



GAHC010025402015

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

**Case No. : WP(C)/6964/2015**

SHIKHA NATH and 10 ORS  
D/O- DIPAK KUMAR NATH, R/O- COLLEGE ROAD, WARD NO. 14, P.O.-  
BIDYAPARA, P.S. and DIST.- DHUBRI, ASSAM.

VERSUS

THE STATE OF ASSAM AND 14 ORS  
REP. BY THE COMMISSIONER and SECY. TO THE GOVT. OF ASSAM,  
HEALTH AND FAMILY WELFARE DEPTT., DISPUR, GHY- 6, ASSAM.

Linked Case : WP(C)/6590/2015

GIRIJA BHAGAWATI and 7 ORS  
ROLL NO. 0375 D/O SHRI ISSA RAM NATH VILL- SOLPAM  
P.S. SIPAJHAR DIST. DARRANG  
ASSAM.

2: HIMANIDEKA  
ROLLNO-0401 D/O- SHRIDADHIRAMDEKA. R/O- JALJALI PHC P.O.-JALJALI  
P.S.-MANGALDAI DIST- DARRANG  
ASSAM.

3: BINAPANIBARUAH  
ROLLNO-3495 D/O SHRINARENDRA CH. BARUA. R/O -BONATHIBARI ROAD  
P.O- AULACHOWKA DIST.-DARRANG  
ASSAM.

4: HIRANMAYEEBARUAH.  
ROLL NO-0419 D/O SHRIMAHIDHARBARUA VILL- BATABARI  
P.S- DIGHIRPAR DIST-DARRANG



ASSAM.

5: DIPALIBARUAH  
ROLL NO-33446 D/O- LATE DHATU RAM BARUA R/O- 1 NO. SANTIPUR  
MANGALDAI DIST-DARRANG  
ASSAM

6: SUSHILABHUYAN.  
ROLL NO- 3447 C/O- ANUJ KUMAR SAHARIA VILL- DAKSHINCHUBURI P.O  
and P.S.-SIPAJHAR DIST- DARRANG  
ASSAM

7: MARZINASAIKIA  
ROLL NO-0404 D/O-MD. RACHITSAIKIA VILL -MILANPUR  
P.O.-MANGALDAI DIST- DARRANG  
ASSAM.

8: NURIASMA BEGUM  
ROLL NO-0380 D/O- JANSHEED ALI VILL and P.O.-MANGALDAI DIST-  
DARRANG  
ASSAM.  
VERSUS

THE STATE OF ASSAM AND 3 ORS  
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM  
DEPARTMENT OF HEALTH  
DISPUR  
GUWAHATI -06  
ASSAM.

2:THE DEPUTY SECRETARY TO THE GOVERNMENT OF ASSAM

HEALTH and FAMILY WELFARE DEPARTMENT  
DISPUR  
GUWAHATI-06.

3:THE DIRECTOR OF HEALTH SERVICES  
FW

ASSAM  
SWASTHABHAWAN  
HENGARABARI  
GUWAHATI-36  
ASSAM.

4:THE CHIEF MEDICAL OFFICER  
GAUHATI MEDICAL COLLEGE HOSPITAL  
BHANGAGARH  
GUWAHATI-36.

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Linked Case : WP(C)/7723/2015

MRS BORNALI PRADHAN GOLDSMITH and 5 ORS  
D/O LT. JHON PRADHAN VILL- CHRISTIAN PATTY  
ADP ROAD  
P.O. NAGAON  
P.S. SADAR DIST.NAGAON  
PIN - 782001  
ROLL NO. 2470.

2: LAKHI SAIKIA  
D/O PUSPA SAIKIA VILL MOUT GOAN P.O. PANIGAON  
DIST. LAKHIMPUR ROLL NO. 3500.

3: SRI BINA BORA KAKOTY  
D/O LT. NARAYANA KEUWT VILL- PANIGAON  
PLAY RD.  
P.O. and DIST. NAGOAN  
PIN - 782001  
ROLL NO. 2518.

