GAHC010315352019

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

Case No. : WP(C) 9480/2019

1:DIPAK SAHU AND 30 ORS
S/O. CHANGUR SAHU, VILL. SEPON CHAKALIA, P.O. CHAKALIA, P.S. MORAN, DIST. DIBRUGARH, PIN-785673.

2: DEVAJYOTI GOGOI

S/O. PRADEEP GOGOI
VILL. 108 NO. KHOWANG GRANT
P.O. TILOI NAGAR
P.S. MORAN
DIST. DIBRUGARH
PIN-785675.

3: TINTUSH BODRA
S/O. ISRAIL BODRA
VILL. PATHALIBAM TARAJAN
P.O. TORAJAN
P.S. MORAN
DIST. DIBRUGARH
PIN-785575.

4: MANJIT GOGOI
S/O. BHUPEN GOGOI
VILL. MAJPATHER GAON
P.O. KACHALU
P.S. TINGKHONG
PIN-786612
DIST. DIBRUGARH.

5: PANKAJ BAILUNG
S/O. SONESWAR BAILUNG
VILL. 1 NO SARUPATHER
P.O. MORAN
P.S. MORAN

DIST. DIBRUGARH
PIN-785669.

6: DEBIKA KHANIKAR
W/O. PANKAJ BAILUNG
VILL. 1 NO. SARUPATHER
P.O. MORAN
P.S. MORAN
DIST. DIBUGRAH
PIN-785669.

7: GAGAN GOGOI

C/O. KAMAL GOGOI
VILL. TEPORCHALIBAM
P.O. PATHALIBAM
P.S. MORAN
DIST. DIBRUGARH
PIN-785675.

8: HIMANTA BURAGOHAIN

S/O. PARAKHURAM BURAGOHAIN
VILL. TAMULBARI T.E. P.O. LAHOWAL
DIT. DIBRUGARH
PIN-786010.

9: DHRUBAJYOTI KUNCH
S/O. DHORMESWAR KUNCH
VILL. GENICHUK GAON
P.O. MOHMORA (DIKOM)
P.S. RAHMORIA
DIST. DIBRUGARH
PIN-786010.

10: MINAKHEE RAJKONWAR
C/O. ANIL RAJKONWAR
VILL. PANIDORIA RANGAGORAH
P.O. PARBATPUR
P.S. NAMRUP
DIST. DIBRUGARH
PIN-786623.

11: GITANJALEE BARUAH
D/O. RANTU HATIBARUAH
VILL. JERAI GAON
P.O. PANITOLA
P.S. CHABUA

DIST. DIBRUGARH
PIN-786183.

12: SURAJ DUTTA

VILL. KOCH GAON
P.O. MAJBAM CHARIALI
PIN-785785
DIST. DIBRUGARH
ASSAM.

13: RANTU HATIBORUAH
VILL. JERAI GAON
P.O. PANITOLA
PIN-786183
DIST. DIBRUGARH
ASSAM.

14: RANJAN CHUTIA

VILL. NO.2
RANGAGARAH
P.O. LILAPUR
PIN-786183
DIST. DIBRUGARH
ASSAM.

15: DIPIKA DEKA
D/O. TARUN CHANDRA DEKA
VILL. PAIKANA
P.O. DORA KAHARA
P.S. CHANGSARI
DIST. KAMRUP (R)
PIN-781101.

16: DEEPTI LAHKAR

D/O. RAMANI LAHKA
VILL. DHOPATARI
P.O. CHANGSARI
P.S. CHANGSARI
DIST. KAMRUP (R)
PIN-781001.

17: RAJEEB KUNCH
S/O. LT. BARUN KUNCH
VILL. GENICHUK
P.O. MOHMARA (DIKOM) P.S. RAHMORIA

DIST. DIBRUGARH
PIN-786101.

18: NABAJYOTI GOGOI
VILL. BORAHOM GAON
P.O. BORAHOM KATHANI
P.S. PULIBAR DIST. JORHAT
PIN-785006.

19: HEMONTA DUTTA

S/O. LT. RAJEN DUTTA
VILL. DULIA GAON
P.O. JORHAT ENGINEERING COLLEGE
P.S. JORHAT
DIST. JORHAT
PIN-785007.

