

GAHC010255602023



2024:GAU-AS:12449

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

**Case No. : WP(C)/6595/2023**

SUPARNA ROY  
W/O MONOJ KUMAR ROY, R/O LAKHIBAZAR ROAD, P.O., P.S. AND DIST-  
KARIMGNAJ, ASSAM, PIN-788710

VERSUS

THE STATE OF ASSAM AND 6 ORS  
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE  
GOVERNMENT OF ASSAM, DEPARTMENT OF SCHOOL EDUCATION,  
DISPUR, GUWAHATI, ASSAM, PIN-781006

2:THE DIRECTOR OF ELEMENTARY EDUCATION  
ASSAM  
KAHILIPARA  
GUWAHATI-19

3:DISTRICT ELEMENTARY EDUCATION OFFICER  
KARIMGANJ  
ASSAM

4:DISTRICT ELEMENTARY EDUCATION OFFICER  
CACHAR  
ASSAM

5:DEPUTY INSPECTOR OF SCHOOLS  
KARIMGANJ  
ASSAM

6:HEAD MASTER  
1239 NO  
BIBEKANANDA HARIZAN LPS  
KARIMGANJ

LAKHIBAZAR ROAD  
P.O. AND P.S.-KARIMGANJ  
DIST-KARIMGANJ  
PIN-788710

7:MOUSUMI DAS  
ASSISTANT TEACHER  
828  
RADHA NAGAR LPS  
P.O.-UDHARBOND  
DIST-CACHAR  
ASSAM  
PIN-78803

**Advocate for the Petitioner** : MR. S K GHOSH, MS. B. HAZARIKA,MS. R CHOUDHURY,MS F AHMED

**Advocate for the Respondent** : SC, ELEM. EDU, MR F U BARBHUIYA (r-7),MS S DAS (r-7)

Linked Case : WP(C)/1492/2024

SUPARNA ROY  
W/O- MONOJ KUMAR ROY  
R/O- LAKHIBAZAR ROAD  
P.O. P.S. AND DIST.- KARIMGANJ (ASSAM).

VERSUS

THE STATE OF ASSAM AND 6 ORS.  
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.  
OF ASSAM  
DEPARTMENT OF SCHOOL EDUCATION  
DISPUR  
GUWAHATI  
ASSAM  
PIN- 781006.

2:THE DIRECTOR OF ELEMENTARY EDUCATION  
ASSAM  
KAHILIPARA  
GUWAHATI- 19.

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER  
KARIMGANJ  
PIN- 788710.

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER  
CACHAR  
PIN- 788001.

5:THE DEPUTY INSPECTOR OF SCHOOLS  
KARIMGANJ  
PIN- 788710.

6:HEAD MASTER  
1239 NO. BIBEKANANDA HARIZAN LPS  
KARIMGANJ  
LAKHIBAZAR ROAD  
P.O. AND P.S.- KARIMGANJ  
DIST.- KARIMGANJ (ASSAM)  
PIN- 788710.

7:MOUSUMI DAS  
ASSISTANT TEACHER  
838 RADHA NAGAR LPS  
P.O.- UDHARBOND  
DIST.- CACHAR (ASSAM)  
PIN- 788030.

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Advocate for : MS. R CHOUDHURY  
Advocate for : SC  
ELEM. EDU appearing for THE STATE OF ASSAM AND 6 ORS.

**BEFORE  
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR**

**ORDER**

Date : **10.12.2024**

Heard Ms. R. Choudhury, learned counsel for the petitioner in both the writ petitions. Also heard Mr. G. Pegu, learned standing counsel, Elementary Education Department and Mr. F. U. Barbhuiya, learned counsel for the respondent No.7 in both the writ petitions.

