GAHC010269872022

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

Case No. : WP(C)/8445/2022

BASHAB DAS AND 10 ORS
S/O LATE TARUN DAS, VILL AND P.O.-SURADI, DIST-NALBARI, ASSAM, PIN-781340

2: MISS JYOTSNA BEGUM
VILL-BILLESWAR
P.O.-BELSOR
DIST-NALBARI
ASSAM
PIN-781304

3: SYEDA MONOWARA BEGUM
W/O ABDUL HAMID
VILL- SUDARKUCHI
P.O.-BALLIKUCHI
DIST- NALBARI
ASSAM
PIN-781126

4: SANJIBUDDIN AHMED
S/O NURUDDIN AHMED
VILL-RAJAKHAT BANEKUCHI
P.O.-BANAKUCHI
DIST-NALBARI
ASSAM
PIN-781340

5: KHAGEN BARMAN
S/O DHANESWAR BARMAN
VILL-MALIKUCHI (DIGHELI)
P.O.-NALBARI
DIST-NALBARI
ASSAM
PIN-781335

6: KARUN KANTA HALOI
S/O LATE PARSHU RAM HALOI
VILL-KHUDRA MAKHIBAHA
P.O.-MAKHIBAHA
DIST-NALBARI
ASSAM
PIN-781374

7: ABDUL SATTAR
S/O LATE FUKAN ALI
VILL AND P.O.-JAGARA
DIST-NALBARI
ASSAM
PIN-781310

8: AKSHAY DAS
S/O SRI PRAFULLA DAS
VILL-KAITHAL KUCHI
P.O.-KAITAHL KUCHI
DIST-NALBARI
ASSAM
PIN-781370

9: LAKHSHESWAR BARMAN
S/O LATE CHANDRA KR. BARMAN
VILL-KAITHAL KUCHI
P.O.-KAITHAL KUCHI
DIST-NALBARI
ASSAM
PIN-781370

10: MD. CHAIFUDDIN AHMED
S/O MD. CHANO ALI
VILL AND P.O.-JAGARA
DIST-NALBARI
ASSAM
PIN-781310

11: MALAYA BHAGABATI
W/O SRI JAMINI BHAGABATI
VILL-KAITHAL KUCHI
P.O.-KAITHAL KUCHI
DIST-NALBARI
ASSAM
PIN-78137

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVERNMENT OF ASSAM, EDUCATION (ELEMENTARY) DEPARTMENT, DISPUR, GUWAHATI-781006

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

3:THE DIRECTOR
STATE COUNCIL OF EDUCATION RESEARCH AND TRAINING (SCERT)
ASSAM
KAHILIPARA
GUWAHATI-781019

4:THE PRINCIPAL
BASIC TRAINING CENTRE
SONARI
P.O.-SONARI
DIST- SIVSAGAR
ASSAM
PIN-785690

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER
NALBARI P.O. AND DIST-NALBARI
ASSAM PIN-781335

6:THE BLOCK ELEMENTARY EDUCATION OFFICER
BARKHETRI EDUCATION BLOCK
P.O.-MUKALMUA
DIST-NALBARI
ASSAM PIN-781126

7:THE BLOCK ELEMENTARY EDUCATION OFFICER
TIHU BARAMA EDUCATION BLOCK
P.O.-TIHU DIST-NALBARI
ASSAM PIN-781371

8:THE BLOCK ELEMENTARY EDUCATION OFFICER
APCHIM NALBARI EDUCATION BLOCK
P.O.-PACHIM NALBARI
DIST-NALBARI
ASSAM
PIN-78137

Advocate for the Petitioner : MR. N HOSSAIN
Advocate for the Respondent : SC, ELEM. EDU

Linked Case : WP(C)/996/2022

BASHAB DAS AND 10 ORS
S/O.. LT. TARUN DAS
VILL. AND P.O. SURADI
DIST. NALBARI
ASSAM
PIN-781340.

