

GAHC010184352018



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

Case No. : I.A.(Civil) 3087/2018

1:SHRI MINHAZ UDDIN AHMED
S/O- LATE ABUL HUSSAIN,
R/O- VILL AND P.O.- BALARBHITA, P.S.- BAGUAN, DIST.- GOALPARA,
ASSAM, PIN- 783129
(PRESENTLY WORKING AS LECTURER IN THE DEPARTMENT OF
ECONOMICS, WEST GOALPARA COLLEGE, GOALPARA, PIN- 783129,
ASSAM

VERSUS

1:SHRI MUSHARRAF HUSSAIN AND 8 ORS.
S/O- HATEM ALI,
R/O- VILL.- BAMUNDANGA, P.O.- MARKHULA, P.S.- BAGUAN, DIST.-
GOALPARA, ASSAM, PIN- 783129

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
DEPARTMENT OF HIGHER EDUCATION
DISPUR
GUWAHATI-6

3:THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
HIGHER EDUCATION DEPARTMENT
DISPUR
GUWAHATI-6

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

5:THE PRINCIPAL OF WEST GOALPARA COLLEGE
AMBARI P.O. BALARBHITA
P.S.- BAGUAN

DIST.- GOALPARA
ASSAM
PIN- 783129

6: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

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

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

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

Advocate for the Petitioner : DR. B U AHMED

Advocate for the Respondent : MR. A R SIKDAR

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

ORDER

Date : 14-09-2018

According to Dr. B. Ahmed, learned counsel for the respondent No.8, the regularization of the service of the respondent was rightly done.

Mr. A.R. Sikdar, learned counsel for the petitioner on the other hand contends that as per the entitlement, it is the petitioner who ought to have been regularized instead of respondent No.8.

By the interim order dated 09.02.2018, it was provided 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 and because of the said order, the respondent No.8 has not been regularized as yet. Any consideration, as to whether to continue with the interim order or not would entail an adjudication on the respective rights of the petitioner or the respondent No.8 to be regularized, which in other words, would be in the nature of final adjudication.

It is stated that the stand of the State respondent authorities in the Higher Education Department would be vital for arriving at a proper decision.

Accordingly, it is directed that the respondent Higher Education Department shall file their affidavit on or before the next date fixed. Depending on the stand that may be taken, an endeavour shall be made to determine the inter se rights between the petitioner and the respondent No.8 as to who between the two should be regularized.

As stated by Dr. B. Ahmed, learned counsel the interlocutory application for modification of the petition be treated as affidavit-in-opposition of the respondent No.8.

Registry is directed to reflect the name of the learned standing counsel for the Higher Education Department in the cause list.

List this matter on 29.10.2018.

JUDGE

Comparing Assistant