

GAHC010256452024



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

Case No. : I.A.(Civil)/3713/2024

MS JONALI DAIMARY AND ANR
DAUGHTER OF SHRI KAMALESWAR DAIMARY
RESIDENT OF VILL- SARUFULCHAKI
GORESHWAR
BAKSA
P.S AND P.S- GORESHWAR
PIN-CODE- 781366

2: MS. KHAGANA BURAGOHAIN
SON OF RUBUL GOHAIN
RESIDENT OF- RATNPUR MILAN NAGAR
NAMGHAR PATH
DISTRICT- DIBRUGARH
P.O- C.R BUILDING
PIN-CODE- 786003.
VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM
DEPARTMENT OF HIGHER EDUCATION
DISPUR
GUWAHATI- 781006

2:THE JOINT SECRETARY TO THE GOVT. OF ASSAM
HIGHER EDUCATION (TECHNICAL) DEPARTMENT
GOVT. OF ASSAM
DISPUR
GUWAHATI- 781006.
THE DIRECTOR OF TECHNICAL EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-781019

3:THE DIRECTOR OF TECHNICAL EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-781019

4:THE ASSAM ENGINEERING SERVICE RECRUITMENT BOARD
ASSAM TEXTILE INSTITUTE CAMPUS
AMBARI
GUWAHATI REPRESENTED BY ITS CHAIRMAN

5:THE ASSAM PUBLIC SERVICE COMMISSION (APSC)
KHANAPARA
GUWAHATI-22 REPRESENTED BY ITS CHAIRMAN OR SECRETARY

Advocate for : MR H K NATH

Advocate for : SC

HIGHER EDU appearing for THE STATE OF ASSAM AND 5 ORS

BEFORE

HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR

O R D E R

17.12.2024

Heard Ms. G. Goswami, learned counsel for the applicants.

2. By this application, the applicants, who are the writ petitioners in WP(C) No.1271/2023 are praying for a direction to the respondent authorities not to release the applicants from service, who are appointed as Lecturers under Regulation 3(f) of the Assam Public Service Commission (Limitation and Function) Regulation, 1951.

3. Considering the prayer made by the applicants in the present interlocutory application, Mr. K. Gogoi, learned Standing Counsel, Higher Education Department, Assam was directed to take instructions on 16.12.2024.

4. Today, when the matter is taken up, Mr. K. Gogoi, learned Standing

Counsel, Higher Education Department, Assam has furnished a communication dated 17.12.2024, written by the Director of Technical Education, Assam and the relevant portion is extracted herein below:-

“(a) To execute the decisions of the Hon'ble Cabinet meeting held on 24.09.2024, the Government of Assam in Higher Education (Technical) Department has instructed the Director of Technical Education, Assam vide letter eCF No. 443823/11, dated 29.10.2024 to release the Part- time Faculties engaged by the Director of Technical Education, Assam and to submit a formal proposal incorporating the proposed places of posting against their names in order to re - engage them on ad-hoc basis against the sanctioned posts as per Regulation 3(f) of APSC (Limitation of Functions) Regulation, 1951 by the Department. | The Extract of Cabinet decision is annexed herewith as ANNEXURE – I.

*In view of the above, the case of the petitioners need not to be taken under the zone of consideration in accordance with the Cabinet decision dated 24.09.2024 for engagement on ad-hoc basis against the sanctioned posts as per Regulation 3(f) of APSC (Limitation of Functions) Regulation, 1951 **as they are already engaged and have been serving under Regulation 3(f).***

b) Yes, the Petitioners participated in the selection process conducted by the Assam Engineering Service Recruitment Board(AESRB) vide advertisement dated 21.02.2023. However, the final result of the selection process has not been declared yet.

c) As the final result of the selection process vide advertisement dated 21.02.2023 is yet to be declared, no appointment has been made yet by way of regular appointment process, in the posts held by the petitioners under 3(f)

This is for favour of your information and needful action.”

5. In view of the instructions contained in the communication dated 17.12.2024, issue notice.

6. Mr. K. Gogoi, learned Standing Counsel, Higher Education Department, Assam appears for the opposite party Nos. 1, 2, 3 & 4 and Ms. P.P. Das, learned counsel appears on behalf of Mr. T.J. Mahanta, learned Standing Counsel, APSC for the opposite party No.5.

7. Accordingly, service of notice on the opposite parties is complete.
8. However, extra copies of this present interlocutory application be furnished to the learned counsel for the opposite parties within three days from today.
9. Opposite parties are allowed to file their respective affidavits.
10. List this matter after four weeks.

JUDGE

Comparing Assistant