2: JYOTSANA BEGUM
VILL. BILLESWAR
P.O. BELSOR
DIST. NALBARI
ASSAM
PIN-781304.

3: SYEDA MONOWARA BEGUM
W/O. ABDUL HAMID
VILL. SUDARKUCHI
P.O. BALIKUCHI
DIST. NALBARI
ASSAM
PIN-781126.

4: SANJIBUDDIN AHMED
S/O. NURUDDIN AHMED
VILL. RAJAKHAT BANEKUCHI
P.O. BANAKUCHI
DIST. NALBARI
ASSAM
PIN-781340.

5: KHAGEN BARMAN
S/O. DHANESWAR BARMAN
VILL. MALIKUCHI (DIGHELI)
P.O. NALBARI
DIST. NALBARI
ASSAM
PIN-781335.

6: KARUNA KANTA HALOI
S/O. LT. PARSHU RAM HALOI
VILL. KHUDRA MAKHIBAHA
P.O. MAKHIBAHA
DIST. NALBARI
ASSAM
PIN-781374.

7: ABDUL SATTAR
S/O. LT. FUKAN ALI
VILL. AND P.O. JAGARA
DIST. NALBARI
ASSAM
PIN-781310.

8: AKSHAY DAS
S/O. PRAFULLA DAS
VILL. AND P.O. KAITHAL KUCHI
DIST. NALBARI
ASSAM
PIN-781370.

9: LAKHSHEWAR BARMAN
S/O. LT. CHANDRA KR. BARMAN
VILL. AND P.O. KAITHAL KUCHI
DIST. NALBARI
ASSAM
PIN-781370.

10: MD. CHAIFUDDIN AHMED
S/O. CHANO ALI
VILL. AND P.O. JAGARA
DIST. NALBARI
ASSAM
PIN-781310

11: MALAYA BHAGABATI
W/O. JAMINI BHAGABATI
VILL. AND P.O. KAITHALKUCHI
DIST. NALBARI
PIN-781370.
VERSUS

THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM AND 7 ORS
TO THE GOVT. OF ASSAM
ELEMENTARY EDUCATION DEPTT.
DISPUR GUWAHATI-06.
2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-19.

3:THE DIRECTOR OF STATE COUNCIL OF EDUCATIONAL RESEARCH AND TRAINING (SCERT)ASSAM
KAHILIPARA GHY.-19.

4:THE PRINCIPAL OF BASIC TRAINING CENTRE SONARI
P.O. SONARI DIST. SIVSAGAR ASSAM PIN-785690.

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER
NALBARI P.O. AND DIST. NALBARI ASSAM PIN-781335.

6:THE BLOCK ELEMENTARY EDUCATION OFFICER
BARKHETRI P.O. MUKALMUA DIST. NALBARI ASSAM PIN-781126.

7:THE BLOCK ELEMENTARY EDUCATION OFFICER
TIHU BARAMA EDUCATION BLOCK
P.O. TIHU DIST. NALBARI ASSAM PIN-781371.

8:THE BLOCK ELEMENTARY EDUCATION OFFICER
PACHIM NALBARI EDUCATION BLOCK
P.O. PACHIM NALBARI
DIST. NALBARI ASSAM PIN-781373.

Advocate for : MR. N HOSSAIN
Advocate for : SC
ELEM. EDU appearing for THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM AND 7 ORS

:::BEFORE:::
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

Date of hearing : 30.04.2024

Date of Judgment: 30.04.2024

Judgment & order(Oral)

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Heard Mr. M. Nath, learned senior counsel, assisted by Mr. D. P. Borah, learned counsel, appearing on behalf of the petitioners. Also heard Mr. Bedanta Kaushik, learned standing counsel, Elementary Education Department, appearing on behalf of respondents No. 1, 2, 5, 6, 7 & 8; and Mr. S. Borah, learned standing counsel, SCERT, appearing on behalf of respondents No. 3 & 4 in both these writ petitions.

