

GAHC010220592021



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

Case No. : Cont.Cas(C)/499/2021

KALPANA DEVI
W/O. SHRI LALIT KUMAR NATH, WORKING AS ASSTT. TEACHER, SABITRI
BHARALI HIGH SCHOOL, ODALBAKRA, DIST. KAMRUP (M), GUWAHATI,
ASSAM-781034.

VERSUS

B KALYAN CHAKRAVARTHY AND ORS.
SECRETARY TO THE GOVT. OF ASSAM, DEPTT. OF EDUCATION, CIVIL
SECRETARIAT, DISPUR, GUWAHATI, ASSAM-781006.

2:SMT. MAMATA HOZAI

AES
DIRECTOR OF SECONDARY EDUCATION
KAHILIPARA
GUWAHATI
ASSAM-781019.

3:SRI B.B. CHOUDHURY
SR. MOST SECRETARY
DEPARTMENT OF EDUCATION
CIVIL SECRETARIAT
DISPUR
GUWAHATI
ASSAM-781006.

4:DR. BIJOYA CHOUDHURY
IAS
SECRETARY TO THE GOVERNMENT OF ASSAM
DEPARTMENT OF SCHOOL EDUCATION
ASSAM SACHIBALAYA

DISPUR
GUWAHATI
ASSAM-781006.

5:NARAYAN KONWAR
IAS
SECRETARY TO THE GOVT.OF ASSAM
DEPARTMENT OF SCHOOL EDUCATION ASSAM
SACHIVALAYA
DISPUR GUWAHAT
I DISPUR
GUWAHATI ASSAM 78100

Advocate for the Petitioner : MR M CHANDA, K ABINANDAN,MR S CHOUDHURY

Advocate for the Respondent : MR S M T CHISTIE (R2), MS. D MUSAHARY(R-5),MR. D SAIKIA(R-5),MR. N J KHATANAR(R-5),MS P DAS(R-2),MR. N J KHATANAR (R-2)

Linked Case : Review.Pet./166/2024

THE STATE OF ASSAM AND 2 ORS
REP BY THE SECRETARY TO THE GOVT OF ASSAM DEPTT OF SCHOOL
EDUCATION DISPUR GUWAHATI 781006

2: THE DIRECTOR OF SECONDARY EDUCATION ASSAM
KAHILIPARA GUWAHATI 19

3: THE INSPECTOR OF SCHOOLS
KAMRUP DISTRICT CIRCLE
KDC
PANBAZAR
GUWAHATI 781001
VERSUS

KALPANA DEVI AND ANR
W/O SRI LALIT KUMAR NATH
SEOJPUR
KAHILIPARA GUWAHATI 19
DIST KAMRUP M ASSAM

2:KISHORE KUMAR DEKA
ASSISTANT TEACHER SABITRI BHARALI HIGH SCHOOL
ODALBAKRA

GUWAHATI 34
DIST KAMRUP M ASSAM

Advocate for : MR. N J KHATANIAR
Advocate for : appearing for KALPANA DEVI AND ANR

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

09.06.2025

Heard Shri NJ Khataniar, learned Standing Counsel, Secondary Education Department, who by means of this application has prayed for review of the order dated 28.11.2018 passed in WP(C)/5914/2014.

2. It is the primary contention advanced that the aforesaid order had two aspects- first is to withdraw the benefits of provincialization to the respondent no. 6 under the Assam Venture Educational Institution (Provincialization of Services) Act, 2011 and secondly, to confer such benefits upon the writ petitioner / opposite party as he was held to be senior to the respondent no. 6 in all respects. Shri Khataniar, learned Standing Counsel has also submitted that so far as the withdrawal of the benefits of the respondent no. 6 is concerned, the same has been done. However, the benefits of provincialization could not have been directed to be given by the aforesaid order of this Court inasmuch as, the 2011 Act was struck down to be *ultra vires* by Hon'ble Division Bench of this Court in the year 2016 itself which was even prior to the present order was passed in the year 2018.

3. On the other hand, Shri S. Choudhury, learned counsel for the opposite party / writ petitioner has contended that against the order in question, an appeal was preferred by the private respondent which was dismissed and this

fact has not been disclosed in the present review petition. He has also submitted that since the order has attained finality, review is not maintainable. He submits that he would file an objection to the present review application, for which he prays for some time.

4. Shri Khataniar, learned Standing Counsel has however clarified that the disclosure of preferring a writ appeal by the private respondent and its dismissal has been done in the review application.

5. In view of the above, 3(three) weeks time is granted to Shri Choudhury, learned counsel for the opposite party / writ petitioner to file objection affidavit.

6. List after 3(three) weeks.

JUDGE

Comparing Assistant