



GAHC010170692012



IN THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH)
PRINCIPAL SEAT
W.P(C) No. 2393/2012

1. Abdul Halim Laskar,

S/o- Irshad Ali Laskar,Vill- Talurgram-I, PO Sonaimukh,Dist- Cachar.

2. Badrul Islam Mazumder,S/o-

Mazaid Ali Mazumder,Vill- Durgapur,PO- Barjatrapur, Dist- Cachar.

3. Amajit Chanda,

S/o- Lt Amulya Kr Chandra,Vill & PO- Darmikhal,Dist- Cachar.

4. Monoj Kumar Kairi,S/o- Lt Maniklal Kairi,Vill & PO- Natun Bazar,Dist- Cachar.

5. Achyut Kumar Bhowmik,S/o- Lt Ajit Kumar Bhowmik,Vill & PO- Salganga,Dist- Cachar.

6. Mihir Kumar Das,C/o- Radha Kanta Das,Vill & PO- Salganga,Dist- Cachar.

7. Th. Rajendra Singha,S/o- Suna Babu Singha,Vill- Icharpar, PO- Amjurghat,Dist- Cachar.

8. Ajanta Bhattacharjee,D/o- Lt Kripamoy Bhattacharjee,Vill & PO- Nayabil,Dist- Cachar.



9. Raju Deb,S/o- Ramananda Deb,Vill- Talurgram P-I,PO- Sonaimukh, Dist- Cachar.

10. Monoj Kumar Deb,S/o- Monmohon Deb,Vill & PO- Nayabil,Dist- Cachar.

11. Th. Chandra Babu Singha,S/o- Monmohon Singha,Vill & PO- Nayabil,Dist- Cachar.

12. Kalyan Kanti Paul,S/o- Kalidas Paul,Padumnagar, Silchar,Dist- Cachar.

13. Abul Kalam Choudhury,S/o- Azir Ali Choudhury Ray,Vill- Bhairab Nagar,P.O.- Krishnapur, Dist- Cachar.

14. Joynal Uddin Laskar,S/o- Abdul Rajan Laskar, Dist- Cachar.

15. Saleh Ahmed Laskar,S/o- Oli Ullah Laskar, Vill & PO- Ganirgram-II,Dist- Cachar.

16. Safia Begum,D/o- Ibrahim Ali, Vill- Pratipar,PO- Anilabazar, Dist- Cachar.

17. Ajoy Ray Choudhury,S/o- Sunil Ray Choudhury, Vill & PO- Natun Kanchanpur, Dist- Cachar.

18. Nil Kanta Singha,S/o- Babadhan Singha, Chengcoorie Bagan,PO- Chengcoorie, Dist- Cachar.

19. Miss Sahina Begum Barbhuiya,D/o- Siraj Uddin Barbhuiya,Vill & PO- Buribail,Dist- Cachar.

20. Ali Ahmed Barbhuiya,S/o- Masaddar Ali Barbhuiya,Vill & PO- Buribail,Dist- Cachar.

21. Chayan Sarma,S/o- Chuni Lal Sarma,Vill & PO- Palonghat,Dist- Cachar.

22. Rafique Uddin,S/o- Azizur Rahman,Vill & PO- Bhangarpar,Dist- Cachar.

23. Khairul Islam Barbhuiya,S/o- Sawkat Ali Barbhuiya,Vill & PO- Bhangarpar,Dist- Cachar.

24. Safique Ahmed Barbhuiya,S/o- Azizur Rahman Barbhuiya,Vill & PO- Krishnapua,Dist- Cachar.



25. Rameswar Kairi,S/o- Faguwa Kairi,Vill- Dewan, PO- Dewan,Dist- Cachar.

26. Biswatosh Das,

S/o- Bijoy Prassana Das,Vill- Sibpur, Pt- I,PO- Hazarigram Bazar,Dist- Cachar.

27. Amarendra Sinha,S/o- Mohi Sena Sinha,Vill- Bhatirgram,PO- Bekirpar, Dist- Cachar.

28. Arabinda NathS/o- Shishutosh Nath,Dist- Cachar.

29. Samarendra Kumar Das,C/o- Gopendra Chandra Das,Vill- Jamalpar, PO- Palonghat,Dist- Cachar.

30. Jognarayan Harijan,S/o- Ramprasad Harijan,Vill- Pollorbond TE,PO- Banskandi, Dist- Cachar.

31. Debasish Sinha,S/o- Binoy Kumar Sinha,Bakhalpur East,PO- Singari, Dist- Cachar.

32. Gautam Goala,S/o- Harihar Goala,Vill- Binakandi TE, Dist- Cachar.

33. Bhaskar Barai,S/o- B.L. Barol,Itkhola, Dist- Cachar.

34. Anuradha Roy,D/o- Lt. Jamini Kr. Roy,Lakhipur, PO- Lakhipur,Dist- Cachar.

35. Bimal Sinha,S/o- Lt. B. Raja Bihari,Vill- Pakaipar, PO- Kabuganj,Dist- Cachar.

36. Ashok Kumar Kairi,S/o- Krishna Dayal Kairi,Vill & PO- Atharotilla,Dist- Cachar.

37. Nirmal Kumar Das (Nath)S/o- Naranjan Das.Vill- Barodolu, PO- Palonghat,Dist- Cachar.

38. Mijajul Hq Choudhury,S/o- M. Ali Choudhury,Vill & PO- Singerbond,Dist- Cachar.

39. Sunanda Deb,W/o- Shyamananda Deb,Vill & PO- Pailapool,Dist- Cachar.

40. Najmul Islam Barbhuiya,S/o- Siraj Uddin Barbhuiya,Vill & PO- Ganirgram-2,Dist- Cachar.



41. Shahibur Rahman Laskar, S/o- Lt. Basarai Ali Laskar, Vill- Buribail-I, PO- Ganirgram, Dist- Cachar.

42. Sahab Uddin Laskar, S/o- Ilias Ali Laskar, Vill- Patharigram, PO- Rajnagar, Dist- Cachar.

43. Samsuddin Mazumder, S/o- Swakat Ali Mazumder, Vill & PO- Barjatrapur, Dist- Cachar.

44. Tayab Ali Choudhury, S/o- Mahmad Ali Choudhury, Vill- Bhairabnagar, PO- Krishnapur, Dist- Cachar.

45. Sayma Begum Mazumder, D/o- Sirajul Islam Mazumder, Vill- Mazumder Bazar, PO- Tarapur, Dist- Cachar.

46. Jamir Ahmed Mazumder, S/o- Faizur Rahman Mazumder, Vill- Durgapur, PO- Barjatrapur, Dist- Cachar.

47. Mohi Uddin Laskar, S/o- Tiruaj Ali Choudhury, Vill & PO- Joynagar, Dist- Cachar.

48. Sahid Ahmed Barbhuiya, S/o- Habibur Rahman Barbhuiya, Vill & PO- Borjatrapur, Dist- Cachar.

49. Mohan Ch. Das,

S/o- Harendra Ch. Das, Vill & PO- Niz Joyanagar, Dist- Cachar.