4: MRS. BOBI MONI BAIRAGI  
W/O KUMUD SAIKIA VILL- BRAHAMACHARI SATRA P.O. TELIAGAON  
PURANIGUDAM DIST. NAGAON  
PIN - 782141. ROLL NO. 2502.

5: RIMI RANI DAS  
C/O DIPEN CHANDRA DAS VILL- HATICHONG  
P.S. JAJARI DIST.NAGAON  
ROLL NO. 3426.

6: BABITA DAS  
C/O RANJAN KR. MEDHI VILL- NIZ DIMOW P.O. and P.S. BEBEJIA  
DIST.NAGAON  
ROLL NO. 2513.  
VERSUS

THE STATE OF ASSAM AND 2 ORS  
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM  
DEPARTMENT OF HEALTH  
DISPUR  
GUWAHATI-06  
ASSAM.

2:THE DEPUTY SECRETARY TO THE



GOVT. OF ASSAM  
HEALTH AND FAMILY WELFARE DEPARTMENT  
DISPUR  
GUWAHATI-06.  
3:THE DIRECTOR OF HEALTH SERVICES  
FW  
ASSAM  
SWASTHA BHAWAN  
HENDERABARI  
GUWAHATI-36  
ASSAM.  
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Linked Case : WP(C)/6843/2015

PURABI BARUAH and 2 ORS  
ROLL NO. 3401  
D/O- SHRI DHANI RAM BARUAH  
VILL.- UPAHUPARA  
P.O. and P.S.- MANGALDAI  
DIST.- DARRANG  
ASSAM.

2: PRANATI SAHARIA  
ROLL NO. - 0401  
D/O- BALI RAM SAHARIA  
VILL.- KAMARPARA  
P.O.- MANGALDAI  
DIST.- DARRANG  
ASSAM.

3: ANNADA SAHARIA  
ROLL NO. 1719  
D/O- LT. PHUKAN SAHARIA  
PERMANENT R/O VILL.- MATHANGA  
DIST.- DARRANG  
ASSAM  
PRESENTLY RESIDING AT KETEKI PATH  
SAURAV NAGAR  
BELTOLA  
GHY- 28  
KAMRUP M.  
VERSUS

THE STATE OF ASSAM AND 3 ORS  
REP. BY THE COMMISSIONER and SECY. TO THE GOVT. OF ASSAM  
DEPTT. OF HEALTH



DISPUR  
GHY- 6  
ASSAM.

2:THE DY. SECY. TO THE GOVT. OF ASSAM  
HEALTH AND FAMILY WELFARE DEPTT.  
DISPUR  
GHY- 6.

3:THE DIRECTOR OF HEALTH SERVICES  
ASSAM  
SWASTHA BHAWAN  
HENGRABARI  
GHY- 36  
ASSAM.

4:THE CHIEF MEDICAL OFFICER  
GAUHATI MEDICAL COLLEGE HOSPITAL  
BHANGAGARH  
GHY- 36.

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Linked Case : WP(C)/7797/2015

SMT. SANGITA BAILONG  
W/O. SRI DEBESWAR CHETIA  
VILL. LACHIT NAGAR  
P.O. KHUBALIA  
PIN-787057  
P.S. DHEMAJI  
DIST. DHEMAJI  
ASSAM.

VERSUS

THE STATE OF ASSAM AND 3 ORS  
REP. BY THE COMM. and SECY. TO THE GOVT. OF ASSAM  
HEALTH AND FAMILY WELFARE DEPTT.  
DISPUR  
GHY.-781006  
ASSAM.

2:THE DIRECTOR

HEALTH SERVICE  
ASSAM  
HENGRABARI  
GHY.



PIN-781006  
ASSAM.  
3:THE PRINCIPAL CUM CHIEF SUPDT.

