

GAHC010060902024



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

Case No. : I.A.(Civil)/1138/2024

THE STATE OF ASSAM AND ANR
THROUGH THE SECY. TO THE GOVT. OF ASSAM, DEPARTMENT OF
SCHOOL EDUCATION, DISPUR, ASSAM, GUWAHATI-781006.

2: THE DIRECTOR OF SECONDARY EDUCATION
KAHILIPARA
ASSAM
GUWAHATI-781019

VERSUS

RAMEN KR SARMA AND 41 ORS
SON OF LT BRINDESWAR SARMA, RESIDENT OF VILL-BALITARA,P.O-
BALITARA, DIST.- NALBARI, PIN- 781349, ASSAM.

2:BIPIN CHUTIA
YEARSSON OF LT. JAYRAM CHUTIA
RESIDENT OF VILL-CHOWKHAM
P.O- CHABATI
DIST.- LAKHIMPUR
PIN- 787051
ASSAM.

3:PHULEN DAS
SON OF LT. BHUDHAR DAS
RESIDENT OF VILL-TIHU TOWN
P.O- TIHU
DIST.- NALBARI
PIN- 781371
ASSAM.

4:NABANITA PACHANI
DAUGHTER OF LT. ROHIT PACHANI
RESIDENT OF VILL-TAKLIGAR

P.O- TEOK
DIST.- JORHAT
PIN- 785112
ASSAM.

5:DEBENDRA GOGOI
SON OF LT. LANKESWAR GOGOI
RESIDENT OF VILL-DIGHALI
P.O- DHAKUAKHANA
DIST.- LAKHIMPUR
PIN- 787077
ASSAM.

6:TARULATA DEVI
DAUGHTER OF KIRAN CH. SARMA
RESIDENT OF VILL-BAKARGHAR
P.O- TENGABARI
DIST.-UDALGURI
PIN- 784525
ASSAM

7:KUSHAL HAZARIKA
SON OF TILOK HAZARIKA
RESIDENT OF VILL-RANGATHALI
BAGICHA
P.O- KALAIGAON
DIST.- UDALGURI
ASSAM.

8:PRANAB KR. NATH
SON OF LT. K.K. NATH
RESIDENT OF VILL-ANADHOWAPARA
P.O- PANERI
DIST.- UDALGURI
PIN NO. 784523
ASSAM.

9:BUL NATH
SON OF LT. THAGIRAM NATH
RESIDENT OF VILL- SONAIPATI
P.O- RANGASHI
DIST.- MAJULI
PIN NO. 785106
ASSAM.

10:KAMALES SARMA
SON OF LT. BHADRA KT. SARMA

RESIDENT OF VILL- BARAZARA
P.O- BARAZARA
DIST.- NALBARI
PIN NO. 781334
ASSAM.

11:DIPUL TALUKDAR
SON OF LT. PRAHLAD TALUKDAR
RESIDENT OF VILL- ADABARI
P.O- ADABARI
DIST.-BAKSA
PIN NO. 781372
ASSAM.

12:MAINUR ALI

SON OF LT. NIYAMAT ALI
RESIDENT OF VILL- AMANI
P.O- AMANI
DIST.-NALBARI
PIN NO. 781306
ASSAM.

13:DIPA RANI MEDHI
DAUGHTER LT. TANKESWAR MEDHI
RESIDENT OF VILL-DAKSHIN BIDYA NAGAR
P.O- SINGARI
DIST.-WEST KARBI ANGLONG
PIN- 782435
ASSAM.

14:DIL PRASHAD GAUTOM
SON OF DILLI RAM GAUTOM
RESIDENT OF VILL-NIKACHI
P.O-NIKACHI
DIST.-BAKSA
PIN- 781372
ASSAM.

15:PANKAJ KR. BARUAH
SON OF LT. BHADRA KANTA BARUAH
RESIDENT OF VILL-MAHURA CHOKI
P.O- MAHURA CHOKI
DIST.-DARRANGI
PIN- 784145
ASSAM

16:INDRANI MEDHI

DAUGHTER LT. ATUL CH. MEDHI
RESIDENT OF VILL-MALIKUCHI
P.O- BIDYAPUR
DIST.- NALBARI
PIN- 781335
ASSAM.

17:DIP KUMAR CHAKRABARTY
SON OF LT. BHARAT CHANDRA CHAKRABARTY
RESIDENT OF VILL-BANGAON
P.O-BANGAON
DIST.- NALBARI
PIN- 781303
ASSAM.