50. Saidur Rahman Laskar, S/o- Mobajil Alim Laskar, Vill- Badarpur Pt- 2, Niz Joyanagar, Dist- Cachar.

51. Sabbir Ahmed Barbhuiya, S/o- Matiur Rh Barbhuiya, Vill & PO- Ganirgram, Dist- Cachar.

52. Siratun Nessa Laskar, D/o- Mudarish Ali Laskar, Vill & PO- Krishnapur, Dist- Cachar.

53. Zulfikar Ahmed Laskar, S/o- Zulfikr Ahmed Laskar, Vill- Buribail, PO- Ganirgram, Dist- Cachar.

54. Hanif Alam Laskar, S/o- Hafizur Rh Laskar, Vill- Balighat, PO- Arunachal, Dist- Cachar.



55. Nazrul Islam Barbhuiya, S/o-
Abdur Rohwab Barbhuiya, Vill & PO-
Chandpur, Dist- Cachar.

56. Iftikar Alam Laskar, S/o- Hazi
Manir Ali Laskar, Vill- Buribail, PO-
Ganirgram, Dist- Cachar.

57. Sabir Ahmed Khadem, S/o- A.R.
Khadem, Vill & PO- Ganirgram, Dist-
Cachar.

58. Shahin Aktar Mazumder, D/o-
Aktasul Hq Mazumder, Itkhola,
Silchar, Dist- Cachar.

59. Nurul Hashan Barbhuiya, S/o-
Moyur Uddin Barbhuiya, Vill & PO-
Bagpur, Dist- Cachar.

60. Aziz Ahmed Mazumder, S/o-
Mozila Uddin Mazumder, Vill & PO- Uttar
Mohanpur, Dist- Cachar.

61. Imrana Begum Laskar, D/o-
Maztor Ali Laskar, Vill- East
Gobindapur, PO- Gobindapur East, Dist-
Cachar.

62. Nelufa Begum Barbhuiya, D/o-
Azir Uddin Barbhuiya, Vill & PO-
Rongpur, Dist- Cachar.

63. Priyankar Sinha, S/o- Prahlad
Sinha, Vill- Pakaipar, PO- Kabuganj, Dist-
Cachar.

64. Gobinda Dubey, S/o- Nirmal Prasad
Dubey, Vill- Urabil, PO- Pailapool, Dist-
Cachar.

65. Y. Rina Singha, D/o- Y. Birendra
Singha, Vill & PO- Singerbond, Dist-
Cachar.

66. Nirmal Kr Sinha, S/o- Lt Nanda Kr
Sinha, Vill- Kabirgram, PO- Sigeri, Dist-
Cachar.

67. Romij Uddin Barbhuiya, S/o- Md
Rais Ali, Vill- Dibarkush-IV, Dist- Cachar.

68. Nazmul Hussain Laskar, S/o-
Rabizul Ali Laskar, Vill- Nichchntapur, PO-
Rajnagar, Dist- Cachar.



69. Santa Kumar Singha, S/o- Joydev Singha, Vill- Khalpar, PO- Mashughat, Dist- Cachar.

70. Sujit Kumar Das,

S/o- Lt. Surendra Ch. Das,
Vill & PO- Kashipur,
Dist- Cachar.

71. Sanjay Kr Das, S/o- Nimchand Das, Vill- Gossainagar, PO- Binnakandi TE, Dist- Cachar.

72. Jahangir Alam Laskar, S/o- Lt Shihab Uddin Laskar, Vill. Haritika Pt-I, PO. Rajatilla, Dist-Cachar

73. Nuruzzaman, S/O Lt. Abdus Subhan, Vill. Lathimara, P.O. Lathimara, Dist-Cachar.

74. Sahajahan Haque Laskar, S/O Lijat Ali Laskar, Vill-Rupalbali, P.O- Banskandi

75 Mahibul Haque Barbhuiya, S/O Shuaib Ali Barbhuya, Vill. Srikona

76. Hillol Kanti Nath, S/O Late Hari Mohan Nath, Tarapur Sibbari, P.O. Silchar

77. Nitish Ranjan Das, Vivekananda Road, Silchar

78 Ananta Kumar Deb, Nutan Bazar Narsingpur, Cachar

79 Shahin Aktar Mazumder, D/O Aktasul Hq Mazumder, Itkhola, Silchar, Dist-Cachar

80 Mastafa Ahmed Laskar, S/O Samsur Uddin Laskar, Vill. Nagdirgram, PO Kabuganj, Dist-Cachar

.....**Petitioners**

Versus

1. The State of Assam

Represented by the Commissioner & Secretary to the Govt. of Assam, Education (E) Department, Dispur, Guwahati-6



2. The commissioner & Secretary to the Government of Assam,
Finance Department, Dispur, Guwahati-6

3. The Director of Elementary Education, Assam, Kahilipara,
Guwahati-19

4. The District Elementary Education Officer, Cachar, Silchar,
Assam, 788001

.....Respondents

- B E F O R E -

HON'BLE MR. JUSTICE SOUMITRA SAIKIA

Advocate for the petitioner: Mr. S Hoque, Advocate

Advocate for the respondents: Mr. P.N. Sharma, SC, Elementary Education
Ms. M. Bhattacharjee, Addl. Sr. Govt. Advocate

Date of Hearing : **22.04.2025**

Date of Judgment & Order : **21.07.2025**

JUDGMENT AND ORDER (CAV)

The petitioners before this Court were appointed as Assistant Teachers in various M.E. Schools in the Cachar district by the District Elementary Education Officer, Cachar, vide the appointment letters dated 29.11.1994 upon being approved by the Sub-divisional Level Advisory Board. However, their appointments stood cancelled on the ground of appointment being made against non-existent posts. Being aggrieved, the petitioners approached this court by filing C.R Case No. 324 of 1995. By order dated 20.01.1995 passed in CR 324/95. This court directed the respondent authorities not to oust the petitioners from their services and also directed the authorities to release their salaries regularly. Pursuant to the order passed by this Court, the District Elementary Officer, Cachar by order dated 31.03.1995 reinstated the services of the petitioners in their



respective posts with all financial benefits with effect from the date of their joining. Subsequently, the Chief Secretary by notification dated 09.09.1996 directed an administrative enquiry to be conducted by Sri S. Manoharan, who was the then Commissioner of Lower Assam and Hills and Barak Valley Division, to enquire into the irregularities and illegal appointments of the school teachers in Primary, Middle, High and Higher Secondary Schools of Assam during the period 01.03.1991 to 30.04.1996. Pursuant to the said enquiry conducted it was followed by the Task Force/District Level Screening Committee/Departmental Screening Committee and thereafter the services of 193 teachers of M.E./M.E.M./M.V./Senior Basic and Government Senior Basic Teachers working in the district of Cachar were regularized. The services of the petitioners were also regularized by the Director of Elementary Education, Assam vide his order under memo number EMA.54/2005/13 dated 20.08.2005 with effect from their date of joining against vacant posts in the scale of pay for Rs. 3130/- to Rs.6600/- per month plus other allowances. The petitioners were adjusted against the vacant posts of assistant teachers caused due to transfer/retirement at the respective ME schools in the district of Cachar. It is the case of the petitioners that since their adjustments, they have been working regularly and continuously without any break to the utmost satisfaction of their higher authorities till date.

