

GAHC010261222019



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

Case No. : WP(C) 8226/2019

1:SONDAJYA CHUTIA AND 25 ORS.
S/O MONIRAM CHUTIA
ASSISTANT TEACHER AT
CHANDANPUR NEW LP SCHOOL
PO-NILBAGAN
PS -DOBOKA
DIST -HOJAI, ASSAM

2: LAKHINANDAN GOGOI
S/O BUDHINDRA GOGOI
ASSISTANT TEACHER AT
DAKHIN NILBAGAN LP
SCHOOL
PO- NILBAGAN
PS- MURAJHAR
DIST- HOJAI

3: TOMASH DAS
S/O PURNA KANTA DAS
ASSISTANT TEACHER AT FATUHUR PUR NEW LP SCHOOL
PO- NILBAGAN
PS-AND DIST -HOJAI
ASSAM.

4: DIP KUMAR GOGOI
S/O LT RATNESWAR GOGOI
ASSISTANT TEACHER AT CHANDAN PUR NEW LP SCHOOL
PS- NILBAGAN
PS -DOBAKA
DIST -HOJAI

5: DIPAK NOWSALIA
S/O LT JANGESWAR NOWSALIA
ASSISTANT TEACHER AT NILBAGAN ADARSHA LP SCHOOL.PO-

NILBAGAN
PS- MURAJHAR
DIST HOJAI
ASSAM.

6: NITU MOHAN
S/O MANIK MOHAN
ASSISTANT TEACHER AT 379 NO METHIGAON MUKTAB SCHOOL
PO -NILBAGAN PD- MURAJHAR
DIST HOJAI
ASSAM

7: SHOJAN CHANDRA GHOSH
S/O PRAKASH CHANDRA GHOSH
ASSISTANT TEACHER AT 379 NO METHIGAON MUKTAB SCHOOL
PO -NILBAGAN PD- MURAJHAR
DIST HOJAI
ASSAM

8: BIDYOT GOGOI
S/O RISHI NATH GOGOI
ASSISTANTTEACHER AT NATESHOR MUKTAB LP SCHOOL
PO -NILBAGAN
PS -MURAJHAR
DIST HOJAI
ASSAM

9: ADIT TAMULI
S/O UTTAM TAMULI
ASSISTANT TEACHER AT 880 NO SADARGAON MUKAMTALA MUKTAB .PO
-BNILBAGAN
PS -MURAJHAR .DIST HOJAI
ASSAM

10: RUPJYOTI PHUKAN
S/O BINUD PHUKAN
ASSISTABNT TEACHER AT HOJAI SAHAR NIMNA BUNYADI BIDYALAYA
PO
PS AND DIST- HOJAI
ASSAM

11: HIREN GOGOI
S/O LT BADAN GOGOI
ASSISTANT TEACHER AT BEYGAON LP SCHOOL
PO NANDAPUR CHARIALI
PS AND DIST HOJAI
ASSAM

12: RAJIB BORAH
S/O LT RAJENDRA PRASAD BORAH
ASSISTANT TEACHER AT LANKA JAN JAMUNASIT LP SCHOOL
PO- NANDAPUR CHARIALI
PS AND DIST HOJAI
ASSAM

13: NABARUP BORGOHAIN
S/O GUNA BORGOHAIN
ASSISTANT TEACHER AT SAL BAGAN BON GAON LP SCHOOL
PO -NANDAPUR
PS AND DIST HOJAI
ASSAM

14: BIKASH MOHAN
S/O LILESWAR MOHAN
ASSISTANT TEACHER AT JOGIRPAR LP SCHOOL
PO BARAFUTI. PS AND DIST HOJAI
ASSAM

15: BIKIRAN NEOG
S/O TONKESWAR NEOG
ASSISTANT TEACHER AT MAINA PUR LP SCHOOL
PO- PADUM PUKHURI PSAND DIST HOJAI .ASSAM

16: BIPLAB DUTTA
S/O GOPAL DUTTA
ASSISTANT TEACHER AT BISHNUPUR LP SCHOOL
PO - KUMURAKATA
PS AND DIST HOJAI
ASSAM

17: PRANAB KALITA
S/O JUGESWAR KALITA
ASSISTANT TEACHER AT BISHNUPUR LP SCHOOL
PO - KUMURAKATA
PS AND DIST HOJAI
ASSAM

18: PALLAB GOGOI
S/O PRADIP GOGOI
ASSISTANT TEACHER AT KUMURAKATA TRIBAL LP SCHOOL
PO - KUMURAKATA
PS AND DIST HOJAI
ASSAM