HEALTH SERVICE  
ASSAM  
HENGRABARI  
GHY.-781006.  
4:THE SELECTION COMMITTEE

CONSTITUTED FOR SELECTION OF STUFF NURSE UNDER THE  
DIRECTORATE OF HEALTH SERVICES  
ASSAM FOR VARIOUS HEALTH INSTITUTIONS AND MEDICAL COLLEGE OF  
ASSAM  
THE DIRECTORATE OF HEALTH SERVICE  
ASSAM  
GHY.-781006.  
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Linked Case : WP(C)/6735/2015

MS. BANUJA BRAHMA and 18 ORS

W/O SRI DIGAMBAR BRAHMA VILL- WEST DANGARKEETI  
P.O. DOTMA DIST. KOKRAJHAR  
BTAD  
ASSAM  
PIN - 783347.

VERSUS

THE STATE OF ASSAM and 3 ORS

REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM  
HEALTH AND FAMILY WELFARE DEPARTMENT  
DISPUR  
GUWAHATI - 781006.  
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Linked Case : WP(C)/7771/2015

SMT. GEETANJALEE GOHAIN GOGOI and 20 ORS  
W/O BHADRESWAR GOGOI VILL- BOGDUNG MUDOI GAON P.O. BOGDUNG



P.S. CHABUA DIST. DIBRUGARH  
ASSAM.

2: SMT. MAINA GOHAIN  
D/O NANDESWAR GOHAIN C/O KHIROD BORUAH VILL- BHARALUA  
P.O. DINJOY DIST. DIBRUGARH  
ASSAM.

3: SMT. NIMI CHAWRA  
D/O SRI BUDHU CHAWRA VILL- SAPEKHATI HOSPITAL CAMPUS P.O.  
SAPEKHATI  
PIN - 785690 DIST. SIVASAGAR  
ASSAM.

4: SMTI. BIJOYA BORGOHAIN BASUMATARY  
W/O SRI SATYAJIT BASUMOTARY VILL- PADUNONI GAON  
P.O. BHADOI PANCHALI DIST. DIBRUGARH  
ASSAM.

5: SMT. ARCHNA KONWAR  
D/O LT. BOLOO RAM KONWAR VILL- BALIGHAT MILANPUR  
P.O. GARGAON  
P.S. SIMALUGURI DIST. SIVASAGAR  
ASSAM.

6: SMT. NIPANJALI DAS  
W/O SRI BIMAN DAS VILL- RUDRASAGAR  
P.O. RUDRASAGAR  
DIST. SIVASAGAR  
ASSAM.

7: SMT. JULI DAS BARMAN  
W/O TAPAN KUMAR BARMAN VILL- PANITOLA  
P.O. PANITOLA DIST. DIBRUGARH  
ASSAM.

8: SMT. BHAGYABATI CHETIA  
D/O SRI NIRMAL CHETIA VILL- KANJKHOWA  
NEAR PHC PANITOLA DIST. DIBRUGARH  
ASSAM.

9: SMT. JULEE BARUAH  
D/O LT. JUGA BARUAH R/O KALOOGAON PHC CAMPUS  
P.O. KALGOOGAON  
P.S. AMGURI DIST. SIVASAGAR  
ASSAM.

10: SMT. RINJUMONI GOGOI DOWARAH



W/O SRI SHANATAN DOWARAH VILL- KUMARONICHIGA DOWARAH  
CHOUK P.O. RAJABHATA VIA MOHANA GHAT DIST. DIBRUGARH  
ASSAM.  
VERSUS

THE STATE OF ASSAM AND 4 ORS  
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM  
HEALTH AND FAMILY WELFARE DEPARTMENT  
DISPUR  
GUWAHATI -6  
DIST. KAMRUP  
ASSAM.

