Only unsuccessful candidates, who actually took part in the process, and can show they were aggrieved, typically have the locus to challenge irregularities, if any.

16.1. The relief being sought for in this batch of Writ Petition appears to be in the nature of a Public Interest Litigation. The petitioners herein, does not have any grievance with regard to the eligibility of the private respondents and rest of the teachers, so appointed to the post of assistant teachers. But, their grievance is that when there was advertisement for 7042 numbers of posts, whereas, recruitment of 11,319 numbers of TET qualified candidates were made. This, in the considered view of this Court, is not a person centric litigation, but is in the nature of a Public Interest Litigation. Further, the petitioners had also not challenged the advertisement, but have only challenged the Notification, dated 06.09.2017. Undoubtedly, the grievance of the petitioners is in the nature of public interest. It is settled law that Public Interest Litigation is not maintainable in service matters, except however

the Writ of Quo Warranto in view of the decision of Hon'ble Supreme Court in the case of **Madan Lal vs. High Court of J&K**, reported in (2014) 15 SCC 308.

16.2. The petitioners herein appears to be strangers to the recruitment process, and being stranger they cannot maintain a writ of certiorari or mandamus, as held by Hon'ble Supreme Court in the case of **Jasbhai Motibhai Desai vs. Roshan Kumar, Haji Bashir Ahmed**, reported in (1976) 1 SCC 671. The relevant paragraphs of the aforesaid decisions are extracted herein below:-

“50. While a Procrustean approach should be avoided, as a rule, the Court should not interfere at the instance of a “stranger” unless there are exceptional circumstances involving a grave miscarriage of justice having an adverse impact on public interests. Assuming that the appellant is a “stranger”, and not a busybody, then also there are no exceptional circumstances in the present case which would justify the issue of a writ of certiorari at his instance. On the contrary, the result of the exercise of these discretionary powers, in his favour, will, on balance, be against public policy. It will eliminate healthy competition in this business which is so essential to raise commercial morality; it will tend to perpetuate the appellant's monopoly of cinema business in the town; and above all, it will in effect, seriously injure the fundamental rights of Respondents Nos. 1 and 2, which they have under Article 19(1)(g) of the Constitution, to carry on trade or business subject to “reasonable restrictions imposed by law”.”

38. The case on hand is a case where the petitioner even without challenging the recruitment notification

and even without questioning the eligibility of the respondent Nos. 7 to 60 to hold the post of Junior Assistants, pursuant to the recruitment notification issued by the sixth respondent Corporation, has attempted to challenge the appointments only on the ground that she has a priority for being appointed as a Junior Assistant ahead of the respondent Nos. 7 to 60.”

16.3. In the case of Meeta Sahai (supra), so referred by Mr. Saikia, learned Advocate General, Hon’ble Supreme Court, while dealing with the issue has held as under:-

“17. However, we must differentiate from this principle insofar as the candidate by agreeing to participate in the selection process only accepts the prescribed procedure and not the illegality in it. In a situation where a candidate alleges misconstruction of statutory rules and discriminating consequences arising therefrom, the same cannot be condoned merely because a candidate has partaken in it. The constitutional scheme is sacrosanct and its violation in any manner is impermissible. In fact, a candidate may not have locus to assail the incurable illegality or derogation of the provisions of the Constitution, unless he/she participates in the selection process.”

16.4. In view of the above discussion, this Court is of the view that the petitioners have no *locus-standi* to challenge the recruitment process, being stranger to it. Issue No. (i) above, stands answered accordingly.

17. Moving forward to issue No.(ii), this Court had already discussed herein above, that the respondent authorities had appointed 11,319 numbers of candidates, while the number of vacancies indicated in the advertisement was 7042.

17.1. The default principle is that appointments cannot exceed the number of vacancies advertised, as it would violate Articles 14 and 16 (equality and equal opportunity in public employment). This prevents arbitrariness and ensures transparency for all potential candidates.