19: MINAKSHI CHETIA
D/O MAHESH CHETIA

ASSISTANT TEACHER AT BISHNUPUR LP SCHOOL
PO - KUMURAKATA
PS AND DIST HOJAI
ASSAM

20: ARUNABH BHUYAN
S/O NAREN BHUYAN
ASSISTANT TEACHER AT SINGARIBASTI LP SCHOOL
PO- SINGARI BASTI PS AND DIST HOJAI
ASSAM

21: DIPURANJAN BORAH
S/O RATNESWAR BORAH
ASSISTANT TEACHER AT JUGIJAN ME MADRASA
PO JUGIJAN
PS AND DIST HOJAI
ASSAM

22: SARBESWAR BORA
S/OLT HEMARAM BORA
ASSISTANT TEACHER AT DASMATI ME SCHOOL
PO -DIMRUPAR PS AND DIST HOJAI
ASSAM

23: DILIP BORA
S/O PURNA KANTA BORA
ASSISTANT TEAVCHER AT NILBAGAN ADARSHA LP SCHOOL
PO -DIMRUPAR
PS AND DIST HOJAI
ASSAM

24: GUNJANAN BORA
S/O INDRASWAR BORA
ASSISTANT TEACHER AT ALINAGAR LP SCHOOL
PO GOPALNAGAR PS AND DIST HOAJI

25: NITUL DAS
S/O MANIK DAS
ASSISTANT TEACHER AT SHOWPURAGAON MUKTAB
PO- JYANAGAR
PS MURAJHAR
DIST HOJAI
ASSAM

26: PRASANTA SAIKIA
S/O LT NAGEN CHANDRA SAIKIA
ASSISTANT TEACHER AT SINGIR SAHAR MUKTAB SCHOOL
PO- JYANAGAR

PS MURAJHAR
DIST HOJAI
ASSAM

VERSUS

1:THE UNION OF INDIA AND 8 ORS.
REP. BY THE SECRETARY, DEPTT. OF SCHOOL EDUCATION AND
LITERACY, MINISTRY OF HUMAN RESOURCE, DEVELOPMENT, SASHTRI
BHAWAN, NEW DELHI-110001

2:THE JOINT SECRETARY
DEPTT. OF SCHOOL EDUCATION AND LITERACY
MINISTRY OF HUMAN RESOURCE
DEVELOPMENT
SASHTRI BHAWAN
NEW DELHI-110001

3:THE PROJECT APPROVAL BOARD
DEPTT. OF SCHOOL EDUCATION AND LITERACY
MINISTRY OF HUMAN RESOURCE
DEVELOPMENT
SASHTRI BHAWAN
NEW DELHI-110001

4:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
EDUCATION (ELEMENTARY) DEPTT. DISPUR
GUWAHATI-781006

5:THE ADDL. CHIEF SECRETARY
TO THE GOVT. OF ASSAM
EDUCATION
DEPTT. SACHIBALAYA
GUWAHATI-781006

6:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-781019

7:THE MISSION DIRECTOR
AXOM SARBA SIKSHA ABHIJAN MISSION
KAHILIPARA
GUWAHATI-781019

8:THE EXECUTIVE DIRECTOR
AXOM SARBA SIKSHA ABHIJAN MISSION

KAHILIPARA
GUWAHATI-781019

9:THE DIRECTOR MISSION CO-ORDINATOR
NAGAON DIST. SARBA SIKSHA ABHIJAN
ASSA

Advocate for the Petitioner : MS. NANGTIEN AIDEO CHETIA

Advocate for the Respondent : SC, SSA

BEFORE
HONOURABLE MR. JUSTICE N. KOTISWAR SINGH

ORDER

Date : 11-11-2019

Heard Mr. B. D. Goswami, learned counsel for the petitioners.

Issue notice returnable on 09.12.2019.

Mr. A. K. Dutta, learned counsel accepts notice on behalf of the respondent Nos. 1 to 3. Mr. R. Mazumdar, learned Standing Counsel, Elementary Education Department and SSA accepts notice on behalf of the respondent Nos. 4 to 9.

The petitioners have approached this Court for ensuring certainty of their service. The petitioners were initially appointed as Assistant Teachers on contractual basis under the State run Lower Primary Schools under the Sarba Siksha Abhiyan (SSA) and have also qualified in Teachers Eligibility Test (TET) examination.

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 provisions of the Right to Children to Free and Compulsory Education, 2009. After joining as Assistant Teachers in their respective schools their services have been extended for another period of 2 (two) years on expiry of initial 5 (five) years. 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 (Lower 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.

List the matter again on 09.12.2019.

JUDGE

Comparing Assistant