

HON'BLE MR JUSTICE AMITAVA ROY

Heard Mr Singha, learned counsel for the petitioners and Mr K Das, learned Standing Counsel, Bodoland Territorial Council( hereafter referred to as the Council).

The pleaded case of the petitioners is that on being selected by the duly constituted Selection Board and approved by the Sub-Divisional Level Elementary Education Advisory Board(B.T.C.), Nalbari, they were appointed against regular vacant posts as Stipendiary teachers located within the territorial limits of the then Bodoland Autonomous Council in the erstwhile Nalbari District in the year 1999. Though initially they were paid a monthly stipend of Rs.900/- they claim that their services were later on regularized and they were sanctioned the regular pay scale of Rs.3130/- to Rs.6,600/- per month. Their salary has been withheld from July, 2006. The respondents also issued show cause notices against the petitioners to which they have replied. Being aggrieved the petitioners have submitted several representations and requested the respondents to release their arrears as well as monthly salaries. In spite thereof the respondents have not considered their prayer. Being distressed they are before this Court.

Mr. Singha has argued that as the petitioners had been recruited to existent vacant posts after a duly conducted selection and have been rendering their services without any blemish continuously without any break, the action of withholding their salary is without any conceivable justification and, therefore, a writ of mandamus ought to be issued to the respondents to remedy their grievance.

In reply Mr. Das has contended that in the meantime the petitioners have been served with notices requiring them to show cause as to why on the grounds as mentioned therein their services should not be terminated. As the petitioners have already submitted their reply and a process is underway, no relief as prayed for be granted at this stage, he urged. To endorse his arguments, Mr. Das has relied on the order dated 1/12/2008 of this Court passed in WP(C) 4302/2008, Smt. Anima Boro and others versus The State of Assam and others.

The writ petition per se affirms the assertion made on behalf of the Council that a show cause notice has been received by the petitioners to which they have submitted their reply. Being seized with a similar situation, this Court, by order dated 1/12/2008 passed in Smt. Anima Boro and others supra, had declined the prayer for a direction for payment of salary in arrears from July, 2006 to the petitioners therein, thereby permitting the Council to complete the process initiated by them on the basis of the show cause notice with the observation that if the appointments of the petitioners are found to be legal and valid they would be entitled and hence paid their salary. The Council was left at liberty to take appropriate action in case the determination was adverse to the petitioners.

Having regard to the rival pleas, I do not consider that a different course need be adopted by this Court in the attending facts and circumstances. The Council, in the above premise, would complete the exercise started with the show cause notices as above and take an appropriate decision depending on the outcome thereof as indicated in Smt. Anima Boro and others, supra. As the petitioners are waiting in expectation, the Council would expedite the process and complete the same at the earliest.

The petition stands disposed in the above terms. No costs.