2. This Court vide the present order, has taken-up for final consideration the above-noted writ petitions together in-as-much the same have been so instituted by the same petitioners basing on the same factual matrix and is also between the same parties.

3. The petitioners had approached this Court by way of instituting the above-noted writ petitions being aggrieved by a communication, dated 31.08.2021, issued by the Director, Elementary Education, Assam, by which their salaries were stopped pending an inquiry directed to be held into the validity of the Basic Training pass certificates as possessed by the petitioners. The petitioners have also assailed an order, dated 04.03.2022, issued by the Director, Elementary Education, Assam, by which the appointments effected in their cases, came to be terminated.

4. For the purpose of adjudication of the issues arising in the above-noted writ petitions, the materials as available in WP(c)8445/2022 is being considered.

5. The petitioners, herein, were initially appointed as stipendary teachers by the Deputy Director of School Education, Nalbari, in the year 1999-2001. It is contended by the petitioners that in pursuance of their such appointments, they had joined their respective posts and were in receipt of salaries. The Deputy Director of School Education, Nalbari, on 17.02.2003, had prepared a list of untrained teachers serving in various L.P. Schools under his jurisdiction for the purpose of deputing them to undergo Junior Basic training to be held from April, 2003. The names of the petitioners, herein, figured in the said list.

6. It is the categorical stand of the petitioners that they were so deputed for the said training with effect from May, 2003, and they had accordingly, joined the said Basic Training Centre, Sonari, and had participated in the training programme. On conclusion of the examination as held in connection with the said training programme, in the month of December, 2003, it is contended by the petitioners that they were issued with release orders on 31.12.2003, requiring the petitioners to resume their services in their respective schools. The petitioners accordingly resumed their services in their respective schools and thereafter, in the month of April, 2004; the petitioners contend that they were issued with provisional pass certificates by the Principal of Basic Training Centre, Sonari, on the basis of the declaration of results of the examination undertaken by the petitioners on conclusion of the said training programme.

7. The petitioners contend that after completion of the said course, they were authorized with the respective salaries till the year 2006. However, their salaries were discontinued in the year 2007 and accordingly, the petitioners by forming an Association called 'All Assam Excess (LP & UP) Working Teachers Association, approached the Government for redressal of their grievances. It is also contended that similarly situated persons had also approached this Court raising grievances similar to the one of the petitioners, herein.

8. In view of the above position; the Government of Assam in the Elementary Education Department, proceeded to draw a Cabinet Memo pertaining to the manner in which the services of the persons similarly situated like the petitioners, herein, is required to be considered.

9. The Cabinet in its meeting held on 26.02.2011, had approved for the appointment of the said category of teachers after due verification by the authorities. Accordingly, a process was initiated for verification of the service particulars of the petitioners and other similarly situated persons.

10. It is contended that a screening committee was constituted in the matter and the petitioners were required to appear before the said screening committee along with their relevant documents. The petitioners accordingly appeared before the said committee and the committee on verification of their documents proceeded to recommend their cases for accommodation against regular sanctioned posts. In the recommendations, the petitioners were all shown to be the trained teachers which is based on the training already undergone by the petitioners in Basic Training Centre, Sonari. The Director, Elementary Education Department, Assam, basing on the report of the screening committee, thereafter, proceeded to accommodate the services of the petitioners situated persons vide order, dated 31.01.2021 against vacant sanctioned posts and the said appointments were made effective w.e.f. 01.11.2020.

11. It is also contended by the petitioners that after their such accommodation against regular sanctioned posts against the various L.P. Schools of the State; the petitioners were authorized their salaries for the period w.e.f. 01.11.2020 to July, 2021. It is also contended by the petitioners that prior to disbursal of their salaries, the respondent authorities had again carried-out the detailed examination of their service particulars.

12. As the petitioners were continuing against the posts they were so appointed, vide order, dated 30.01.2021, they were surprised to come across a communication, dated 31.08.2021, issued by the Director, Elementary Education Department, Assam, by which, basing on a newspaper report regarding the training pass certificates possessed by the petitioners, a doubt arising; an inquiry was directed to be carried-out by the District Elementary Education Officer (DEEO), Nalbari, in the matter and pending such inquiry; the salaries of the petitioners were directed to be stopped w.e.f. August, 2021.