2. The present proceedings are initiated by the petitioners as they are aggrieved that in spite of discharging their duties regularly till date, their arrear salaries as well as the current salaries have not been paid yet by the respondent authorities inspite of series of communications and the verbal requests made by the petitioners for



which they are suffering from extreme financial hardships inspite of submitting recommendations time and again before the Finance Department for necessary concurrence.

3. This writ petition subsequently heard on 08.05.2013 and by an order passed by Co-ordinate bench by following the Judgment rendered in WP(C) No. 7492 of 2005 (Abdul Kayum vs State of Assam) and by placing reliance on the judgments of the Apex Court rendered in Nazira Begum Laskar -vs- State of Assam reported in (2001) 1 SCC 143; A. Umarani vs Registrar, Cooperative Societies reported in (2004) 7 SCC 112 and State of Assam vs Protima Das reported in 1997 (3) GLT 7 it was held that the executive powers under Article 162 of the Constitution cannot be invoked to regularize the services of those who were appointed by disregarding the due process prescribed under the Assam Elementary Education (Provincialization) Rules 1977. Following the said judgment rendered by the Court in Abdul Kayum (Supra), the writ petition came to be dismissed of rejecting the prayers of the petitioners for grant of arrear salaries. The Co-ordinate Bench further directed the respondents to ensure that the petitioners' services (if continuing) should be discontinued with immediate effect.

4. Being aggrieved the writ petitioners preferred an appeal being writ appeal No. 179 of 2013. This writ appeal along with other similarly connected matters being Writ Appeal No. 380-381-382-386 of 2013 came to be disposed of together with writ appeal no. 211 of 2013 by a Division Bench of this Court. By Judgment and Order by dated 20.05.2014, the Division Bench after consideration of the matter in its entirety interfered with the order dated 08.05.2013 passed in WP(C) No. 2393 of 2012 and remanded the matter for a *de*



novo hearing by the learned Coordinate Bench. The relevant extract of the order dated 08.05.2013, whereby the order passed by the Coordinate Bench was interfered with and the matters were remanded for fresh hearing is extracted below:

"Heard Mr. S. Haque, the learned Counsel appearing for the petitioners. The State respondents are represented by Mr. M.R. Pathak, Standing Counsel, Education.

2. The petitioners were appointed as teachers in M.E. Schools in Cachar District through the appointment orders dated 29.11.1994 (Annexure-1 series) issued by the DEEO, Cachar. The appointees seek direction for disbursal of their current and arrear salary on the basis of the decision to regularize the services of illegal appointees, identified by the S. Monoharan Enquiry Committee.

3. Mr. M.R. Pathak, Standing Counsel, Education however submits that the petitioners were not selected and were appointed on pick and choose basis even without post being available and accordingly the case should be dismissed by following the judgment rendered today in the WP(C) 7492/2005 (Abdul Kayum vs. State of Assam). In this judgment, the Court after referring to the Apex Court's decision in Nazira Begum Lashkar vs. State of Assam reported in (2001) 1 SCC 143, A. Umarani vs. Registrar, Cooperative Societies reported in (2004) 7 SCC 112 and State of Assam vs. Pratima Das reported in 1997 (3) GLT 7 held that that the executive powers under Article 162 of the Constitution can't be invoked to regularize the services of those who were appointed by disregarding the due process prescribed by the Assam Elementary Education (Provincialization) Rules, 1977. The relevant portion of the judgment is extracted hereinbelow :-

22. The Supreme Court in Nazira Begum Lashkar vs. State of Assam reported in (2001) 1 SCC 143 held that appointment made without following the Statutory Rules, through tampering of records, will disentitle the appointees to claim any equitable relief. On the Government's power to regularize service of irregular appointees, the Apex Court in A. Umarani vs. Registrar, Cooperative Societies reported in (2004) 7 SCC 112 declared that when appointments were made in contravention of Rules, the State can't invoke the power under Article 162 of the Constitution to regularize such illegal appointment. Similarly in Punjab Water Supply & Sewerage Board vs. Ranjodh Singh reported in (2007) 2 SCC 491, the Supreme Court held that a scheme under Article 162 can't prevail over Statutory Rules or Rules framed under Article 309



of the Constitution. In another often quoted decision in Ashwani Kumar vs State of Bihar reported in (1997) 2 SCC 1, the Apex Court was examining appointment in excess of sanctioned posts. Since appointments were made without following the Rules, the Court held that such appointments were illegal and no right would accrue to the appointees.

23. The decision of the State Cabinet to regularize the service of the illegal/irregular appointees only because they possessed the qualification can't at all be approved since it will amount to appointment without following the due process. If this is permitted, fair opportunity of appointment prescribed by Article 14 and 16 will be rendered meaningless.

4. Having regard to the above decision and noticing that petitioners are beneficiaries of an illegal process, I see no scope to grant any direction for the petitioners. Following the decision in Abdul Kayum (supra) the respondents are directed to ensure that the petitioners' service (if continuing), should be discontinued, with immediate effect.

5. The case is disposed of with the above direction. "

5. Subsequently, the matters were placed before the Coordinate Bench and had been taken up for hearing. The claim of the petitioners is that they have been in service continuously and have been rendering their services, therefore, their arrear pay for the period mentioned is required to be released. After the matter was remanded back and the matter to be heard afresh by a Single Bench, a Coordinate Bench by order dated 08.06.2022 came to a finding that since there are allegations of fraud by some authorities or persons that fake names were included in the list of teachers who are to be regularized pursuant to a Cabinet Decision, a direction was issued to the appropriate authority in the Government for a thorough investigation. The said order is therefore extracted below:

"Heard Mr. S Hoque, learned counsel for the petitioner. Also heard Mr. B Kaushik, learned counsel for the respondents in the Elementary Education Department, Government of Assam and Mr. A Chaliha, learned counsel for the Finance Department, Government of Assam.