17.2. In the case of **Girish Jayanti Lal Vaghela(supra)** Hon'ble Supreme Court has held as under:-

“12. Article 16 which finds place in Part III of the Constitution relating to fundamental rights provides that there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. The main object of Article 16 is to create a constitutional right to equality of opportunity and employment in public offices. The words “employment or appointment” cover not merely the initial appointment but also other attributes of service like promotion and age of superannuation, etc. The appointment to any post under the State can only be made after a proper advertisement has been made inviting applications from eligible candidates and holding of selection by a body of experts or a specially constituted committee whose members are fair and impartial through a written examination or interview or some other rational criteria for judging the inter se merit of candidates who have applied in response to the advertisement made. A regular appointment

to a post under the State or Union cannot be made without issuing advertisement in the prescribed manner which may in some cases include inviting applications from the employment exchange where eligible candidates get their names registered. Any regular appointment made on a post under the State or Union without issuing advertisement inviting applications from eligible candidates and without holding a proper selection where all eligible candidates get a fair chance to compete would violate the guarantee enshrined under Article 16 of the Constitution. (See *B.S. Minhas v. Indian Statistical Institute* [(1983) 4 SCC 582: 1984 SCC (L&S) 26 :AIR 1984 SC 363].)”

17.3. In the case of *State of U.P. vs. Neeraj Awasthi*, reported in (2006) 1 SCC 667, Hon’ble Supreme Court has held as under:-

“55. A three-Judge Bench of this Court upon taking into consideration a large number of decisions in *A. Umarani v. Registrar, Coop. Societies* [(2004) 7 SCC 112 : 2004 SCC (L&S) 918] held that illegal appointments cannot be regularised. It was further held: (SCC p. 126, para 45)

“45. No regularisation is, thus, permissible in exercise of the statutory power conferred under Article 162 of the Constitution if the appointments have been made in contravention of the statutory rules.”

56. The power to frame regulations is expressly conferred on the Board in terms of Section 26-X of the Act. Such regulations are to be made with the previous approval of the State Government. Indisputably, the State Government by its letter

dated 17-3-1999 refused to accord permission in relation thereto.

57. If no appointment could be made by the State in exercise of its power under Article 162 of the Constitution as the same would be in contravention of the statutory rules, there cannot be any doubt whatsoever that the Board or for that matter the Market Committees cannot make an appointment in violation of the Act and the Regulations framed there under.

17.4. However, when the advertisement itself explicitly states that the number of posts/vacancies "may be increased or decreased" (or similar wording), courts have held that this provides flexibility. The recruiting authority can make additional appointments if justified (e.g., additional vacancies arise or are identified), without it being per se illegal. Reference in this context can be made to a decision of Hon'ble Supreme Court in the case of **Sanjay Kumar Mishra & Ors. vs. District Judge, Ambedkar Nagar (U.P.), Civil Appeal No. of 2025 [Special Leave Petition (C) No.14980 of 2024]**.

17.5. In the said case, the advertisement made by the District Judge of Ambedkar Nagar is produced as Annexure P1, wherein the vacant posts are shown to be twelve, but with the rider that the number of posts may be increased or decreased. While dealing with the issue Hon'ble Supreme Court has observed as under:-

"10. As we noticed, the advertisement specifically indicated that there could be an increase or decrease of vacancies, which as on the date of advertisement was also indicated as twelve posts. The said recital in the advertisement would

clearly indicate that the Appointing Authority intended that a wait list be maintained so as to fill up the vacancies arising in excess of those notified, which was permissible as per the rules. As has been pointed out from the counter affidavit after the advertisement of 2000, the next advertisement was only in 2008 and then in 2015. Definitely vacancies arose within the said period, and this is the reason why the appellants were appointed on various dates subsequent to the appointment to the twelve vacancies advertised. We are definite that the very same situation arose in *Naseem Ahmad and Others v. State of Uttar Pradesh and Another*, reported in (2011) 2 SCC 734, and the learned Single Judge as also the Division Bench erred in not accepting the said contention, especially having ignored the clear recital of the notification that the vacancies could be increased or decreased from twelve, as notified.

11. We cannot but find the termination to be unjustified.

.....

.....

.....”

17.6. Thus, drawing premises from the aforesaid discussion, this Court is of the considered opinion that in view of the stipulation in advertisement, that the number of vacancies may increase or decrease, the right of the petitioners, guaranteed under Articles 14 and 16 of the Constitution of India, cannot be said to be violated on account of appointment of excess numbers of candidates beyond the vacancies indicated in the advertisement.