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Linked Case : WP(C)/6727/2015

MS DIPALI BISWAS and 4 ORS  
W/O SRI GOPAL BISWAS  
VILL. BASUGAON MAIN ROAD  
W/NO.3  
P.O. BASUGAON  
DIST- CHIRANG  
BTAD  
ASSAM  
PIN-783372

2: POPY SHIL  
D/O SRI SUBAL SHIL  
VILL. BIJINI RATI ROAD  
W/NO.3  
P.O. BIJINI  
DIST- CHIRANG  
BTAD  
ASSAM  
PIN-783390

3: BIJUMONI BORO  
D/O LT. BHAKTI RAM BORO  
BASUGAON MPHC HOSPITAL  
W/NO.4  
BASUGAON TOWN  
P.O. BASUGAON  
DIST- CHIRANG  
BTAD  
ASSAM





PIN-783372

4: NILA NARZARY  
W/O MR. KAMALA NARZARY  
VILL. SUBHAIJHAR  
P.O. NEHRU BAZAR  
DIST- CHIRANG  
BTAD  
ASSAM  
PIN-783393

5: KRISHNA BASUMATARY  
W/O SRI BHUPEN BORO  
VILL. DAHALAPARA  
P.O. GERUKABARI  
DIST- CHIRANG  
BTAD  
ASSAM  
PIN-783393  
VERSUS

THE STATE OF ASSAM AND 3 ORS  
REP. BY THE COMMISSIONER and SECY. TO THE GOVT. OF ASSAM  
HEALTH and F.W. DEPTT.  
DISPUR  
GHY-6

2: THE DIRECTOR OF HEALTH SERVICES  
ASSAM  
HENGRABARI  
GHY-6

3: THE PRINCIPAL CUM CHIEF SUPERINTENDENT OF HEALTH SERVICES  
ASSAM  
HENGRABARI  
GHY-6

4: THE SELECTION COMMITTEE  
CONSTITUTED FOR SELECTION OF STAFF NURSE UNDER THE  
DIRECTORATE OF HEALTH INSTITUTIONS and MEDICAL COLLEGES OF  
ASSAM  
O/O THE DIRECTOR OF HEALTH SERVICES  
ASSAM  
HENGRABARI  
GHY-6

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Linked Case : WP(C)/7076/2015

TALU MONI DAS and 25 ORS.



D/O. BHOLA RAM DAS  
VILL. SEN CHOWA  
P.O. SENCHOWA  
NAGAON  
ROLL NO. 2541.

2: MRS BOBITA BORA

D/O LATE BHUDAHAR BORA  
VILL-KACHALUKHUWAMADHOB NAGAR  
P.O.-NAGAON  
P.S.-SADAR  
NAGAON  
ASSAM  
ROLL NO.-2418.

3: MRS. MAHMUDAYASMIN  
D/O SHAKANDAR ALI  
VILL-MADHYA SIALMARI  
P.O.-MADUPUR  
P.S.-SADAR  
NAGAON  
ROLL NO.-2420.

4: MRS. BONITA RAJKHOWAHAZARIKA  
W/O ACHYUTHAZARIKA  
VILL- SOUTH HAIBOEGAON  
A.R.B. ROAD  
NAGAON  
ASSAM  
ROLL NO. 2461

5: PHUNUGOGOI  
SHRISUBHA CH. GOGOI  
VILL-M AZAD  
P/O NAGAON  
PIN-782001  
ROLL NO. 2503.

6: MISS DALINA SULTANA

D/O LATE ARJAN ALI  
VILL.-BORBHETI  
P.O.-KACHAMARI  
NAGAON  
ASSAM  
ROLL NO. 2416.



7: MRS PUSPALATA BORA  
D/O SHRIPUHI RAM BORA  
KATHIATOLI PHC  
P.S.-SADAR  
NAGAON  
ASSAM  
ROLL NO.-2455.

8: MRS. GAYATRIGOGOI

D/O SRI RAM GOGOI  
VILL-KATHIATOLI  
BPHC  
P.O.-KATHIATOLI  
NAGAON  
ASSAM ROLL NO.-2436.

9: MINU BEGUM

D/O LATE ASAM ALI  
VILL-BURAGOHAIN THAN PHC  
P.O. DEWRIGAON  
NAGAON.