2. *The writ petitioners herein claim for payment of arrear salaries from 20.08.2005 as well as their current salaries based upon the order under memo no. EMO/04/13 dated 20.08.2005 under the signature of Mohsin Ali, the Director of Elementary Education, Assam.*

3. *The first paragraph of the order is extracted as below:*

"In exercise of power conferred upon the Director of Elementary Education, Assam by the Govt. Letter No. B (3) S-427/2001/3 dtd- 4/1/2002 and in pursuance of Govt. Order under Memo No. EDN (LC) 52/2005/477/55 dtd-9/8/2005 issued on the decision of the Cabinet Meeting held on 24/02/2005 for regularization of services of 2776 Nos. Of LP/ME/MEM/HS/HSS teachers of the State, who were appointed in excess of posts during the period 01-3-91 to 30-11-96 and which were enquired into by the One Man Enquiry Committee headed by Sri S. Monoharan, IAS and subsequently by Task Force/District Level Screening Committee/Departmental Screening Committee the services of 193 (one/hundred/ninety/three) Nos. Of ME/MEM/MV/Sr. Basic and Govt. Sr. Basic working teachers in the District of Cachar are hereby regularized with effect from date of their joining against the vacant posts as per enclosed list (signed by the Commissioner and Secretary to the Govt. Of Assam Education (S & E) Deptt.) in the scale of pay Rs. 3130/- to Rs.6600/- P.M. Plus other allowances as admissible as per rules. The teachers concerned will be eligible for salary from the date of joining after regularization in the vacant posts."

4. *A reading of the extracted portion of the order makes it discernable that in exercise of the power conferred upon the Director of Elementary Education, Assam by the Government Letter No. B (3) S-427/2001/3 dtd 04.01.2002 and in pursuance of the Government Order under Memo No. EDN (LC) 52/2005/477/55 dtd- 9/8/2005 issued on the decision of the cabinet meeting held on 24.02.2005 for regularization of services of 2776 number of LP/ME/MEM/HS/HSS teachers of the State, who were appointed in excess of posts during the period 01.03.1991 to 30.11.1996 and which were enquired into by the One Man Enquiry Committee headed by Sri S. Monoharan, IAS and subsequently by the Task Force/ District Level Screening Committee/Departmental Screening Committee the services of 193 (one/hundred/ninety/three) Nos. Of ME/MEM/MV/Sr. Basic and Govt. Sr. Basic working teachers in the District of Cachar were regularized with effect from their respective date of joining.*

5. *Apparently, 193 numbers of teachers were regularized as per the enclosed list to the said order. The enclosed list is stated to be the list i.e.*



available from page-41 onwards of the writ petition. The list from page-41 to page-50 contains the 193 names and in the end, a scribbled signature of the concerned authority is available without any identity as to who the authority is.

6. A comparison with page-50 and page-51 of the writ petition where page-51 depicts the signature of the Commissioner and Secretary to the Government of Assam, a similarity is sought to be projected between the signature at page-50 and the signature available at page51, although there is a possibility of the two signatures being of two different persons.

7. Be that as it may, when we enquired from the respondent authorities as to why the salary and allowances had not been paid inspite of being regularized by the order issued by the Director, a communication dated 06.06.2022 of the Director of Elementary Education, Assam is produced.

8. Apart from others, paragraph 3 of the said communication is extracted as below:

"In the meantime, the Finance Department vide Memo No. BB.194/2005/17-A dated 07/10/2005 issued a Fax Message to the Deputy Commissioner, Cachar with information copy to the Treasury Officer, Cachar as under "it has come to the notice of finance department that fake appointment of teachers in cachar district has been made on the strength of Cabinet decision of 24/02/2005 with reference to recommendation of the Monoharan Commission. In view of the above you are instructed not to entertain the bills if presented on the strength of letter No.EMA.54/2005/13 dated 20/08/2005 until further instruction from Finance (Copy enclosed as Annexure-III)."

9. A reading of the extracted portion of the communication dated 06.06.2022 shows that the Finance Department as per the Memo No. BB.194/2005/17-A dated 07/10/2005 had issued a fax message to the Deputy Commissioner, Cachar with information copy to the Treasury Officer that it had come to the notice of the Finance Department that fake appointment of teachers in the Cachar district had been made on the strength of Cabinet decision of 24/02/2005 with reference to recommendation of the Monoharan Commission and accordingly, the Treasury Officer was instructed not to entertain any bill for payment of salary. In other words, it is the stand of the Finance Department that fake names are being included in the list of teachers who were ought to have been regularized in the legitimate manner as per the Cabinet decision dated 24.02.2005.



10. As it is an allegation of fraud by some authorities/persons in bringing in fake names to be included in the list of teachers who are to be regularized pursuant to the cabinet decision, we are of the view that the matter requires a thorough investigation by the appropriate authority in the Government of Assam.

11. For the purpose, we requested Mr. D Nath, learned Senior Government Advocate for his view as to who would be the appropriate authority and the reply thereof is that the State CID would be best authority to enquire the fraud and inclusion of fake names in the list of teachers to be regularized as per cabinet decision dated 24.02.2005.

12. Accordingly, we accept the suggestion of the learned Senior Government Advocate and request the State CID through its SP to undertake the investigation as indicated above.

13. The investigation to include all the relevant officials of the Education Department who held their respective posts at that relevant point of time as well as the persons whose names were included in the list of 193 to be regularized pursuant to the Cabinet decision and thereupon to segregate the genuine persons and the fake entries. Upon completing the exercise, the investigation be brought to its logical end meaning thereby that whosoever is found to have committed the fraud, be criminally proceeded as per law. If any of the persons who are required to be subjected to the investigation do not cooperate, the CID may take appropriate action as may be available under the law.

14. The preliminary report be submitted after four weeks.

15. A copy of this order be provided to Mr. D Nath, learned Senior Government Advocate.

16. The CID to also investigate on the authenticity of the order of the Director dated 20.08.2005."

6. Pursuant to the said direction by the Court, the matter was being referred to the CID, Assam for investigation. As per the status report placed before the Court, the matter was under investigation.

7. Before the Court, the respondents urged that in the present writ petition, there are 80 writ petitioners and since their claims are for release of arrear salary from the date as they claims to be in continuous service, the matter was placed before the Cabinet of the



State. The Cabinet thereafter had constituted a Screening Committee for screening the validity of the appointment orders of the various teachers. This matter was also referred to the Screening Committee and the cases of the writ petitioners were duly scrutinized.