18:SOM NATH NEPAL

SON OF LT RAGHU NATH NEPAL
RESIDENT OF VILL-GOLIA
P.O- PANI BHARAL
DIST.-SONITPUR
PIN- 784176
ASSAM.

19:DHRUBLAL GIMIRE
SON OF DHANAPATI GIMIRE
RESIDENT OF VILL-NIKACHI
P.O- NIKACHI
DIST.-BAKSA
PIN- 781372
ASSAM.

20:RUBINA DEVI
DAUGHTER NARKANTA NATH
RESIDENT OF VILL-FUZDARIPOTI
P.O- TUKTUKI
DIST.-NAGAON
PIN- 782123
ASSAM.

21:CHASINDRA GOSWAMI
SON OF LT. UPENDRA NARAYAN GOSWAMI
RESIDENT OF VILL- BECHIMARI
P.O- KAITHALKUCHI
DIST.-NALBARI
PIN- 781370
ASSAM

22:RUHUL AMIN AHMED
SON OF LT. FAIZUDDIN
RESIDENT OF VILL-DHING GAON
P.O- DAGAON
DIST.-NAGAON
PIN- 782124
ASSAM.

23:IKRAMUL HUSSAIN
SON OF LT. MUSLEM UDDIN ALI
RESIDENT OF VILL-BARCHAPARI
P.O- GAROIMARI PATHAR
DIST.- MORIGAON
PIN- 782126
ASSAM.

24:KUSHUM TALUKDAR

DAUGHTER LT. KABI TALUKDAR
RESIDENT OF VILL-GAMARIMURI
P.O- GAMARIMURI
DIST.- NALBARI
PIN- 731306
ASSAM.

25:DWIJEN TALUKDAR
SON OF LT. BHADRA TALUKDAR
RESIDENT OF VILL-JAGARA
P.O- JAGARA
DIST.- NALBARI
PIN- 781330
ASSAM.

26:JAKIR HUSSAIN
SON OF LT. NURMAHAMMAD ALI
RESIDENT OF VILL-RAMPUR
P.O- RAMPUR
DIST.- NALBARI
PIN- 781312
ASSAM.

27:BHIMLAL GHIMIRE

SON OF BISHNULAL GHIMIRE
RESIDENT OF VILL-DHANSHPUR
P.O- DIHIRA
DIST.- BAKSA
PIN- 781371

ASSAM.

28:DWIJEN MISRA

SON OF LT. JIBESWAR MISRA
RESIDENT OF VILL-AMANI
P.O- AMANI
DIST.- NALBARI
PIN- 781306
ASSAM.

29:MANOMATI DEKA

DAUGHTER LT. KHARGESWAR DEKA
RESIDENT OF VILL-JAYMANGLA
P.O- BARZARA
DIST.- NALBARI
PIN- 781334
ASSAM.

30:ASHOK BARAL

SON OF INDRA BARAL
RESIDENT OF VILL-NIKACHI
P.O- NIKACHI
DIST.-BAKSA
PIN- 781372
ASSAM.

31:APARUPA GOGOI

DAUGHTER LT. NANDA CH. GOGOI
RESIDENT OF VILL-DHANDULI NAGAON
P.O- TENGAPUKHURI
DIST.- SARAIDEW
PIN- 786686
ASSAM.

32:HEMONTA KR. BORA

SON OF LT. SADANANDA BORA
RESIDENT OF VILL- KARCHOWA
P.O- KARCHOWA
DIST.- SIVSAGAR
PIN- 785684
ASSAM.

33:NASIUR HUSSAIN

SON OF LT. ANISUR RAHMAN

RESIDENT OF VILL-SANTAK
P.O- SANTAK
DIST.- SIVSAGAR
PIN- 785687
ASSAM.

34:SUBHASH CH. GOSWAMI
SON OF LT. BHAGABAN GOSWAMI
RESIDENT OF VILL-ODALBAKRA
P.O- ODALBAKRA DIST.- KAMRUP(M)
PIN-781034
ASSAM

35:ABDUL MANNAN CHOUDHURY
SON OF MAKSED ALI
RESIDENT OF VILL-GUMA
P.O- PHULBARI
DIST.-BARPETA
PIN- 781302
ASSAM.

36:RAMESH CH. SAIKIA
SON OF LT. ARUN CH. SAIKIA
VILL-GARMUR SATRA
P.O- GARMUR SATRA
DIST.-MAJULI
PIN- 785104
ASSAM.

37:KUTUBUDDIN AHMED
SON OF LT. FANIR ALI
RESIDENT OF VILL. MADHAPUR
P.O. MAROWA
DIST. NALBARI
PIN- 78134
ASSAM.