10: RUNUPROVA DEVI

D/O PITRAMNATH  
VILL-JAMUGURIPUB  
P.O.-NAGAON  
P.S.-SADAR  
DIST. NAGAON  
ROLL NO.3543.

11: RIMA BHUYAN

D/O SRI KALIRAMBHUYAN  
VILL-RANTHALIRAJABHETI  
P.O.-RANTHALI  
PIN782101  
NAGAON  
ASSAM  
ROLL NO.-2427.

12: JAYA DEY

C/O SNAHASISACHARYA  
VILL-KACHRALUKHOWAMADHAB NAGAR  
P.O.-NAGAR



PIN-782001 NAGAON  
ROLL NO.-2449.

13: MRS. MINATI DEVI

D/O LATE RATNESWARNATH  
VILL- BIRAHBEBEJIA  
P.O.-BEBEJIA  
P.S.-SADAR  
NAGAON  
ROLL NO.-2447.

14: TILUTTAMA BORDOLOI  
C/O-SRI BHADRA KANTA BORDOLOI VILL- BHALULAMARI  
P.O- GANDKIBORI P.S- JAJARI  
DIST- NAGAON

15: MRS. RITA MONI LASKAR

ROLL NO 2504 D/O LT SURENDRA NATH LASKAR VILL- DHING FRV  
HOSPITAL CAMPUS P.O- DHING  
DIST- NAGAON

16: MRS. TARAMAI LALUNG  
ROLL NO 2417 D/O SRI KAMAL SING LALUNG VILL- LAHKAR GAON  
P.O and P.S- DHING DIST- NAGAON

17: MRS. GITANJALI HANDIQUE DAS  
ROLL NO. 2429 D/O SHRI CHIDANANDA HANDIQUE VILL- ATHGAON  
CHAPORI  
P.O and P.S- NAGAON DIST- NAGAON

18: ANJU RABHA

ROLL NO. 3470 C/O LT PABAN KUMAR RABHA VILL- BAGHBARALI  
P.O and P.S- SAMAGURI DIST- NAGAON

19: PURNIMA BORAH  
ROLL NO. 3469 VILL and P.O- PURANI GUDAM  
P.S- SAMAGURI DIST- NAGAON

20: ANIMA HAZARIKA  
ROLL NO. 3499 D/O LT. PADUM HAZARIKA VILL- POTANI SONARI GAON  
P.O- BIHARIGAON DIST- NAGAON

21: MRS. CHING BAIRAGI  
ROLL NO. 2445 D/O SRI BHARAT CH. BAIRAGI VILL and P.O- PURANIGUDAM  
P.S- SAMAGENI DIST- NAGAON



22: MRS. PURNIMA BORAH  
ROLL NO. 2490 D/O LT. BHOGAI CH. BORAH VILL- BARAPUJIA PHC  
P.O- BARAPUJIA VIA RAHA P.S- RAHA  
DIST- NAGAON

23: MRS. DIPALI DEVI DAS  
ROLL NO. 2510 D/O SRI DULA NATH VILL- KAMPUR FRU  
P.O- KAMPUR DIST- NAGAON

24: BANTI BORAH

ROLL NO. 2528 D/O SOSHI BORAH VILL- PARLIGURI  
P.O and P.S.- KAMRUP DIST- NAGAON

25: MRS. NIRU SAIKIA  
ROLL NO. 2463 D/O SRI LABURAM SAIKIA VILL- KAMPUR FRU  
P.O- KAMPUR DIST- NAGAON

26: POMPI BORAH  
ROLL NO. 2428. D/O BIREN BORAH VILL- KAMPUR FRU NURSE QRT. NO-3  
PARALIGURI P.O and P.S.- KAMPUR  
DIST- NAGAON  
VERSUS

THE STATE OF ASSAM AND 2 ORS  
REP. BY THE COMM. and SECY. TO THE GOVT. OF ASSAM  
DEPTT. OF HEALTH  
DISPUR  
GHY.-06  
ASSAM.