8. The State respondents dispute the contentions of the writ petitioners and have referred to the affidavits filed in the matter and contends that in order to undertake the screening process by the Screening Committee, the screening committee constituted invited applications from all the irregularly/illegally appointed teachers during 1991-2001 throughout the State by an advertisement dated 1.2.2012 and 4.2.2012, which were published in local dailys. The advertisements were issued inviting the said teachers to respond to the advertisement and appear before the Screening Committee along with all particulars relating to their selection procedure, nature of appointment, status of posts, working status, status of salaries, academic qualifications etc. In response to the advertisements issued by the State Department, after conducting preliminary examination, at the Directorate level the Elementary Education Department vide the notification dated 4.6.2012 constituted five Screening Committees under the Divisional Commissioners concerned and Principal Secretaries of the 6th Schedule areas to examine the applications and the report of the preliminary committee. These five Screening Committees were constituted for Upper Assam Division, Lower Assam Division, North Assam Division, Hills and Barak Valley Division and BTC areas. The Divisional Screening Committees thereafter verified all the applications and submitted their reports with recommendations/views to the government for further action. However, in view of certain complaints received by the Government,



re-verification was directed in respect of some of the districts. The respective Screening Committees, after causing re-verification again submitted their reports to the Government. After scrutiny of the reports of the Divisional Screening Committees, the following categories of teachers were identified:

Category-1- Recommended and working till date- 136

Category 2- Recommended but discontinued jobs- 250.

Category 3- Not recommended but working till date 8470

Category 4- Not recommended and discontinued jobs 2900.

9. Pursuant to the said report of the Screening Committee, a decision was taken by the Government to regularize the services of all the teachers who fall under Category-1.

In respect of teachers falling under Category-2 and Category-4, the question of regularization of services and payment of salaries did not arise as they had discontinued their jobs and not in service.

In so far as category 3 is concerned, it was decided to issue Show cause notice to all the 8470 teachers including 766 and 752 numbers terminated teachers of Dhemaji and Lakhimpur districts respectively, asking them to show cause as to why their services should not be removed for being appointed in violation of the Rules.

10. However pursuant to a discussion held between the Association of these teachers and the concerned Education Minister of the State, the department had proposed to take a decision to resolve this problem of illegally/irregularly appointed teachers subject to the approval of the Cabinet. A department committee was thereafter formed by the Government in the Elementary Education Department



to verify the salary status and qualification of the teachers falling under Category-3. The said committee thereafter again prepared three lists based on the Screening Committee reports, namely,

List 1

Teachers who have received salaries up to 2007 and onwards and having JBT/BT/D.El.Ed were included in list number 1.

List 2

Teachers who had received salaries up to 2007 and onwards but not having JBT/BT/D.El.Ed were included in list number 2.

List 3

This list included teachers who neither received salaries nor have the prescribed training, namely JBT/D.El.Ed.

11. The matter was thereafter placed before the Cabinet by preparing a Cabinet Memorandum, seeking approval of the following:

(a) Approval was sought for accommodating those teachers who have received salary upto 2007 and have successfully completed the Junior Basic Training/D.El.Ed. course by creating personal/supernumerary posts with prospective effect from the date of approval of the Cabinet. Those posts will cease to exist as and when the incumbent retires from service (i.e. List No. 1 as Teachers)

(b) Approval was sought for those who have received salary upto 2007 but have not acquired the professional qualification before 2011, their job can only be accommodated as tutor



with prospective effect from the date of approval of the cabinet. (i.e. List No. 2 as Tutor).

Pursuant to the Cabinet Memorandum, the Cabinet gave its approval on 07.10.2020 to the proposal

12. According to the respondents, some of the petitioners names were found in the Screening Committee Report under Cachar district, however they did not fulfill the criteria of receiving salaries up to 2007 as well as having JBT/D.EL.ED as per the Cabinet Memorandum and therefore they could not be accommodated as Teachers/Tutor and in respect of the others, no record was found by the Screening Committee and therefore their cases could not be considered for accommodation as Teacher or Tutor. The relevant paragraph is extracted below:

"12. That the answering deponent humbly begs to state that the name of the petitioners in the present writ petition, except petitioner No. 10, 12, 13, 17, 18, 19, 22, 23, 26, 28, 30, 40, 41, 44, 47, 50, 52, 55, 57, 59, 65 to 71 and 75 were found in the screening committee report under Cachar District, but they have not fulfilled the criteria of receiving salaries upto 2007 and onwards and having JBT/D.El.ED etc., as laid down in the Cabinet Memorandum, hence, they could not be accommodated as Teacher/Tutor.

Further in respondent of petitioner Nos. 10, 12, 13, 17, 18, 19, 22, 23, 26, 28, 30, 40, 41, 44, 47, 50, 52, 55, 57, 59, 65 to 71 and 75 no record were found in the Screening Committee list, as such their cases could not be considered for accommodation as Teacher/Tutor"

13. The affidavit in reply filed by the petitioner reiterated their claims in the writ petition without specific objections to the averments made in the affidavit in opposition filed by the respondents. Pursuant thereto the petitioner filed an additional affidavit making averments in support of the status of employment of some of the writ petitioners. In terms of the additional affidavit filed



on 17th of July 2024, working certificates stated to be issued by the concerned Head Master of the school were enclosed in the said additional affidavit in support of the claims of continuance of the services of the petitioners in respect of writ petitioners number 1, 4, 7, 11, 12, 15, 26, 27, 32, 17, 18, 19, 21, 33, 34, 36, 37, 38, 40, 50, 54, 59,60, In terms of the said additional affidavit, these petitioners claim to have been continuously rendering their services since their dates of appointment.

14. The State thereafter filed another affidavit in response to the additional affidavit filed by the petitioners bringing on record the certificates showing continuity of services of those petitioners. It is submitted by the respondents that these Certificates were duly verified and a report was prepared by the Directorate of Elementary Education which is enclosed to the said affidavit filed by the respondents. The report dated 21.01.2025 contained detailed observations regarding the attendance of the said 32 petitioners in their respective schools. The report is enclosed to the said affidavit in opposition filed on 19.02.2025 as Annexure-III. This report dated 21.01.2025 which of the Director of Elementary Education to the Office of the Secretary, Elementary Education is extracted below:

GOVERNMENT OF ASSAM
OFFICE OF THE DIRECTOR OF ELEMENTARY EDUCATION, ASSAM
KAHILIPARA, GUWAHATI-19

Website: <https://dee.assam.gov.in>. Email: appttab.dee@assam.gov.in, legalcell.dee@assam.gov.in

No. EAA/B/Misc/110/2022/259

Dated: 21 January, 2025

*From: Suranjana Senapati, ACS
Director of Elementary Education, Assam
Kahilipara, Guwahati-19*

*To The Secretary to the Govt of Assam
Department of School Education*



Dispur, Guwahati-6

Sub: WP(C) No. 2393/2012 of Abdul Halim Laskar & 79 others-vs-State of Assam and others.

Ref: The Hon'ble High Court order 19/11/2024 passed in WP (C) No.2393/2012.

Sir.