18. Now, it is to be seen if there is any delay in preferring the writ

petition and if any explanation for delay is forthcoming from the petitioner's side. Over all delay in filing the petitions, and the reasons assigned in the same are indicated in the below noted chart:-

Sl.	WP(C) No.	Date of Notification	Date of Filing	Period of Delay	Reason assigned
01	3807/2019	06.09.2017	23.05.2019	19m 17 days	No reason assigned
02	3879/2020	06.09.2017	19.09.2020	36m 13 days	No reason assigned
03	7274/2021	06.09.2017	15.12.2021	51m 9 days	Due to financial problem
04	5818/2023	06.09.2017	29.09.2023	72m23days	No reason assigned
05	1260/2024	06.09.2017	29.02.2024	76m23 days	Acute financial difficulties and some personal reason

18.1. While dealing with this issue, Hon'ble Supreme Court in the case of **P.S. Sadasivaswamy v. State of T.N.**, reported in (1975) 1 SCC 152, held that a person aggrieved by promotion of a junior should ordinarily approach the court within six months or at most a year. There is no rigid limitation, but it is a "sound and wise exercise of discretion" to refuse extraordinary jurisdiction under Article 226 to persons who do not approach expeditiously, stand by and allow things to happen, and then try to unsettle settled matters with stale claims. Long delay makes it impractical to reconstruct the original situation.

18.2. Again Hon'ble Supreme Court, in the case of **Mrinmoy Maity vs. Chhanda Koley & Ors.**, reported in (2024) 15 SCC 215, held as under:-

"9. Having heard rival contentions raised and on perusal of the facts obtained in the present case, we are of the considered view that the writ

petitioner ought to have been non-suited or in other words the writ petition ought to have been dismissed on the ground of delay and laches itself. An applicant who approaches the court belatedly or in other words sleeps over his rights for a considerable period of time, wakes up from his deep slumber ought not to be granted the extraordinary relief by the writ courts. This Court time and again has held that delay defeats equity. Delay or laches is one of the factors which should be borne in mind by the High Court while exercising discretionary powers under Article 226 of the Constitution of India. In a given case, the High Court may refuse to invoke its extraordinary powers if laxity on the part of the applicant to assert his right has allowed the cause of action to drift away and attempts are made subsequently to rekindle the lapsed cause of action.”

18.3. Again in the case of *Tridip Kumar Dingal & Others v. State of W.B. & Others*, reported in (2009) 1 SCC 768 Hon'ble Supreme Court has held that as under:-

“56. We are unable to uphold the contention. It is no doubt true that there can be no waiver of fundamental right. But while exercising discretionary jurisdiction under Articles 32, 226, 227 or 136 of the Constitution, this Court takes into account certain factors and one of such considerations is delay and laches on the part of the applicant in approaching a writ court. It is well settled that power to issue a writ is discretionary. One of the grounds for refusing

reliefs under Article 32 or 226 of the Constitution is that the petitioner is guilty of delay and laches.

57. If the petitioner wants to invoke jurisdiction of a writ court, he should come to the Court at the earliest reasonably possible opportunity. Inordinate delay in making the motion for a writ will indeed be a good ground for refusing to exercise such discretionary jurisdiction. The underlying object of this principle is not to encourage agitation of stale claims and exhumed matters which have already been disposed of or settled or where the rights of third parties have accrued in the meantime (vide *State of M.P. v. Bhailal Bhai*, (1964) 15 STC 450, *Moon Mills Ltd. v. Industrial Court*, 1967 SCC OnLine SC 117 and *Bhoop Singh v. Union of India*, (1992) 3 SCC 136]). This principle applies even in case of an infringement of fundamental right vide *Tilokchand Motichand v. H.B. Munshi*, (1969) 1 SCC 110, *Durga Prasad v. Controller of Imports and Exports* (1969) 1 SCC 185] and *Rabindranath Bose v. Union of India*, (1970) 1 SCC 84]).

58. There is no upper limit and there is no lower limit as to when a person can approach a court. The question is one of discretion and has to be decided on the basis of facts before the court depending on and varying from case to case. It will depend upon what the breach of fundamental right and the remedy claimed are and when and how the delay arose.”

