

GAHC010290312019



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

Case No. : WP(C) 8923/2019

1: NAMITA TALUKDAR AND
D/O- HARICHARAN TALUKDAR, R/O- VILL- HARIBHANGA, DIST-
NALBARI, PIN- 781378

2: DEVA BALA BARUAH
D/O- DILIP KUMAR BARUAH
R/O- WARD NO. II
PALLA ROAD
NALBARI TOWN
DIST- NALBARI
PIN-

3: TRIBENI DAS
D/O- LATE BHUPENDRA NATH DAS
R/O- VILL- NAKHANDAPUR
DIST-BARPETA
ASSAM

4: PHULMONI THAKURIA
D/O- LATE JAGADISH THAKURIA
R/O- KEOTPARA
SUALKUCHI
DIST- KAMRUP
PIN- 781101

5: VIOLINA HAZARIKA
D/O- ARUN CHANDRA HAZARIKA
R/O- SATGAON
BHASKAR PATH
GUWAHATI
DIST- KAMRUP(M)
PIN- 781027

6: SYEDA PARBIN AKHTAR RAHMAN

D/O- SYED FORHAD ALI
R/O- BAIHATA CHARIALI
DIST- KAMRUP

7: SEWALI DAS
D/O- LATE HARIN CH DAS
R/O- SUALKUCHI
DIST- KAMRUP(M)
PIN- 781101

8: KARABI DAS
D/O- HARMOHAN DAS
R/O- BONGSOR
SUALKUCHI
DIST- KAMRUP
PIN- 781101

9: SUSMITA SAIKIA
D/O- LATE HAREN SAIKIA
R/O- KRISHNA NAGAR
KAHILIPARA
GUWAHATI
DIST-KAMRUP(M)
PIN- 781019

10: CHANDANA BHATTACHARYYA
D/O- BIPLAB KUMAR BHATTACHARYYA
R/O- 1ST BYE LANE
NABAGRAHA ROAD
GUWAHATI
DIST- KAMRUP(M)
PIN- 781003

11: MANOJ KALITA
S/O- NABIN CH KALITA
R/O- PUB MAZIRGAON
P.O- BHATTAPARA (AZARA)
DIST- KAMRUP(M)
PIN- 781017

12: ABUL AKHTER
S/O- ABDUL HUSSAIN
R/O- SATGAON
P.O- BORBAKA
DIST- KAMRUP
PIN- 781030

13: JURI DAS

D/O- DASHARATH DAS
R/O- SATRAPARA (BATARHAT)
DIST- KAMRUP
PIN- 781122

14: ANGKITA SARMA
D/O- MAHESH CH SARMA
R/O- PINGALESWAR
DIST- KAMRUP
PIN- 781381

15: DHRUBA JYOTI DATTA
S/O- JATINDRA NATH DATTA
R/O- KRC ROAD
KUMARPARA
BHARALUMUKH
DIST- KAMRUP(M)
PIN- 781001

16: JESMIN BEGUM
D/O- MD. MAHMUD ALI
R/O- ROWMARI
SUALKUCHI
DIST- KAMRUP(R)
PIN- 781104

17: ABDUL AZAD
S/O- ARAB ALI
R/O- 2 NO. JALAH
P.O- BARALABARI
DIST- KAMRUP(R)
PIN- 781101

18: GITAMONI BURAGOHAIN
D/O- AKANMAN SAIKIA
R/O- SRISHTI RESIDENCY
LANKESWAR
GUWAHATI
DIST- KAMRUP(M)
PIN- 781014

19: BARNALI PATGIRI BAISHYA
D/O- ANANTA PATGIRI
R/O- LUTUMA
KALAPAHAR
GUWAHATI
DIST- KAMRUP (M)
PIN- 781018

- 20: SUMI PATGIRI
D/O- ANANTA PATGIRI
R/O- AZARA
MIR
DIST- KAMRUP (M)
PIN- 781017
- 21: GITA MONI DAS
D/O- PULIN DAS
R/O- PASHIM KAMAKHYA
GUWAHATI
DIST- KAMRUP(M)
PIN-
- 22: MRIDUL ALI
D/O- AMIR ALI
R/O- UJANKURI
HAJO
DIST- KAMRUP(R)
PIN- 781102
- 23: HARIPRIYA BROJABASHI
D/O- SUDHIR RANJAN BROJABASHI
R/O- AGOMONI
DIST- DHUBRI
PIN-
- 24: LUNA MAHANTA
D/O- LATE GOPAL MAHANTA
R/O- SUALKUCHI
DIST- KAMRUP(R)
PIN- 781103
- 25: RIMJIM CHAKRAVARTY
D/O- HOMESWAR CHAKRAVARTY
R/O- TANTRASANKARA
DIST- NALBARI
PIN-
- 26: MAJIDAR RAHMAN
S/O- LATE HASIM ALI
R/O- AMANI
BELSOR
DIST- NALBARI
PIN- 781306
- 27: MD. AKRAMUL HOQUE