13. The petitioners, accordingly, in terms of the said communication, dated 31.08.2021, appeared before the District Elementary Education Officer (DEEO), Nalbari, along with their educational certificates as well as training pass certificates. Thereafter, a report was submitted before the higher authorities by the District Elementary Education Officer (DEEO), Nalbari. The petitioners approached the authorities for release of their salaries and on an enquiry made, they were given to understand that on account of the fact that no records pertaining to the training undergone by them, was found available in the office of the Principal, Basic Training Centre, Sonari; coercive action was being contemplated to be initiated against the petitioners by the respondent authorities. On the said fact coming to the knowledge of the petitioners, they approached the Principal, Basic Training Centre, Sonari, praying for furnishing to them, the records pertaining to the training undergone by them in the said training centre.

14. The Principal of Basic Training Centre, Sonari, vide communication, dated

28.10.2021, informed the petitioners that he was searching the necessary documents pertaining to the training programme of Basic Training Centre, Sonari, for the session 2003 and 2004, but had failed to detect the same. The Principal of the said training centre further proceeded to contend in the said communication that may be on account of a clash between two faculty members relating to holding of charge of the Principal of the said centre, there was irresponsibility in maintaining the office records and he was not aware of the fact as he had joined the said training centre only in the year 2012. The above position having come to the forefront and also apprehending coercive action against them by the respondent authorities, the petitioners proceeded to approach this Court by way of instituting a writ petition being WP(c)996/2022, praying for setting aside of the said communication, dated 31.08.2021, and also for a direction to the authorities to release to them their salaries in arrears with effect from August, 2021. During the pendency of the said proceeding; the learned standing counsel, Elementary Education Department, on 20.04.2022, brought on record, an order stated to have been issued on 04.03.2022, by the Director, Elementary Education Department, Assam, by which the appointment orders issued in respect of the petitioners came to be cancelled and their services terminated. Being aggrieved by issuance of the said order, dated 04.03.2022, the petitioners have instituted the present proceeding i.e. WP(c)8445/2022, before this Court.

15. Mr. Nath, learned senior counsel for the petitioners, at the outset has submitted that the respondent authorities had proceeded to issue the impugned order of termination, dated 04.03.2022, against the petitioners only on the ground that records pertaining to the training programme undergone by them

during the Session May, 2003, to December, 2003, were not available in the Office of the Principal, Basic Training Centre, Sonari, which aspect was also stated to be verified by the Director, SCERT, Assam. The learned senior counsel has submitted that while the Director, Elementary Education Department, Assam, had proceeded to place reliance on the said contentions made in the matter by the Director, SCERT, Assam, as well as the Principal of Basic Training Centre, Sonari, no opportunity of hearing came to be extended to the petitioners, herein, before issuance of the order, dated 04.03.2022, and accordingly, it is submitted that the order, dated 04.03.2022, having been so issued behind the back of the petitioners without even issuance of a notice to them has vitiated the said order, dated 04.03.2022, and accordingly, the same is called upon to be interfered with by this Court.

16. Mr. Nath, learned senior counsel, by taking this Court through the order, dated 04.03.2022, has further submitted that the disclosure as made therein, would reveal that basing on a print media report; the authorities had required the Director, SCERT, Assam, to examine the matter and the Director, SCERT, Assam, had submitted a report that there was no record of the passing of the 8 months primary training teachers course during the May, 2003, to December, 2003, by the petitioners, herein, from Basic Training Centre, Sonari. Accordingly, basing on the said report; the services of the petitioners came to be terminated.