20: ADITYA GOGOI

S/O. KULEN GOGOI
VILL. THENGAI GAON
P.O. MEDELA
P.S. BORBORUAH
DIST. DIBRUGARH
PIN-786007.

21: SUSHILA DAS
VILL. ATHGAON
P.O. HINGULI
P.S. KAMALPUR
DIST. KAMRUP (R)
PIN-781380.

22: ARUNIMA BARMAN
D/O. LT. S.D. BARMAN
VILL. HENGERABARI NEAR KALIMANDIR
P.O. HENGERABARI
P.S. DISPUR
DIST. KAMRUP (M)
PIN-781036.

23: KARUNA SONOWAL

D/O. ATUL SONOWAL
VILL. BIHUBOR
P.O. BORHAT
P.S. BORHAT

DIST. CHARAIDEO
PIN-785693.

24: KANAK CHANGMAI
S/O. DHARMESWAR CHANGMAI
VILL. NA CHANGMAI GAON
P.O. LENGERI BAZAR
P.S. MORAN
DIST. DIBRUGARH
PIN-786613.

25: BIKASH GOGOI
VILL. KONWARI GAON
P.O. KONWARI GAON
P.S. NAHARKATIA
DIST. DIBRUGARH
PIN-786615.

26: KULANATH KULIGOYAN
S/O. NIRMAL KULIGOYAN
VILL. NA SRIPURIA GAON
P.O. KONWARI GAON
P.S. TINGKHONG
DIST. DIBRUGARH
PIN-786615.

27: ASHIM BORAH
S/O. HEMALI BORAH
VILL. USHAPUR KHANIKAR GAON
P.O. USHAPUR
P.S. JOYPUR
DIST. DIBRUGARH
PIN-786614.

28: DILIP URAON
S/O. LT. NAGA URAON
VILL. EKARA KATA
P.O. KONWARI GAON
P.S. NAHARKATIA
DIST. DIBRUGARH
PIN-786615.

29: MUNINDRA CHHANGMAI

S/O. GOPAL CHANGMAI
VILL. 2 NO. TIPOMIA
P.O. TINGKHONG
P.S. TINGKHONG

DIST. DIBRUGARH
PIN-786612.

30: AKHIL GOGOI

S/O. TILESWAR GOGOI
VILL. BAUL PUKKHURI SENSOWA
P.O. BAULI PUKKHURI SENSOWA
P.S. HALUWATING
DIST. SIVASAGAR
PIN-785684.

31: JOGEN DUTTA

S/O. JIBON DUTTA
VILL. KACHAMARI GAON
P.O. KACHAMARI
P.S. PULIBOR
DIST. JORHAT
PIN-785616

VERSUS

1:THE UNION OF INDIA AND 4 ORS
REP. BY THE COMM. AND SECY. TO THE MINISTRY OF HUMAN RESOURCE AND DEVELOPMENT DEPTT., OF SCHOOL EDUCATION AND LITERACY, NEW DELHI-01.

2:THE STATE OF ASSAM
REP. BY COMM. AND SECY. TO THE GOVT. OF ASSAM
ELEMENTARY EDUCATION DEPTT.
DISPUR
GHY.-06.

3:THE ADDL. CHIEF SECRETARY
TO THE GOVT. OF ASSAM
EDUCATION DEPTT.
DISPUR
GHY.-06.

4:THE AXOM SARBA SIKSHA ABHIYAN MISSION
REP. BY ITS MISSION DIRECTORATE
KAHILIPARA
GHY.-19.

5:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA

GHY.-19

Advocate for the Petitioner : MR. B P BORAH

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

BEFORE
HON'BLE MR. JUSTICE N. KOTISWAR SINGH

ORDER

20.12.2019

Heard Mr. P.K. Goswami, learned Senior counsel assisted by Mr. B.P. Borah, learned counsel for the petitioners. Also heard Mr. S.P. Bhattacharjee, learned standing counsel, SSA, appearing for respondent Nos.2—5.

Issue notice, returnable on 12.02.2020.

No formal steps are called for in respect of the respondent Nos.2—5, as they are duly represented. However, extra copies of the writ petition be served on the learned counsel appearing for the respondents.

Petitioners to take steps for service of notice on respondent No.1 through Mr. S.C. Keyal, learned Assistant Solicitor General of India.

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.

The petitioners 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.

Sd/- *N. Kotiswar Singh*
JUDGE

Comparing Assistant