S/O- LATE UMAR ALI
R/O- CHAPGARH
GOURIPUR
DIST- DHUBRI
PIN-

28: GITIMA DAS
D/O- LATE MOTI DAS
R/O- DIHINGSATRA
KADAMTAL
NORTH GUWAHATI
DIST- KAMRUP (M)
PIN- 78103

VERSUS

1:UNION OF INDIA AND 5 ORS
COMMISSIONER AND SECRETARY TO THE GOVT OF INDIA, HUMAN
RESOURCE AND DEVELOPMENT OF DEPTT OF SCHOOL EDUCATION AND
LITERACY, NEW DELHI- 01

2:THE STATE OF ASSAM
REP. BY THE ADDITIONAL CHIEF SECRETARY TO THE GOVT OF ASSAM
EDUCATION DEPTT
DISPUR
GUWAHATI- 781006

3:THE COMMISSIONER AND SECRETARY
TO THE GOVT OF ASSAM
ELEMENTARY EDUCATION DEPTT
DISPUR
GUWAHATI- 781006

4:DIRECTOR OF ELEMENTARY EDUCATION
KAHILIPARA
GUWAHATI
PIN- 781019
DIST- KAMRUP (M)
ASSAM

5:MISSION DIRECTOR
SARBA SIKSHA ABHIYAN MISSION
AXOM (NOW SAMAGRA SIKSHA MISSION
AXOM)
KAHILIPARA
GUWAHATI
PIN- 781019

6:EXECUTIVE DIRECTOR
SARBA SIKSHA ABHIYAN MISSION (NOW SAMAGRA SIKSHA MISSION
AXOM)
KAHILIPARA
GUWAHATI
PIN- 781019
DIST- KAMRUP(M)
ASSA

Advocate for the Petitioner : MR. R GOSWAMI

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

BEFORE
HONOURABLE MR. JUSTICE N. KOTISWAR SINGH

ORDER

Date : 13-02-2020

Heard Mr. P.K. Goswami, learned Senior counsel, assisted by Mr. B.P. Borah, learned counsel for the petitioners in some of the writ petitions and Mr. D. Saikia, learned Senior Standing Counsel, Elementary Education Department, Government of Assam, assisted by Mr. R. Mazumdar, learned counsel for the State.

2. This group of petitions pertains to the claim by the petitioners for regularization of their services as Assistant Teachers. However, the proposed action initiated by the State for regular appointment by issuing advertisement has come in the way of their expectation for regularization. In that context, this Court had passed an interim order on 21.12.2018 in one of the related writ petitions, namely, WP(C) No.8824/2018 directing that 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 leave of this Court. Similar interim orders have been passed in most of the writ petitions.

3. Learned Senior Standing Counsel, Elementary Education Department has submitted that because of these interim orders and also because of numerous writ petitions filed by various petitioners, the Government is not able to proceed with the recruitment process and accordingly has sought for vacating the aforesaid interim order dated 21.12.2018, in the event the matter is not taken up for hearing today.

4. Mr. Goswami, learned Senior counsel and some other counsel, prays that the matters be listed on 05.03.2020 and submits that the interim orders do not come in the way of the recruitment process which is said to have been initiated as what the interim orders provide is for reserving certain numbers of posts and, as such, there should not be any difficulty on the respondent-authorities to proceed with the recruitment process and accordingly it has been prayed that the matters may finally be heard on 05.03.2020 and submits that vacation of the interim orders may not be necessary at this stage.

5. Having heard learned counsel for the parties and on perusal of the interim orders, this Court is of the view that there is no bar on the part of the respondents to proceed with the recruitment process which has been already initiated. It may be noted that the recruitment process for appointment of 9000 teachers was initiated sometime in 2018 and the last date for filing of application was fixed on 11.02.2020.

6. Considering the fact that a large number of applicants might have applied for the said 9000 posts and since the recruitment process may take some time, this Court is of the view that since there is no embargo in the process initiated except for directing keeping certain posts reserved, this Court is of the view that vacating the interim orders today may not be necessary, more so, when the writ petition, namely, WP(C) No.8824/2018 where the interim order was passed on 21.12.2018 is not listed today.

7. This Court has taken this view also for the reason that the interim orders directing reservation of posts will become relevant only when the State prepares the select list and proposes to issue appointment orders and it is only at that stage that the said interim orders can be said to cause certain impediment to the recruitment process already initiated.

8. The interim orders have not placed any embargo upon the State respondents to prepare the select list in terms of the advertisement challenged in these petitions but there are direction that appointment orders may not be issued in respect of proportionate number of posts in terms of the interim orders passed by this Court.

9. Accordingly, in terms of the interim orders, let proportionate number of posts as the number of petitioners in the Elementary Education (Upper Primary & Lower Primary), Government of Assam be kept unfilled which may not be filled without leave of this Court.

10. Let all the matters be listed for final hearing on 05.03.2020 along with WP(C) No.8824/2018, 4914/2019 and 8169/2019.

11. Registry will list all the similar matters on that day, which are not listed today, for which Mr. R. Mazumdar, learned counsel assisting Mr. D. Saikia, learned Senior Standing Counsel may furnish a list to the Registry.

JUDGE

Comparing Assistant