*With reference to the subject cited above, I would like to state that in pursuance of Govt. order under Memo No. EDN(LC)52/2005/477/55 dated 09/08/2005 issued on the decision of the Cabinet Meeting held on 24/02/2005 for regularisation of services of 2776 (Two thousand seven hundred seventy six) Nos. of LP/ME/MEM/HS/HSS teachers of the state, who were appointed in excess of posts during the period 01/03/1991 to 30/11/96 and which were enquired into by the One Man Enquiry Committee headed by Sri S. Monohoran IAS and subsequently by Task Force/District Level Screening Committee and Departmental Screening Committee, the service of 193 (one ninety three) nos. of ME/MV/MEM teachers of Cachar district **(Copy enclosed as Annexure-I)** were appointed against the vacant posts (identified by concerned field officer) shown against their names.*

*Accordingly, this office had regularised the service of 193 (one ninety three) nos. of ME/MV/MEM teachers of Cachar district vide order under Memo No. EMA-54/2005/13 dated 20/08/2005 **(Copy enclosed as Annexure-II)** including the petitioners of WP (C) No. 2393/2012 of Abdul Halim Laskar and 79 others.*

*In the meantime, the Finance Department vide Memo No. BB.194/2005/17-A dated 07/10/2005 issued a Fax Message to the Deputy Commissioner, Cachar with information copy to the Treasury Officer, Cachar as under " it has come to the notice of finance department that fake appointment of teachers in cachar district has been made on the strength of Cabinet decision of 24/02/2005 with reference to recommendation of the Monoharan Commission. In view of the above you are instructed not to entertain the bills if presented on the strength of letter No. EMA.54/2005/13 dated 20/08/2005 until further instruction from Finance **(Copy enclosed as Annexure-III)**. In this regard a detail report submitted to the Sr. Standing counsel vide this office letter under reference [3] **(Copy enclosed as Annexure-IV)**.*

*Further, as per the letter of the Superintendent of Police, CID, Zonal-II, Silchar, Assam the DEEO, Cachar was appointed as Nodal Officer to help the CID team in connection with the Hon'ble High court order dated 08/06/2022 passed in WP (C) No. 2393/2012 **(Copy enclosed as Annexure V)**.*

However, the Hon'ble High Court passed an order dated 08/02/2024 in WP (C) No. 2393/2012 (Copy enclosed) and gave an opportunity to place the report of or the minutes of the expert committee constituted for verification of the records in terms of the order dated 02/03/2010 passed in WP (C) No. 1048/2004 as well as the decision of the State Cabinet in its meeting held on 26/02/2011. In this regard the matter was communicated to the Govt. vide letter No. EAA/B/MISC/110/2022/85 dated 03/04/2024 for seeking instruction as this Directorate is not in possession of original proposal/documents pertaining to the candidates as the matter was handled centrally from the Department of School Education, Assam, Dispur.

In the meantime the petitioner Abdul Halim Laskar and 31 others have filed Additional Affidavit before the Hon'ble High Court by submitting working certificates.

In this regard this Directorate had conducted a document verification of the Head Master/Principal (i/c) of concerned schools in connection with the Additional Affidavit already filed by the petitioners by submitting working certificate.

In the document verification, the following points are observed regarding attendance of the petitioners in their respective schools:

<i>Sl. No.</i>	<i>Name of Petitioner</i>	<i>Name of School</i>	<i>State of Head Master/Principal (i/c) of concerned school of the petitioner</i>
1	Biswatosh Das	Banskandi MVS	The Head Master of Banskandi M.V. School stated that the petitioner Biswatosh Das had got appointment and he joined at Banskandi M.V. School on 25/08/2005 and maintained attendance register combined from September 2005 to February 2009 and Separate attendance register was maintained by the former Head Master from April 2009 to October 2012.
2.	Bhaskar Baroi	Banskandi MVS	The Head Master of Banskandi M.V. School stated that the petitioner Bhaskar Baroi had got appointment and he joined at Banskandi M.V. School on 25/08/2005 and maintained attendance register combined from September 2005 to February 2009 and Separate attendance register was maintained by the former Head Master from April 2009 to October 2012 without getting any salary.
3	Mijajul Haque Choudhury	Rupaibali MES	The Head Master of Rupaibali ME School stated that the petitioner Mijajul Haque Choudhury had got appointment and joined at Rupaibali M.E. School on 25/08/2005 and performing his duties till date without receiving any salary. Separate attendance register maintained by the previous Head Master without receiving any order from the higher authority and maintaining separate attendance till date.
4	Nurul Hasan Barbhuiya	Neairgram MES	The Head Master of Neairgram ME School stated that the petitioner Nurul Hassan Barbhuiya had got appointment and joined at Neairgram M.E. School on 19/09/2005 and performing his duties till 31 st July 2012 without receiving any salary. Separate attendance register was maintained by the previous Head Master without permission order from the higher authority. Combined attendance register maintained from 19/09/2005 to 31/12/2007 and separate attendance register

			<i>from 01/01/2008 to 31/07/2012.</i>
5	<i>Gautam Goala</i>	<i>Chotomamda Hindi, MES (Amalgamated with Chotomamda Hindi High School)</i>	<i>The Head Master of Chotomamda Hindi High School stated that the petitioner Gautam Goala had got appointment and joined at Chotomamda Hindi M.E. School (Now amalgamated) on 22/08/2005. His attendance register was combined jointly with other staff. He has discharged his duty from 22/08/2005 to 10th August 2016 without receiving any salary</i>
6	<i>Saleh Ahmed Laskar</i>	<i>Kinnakhal High School</i>	<i>The Head Master of Kinnakhal Public High School stated that the petitioner Saleh Ahmed Laskar got appointment and joined at Kinnakhal MES on 29/08/2005. As per combined attendance register of Kinnakhal MES (Now amalgamated with Kinnakhal Public High School) the petitioner Saleh Ahmed Laskar attended school upto 31/03/2007</i>
7	<i>Sahima Begum Barbhuiya</i>	<i>Kalain MEM (Now Kalain MES)</i>	<i>The Head Master of Kalain MEM stated that the petitioner Sahima Begum Barbhuiya got appointment and joined at Kalain MEM on 18/09/2005 and put signature in combine teaches attendance register from 18/09/2005 to 31/10/2006 and July 2010 to February 2012. After 31/10/2006 to June 2010 she has put signature in a single separated attendance register. The Head Master also stated that after March 2012 to till date she has put signature in a separate single attendance register</i>
8	<i>Nazmul Islam Barbhuiya</i>	<i>Navakallol MES</i>	<i>The Head Master of Navakallol MES stated that the petitioner Nazmul Islam Barbhuiya joined on 25/08/2005 and put signature in combine teachers attendance register irregularly from 25/08/2005 to 31/07/2007; October 2009 to 30/09/2011, October 2011 to 15/11/2012; 01/09/2013 to 13/12/2014. Absent from 16/11/2012 to August 2013, 15/12/2014 to 31/12/2017. But the petitioner put his signature in separate single attendance register from 01/01/2017 to 12/10/2017</i>
9	<i>Saibur Rahman Laskar</i>	<i>Navakallol MES</i>	<i>The Head Master of Navakallol M.E. School also stated that no any teacher at Navakallol MES in the name of Saibur Rahman Laskar</i>
10	<i>Romij Uddin</i>	<i>Haji Raja Mia</i>	<i>The Head Master of Hazi Raja Mia MES stated</i>