18.4. In the case of *Union of India and Ors. Vs. Tarsem Singh* reported in (2008) 8 SCC 648, Hon’ble Supreme Court, referring to its earlier decisions, has summarized the principle as under:-

“7. To summarise, normally, a belated service related claim will be rejected on the ground of delay and laches (where remedy is sought by filing a writ petition) or limitation (where remedy is sought by an application to the Administrative Tribunal). One of the exceptions to the said rule is cases relating to a continuing wrong. Where a service related claim is based on a continuing wrong, relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury. But there is an exception to the exception. If the grievance is in respect of any order or administrative decision which related to or affected several others also, and if the reopening of the issue would affect the settled rights of third parties, then the claim will not be entertained. For example, if the issue relates to payment or re-fixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties. But if the claim involved issues relating to seniority or promotion, etc., affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied.

.....”

18.5. Again in the case of *Shiv Dass v. Union of India* reported in (2007) 9 SCC 274, Hon’ble Supreme Court, while dealing with the issue, has held as under:-

8. It was stated in *State of M.P. v. Nandlal Jaiswal* reported in (1986) 4 SCC 566, that the

High Court in exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. If there is inordinate delay on the part of the petitioner and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in exercise of its writ jurisdiction. It was stated that this rule is premised on a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy because it is likely to cause confusion and public inconvenience and bring in its train new injustices, and if writ jurisdiction is exercised after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. It was pointed out that when writ jurisdiction is invoked, unexplained delay coupled with the creation of third-party rights in the meantime is an important factor which also weighs with the High Court in deciding whether or not to exercise such jurisdiction.

18.6. What can be crystallized from the aforesaid discussion is that there is no statutory limitation period under Article 226. However, the Courts apply the doctrine of **delay and laches** as a discretionary bar. What the Courts usually consider are:-

- (i) Length of the delay.
- (ii) Explanation offered for it.
- (iii) Prejudice caused to the opposite party or third parties.
- (iv) Whether third-party rights have accrued or the status quo has materially changed.

- (v) Public interest and whether the claim has become stale.

18.7. What the Courts weighed is that delay allows the opposite parties' position or that of third parties, to change - e.g., promotions become final, property is transferred, allottees take possession, seniority lists stabilize, or administrative decisions are acted upon, the Courts refuse to "unscramble a scrambled egg" or unsettle settled matters.

18.8. In the instant case, there is delay and laches on the part of the petitioners in approaching this Court, and the reasons assigned are indicated in para No.18 above. The period of delay ranges from 19 months to 76 months. In WP(C) No. 3807/2019; (WP(C) No. 3879/2020; and in WP(C) No. 5818/2023; no explanation is offered by the petitioners. However, in WP(C) No. 7274/2021, and WP(C) No. 1260/2024, the petitioner have put forwarded an explanation for the delay. It is stated in both the petitions that due to acute financial problems and for personal reasons they could not approach the Court in time. This explanation is also found to be not plausible and legally acceptable explanation of the delay of 51 months and 76 months, respectively.

18.9. Thus, there appears to be substance in the submissions of learned Advocate General in respect of the delay. And this Court is inclined to record concurrence to the same.

18.10. Further, the grievance of the petitioners is in respect of the Notification dated 06.09.2017, which, as submitted by the learned Advocate General, is a conscious policy decision of the respondent

authorities, related to and affected several other teachers also. And when reopening of the issue would affect the settled rights of the said teachers, then the claim will not be entertained in view of the decision of Hon'ble Supreme Court in the case of **Tarsem Singh(supra)**. Further, as held by Hon'ble Supreme Court in the case of **Shiv Dass(supra)** unexplained delay coupled with the creation of third-party rights in the meantime is an important factor, which also to be weighed by the courts while deciding whether or not to invoke writ jurisdiction which is indisputably discretionary.

18.11. Though Mr. Choudhury has pointed it out that the respondent authorities in their affidavits have not explicitly raised the issue of delay, yet, it is well settled in the case of **Shiv Dass (supra)** that delay/laches is one of the factors, the High Court bears in mind under Article 226. A court can consider and apply the doctrine of delay and laches in a writ petition, even if the respondent has not explicitly raised it in their affidavits or counter. Delay and laches are not rigid "plea" that must be formally raised like an affirmative defence in every case. It relates to the court's discretion and the equities of the situation, such as, prejudice to the other party, third-party rights created in the interim, public inconvenience, or the petitioner's failure to assert rights promptly etc. Courts have held that they can examine it independently based on the facts on record. If the delay is inordinate and unexplained, or causes prejudice, relief can be denied. The court may refuse relief in delayed writs on this ground, even if not strictly pleaded; emphasizing that writ relief is equitable and not available to the "tardy and indolent."

