
(2018) 05 GAU CK 0205
In the Gauhati High Court
Case No : Writ Prtition (C) No. 988 of 2015

Masuma Khatun

APPELLANT

Vs

State Of Assam And Ors

RESPONDENT

Date of Decision : 28-05-2018

Acts Referred:

Citation : (2018) 05 GAU CK 0205

Hon'ble Judges : MICHAEL ZOTHANKHUMA, J

Bench : Single Bench

Advocate : U K Nair

Final Decision : Disposed Off

Judgement

Heard Mr. R Islam, learned counsel for the petitioner. Also heard Mr. N Sarma, learned counsel for the Secondary Education Department and Mr. Z

Hussain, learned counsel for the respondent No.5. Mr. K Nayak, learned counsel appears for the respondent No.3. None appears for the respondent No.6.

The petitioner by way of the present writ petition has challenged the list published on 28.01.2015 in the website of the Secondary Education

Department, Assam, for the purpose of provincialisation of services of employees in respect of Hatsingimari Junior College under the Dhubri district.

Petitioner's counsel submits that the said impugned list dated 28.01.2015 had been published in pursuance to the Assam Venture Educational

Institutional Provincialisation of Services Act, 2011 which had been set aside by the Division Bench of this Court in the case of Chandan Kumar Neog

vs- State of Assam & Ors. , reported in 2016 (5) GLT 296.

The petitioner's counsel submits that in view of the above, the impugned list

dated 28.01.2015, in so far as it relates to the respondent No.6, should be set aside and a direction be issued to the respondent authorities to consider provincialisation of the petitioner in terms of the Assam Educational

(Provincialisation of Services of Teachers and Re-organization of Educational Institutions) Act, 2017, hereinafter referred to as '2017 Act'.

Counsels for the respondents do not have any objection to the same. I have heard the learned counsels for the parties. The petitioner herein is a

Lecturer of Advance Assamese, while the respondent No. 6 is a Lecturer in History, in Hatsinghimari Junior College, Dhubri district. The impugned

list dated 28.01.2015, which had been issued by the State respondents for provincialisation of services of one of the employees of the said college, had

reflected at Serial No.2012 of the list, that there was a Court case pending, which was WP (C) No. 5348 of 2014. WP (C) No. 5348 of 2014, which

was filed by the respondent No. 6 had been closed as infructuous vide order dated 02.02.2015.

Added to the above, in view of the Assam Venture Educational Institutional Provincialisation of Services Act, 2011 having been struck down by the

Division Bench of this Court in Chandan Kumar Neog (supra), it is clear that the consideration for provincialisation of the petitioner or the respondent

No.6 would have to be done as per the 2017 Act which has replaced the earlier Act.

In view of above, impugned list dated 28.01.2015 is set aside to the extent that it is relatable to the respondent No.6. Consequently, the State

respondents are directed to consider the provincialisation of the services of the petitioner, the respondent No.6 and all other eligible candidates as per

2017 Act. Writ petition is accordingly disposed of.