17. Mr. Nath, learned senior counsel appearing for the petitioners, has submitted that while the Director, Elementary Education Department, Assam, has solely relied upon the report of the Director, SCERT, Assam; the Director,

Elementary Education Department, Assam, no steps were taken to cause a verification of the release orders issued in their favour by the Principal of Basic Training Centre, Sonari, as brought on record by the petitioners in the inquiry held in the matter on 31.12.2003, releasing them after completion of their respective training programmes, as well as the provisional pass certificates issued by thePrincipal of the said training centre, in question, declaring that the petitioners had passed their training, results of which were declared on 15.03.2004. It has been contended that there is no material available in the order, dated 04.03.2022, to show that the respondent authorities had examined the genuineness of the release orders, as well as the provisional pass certificates and thereafter, had come to a conclusion that they were not so issued by an authority empowered to issue the same.

18. Mr. Nath, learned senior counsel, has then by referring to a communication, dated 28.10.2021, issued by the present incumbent Principal of Basic Training Centre, Sonari, wherein, it has been contended that necessary documents pertaining to the training provided in the said training centre to teachers for the Session 2003 and 2004 were not being able to be traced-out and an apprehension was expressed that the same may be on account of irresponsibility on the part of the persons therein in properly maintaining the records, more particularly, in view of the clash between 2 faculty members with regard to holding of the charge of the Principal of the Basic Training Centre, Sonari, has contended that the said aspect of the matter was not considered by the Director, Elementary Education, Assam, while issuing the impugned order, dated 04.03.2022. It has also been contended on behalf of the petitioners that vide communication, dated 03.12.2021, issued by the incumbent Principal of

Basic Training Centre, Sonari, to the Director, Elementary Education, Assam, facts as available in the communication, dated 28.10.2021, was reiterated.

19. Mr. Nath, learned senior counsel, by referring to a communication, dated 06.01.2021, issued by the incumbent Principal of Basic Training Centre, Sonari, wherein, it was contended that there was no record of JBT pass marksheets of the teachers who had undergone the training programme during the session 2003, as at that point of time, no marksheet was supplied by the Director, SCERT, Assam, to the JBT passed trainees, has contended that the respondent authorities did not have adequate materials before it to come to a definite conclusion in the matter and as such; the Director, Elementary Education, Assam, ought not to have proceeded to issue the order, dated 04.03.2022, without arriving at a definite conclusion as regards the fact that the petitioners herein, had forged provisional pass certificates to show that they had cleared the said training programme.

20. Mr. Nath, learned senior counsel, has further submitted that it is an admitted position that the petitioners, herein, were deputed for undertaking the said training programme w.e.f. May, 2003, and they had admittedly continued at the said training centre till December, 2003 and this aspect of the matter is very much known to the respondent authorities in-as-much the salaries due to the petitioners for the said period, was drawn as trainees.

21. In the above premises, the learned Senior Counsel appearing for the petitioners submit that this Court would be pleased to interfere with the order,

dated 04.03.2022, with further direction towards reinstating the petitioners in their respective service with all consequential benefits.

22. Mr. Kauhsik, learned standing counsel, Elementary Education Department, has submitted that a doubt having arisen basing on newspaper reports that the provisional pass certificates as possessed by the petitioners may not have been so possessed by them after having undertaken the prescribed training programme, vide the impugned order, dated 31.08.2021; the Director, Elementary Education Department, Assam, had required the District Elementary Education Officer (DEEO), Nalbari, to conduct an inquiry into the matter. Given the nature of allegations, the salaries of the petitioners were directed to be stopped pending such inquiry. It is highlighted by the learned standing counsel that it is only on completion of the Junior Basic Training Course that a stipendary teacher would be authorized the scale of pay.

23. Mr. Kaushik, learned standing counsel, has further contended that the provisional pass certificates as well as the release orders on being received from the petitioners; the same were forwarded to both the Director, SCERT, Assam, as well as the Principal of Basic Training Centre, Sonari. The Director, Elementary Education, Assam, basing on the report furnished in the matter by the Principal of the said training centre as well as by the Director, SCERT, Assam, after due approval of the Government; proceeded to cancel/terminate the appointments as effected in the case of the petitioners, herein.

