

GAHC010145242023



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

Case No. : WP(C)/3904/2023

MD. ABDUL HALIM
S/O LATE CHAND MAHMAD, VILL-BANBARI, P.O.-BHELLA, DIST-
BARPETA, ASSAM, PIN-781309

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, ELEMENTARY EDUCATION DEPARTMENT,
DISPUR, GUWAHATI, ASSAM-781006

2:THE BODOLAND TERRITORIAL COUNCIL
THROUGH THE PRINCIPAL SECRETARY
KOKRAJAHR
ASSAM
PIN-783370

3:THE DIRECTOR
ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-781019

4:THE DIRECTOR OF EDUCATION
BODOLAND TERRITORIAL COUNCIL
KOKRAJHAR
ASSAM
PIN-783370

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER
BAKSA
MUSHALPUR

ASSAM
PIN-781372

6:THE BLOCK ELEMENTARY EDUCATION OFFICER
TAMULPUR
BAKSA
PIN-78136

Advocate for the Petitioner : MR. M SAIKIA

Advocate for the Respondent : SC, ELEM. EDU

Linked Case : WP(C)/6976/2023

MD INTAZ ALI
S/O LT. AKIBUR RAHMAN
VILL-NIZ DALA
P.O.-MESKAPUKHURI
P.S.-KALAIGAON
DIST-UDALGURI
ASSAM
PIN-784525

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY
EDUCATION (ELE) DEPPT.
DISPUR
GUWAHATI-6

2:THE DIRECTOR OF ELEMENTARY EDUCATION
KAHILIPARA
GUWAHATI-781019
DIST-KAMRUP
ASSAM

3:THE BODOLAND TERRITORIAL COUNCIL
REPRESENTED BY THE PRINCIPAL SECRETARY
BTC
KOKRAJHAR

4:THE DIRECTOR OF EDUCATION
BTC

KOKRAJHAR
BTAD
ASSAM
5:THE DEPUTY INSPECTOR OF SCHOOLS
BHERGAON SUB-DIVISION
BHERAGAON
P.O.-BHERAGAON
P.S.-TANGLA
DIST-UDALGURI

Advocate for : MS N SAIKIA
Advocate for : SC
ELEM. EDU appearing for THE STATE OF ASSAM AND 4 ORS

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

03.05.2024

Heard Mr. M. Saikia, learned counsel for the petitioner in WP(C) No.3904/2023 and Ms. N. Saikia, learned counsel for the petitioner in WP(C) no.6976/2023. Also heard Mr. S. Bora, learned Standing Counsel, BTC.

The matter has been heard at some length. During the course of hearing the question of policy taken by the State has been urged at the Bar. However, the said policy decision taken by the State is not a part of the record. The question of referring to the policy decision has arisen because of the contention raised by the learned Standing Counsel, BTC that the case of the writ petitioner

does not stand on similar footing as those teachers who are covered under WP(C) No. 59/2013 in respect of whom the State has taken a decision for regularization the services of the writ petitioners therein.

Learned Standing Counsel, BTC submits that the writ petitioners in WP(C) No.59/2013 stand on a different footing then that of the present writ petitioner, inasmuch as, those writ petitioners in WP(C) No.59/2013 were appointed against sanctioned posts, whereas this writ petitioner was never appointed against the sanctioned post.

Be that as it may, from the order passed by the Division Bench of this Court in W.A. No.182/2013 on 06.02.2015, it is apparent that the Division Bench has recorded the finding that the State Counsel as well as BTC has taken a decision to regularize to those teachers who have been receiving salaries till 17.10.2006. The claim of the preset petitioner and which is also not denied by the respondents that the petitioner continued to receive salaries till June, 2008.

Under such circumstances, it became necessary for the Court to peruse the policy which was taken by the State/BTC in respect of regularization of the teachers.

Accordingly, the relevant Cabinet Memorandum be produced by the learned Standing Counsel, BTC by the next date fixed.

Let the matters be listed again on 29.05.2024.

JUDGE

Comparing Assistant