

WP(C) 3732/2015

BEFORE

HON'BLE MR. JUSTICE HRISHIKESH ROY

HON'BLE MR. JUSTICE L. S. JAMIR

The petitioners are serving lecturers of the Kanoi College, Dibrugarh and they have offered their candidature for the post of Principal of the college, by responding to the advertisement dated 11.8.2014 (Annexure-1). Hence they challenge the order dated 17.6.2015 (Annexure-3), whereby Dr. Sashi Kanta Saikia (respondent No.8), who is the Principal of the Majuli College, is transferred and posted in the vacant post of the Kanoi College Principal.

The appointment of Principal through transfer is assailed by the petitioners, as they expected to be considered for the post in pursuant to the process for regular appointment, notified under Section 6 of the Assam College Employees' (Provincialisation) Act, 2005 (hereinafter referred to as 'the Provincialisation Act'). Ms. S. Sarma, the learned counsel submits that since selection of Principal is to be made college wise, posting in the vacant post through transfer will be contrary to the notified procedure.

However we find from Section 3(c) of the Provincialisation Act that Principals of provincialised colleges form an independent common cadre and therefore inter-cadre transfer from one college to another, is envisaged by the amended provision incorporated w.e.f. 2.5.2012.

On the other hand, Mr. KK Mahanta, the learned senior counsel appearing for the 8th respondent submits that in pursuant to the transfer order dated 17.6.2015 (Annexure-3), the Majuli College Principal had joined the Kanoi College, Dibrugarh on 19.6.2015 and last one year, he is discharging his responsibility in the transferred college.

We find from the order sheet(s) that this case was dismissed for default on 2.9.2015 but was restored thereafter on 18.3.2016. That is how this matter has been posted again in the motion column of the cause list.

The Court is informed that the writ petitioners were called for the viva voce on 11.10.2014 but this Court passed an interim order on 8.9.2014, preventing finalization of the process of regular recruitment.

Having regard to the above, let notice returnable in 4 weeks be issued. Mr. A. Deka, the learned standing counsel for the Education Department accepts notice for respondent Nos.1-4, while Mr. KK Mahanta, the learned senior counsel appears for the 8th respondent. Accordingly necessary extra copies be served to the counsel for the respondents. Furthermore, steps should also be taken by the petitioners to serve notice on the other respondents by Regd. Post.