24. Accordingly, it is contended that the very basis existing for authorizing the

petitioners their respective salaries i.e. the successful completion of the training programme, being in dispute and it being brought on record that there is no material to indicate that the petitioners had pursued the said training programme; the Director, Elementary Education Department, Assam, had rightly proceeded to issue the order, dated 04.03.2022, terminating the services of the petitioners and no error can be attributed to the decision as contained in the order, dated 04.03.2022.

25. Mr. Borah, learned standing counsel, SCERT, has submitted that the matter on being placed before the Director, SCERT, Assam, by the Director, Elementary Education Department, Assam, a process was initiated for ascertaining as to whether the petitioners had pursued the 8 months in service training course; during the period from May, 2003, to December, 2003, at the Basic Training Centre, Sonari. On such inquiry, it was found that there was no record available in the Basic Training Centre, Sonari, to indicate that the petitioners had pursued the said training and accordingly, the said aspect of the matter was communicated to the Director, Elementary Education Department, Assam, by the Director, SCERT, Assam, on 03.11.2021. Mr. Borah, learned standing counsel, has further submitted that the records pertaining to the training programme undergone by the petitioners have not been traced-out till date.

26. Mr. Borah, learned standing counsel, SCERT, has fairly submitted that he has no instructions with regard to the genuineness and/or otherwise of the release orders brought on record by the petitioners, herein, pertaining to their release from the said training centre on completion of their training courses, as well as of the provisional pass certificates issued to them by the Principal of

Basic Training Centre, Sonari, on their successful completion of the training course, in question.

27. I have heard the learned counsels appearing for the parties and also considered the materials placed on record.

28. This Court vide order, dated 18.01.2023, while issuing notice in the matter, had made the termination order issued in respect of the petitioners by the Director, Elementary Education Department, Assam, subject to the outcome of this writ petition. It is not in dispute that the petitioners were initially appointed as stipendiary teachers during the period 1999-2001 and that their names also figured in the list as prepared by the jurisdictional Deputy Inspector of Schools for deputing untrained teachers under his jurisdiction to undertake the basic training course. It is also to be noted that the petitioners were so deputed for undertaking the said course, with effect from the month of May, 2003.

29. The petitioners on completion of the basic training course were authorized a scale of pay, however, on account of a dispute arising with regard to the initial engagement of the petitioners, herein, their salaries were stopped in the year 2006. Thereafter, a process was initiated and basing on an approval as granted in the matter by the Cabinet for accommodation of such category of teachers similar to that of the petitioners, herein; the Director, Elementary Education, Assam, vide his order, dated 31.01.2021, issued in respect of the petitioners accommodated them against the identified vacant posts of Assistant Teachers in various L.P. Schools in the district of Nalbari by authorizing to them, a scale of

pay.

30. The said appointment was preceded by a screening process wherein the particulars of the petitioners were verified and the report of the said committee, reveals that the petitioners were trained teachers. Accordingly, the petitioners continued in the post to which they were appointed vide order, dated 30.01.2021. Thereafter, a further scrutiny was carried-out and the petitioners having been found to have satisfied the requirement; their initial salaries with effect from the date of their appointment i.e. 01.11.2020, till July, 2021, was also released to the petitioners. Thereafter, it is to be noted that basing on a newspaper report wherein certain allegations were levelled against the petitioners of having fraudulently procured their provisional pass certificates of the Basic Training Course; the Director, Elementary Education Department, Assam, had proceeded to direct the District Elementary Education Officer (DEEO), Nalbari, to cause an inquiry into the matter and pending such inquiry, the salaries of the petitioners were stopped.

31. The petitioners on enquiring about the reason for stoppage of their salaries had come to learn that such steps was so taken on the basis of information received that there was no records available in the Basic Training Centre, Sonari, pertaining to the undertaking of the said training programme by them. Accordingly, they approached the Principal of the said training centre for receiving the necessary documents pertaining to the said training programme.

