

GAHC010090302024



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

Case No. : Review.Pet./85/2024

AHEDUL HUSSAIN
S/O- LATE ABDUL SAMAD, R/O- VILL.- AND P.O. RANGIA, WARD NO. 2
(KURIARA PATH) DIST. KAMRUP(R), ASSAM

VERSUS

THE STATE OF ASSAM AND 6 ORS
NOTICE THROUGH THE SECRETARY TO THE GOVT. OF ASSAM,
DEPARTMENT OF SCHOOL EDUCATION, DISPUR.

2:THE SECRETARY TO THE GOVT. OF ASSAM
DEPTT OF SCHOOL EDUCATION
DISPUR.

3:S. N. CHOUDHURY
SECRETARY TO THE GOVT. OF ASSAM
DEPARTMENT OF SCHOOL EDUCATION
DISPUR.

4:DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GHY-19.

5:THE INSPECTOR OF SCHOOLS
NDC
NALBARI
PIN- 781035.

6:MD. ABDUL KADIR
S/O- LATE ISHAQUE ALI
R/O- VILL.- GORGORI

P.O. TENIPUKHURI
DIST. NALBARI
ASSAM
PIN- 781367.

7:HEAD MASTER
PASCHIM BANBHAG ANCHALIK HIGH SCHOOL
NALBARI TINIPUKHURI
VILL.- NARAYANGAON
P.O. TINIPUKHURI
P.S. GHAGRAPAR
DIST NALBARI
PIN- 781367

Advocate for the Petitioner : MS. J DEKA, MS. A TALUKDAR

Advocate for the Respondent : SC, SEC. EDU.,

Linked Case : WP(C)/6786/2023

MD AHEDUL HUSSAIN
S/O- LATE ABDUL SAMAD

R/O- VILLAGE RANGIA WARD NO-2
(KURIARA PATH

P.O AND P.S- RANGIA

DIST- KAMRUP (R)
ASSAM

VERSUS

THE STATE OF ASSAM AND 8 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
DEPARTMENT OF SCHOOL EDUCATION (SECONDARY) ASSAM

DISPUR
GUWAHATI-6.

2:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM

KAHILIPARA
GUWAHATI-19.

3:THE INSPECTOR OF SCHOOLS
NALBARI DISTRICT CIRCLE
NALBARI
ASSAM

4:MD. ABDUL KADIR

S/O- ISAHAQUE ALI

R/O- VILLAGE GORGORI

P.O- TINIPUKHURI
DIST- NALBARI
ASSAM
PIN-781367

5:THE HEADMASTER
PASCHIM BANBHAG ANCHALIK HIGH SCHOOL

VILL- NARAYAN GAON

P.O- TINIPUKHURI
DIST- NALBARI
ASSAM
PIN-781367

6:THE DIRECTOR
OF VIGILANCE AND ANTI CORRUPTION
ASSAM
SRIMANTAPUR
RUPNAGAR
GUWAHATI-32

7:S.N CHOUDHURY
SECRETARY
GOVT. OF ASSAM
DEPARTMENT OF SCHOOL EDUCATION
DISPUR
GHY-06

8:JAYANTA THAKURIA
INSPECTOR OF SCHOOLS
NALBARI
ASSAM
PIN-781335

9:RAMEN SARMA
WORKING AS CLERK IN THE OFFICE OF THE INSPECTOR OF SCHOOLS
NALBARI
ASSAM
PIN-781335

Advocate for : MS. A TALUKDAR
Advocate for : SC
SEC. EDU. appearing for THE STATE OF ASSAM AND 8 ORS

Linked Case : WP(C)/6262/2022

MD. AHEDUL HUSSAIN
S/O- LATE ABDUL SAMAD

R/O- VILL. RANGIA WARD NO. 2
(KURIARA PATH)

P.O. AND P.S. RANGIA

DISTRICT- KAMRUP(R)
ASSAM.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY COMMISSIONER AND SECRETARY

EDUCATION (SECONDARY) DEPARTMENT/ DEPARTMENT OF SCHOOL
EDUCATION
ASSAM
DISPUR
GUWAHATI-6.

2:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI- 781019.

3:THE INSPECTOR OF SCHOOLS
NALBARI DISTRICT CIRCLE
NALBARI
ASSAM.

4:MD. ABDUL KADIR
S/O- ISAHAQUE ALI
R/O- VILL. GORGORI
P.O.- TINIPUKHURI
DISTRICT- NALBARI
ASSAM
PIN- 781367.

5:THE HEADMASTER
PASCHIM BANBHAG ANCHALIK HIGH SCHOOL
VILL.- NARAYANGAON
P.O.- TINIPUKHURI
DISTRICT- NALBARI

ASSAM
PIN- 781367.