2. The Petitioner in WP(C)/6595/2023, while serving as an Assistant Teacher in 1239 No. Bibekananda Harizan L. P. School, Karimganj district applied for a mutual transfer along with the respondent No.7 for transfer to 828 Radha Nagar L. P. School, Cachar district on 16.03.2023. In the meantime, the petitioner developed some ailment and accordingly as she could not travel, she made a representation on 8<sup>th</sup> of May, 2023, before the Director of Elementary Education, Assam praying for cancellation of her request for mutual transfer. However, by an order dated 19<sup>th</sup> of October, 2023, the Director of Elementary Education, Assam transferred the petitioner to 828 Radha Nagar L. P. School, Cachar district and the respondent No.7 to 1239 No. Bibekananda Harizan L. P. School, Karimganj district on the basis of their request for mutual transfer. The Director of Elementary Education, Assam also passed an order on 1<sup>st</sup> of November, 2023, directing all the Block Elementary Education Officers/Deputy Inspector of Schools/District Elementary Education Officers to release all teachers who have been transferred by mutual transfer and single transfer to ensure that the orders are obliged during the time mentioned in the transfer orders. This Court while issuing Notice on 17.11.2023, stayed the orders dated 19.10.2023 and 01.11.2023 with a further direction that the pendency of this writ petition shall not be a bar for the respondents to dispose of the representations dated 08.05.2023 and 26.10.2023 made by the petitioner.

The petitioner being aggrieved with the order dated 19<sup>th</sup> of October, 2023 by which she was transferred to 828 Radha Nagar L.P. School, Cachar district has filed the present writ petition.

3. Further, during the pendency of the WP(C)/6595/2023, The Director of Elementary Education, Assam passed a speaking order dated 21.02.2024, disposing of the representations made by the petitioner and the relevant portion reads as under:

*“Conclusion: Taking all the aspects into consideration, the plea of the petitioner should be rejected since teachers apply for mutual transfers on mutual consent of each other and that concerns of both the teachers are involved in it. On the other hand, it is reported by the DEEO concerned that the other teacher has already taken release from her school and has joined in the school of the petitioner. As such the petitioner of this case is without any post which makes her ineligible for any salary. What is more important is that the order dated- 01/11/2023 was issued from the office, of the Director of Elementary Education, Assam making it compulsory for all the mutually transferred teachers to take release and to join as per the transfer orders as well as making it compulsory for all the concerned DEEOs, BEEOs and the DISs to compulsorily release the transferred teachers since it is on their requests that the transfer orders had been issued after rigorous and strenuous verifications and that many teachers started making a mockery of the transfer process taking advantage of Point-2 in the transfer order. This Point-2 in that transfer order, accordingly, has been removed from the subsequent transfer orders. Therefore, there is no question that her request be accepted as mutual transfers are processed on mutual consent of both the applicants. Considering this Suparna Roy, A.T., 1239 No. Vivekananda Harijan L.P. School must abide by the transfer order vide No.EE/M-04-0004129 dated 19/10/2023.”*

Being further aggrieved, WP(C)/1492/2024 has been filed by the petitioner.

4. During the pendency of the aforesaid writ petitions, the respondent No.7 filed affidavit-in-opposition in WP(C)/6595/2023, wherein, it is stated that the respondent No.7 was released by order dated 06.11.2023 to enable her to join to her new place of posting at 1239 No. Bibekananda Harizan L. P. School,

Karimganj district and the respondent No.7 accordingly joined on 07.11.2023.

5. While considering the fact, that the respondent No.7 has already joined to her new place of posting at 1239 No. Bibekananda Harizan L. P. School, Karimganj district on 07.11.2023, before issuance of the interim order passed by this Court on 17.11.2023 in WP(C)/6595/2023, this writ petition is disposed of directing the petitioner to join to her new place of posting at 828 Radha Nagar L. P. School, Cachar district within a period of 10(ten) days w.e.f. today. Consequently, the interim order dated 17.11.2023, passed by this Court in WP(C)/6595/2023 stands vacated.

6. In the event, if the petitioner joins to her new place of posting as directed by this Court within a period of 10(ten) days, the respondents are directed to regularize the period of absence of the petitioner and pay her salary as entitled to the petitioner.

7. With the above observations and directions, both the writ petitions stands disposed of.

**JUDGE**

**Comparing Assistant**