

GAHC010246252019



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

Case No. : WP(C) 7631/2019

1:ALAKESH DEKA AND 36 ORS.
S/O- JOGESWAR DEKA
R/O- DWIGUNPAR, P.O- SONESWAR
DIST- KAMRUP(R), PIN- 781384.

2: NITUL SAIKIA
S/O- MUHIRAM SAIKIA
R/O-JMAUNAKHAT
P.O- NARAYANPUR
P.S- NARAYANPUR
DISTRICT- LAKHIMPUR

3: AJIT KUMAR RAY
S/O- CHITTA RANJAN RAY
R/O- BHUMKATARI
P.O- SRI JANGGRAM

DIST- BONGAIGAON
PIN-783386

4: SHIKHA RANI DEKA
C/O- HIRENDRA NATH DEKA
R/O- KARARA
P.O- KARARA

DIST- KAMRUP(R)
PIN- 781381.

5: MINTU RAJKHOWA
S/O- ANIL CHANDRA RAJKHOWA
R/O- PACHARI (HARI DEV TOLL)
P.O- PACHARI
PIN-781104.
DIST- KAMRUP(R)

6: ARPANA MEDHI
S/O- RAMESH MEDHI
R/O-TENGABARI
DARRANG

DIST- DARRANG

7: HIRAJ ROY CHOUDHURY
S/O- ABI ROY CHOUDHURY
R/O-TENGABARI
DARRANG

DIST- DARRANG.

8: HIRANYAMAYEE DEVI
C/O-HARAKANTA SARMA
R/O-DAKSHIN CHUBURI
P.O- SIPAJHAR
DIST- DARRANG

9: ANAMIKA DEKA
D/O- NARESWAR DEKA
VILL- UTTARKUCHI
P.O- PINGELESWAR

DIST- KAMRUP

10: PRADIP LAHKAR
S/O- SUMBIT LAHKAR
R/O- DHOPATARAI
P.O- CHANGSARI

DIST- KAMRUP(R)
PIN-781101.

11: DIGANTA SARMAH
S/O- DEHESWAR SARMAH
R/O- HAROPARA(4TH) P.O- JHAROBARI

DIST- KAMRUP (R).

12: LAKSHMI KALITA
D/O- RAMESH KALITA
R/O- BORKA
P.O- PUB BORKA

P.S- KAMALPUR
PIN-781101.
DIST- KAMRUP (R).

13: KRISHNA KALITA
D/O- LATE CHAKARADHAR KALITA
VILL- BARGAON
P.O- DORAKAHARA
PIN-781101
DIST- KAMRUP(R).

14: DIPANKAR SARMA
S/O- PRAFULLA SARMA
R/O- BORUA
P.O- BORUA

DIST- KAMRUP
PIN- 781101.

15: RINKU MONI SARMA
D/O-PRAMOTH SARMA
R/O-CHANGSARI
P.O- CHANGSARI
KAMRUP(R).

16: TRISHNA NTAH
D/O- PITAMBAR NATH
R/O- BARPALAHA
P.O- BARPALAHA

DIST- KAMRUP
PIN-781121.

17: JOYDEB CH. DAS
S/O- PRIYANATH DAS
R/O- BANIAPARA
P.O-BANIAPARA.
DIST- KAMRUP(R). PIN-781124.

18: SURAJIT DOLEY
S/O- LATE DIMBESWAR DOLEY
R/O-NAHARJUN
P.O- JONAKARANG
DIST- DHEMAJI
PIN-787060.

19: LOHIT KUMAR SARMA
S/O- KAILASH CH. SARMA

R/O-WARD NO.4
SANTIPUR
P.O- MANGALDOI

DIST- DARRANG

20: MRINAL SARMAH
S/O- KRISHNA SARMAH
R/O-NAPTAPAVA
P.O- HATIMARA

DARRANG
PIN-784144
DIST- DARRANG.

21: PRANITA DEVI
D/O- DANDADHAR NATH
R/O- KACHARAIPARA
P.O-CENGAPATHAR

22: DEEPA CHETRY
D/O- INDRA CHETRY
R/O- TANGNI TEA ESTATE

P.O- DHULA
DIST- DARRANG
PIN-784146.

23: ARIFA BEGUM
D/O- IMAN ALI
R/O-HOSPITAL ROAD
WARD NO.8
P.O- KHARUPETIA

PIN-784115.

24: DEVAJYOTI DEVI
D/O- LATE MAMAT CH. SARMAH
R/O- KEOTPARA
P.O- JANARAMCHOWKA.
DIST- DARRANG
PIN-784529.

25: AMINUL ISLAM SARKAR
S/O-MAZIBAR RAHMAN SARKAR
R/O-DHARAMSALA
P.O- DHARAMMSALA

DIST- DHUBRI
PIN-783324.

26: ABDUL BATEN
S/O- LATE AFSAR ALI
R/O- ADABARI PT-II
P.O- SAGALCHARA
PIN-783324.
DIST-DHUBRI
PIN-783324.

27: HOSEN ALI
S/O-NAIMUDDIN SK
R/O- HARIARKANTI
P.O- KHUDIMARI
DIST DHUBRI
PIN- 783331.