32. The Principal of Basic Training Centre, Sonari, vide communication, dated

28.10.2021, informed the petitioners, herein, that he was not able to trace-out the documents pertaining to the in-service training of teachers in the session 2003 and 2004 and it was highlighted that the records for the said period may not have been maintained in the manner required on account of a dispute between two faculty members of the institution pertaining to holding of the charge of Principal of the said Centre. The said communication being relevant is extracted hereinbelow:

"***GOVT. OF ASSAM***

OFFICE OF THE PRINCIPAL::: BASIC TRAINING CENTRE::: SONARI

No. SBTC 43/2021-22/186/ ***Dated Sonari the 28th of Oct./2021***

From: Sri Arup Bhattacharjya, Principal,

Basic Training Centre, Sunari

To : Sri Moloya Bhagowati and her companion teachers (Eleven Nos of applicants).

Sub: Asking for documents regarding Teacher training programme, Session-2003 at BTC, Sonari

Sir/Madam,

I have the honour to state that I have been searching for the necessary documents regarding Training Programme at BTC, Sonari for the Session 2003 and 2004 but failed to detect the same. It may be due to clash between two faculty members related to holding of Principal charge between them, irresponsibility of keeping office record at that time or any other reasons which are unknown to me as i joined this office in 2012. And neither the then Office Asstt. and nor the then Principal i/c are alive now.

This is all for favour of your information and necessary action.

Yours faithfully

Sd/-

Principal,

Basic Training Centre Sonari, Assam"

33. At this stage, it is to be noted that a communication, dated 03.10.2021, was also issued by the Principal of the Basic Training Centre, Sonari, to the Director, Elementary Education Department, Assam, highlighting the same very

grounds as contained in the communication, dated 28.01.2021. The contentions as made in the communication, dated 28.10.2021 (extracted above), as well as in the communication, dated 03.10.2021, are one and the same.

34. It is seen that after the release orders and the provisional pass certificates were received from the petitioners in the inquiry that was directed to be held in the matter by the jurisdictional District Elementary Education Officer(DEEO); the same were forwarded to the Director, SCERT, Assam, for causing an inquiry. The Director, SCERT, Assam, in his communication, dated 03.11.2021, had informed the Director, Elementary Education, Assam, that there was no record pertaining to the passing of the 8 months primary training course during the period from May, 2003, to December, 2003, by the petitioners, herein.

35. A perusal of the above noted communication, dated 03.11.2021, would bring to the forefront that it was contended therein, that the records pertaining to the passing of the 8 months training course by the petitioners were not found to be available. The aspect as to whether the petitioners had actually undertaken the said training course was not clarified in the said communication, dated 03.11.2021.

36. At this stage, it is also relevant to take note of a communication issued by the Principal of the said Basic Training Centre, Sonari, dated 06.01.2021, wherein, he had contended that in the office of the said training centre, there was no record of the marksheets pertaining to candidates who had undergone the Junior Basic Training Course for the session 2003 and 2004 because at that

relevant point of time, no marksheet was supplied by the SCERT, Assam, to such trainees.

37. The Director, Elementary Education, Assam, for the purpose of arriving at conclusions with regard to the training pass certificates possessed by the petitioners in the order, dated 04.03.2022, had solely relied upon the verification report as submitted in the matter by the Director, SCERT, Assam, wherein, it was stated that there is no record of 8 months training undergone by the petitioners for the period from May, 2003, to December, 2003. The said order, dated 04.03.2022, does not indicate as to whether an exercise was also undertaken for examining the genuineness of the release order as relied upon by the petitioners, as well as the provisional pass certificates stated to have been issued to them by the Principal of the Basic Training Centre, Sonari.