6:JAYANTA THAKURIA
AES
INSPECTOR OF SCHOOLS
NALBARI DISTRICT CIRCLE
NALBARI
ASSAM

PIN- 781335.

Advocate for : MS. A TALUKDAR
Advocate for : SC
SEC. EDU. appearing for THE STATE OF ASSAM AND 5 ORS

Linked Case : Cont.Cas(C)/782/2022

MD. AHEDUL HUSSAIN
S/O- LATE ABDUL SAMAD
R/O- VILLAGE RANGIA WARD NO-2 (KURIARA PATH)

P.O AND P.S- RANGIA
DIST- KAMRUP
ASSAM

VERSUS

BIJOYA CHOUDHURY AND 3 ORS
THE SECRETARY TO THE GOVT. OF ASSAM
SECONDARY EDUCATION DEPTT.

DISPUR
GHY.-06.

2:S.N CHOUDHURY
THE JOINT SECRETARY TO THE GOVT. OF ASSAM
SECONDARY EDUCATION DEPTT.
DISPUR
GHY.-06.

3:MAMTA HOJAI
THE DIRECTOR OF SECONDARY EDUCATION ASSAM

KAHILIPARA
GUWAHATI-19.

4:JAYANTA THAKURIA
AES
INSPECTOR OF SCHOOLS
NALBARI DISTRICT CIRCLE
NALBARI
ASSAM
PIN-781335

Advocate for : MS. A TALUKDAR
Advocate for : SC
SEC. EDU. appearing for BIJOYA CHOUDHURY AND 3 ORS

BEFORE
HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR
ORDER

28/08/2025

Heard Ms. A Talukdar, learned counsel for the review petitioner and Mr. D Choudhury, learned counsel appearing for the respondent No. 6.

2. The present review petition has been instituted praying for review of the order dated 21.12.2023 passed by this Court in WP(C) No. 6211/2023.

3. The writ petition being WP(C) No. 6211/2023 was instituted by the respondent No. 6 in the present review petition, presenting a challenge to an order dated 16.08.2023, by which the Secretary

to the Government of Assam, Department of School Education had rejected his claim for provincialisation of his service. Vide the order dated 16.08.2023, the respondents had rejected the claim of both the present review petitioner as well as the respondent No. 6, herein, for provincialisation of their services.

4. This Court vide order dated 21.12.2023, on noticing the reasons as assigned by the respondents for rejecting the case of the review petitioner, as well as that of the respondent No. 6, had required the respondent No. 6, herein, to institute a proceeding before the jurisdictional Educational Tribunal for a determination of the rights of the review petitioner, herein, as well as the respondent No. 6, herein, for provincialisation of their services.

5. Ms. A Talukdar, learned counsel for the review petitioner, at the outset, has stated that the order dated 21.12.2023, was so passed without affording an opportunity of hearing to the review petitioner and accordingly, on the said count itself, the order dated 21.12.2023 would mandate a review.

6. Ms. A Talukdar, learned counsel for the review petitioner, has further submitted that the proceedings directed to be instituted in the matter by the respondent No. 6, herein, by this Court vide order dated 21.12.2023 before the Educational Tribunal, has not been instituted till date.

7. Ms. Talukdar, learned counsel for the review petitioner further submits that being aggrieved by the order dated 16.08.2023 passed by the Secretary to the Government of Assam, Department of School Education, the review petitioner, herein, has also instituted a writ petition, being WP(C) No. 6786/2023. However, when the order dated 21.12.2023 was so passed, the said aspect of the matter was not brought to the notice of this Court, although, on the said date, the writ petition, being WP(C) No. 6786/2023 was pending disposal.

8. Mr. D Choudhury, learned counsel for the respondent No. 6, herein, has submitted that on account of the fact that WP(C) No. 6786/2023 was pending disposal, the respondent No. 6 had not instituted the proceedings before the jurisdictional Educational Tribunal.

9. In view of the above factual position as brought on record in the review petition and this Court having passed the order dated 21.12.2023, without affording an opportunity of hearing to the review petitioner and the order having been adversely affected his interest, there being a proceeding instituted by the review petitioner in the form of a writ petition, being WP(C) No. 6786/2023, which was pending disposal, on the day when the order dated 21.12.2023 was so passed, further no

proceedings having been instituted by the respondent No. 6, herein, before the jurisdictional Educational Tribunal, this Court is of the considered view that the order dated 21.12.2023 would mandate to be reviewed and accordingly, the order dated 21.12.2023 stands recalled.

10. Registry to restore WP(C) No. 6211/2023 to its original file and to list the same along with WP(C) No. 6786/2023 and other connected matters after 2 (two) weeks, on a date to be fixed by it.

JUDGE

Comparing Assistant