	<i>Barbhuiya</i>	<i>MES</i>	<i>that the petitioner Romij Uddin Barbhuiya joined on 29/08/2005 and combined teachers attendance register has been damaged by flood on July 2012 as stated by earlier head Master and others. But the petitioner concerned maintained one single teachers attendance from October 2012 to October 2014 and September 2021 to December 2024 which received from the petitioner Romij Uddin Barbhuiya</i>
<i>11</i>	<i>Nuruzzaman</i>	<i>Sayedpur Janata High School</i>	<i>The Head Master of Saidpur Janata High School stated that the petitioner Nuruzzaman joined in service on 29/08/2005 and transferred and joined at Saidpur Janta ME School on 19/09/2005. It is also stated that Saidpur Janta ME School amalgamated with Saidpur Janta High School on 20/01/2018. His attendance are taken in the combined attendance register upto 2022, The devastating flood of 2022 damaged all the attendance registers along with other valuable school assests. Since 01/01/2023 the daily attendance of Nuruzzaman have been maintaining in separate Attendance Register and have been putting his signature in separate attendance register as he have no Employee ID</i>
<i>12</i>	<i>Jahangir Alom Laskar</i>	<i>Sayedpur Janata High School</i>	<i>The Head Master of Saidpur Janata High School stated that the petitioner Jahangir Alom Laskar joined in service on 29/08/2005 and transferred and joined at Saidpur Janta ME School on 19/09/2005. It is also stated that Saidpur Janta ME School amalgamated with Saidpur Janta High School on 20/01/2018. His attendance are taken in the combined attendance register upto 2022. The devastating flood of 2022 damaged all the attendance registers along with other valuable school assests. Since 01/01/2023 the daily attendance of Jahangir Alom Laskar have been maintaining in separate Attendance Register and have been putting his signature in separate attendance register as he have no Employee ID</i>
<i>13</i>	<i>Hanif Alom Laskar</i>	<i>Ghagrapar MVS</i>	<i>The Head Master of Ghagrapar MV School stated that the petitioner Hanif Alom Laskar joined on 25/08/2005. As per records available in the school the petitioner rendered his service in the said school and signed the attendance register wef 25/08/2005 to 12/10/2010</i>

14	Mahibul Haque Barbhuiya	Alambag BT MES	The Head Master of Alambag BT ME. School stated that the petitioner Mahibul Haque Barbhuiya attended scatteredly from January 2010 to December 2018 with so many gaps. But after December 2018, no records in found available in the school is respect of Mohibur Haque Barbhulya
15	Hillol Kanti Nath	Chibita Bichia MES	The Head Master of Chibita Bichia High School stated that the petitioner Hillol Kanti Nath found present from 21/11/2005 to 23/11/2013. The Head Master also stated that a separate attendance register was maintained by the then Head Master of Chibita ME School for the petitioner from August 2010 to 23/11/2013 and no official record of the petitioner concerned is found after 23/11/2013 to till date
16	Mazmul Hussain Laskar	Khareelpar MES	The Head Master of Khareelpar ME School stated that the petitioner Mazmul Hussain Laskar joined on 29/09/2005 and discharged his duty 10 16/01/2007. Except there is no other record is found in the school
17	Ananta Kumar Deb	Nehru Girls High School	The Head Master of Nehru Girls High School he petitioner Ananta Kumar Deb joined at Tarunoday Vidyaniketan M.E School on 21/11/2005 and rendering his service. He signed in the attendance register alongwith other teacher w.e.f. 21/11/2005 to 31/12/2016. Thereafter the then Head Master had taken his attendance in a separate register without taking proper permission frogs higher authority upto 17/08/2022 and said school is amalgamated with Nehru Girls High School. His signature has been taken separately as usual up to date
18	Kalyan Kanti Paul	Jibangram MES	The Head Master of Jibangram M.E. School stated that the petitioner Kalyan Kanti Paul was appointed at Jibangram MES and has been rendering his duty till now. As per school record his attendance from the date of joining is 2005 to 28/02/2015 in a combined register and after that a separate register form him was maintained due to some administrative matter
19	Nirmal Kumar Das	Bidyaranpur MES	The Head Master of Bidyaranpur MES stated that the petitioner Nirmal Kumar Das had got appointment and joined on 27/08/2005 and

			<i>maintain combined attendance register from 27/08/2005 to 31/01/2017 without any salary. After that from 01/12/2017 to till date a separate attendance register was maintained without permission of higher authority</i>
20	Nitish Ranjan Das	Janata MES	<i>The Head Master of Janata MES stated that the petitioner Nitish Ranjan Das got appointment and joined on 21/11/2005. A combined attendance register maintained from 21/11/2005 to 31/01/2015. After that a separate attendance register was maintained from 01/02/2015 to 29/09/2019 without any order from the higher authority. After 30/09/2019 the petitioner did not attend the school</i>
21	Manoj Kumar Kairi	Hazi Keramat Ali MEM	<i>The Head Master of Hazi Keramat Ali MES stated that the petitioner Manoj Kumar Kairi and joined on 21/09/2005 and render his service in the said school ad signed in the attendance register along with other teachers up to 31/03/2011 The previous Head Master separated his attendance register from 01/04/2011 to till date without any instruction of higher authority</i>
22	Ashok Kumar Kairi	Kalaram Barman MES	<i>The Head Master of Kalaram Barman MES stated that the petitioner Ashok Kumar Kairi got appointment and joined on 21/09/2005 and maintained a combined register from 21/09/2005 to 31/05/2012. After that the purpose of submitted in salary bill his attendance register was separated. Separate attendance register began from 01/06/2012 to till date</i>
23	Amarendra Singha	Babathan MES	<i>The Head Master of Babathan MES stated that the petitioner Amarendra Sinha got appointment and joined on 27/08/2005 and a combined attendance register maintained from 27/08/2005 to 31/03/2009. After that a separated attendance register was maintained from 01/04/2019 to till date without any order from higher authority</i>
24	Th. Chandra Babu Singha	Hawaithang MES	<i>The Head Master of Hawaithang High School stated that the petitioner Th. Chandra Babu Singha got appointment and joined at Hawaithang MES (Now amalgamated) on 24/09/2005 and had been performing his duties</i>