18.12. In the case of the aforesaid discussion and finding the Issue No. III above, has to be answered in negative and accordingly the same stands answered.

19. Moving forward to the Issue No. IV, this Court finds that admittedly, the petitioners have not challenged the advertisement dated 30.06.2017. And indisputably, the Notification dated 06.09.2017, is sequel to the advertisement dated 30.06.2017. Therefore, the question arises - can the petitioners challenge the Notification dated 06.09.2017, without challenging the advertisement dated 30.06.2017. It is the contention of the learned Advocate General that the petitioners cannot challenge the Notification dated 06.09.2017, without challenging the advertisement dated 30.06.2017.

19.1. It is to be noted here that in a recruitment process, the advertisement sets the "rules of the game." However, in the instant case, with an explicit rider allowing vacancies to increase or decrease, the authorities have the flexibility to fill additional posts from the same selection process without a fresh advertisement, provided it is done bona fide, transparently, and without altering core eligibility or selection criteria mid-way.

19.2. However, in the instant case, the petitioners have challenged the subsequent notification on the ground of violation of equality under Articles 14/16 and also on the ground of lack of bona-fide. But, indisputably, the selection process is not challenged on the ground of lack of transparency. There is no allegation of altering the selection

criteria, mid-way. There is also no allegation that the additional recruitment is a backdoor entry or it favors specific persons.

19.3. Since the petitioners are aggrieved by the subsequent notification on the ground of violation of equality under Articles 14/16 and also on the ground of lack of bona-fide, and on such count the petition, though, seems to be maintainable, yet, it appears that the case of the state respondents is solely based upon the rider contained in the advertisement that the vacancy may increase or decrease. In that view of the matter, this Court is of the view that without a challenge to the advertisement, which contains the rider, the petitioner cannot successfully maintain the petitions. Since the rider in the advertisement is the root of the matter, this Court is of the considered opinion that challenge to the advertisement is a must. Further, the rider in the advertisement protects the subsequent Notification. The petitioners herein, thus, had failed to demonstrate that the recruitment was mala fide, or it was done in contravention of selection norms, e.g., not from the same merit list. Therefore, this issue has to be answered in negative and accordingly, the same stands answered.

20. In respect of the last issue, i.e. whether the reason assigned for appointment of 11,319 numbers of teachers is justified, this Court has considered the submissions of learned counsel for both the parties. As already discussed, one of the reasons is that in the advertisement itself there is a rider that the number of vacancy may increase or decrease. The other one, as pointed out by Mr. Saikia, learned Advocate General, is the D.O. letter No. 17-2/2017-EE.17, of the Addl. Secretary (EE-II),

dated 3rd of August, 2017, regarding last chance to acquire the requisite minimum qualification by elementary level teachers within 31st March, 2019.

20.1. This Court has gone through the letter D.O. letter, dated 3rd of August, 2017, Annexure- 2 of the affidavit filed by the state respondent and also the plea taken in the affidavit dated. It appears that in the said letter, it was asked to complete the training of untrained teachers by 31st March, 2019 as a last chance. And since 31st March, 2019 was the last date of acquiring professional qualification (2 year D.El.Ed/B.Ed etc.) by the elementary level untrained teachers, the state respondents had considered the matter with utmost seriousness and in view of the requirement of teacher in elementary level schools in the State, a conscious decision, to fill up the 'State Pool of teachers' from the remaining eligible candidates, in order of merit, from the above mentioned engagement process, on the basis of the provision mentioned in the advertisement, dated 30-06-2017 i.e. "number of vacancy may increase", was taken. It is also stated that in view of the emergent situation that as the National Institute of Open Schooling (NIOS) registration for admission into the 2 years D.El.Ed., was supposed to be closed on 15-09-2017. If the State Pool of teachers was to be filled up by fresh advertisement, it would not be possible to enroll the untrained Assistant Teachers of State Pool in NIOS within 15-09-2017. Considering the same, these teachers were engaged against State Pool on the basis of provision mentioned in the advertisement dated 30-06-2017 i.e. 'number of vacancy may increase'. And it is also

stated that the 11,319 numbers of Assistant Teachers, under State Pool, were engaged so that these teachers can get themselves trained by enrolling themselves in the NIOS for 2 years D.El.Ed., programme by 15-09-2017.