38:RAMEN SARMA
SON OF SAMINDRA NATH SARMA
RESIDENT OF VILL-KHATA RUPIABATHAN
P.O- CHAMATA
DIST.- NALBARI
PIN-781306
ASSAM.

39:BIDISHA BHAGABATI
DAUGHTER OF LT SATISH CH BHAGABATI
RESIDENT OF VILL-KAITHALKUCHI

P.O- KAITHALKUCHI
DIST.- NALBARI
PIN- 781370
ASSAM.

40:ALAKESH BAISHYA
SON OF LT. UMESH CH BAISHYA
RESIDENT OF VILL-BATCHAR
P.O. BATCHAR
DIST.- NALBARI
PIN- 781303
ASSAM.

41:REKHA BARTHAKUR
DAUGHTER OF LT. NILA NATH BARTHAKUR
RESIDENT OF VILL-T.T.J
P.O- GHANGANI
DIST.- JORHAT
PIN- 785683
ASSAM.

42:UTPAL KR. SARMA
SON OF LT. PRABODH SARMA
RESIDENT OF VILL-BHABANIPUR
P.O. BHABANIPUR
DIST.- BAJALI
PIN-781318
ASSAM

Advocate for the Petitioner : MR. R MAZUMDAR

Advocate for the Respondent : MR B CHOUDHURY

Linked Case : CRP/0/0

The State Of Assam
Dispur Assam

VERSUS

Ramen Kr Sarma
vill balitara p o balitara assam

Advocate for : RAJESH MAZUMDAR

Advocate for : appearing for Ramen Kr Sarma

**BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 29/07/2024

Vijay Bishnoi, CJ

Heard Mr. R. Mazumdar, learned counsel appearing for the applicants. We have also heard Mr. I. Choudhury, learned senior counsel assisted by Mr. B. Choudhury, learned counsel for the respondents.

The matter comes upon for consideration of the IA(C) No. 1138/2024 with the prayer to condone the delay of 610 days in filing the connected appeal.

It is noticed that on 24/04/2024, this Court has made an observation that in the Interlocutory Application, no satisfactory explanation is offered by the applicants for condoning the delay and at the request of learned counsel appearing for the applicants, further time was granted to file an additional affidavit. Pursuant to the same, an additional affidavit has been filed on behalf of the applicants wherein, the reasons for the delay in filing the writ appeal has been mentioned in detail.

From the perusal of the affidavit, it is revealed that since the matter was considered by the Committees constituted by the State Government and thereafter, by the Department concerned, the delay has been caused.

Learned counsel for the applicants has further submitted that as a matter of fact, the petitioners in the writ petition has claimed provincialisation of their services as per the Assam Education (Provincialisation of Services of Teachers and Re-organization of Services of Educational Institutions) Act, 2017. However, the learned Single Judge has granted relief to the respondents of provincialisation under a Cabinet decision taken in the year 2016. It is contended by the learned counsel for the applicants/appellants that the stand of the State is that their services can be provincialised as per the Act of 2017 but certainly not as per the Cabinet decision taken in the year 2016. It is submitted that if the order passed by the learned Single Judge is implemented, than it may have huge ramifications in those cases where, the provincialisation process has already been completed. Learned counsel for the applicant has, therefore, prayed that in view of the above submissions, the delay in filing the IA be condoned.

Learned counsel appearing for the respondents has vehemently opposed the application and has argued that even in the additional affidavit also, no satisfactory explanation for condoning the delay is offered. It is further submitted that in the similar circumstances, when a Division Bench of this Court had condoned the delay in filing the writ appeal on behalf of the State, the Hon'ble Supreme Court has reversed that judgement in Civil Appeal No./2024 arising out of SLP (C) No. 985/2023, decided in February, 2024, while observing that when the delay has not been satisfactorily explained, the same cannot be condoned.

Having heard the learned counsel for the parties and after carefully going through the additional affidavit filed in support of the IA and also taking into consideration the fact that the writ petitioners in the writ petition had made a specific prayer for provincialisation of their services as per the Act of 2017.

However, the learned Single Judge has ordered for provincialisation of the services of the respondents herein pursuant to a Cabinet decision taken in the year 2016 and also taking into consideration that it may have huge ramifications in the cases where the provincialisation process has already been completed, we deem it appropriate to condone the delay in filing the connected appeal.

Hence, the IA is allowed. The delay in filing the connected appeal is condoned.

Registry to register the appeal and list for admission, after 2 (two) weeks.

JUDGE

CHIEF JUSTICE

sukhamay

Comparing Assistant