			<i>till 03/11/2014. As per school teachers attending register, presently the petitioner not attending the school.</i>
25	Anuradha Roy	Banskandi MES	<i>The Principal (c) of Banskandi Higher Secondary School stated that the petitioner Anuradha Roy joined in year 2005. The school was amalgamated in the year 2017. Now School has been upgraded to the Higher Secondary School. Anuradha Roy has been rendering her duty from the date of her joining to till date.</i>
26	Gobinda Dubey	Maharani Chandra Tribal MES	<i>The Head Master of Maharani Chandra Prova Tribal MES stated that the petitioner Gobinda Dubey submitted a joining letter dated 29/08/2005 to him. The Head Master took the incharge of Head Master of Maharani Chandra Prova Tribal MES on 01/07/2021. But the Ex Head Master had not handed over the attendance register at the time of his retirement and after a few days the ex Head master was expired. The Head Master of Maharani Chandra Prova Tribal MES also stated that he knew the petitioner who has been working regular in the school since his joining</i>
27	Abdul Halim Laskar	Sonai NG HS School	<p><i>The i/c Principal of Sonai Nitya Gopal H.S. School stated that the Petitioner Abdul Halim Laskar got appointment and joined at Sonai M.V. School on 24/08/2005. Subsequently Sonai M.V. School was amalgamated with Sonai N.G. H.S School on 01/08/2022 and Head Master of Sonai M.V. School has submitted statement of post details of Sonai M.V. School, a joining report of 16 nos. of employee of Sonai M.V. School. On the both statement and joining report the name of Sri Abdul Halim Laskar is not available.</i></p> <p><i>After amalgamation of Sonai M.V. School with Sonai NGHS School he has attended school and maintain a separate attendance register by him during the period of previous Principal i/c/ Sri Baharul Islam Laskar and continued and continued the attendance register upto 07/06/2024. Subsequently, the present Principal i/c ceased the said attendance register as the name of Abdul Halim Laskar is not available in School UDISE portal, Shiksha Setu portal of school. Meanwhile the present Principal i/c</i></p>

			<i>issued a non official certificate to Abdul Halim Laskar on his repeated request on 07/06/2024 and after that his attendance register is closed.</i>
28	<i>Kh. Rajendra Singha</i>	<i>Bantarapur MES</i>	<i>The Head Master of Bantarapur M.E School stated that the petitioner Kh. Rajendra Singha had joined at Bantarapur M.E. School on 29/08/2005. The Head Master did not found any record regarding attendance of the petitioners</i>
29	<i>Nilakanta Singha</i>	<i>Nutan Kanchanpur MES</i>	<i>The Head Master of Nutan Kanchanpur M.E. School stated that the petitioner Nilakanta Singha had joined his duties on 19/09/2005 and attending school till date.</i>
30	<i>Ajoy Roy Choudhury</i>	<i>Nutan Kanchanpur MES</i>	<i>The Head Master of Nutan Kanchanpur M.E. School stated that the petitioner Ajoy Roy Choudhury have attended the school till 13/09/2012 and after that no attendance recorded in his school.</i>
31	<i>Chayan Sharma</i>	<i>Harina Public MES</i>	<i>The Head Master of Harina Public M.E. School stated that the petitioner Chayan Sharma was appointed and attending school for the period from 29/08/2005 to 12/03/2014. While he taking Head Master charge then he did not find any records regarding attendance of the petitioner as the petitioner name was not included in the UDISE code</i>
32	<i>Aziz Ahmed Mazumder</i>	<i>Choto Kachudaram MES</i>	<i>The Head Master of Chotokachudaram M.E. School stated that the petitioner Aziz Ahmed Mazumder was appointed as A/T at Chotokachuram M.E. School on 20/08/2005 and joined on 29/08/2005 and performed his duty. The previous Head Master of Chotokachudaram M.E. School did not hand over any documents regarding Mr. Aziz Ahmed Mazumder for which present Head Master have not records attendance of the petitioner.</i>

In view of the above as the case will be listed very shortly, the Govt. is requested to issue necessary instructions to the undersigned in this regard.

Encl: As stated above

Yours faithfully

*Director.
Elementary Education, Assam
Kahilipara Guwahati-19*



Dated: 21st January, 2025

15. The CID authorities have also filed an affidavit stating that pursuant to the investigation in connection with CID police station case number 09 of 2020 under section 120(B)/420/468/471/409 IPC regarding alleged regularization of 193 numbers of teachers in Cachar district. The department proceeded to investigate the matter and sought for the relevant departmental files. Thereafter, Section 91 CRPC notice was issued to the Secretary to the Government of Assam Department of School Education, Dispur for furnishing the original documents and the file containing the enquiry report on fake appointment of teachers in the Cachar district but it was informed that the required files are not traceable at the department and to that effect, an FIR has already been lodged in the Dispur Police Station regarding the missing files. However, till the time of filing the said affidavit, these files were not traceable.

16. The learned counsel for the parties have been heard. Pleadings available on record has been carefully perused. Although there are 80 petitioners in the present proceedings claiming for a direction for payment of arrear salaries from the date of their regularization of their services w.e.f from 20.08.2005 as well as their current salaries and passed appropriate orders.

17. However, subsequently it appears that 32 numbers of petitioners have placed certificates of continuity in their services in the respective schools. However, the State authorities upon verification of the certificates have brought their verification report in the affidavit which is extracted in the forgoing paragraphs. According to the verification made, it is found that the concerned school has maintained a separate Attendance Register for these petitioners who claimed to be in service. This information is not placed before the Court by the petitioner in the



first instance. In the writ petitions, there is no material placed that the petitioners were required to sign in a separate register and/or as to whether such separate registers were maintained, or directed to be maintained by the school authorities under orders of the School Authorities.

18. The Fact that the school authorities are maintaining a separate register for the petitioners is also not questioned in the present proceedings. As discussed pursuant to an order passed by the Court, the matter is under the investigation by the CID, Assam and the said investigation has also not come to a conclusion as on date. There are no averments in the writ petition that the petitioners have acquired the training and qualification necessary making them eligible to render services as teachers or tutors. In the absence of all these essential facts, it is not possible for the Court to arrive at a conclusive findings for invoking its writ jurisdiction and directing the payment of arrear salaries. The present writ petition has been filed in year 2012 but the petitioners are seeking their arrear salaries with effect from the date of initial appointment which is in the year 2005. There is no whisper in the petition as to why the claims of the petitioners with regard to arrear salaries have been sought to be pursued before this Court after gap of seven years and as to how the writ petitioners have sustained themselves without any salary while showing them to be in service by maintaining a separate Attendance Register by the respective schools.

19. Under such circumstances. this Court is not inclined to invoke its powers under Article 226 for passing any effective orders in the present writ petition in view of the non-availability of the essential facts as discussed above.



20. The writ petition accordingly stands dismissed. No order as to cost. Interim orders if any stands vacated. Pending I.As are also dismissed.

JUDGE

Comparing Assistant