20.2. Though Mr. Choudhury, learned counsel for the petitioners, submitted that the condition stipulated therein is applicable only in case of in-service teachers, and as such, the justification, so given by the respondent authorities cannot be accepted, yet, one should not lose sight of the fact that in the letter dated 3rd of August, 2017, deadline for registration in the NIOS, for 2 years D.El.Ed. programme was given as 15-09-2017. While the final merit list of the exercise carried out pursuant to the advertisement dated 30.06.2017, and the result was published on 01.09.2017, then carrying out another fresh exercise within 15.09.2017, was a next to impossible task for the respondent authorities. On such count the reason so assigned by the respondent authorities to fill up the 11,319 numbers of vacancies in 'State Pool of Teachers', from the remaining eligible candidates, in order of merit from the engagement process, dated 30.06.2017, on the basis of the rider in the advertisement, dated 30-06-2017, that the 'number of vacancy may increase,' cannot be ignored all together. Therefore, this Court is unable to agree with the submission of Mr. Choudhury in this regard.

20.3. Further, it appears that the respondent authorities had taken a policy decision to fill up the State Pool of teachers with a view to get them trained up and to enroll the untrained Assistant Teachers of State

Pool in NIOS within 15-09-2017, for 2 years D.El. Ed. Programme. It is a well-established principle of judicial review in our country that courts generally do not interfere with the policy decisions of the government. The executive and legislature have the primary domain over policy-making, especially in economic, fiscal, administrative, and developmental matters.

20.4. The role of the courts is limited to checking legality, constitutionality, arbitrariness, or violation of fundamental rights—not to second-guess wisdom, merits, or alternatives. The Courts refrain from interfering unless the policy is: (i) Violative of the Constitution or any statute. (ii) Arbitrary, irrational, or mala fide.(iii) Discriminatory or violates fundamental rights (e.g., Article 14 equality). Though the petitioners herein have taken a plea that their right guaranteed under Articles 14 and 16 of the Constitution of India are violated, yet, in view of the stipulation in the advertisement, that the number of vacancies may increase or decrease, the right of the petitioners, guaranteed under Article 14 and 16 cannot be said to be violated on account of the appointment of an excess number of candidates, beyond the vacancies indicated in the advertisement. Further, the petitioners herein had failed to demonstrate that the increase of recruitment was mala fide, or it was done in contravention of selection norms, e.g., not from the same merit list.

20.5. In view of above discussion and finding, the last issue has to be answered in affirmative, and accordingly, the same stands answered.

21. To recapitulate, on the following grounds this Court is not inclined to interfere with the impugned Notification, dated 06.09.2017:-

- (i) The petitioners did not participate in the selection process, and as such they have no locus-standi to challenge the same.
- (ii) The rights of the petitioners, guaranteed under Articles 14 and 16 are not violated on account of appointment of excess numbers of candidates as there was a rider in the advertisement itself that the vacancies may increase or decrease.
- (iii) The petitioners have not challenged the advertisement dated 30.06.2017, as the rider therein is the basis of the Notification dated 06.09.2017.
- (iv) There is unexplained delay and laches in three petitions and the period ranges from 19 months to 76 months in challenging the Notification dated 06.09.2017. Though in rest of the two petitions, the delay was explained, the same is found to be not plausible and acceptable.
- (v) The reason assigned for appointment of 11,319 numbers of teachers cannot be overlooked and with the elapse of time the status of the appointees changed from contractual teachers to regular teachers, barring few.
- (vi) The respondent authorities had taken a policy decision to fill up the State Pool of teachers with a view to get them trained up and to enroll the untrained Assistant

Teachers of State Pool in NIOS within 15-09-2017, for 2 years D.El. Ed. programme, and the petitioners failed to demonstrate exception to the same to interfere with the policy decision.

22. Under the given factual and legal backdrop, this Court is of the view that the present batches of writ petitions are not maintainable. Accordingly, the same stands dismissed.

23. In terms of above, these writ petitions stand disposed of leaving the parties to bear their own costs.

JUDGE

Comparing Assistant