38. In that view of the matter and the order, dated 04.03.2022 having stated that the provisional pass certificates of the petitioners which were received in the inquiry held by the District Elementary Education Officer (DEEO), Nalbari, and sent to the Office of the Director, SCERT, as well as to the training centre concerned, not having been held to be not genuine; the conclusions as reached in the matter by the Director, Elementary Education, Assam, solely on the report of the Director, SCERT, Assam, which again is only to the extent of the fact that there was no record of the petitioners herein passing the 8 months in service primary training course; in the considered view of this Court, was not sufficient materials to arrive at a conclusion that the petitioners had not undertaken the said training programme.

39. In the absence of a verification process undertaken with regard to the genuineness of the release orders as well as the provisional pass certificates as produced by the petitioners before the respondent authorities and also available in the records of the present proceeding, more particularly, in view of the categorical contention made in the communications, dated 28.10.2021, and 03.12.2021, issued by the Principal of Basic Training Centre, Sonari, that the records for the session 2003 and 2004 may have been misplaced and/or may not have been responsibly maintained on account of a clash between 2(two) faculty members relating to holding of the charge of the Principal of the Basic Training Centre, Sonari; in the considered view of this Court, the conclusions as arrived at by the Director, Elementary Education, Assam, vide order, dated 04.03.2022, to terminate the services of the petitioners cannot be sustained and has to be held to have been so arrived at without first drawing a conclusion that the provisional pass certificates as produced by the petitioners were all fraudulent and/or forged.

40. The above conclusions having been drawn; this Court would also like to examine as to whether the order, dated 04.03.2022 was so passed after having provided to the petitioners, herein, a scope of hearing in the matter. A perusal of the order, dated 04.03.2022, as well as other materials available on record would go to reflect that it was a unilateral action taken by the Director, Elementary Education, Assam, and such action having adverse civil consequences on the rights of the petitioners; the same could not have been so taken without providing an opportunity of hearing to the petitioners.

41. The categorical contention of the petitioners, both before the authorities as

well as in the present proceeding, that they had undergone the said training programme and were on completion of the examination as held for the purpose of the said training; released them from the said Basic Training Centre, Sonari, on 31.12.2003, by its Principal, by issuing appropriate orders, as well as of being issued with provisional pass certificates of having cleared the examination conducted in connection with the said training for the period from May, 2003, to December, 2003, not having been disputed to be issued by an authority of the said training centre; conclusions with regard to the genuineness of the said certificates not being drawn, in the considered view of this Court, the termination of the services of the petitioners solely basing on a report of the Director, SCERT, Assam, which is again only to the extent that the petitioners had not cleared the examination as conducted in the course of the said training, is not permissible and requires interference.

42. In view of the above conclusions; this Court is of the considered view that the order, dated 04.03.2022, along with the approval of the Government as noted therein, dated 07.02.2022, and the communication, dated 31.08.2021, requires to be interfered with by this Court and the same are accordingly set aside.

43. In view of the interference made by this Court with the order, dated 04.03.2022, and the communication dated 31.08.2021; the petitioners are hereby directed to be reinstated in their respective service against the posts as indicated in their cases, in the order, dated 30.01.2021. The Director, Elementary Education, Assam, is directed to release to the petitioners their salaries in arrears w.e.f. August, 2021, till the date of their such reinstatement in

service and thereafter, to release to them their current salaries.

44. The interference as made by this Court with the order, dated 04.03.2022, having been so made on the ground that the same was so arrived at without affording the petitioners an opportunity of hearing and also without assessing the genuineness of the release orders and the provisional pass certificates as produced by the petitioners pertaining to their training programme; the respondent authorities, more particularly the Director, Elementary Education, Assam, is at liberty to proceed in the matter against the petitioners after their reinstatement in service and also on release of their salaries, by strictly following the procedure as mandated under the provisions of the Assam Services (Discipline and Appeal) Rules, 1964.

45. In the event, such proceedings are so initiated against the petitioners herein, they would be entitled to raise all such defence as may be available to them in the matter including the defence that the release orders and the provisional pass certificates as available with them were so issued by the authorities of the Basic Training Centre, Sonari.

46. With the above directions and observations, these writ petitions stand disposed of.

JUDGE

Comparing Assistant