28: KHAN MAZAMMIL HAQUE
S/O- MAZLISH KHAN
R/O- MAZDIA
P.O- PACHIM MAZDIA
DIST- BARPETA

PIN-781305.

29: RAFIQL ISLAM
S/O- NABUR UDDIN SK.
R/O- MATIABUG
P.O- GAURIPUR
DIST- DHUBRI
PIN-783331.

30: SARIF SAIFUL ALOM
S/O- BELAYET HOSSAIN
VILL- SHYAMCHARANER KUTI
PT.1

P.O- SILARPAR
DIST- DHUBRI
PIN- 78331.

31: FARUQUE ZAMAN
S/O- NAUSAD ALI
R/O- KHODARCHAR
P.O- HOWRARPAR

DIST- DHUBRI
PIN-783324.

32: ABDUL QUAIYUM SARKAR
S/O- ABU SAYED SARKAR
R/O- BANIAMARI PT.1
P.O- SAHEBGANAJ
DIST- DHUBRI
PIN-78331.

33: MOINUL HAQUE PRODHANI
S/O- ABDUS SAFUR PRODHANI
R/O- ROWA
PT-1
P.O- MADHUSOULMARI

DIST- DHUBRI
PIN-783331.

34: JAYNAL ABEDIN
S/O-SAPSEN ALI
R.O- GASPORA
P.O- DAHARAMSALA
DIST- DHUBRI
PIN-783324.

35: SAILENDRA KUMAR SARMAH
S/O- LATE JITENDRA NATH SARMAH
ASST TEACHER 332 NO BALBARI LP SCHOOL.
P.O- SILAIRPAR
DIST- DHUBRI
PIN-783331

36: SURANJANA SARMAH
D/O-PRASHANNA KR. SARMAH
R/O- PANIGAON
P.O- BELSOR

PIN-781303.
DIST-NALBARI
ASSAM.

37: REJINA PARVIN
D/O- RAMJAN ALI MANDAL
R/O- WARD NO.12
P.O- A.M.O ROAD

PIN- 783323
DIST- DHUBRI
ASSAM

VERSUS

1:THE UNION OF INDIA AND 4 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
MINISTRY OF HUMAN RESOURCE AND DEVELOPMENT DEPARTMENT OF
SCHOOL EDUCATION AND LITERACY, NEW DELHI-1.

2:THE STATE OF ASSAM
REPRESENTED BY COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM
ELEMENTARY EDUCATION DEPARTMENT
DISPUR
GHY-06.

3:THE ADDITIONAL CHIEF SECRETARY
TO THE GOVERNMENT OF ASSAM
EDUCATION DEPARTMENT
DISPUR
GHY-06.

4:THE AXOM SARBA SIKSHA ABHIJAN/ AXIN SAMAGRA SIKHA ABHIJAN
MISSION
REPRESENTED BY ITS MISSION DIRECTORATE. KAHILIPARA
GUWAHATI-19.

5:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-1

Advocate for the Petitioner : MR. B P BORAH

Advocate for the Respondent : ASSTT.S.G.I.

BEFORE

HON'BLE MR. JUSTICE N. KOTISWAR SINGH

04.10.2019

Heard Mr. PK Goswami, learned Senior counsel assisted by Mr. BP Borah, learned counsel for the petitioners. Also heard Mr. SP Bhattacharjee, learned Standing Counsel,

Education, appearing for the respondent Nos.2, 3 and 5.

Issue notice returnable by **09.12.2019**.

As Mr. SP Bhattacharjee, learned Standing Counsel, Education Department accepts notice on behalf of respondent Nos. 2, 3 and 5, no formal notice need be issued to the said respondents.

Petitioner shall serve extra copies of the petition along with the documents annexed thereto to Mr. SP Bhattacharjee.

Petitioner shall take steps for service of notice upon the respondent Nos.1 and 4 by registered post with A/D.

The petitioners have approached this Court for ensuring certainty of their service. The petitioners were initially appointed on contractual basis under the Sarba Siksha Abhiyan scheme.

It is claimed that the entire process of recruitment as applicable for appointment to regular posts had been adopted, which the petitioners had successfully undergone.

However, their service is only for 5 (five) years as per the agreement entered with the State Government, though there is no time limit for the scheme under which they were appointed. Being apprehensive that their services may be discontinued as it is merely contractual, even though the nature of the recruitment process which they had undergone is akin to process for regular appointment, the petitioners have approached this Court for appropriate direction to the State.

They have contended that they are as good as any other regular employees of the State, discharging similar duties and if the State Government can accommodate them against regular posts, they would be assured of regularity in the service, for which they have approached this Court.

The State will respond to their plea by filing necessary affidavit.

Learned counsel for the petitioners has prayed for passing an interim order for assurance that their future will be secured, for which, it has been pointed out that there are many regular vacancies under the State Education Department having similar status and

duties and functions and it will not cause any prejudice to the State, if proportionate number of posts as the petitioners, are kept reserved in the regular establishment, in the event authorities so decide to accommodate the petitioners.

In that view of the matter, as an interim measure, let proportionate number of posts as the number of petitioners in the Elementary Education (Upper Primary), Government of Assam, be kept unfilled, which may not be filled without the leave of this Court.

As this order has been passed without fully hearing the respondents, the respondents may approach this Court for modification of this interim order by filing necessary application.

JUDGE

Comparing Assistant