2:THE DEPUTY SECRETARY TO THE GOVERNMENT OF ASSAM  
HEALTH and FAMILY WELFARE DEPARTMENT  
DISPUR  
GUWAHATI-06.

3:THE DIRECTOR OF HEALTH SERVICES

FW  
ASSAM  
SWASTHA BHAWAN  
HENGARABARI  
GUWAHATI-36  
ASSAM.

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Linked Case : WP(C)/6581/2015



MANJU GOGOI and 16 ORS  
W/O- SRI JATIN BORBORUAH  
VILL.- BHAGYAPUR MPHC QUARTER  
P.O.- FALANGANI  
P.S.- MURPHULANI  
DIST.- GOLAGHAT  
ASSAM  
PIN- 785621.

VERSUS

THE STATE OF ASSAM AND 3 ORS  
REP. BY THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM  
HEALTH AND FAMILY WELFARE DEPTT.  
DISPUR  
GHY- 6.

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Linked Case : WP(C)/6890/2015

SMT. BOBY BORAH and 22 ORS  
W/O MR. DIPAK GOSWAMI R/O PUB SURAJ NAGAR  
P.O. KAHILIPARA  
P.S. DIPSUR PIN - 781019  
DIST. KAMRUP M

2: SMT. NITUMONI DAS  
W/O MR. RANADHISH KARMAKAR R/O C/O MR. GANESH CH. BORDOLOI  
NATUN PATH  
H.NO. 19  
P.O. HATIGAON  
P.S. HATIGAON  
PIN - 781038  
DIST. KAMRUP M.

3: SMT. JINAMONI DEKA  
W/O MR. BHAGIRATH DAS R/O UJJAL NAGAR  
HENGRABARI P.O. HENGRABARI  
P.S. DISPUR PIN - 781036  
DIST. KAMURP M.

4: SMT. BHANITA DAS  
W/O MR. BHABESH THAKURIA R/O FARM GATE



GANAPATH P.O. KHANAPARA  
P.S. DISPUR PIN - 781022  
DIST. KAMRUP M.

5: SMT. JURI MOHAN GOGOI  
W/O MR. PABITRA GOGOI R/O VILL- MORAN KUSHAL NAGAR  
P.O. MORANHAT  
P.S. MORAN DIST. DIBRUGARH.

6: SMT. NIKA DAIMARY  
C/O MR. DADHIRAM DAIMARY VILL- PUB KHAGRABARI P.O. JALAHGHAT  
P.S. SIMLA PIN - 781327  
DIST. BAKSA.

7: SMT. KUSUMITA KONWAR  
W/O MR. SANJIT KUMAR BARMAN VILL- JOYUR P.O. KOKRAJHAR P.S.  
KOKRAJHAR  
DIST. KOKRAJHAR.

8: SMT. MAYUREE DUTTA  
W/O MR. KAMAL CHOUDHURY R/O NATUN NAGAR  
NEAR TV TOWER P.O. INDRAPUR  
P.S. BHANGAGARH GMCH PIN- 781032  
DIST. KAMRUP M.

9: SMT. BHABANI DEVI  
W/O MR. GOBIN SARMA VILL- DOLOIGAON  
UJAN PARA P.O. NATUN PARA  
P.S. BONGAIGOAN  
DIST. BONGAIGOAN.

10: MISS. HEMANTI KALITA  
D/O MR. UDAY KALITA VILL- ATHIAGAON  
P.O. ATHIABARI P.S. MUSHALPUR  
DIST. BAKSA.

11: MISS. SEUTI DEKA @ SEUTI DEKA  
D/O MR. ANANDI RAM DEKA VILL- BORPARA  
P.O. BONGAIGOAN P.S. BONGAIGOAN  
DIST. BONGAIGOAN

12: SMT. SANTILATA DHAN  
W/O MR. SUNIL MURMU VILL- BORTALOWA  
P.O. DHALIGAON P.S. DHALIGAON  
DIST. CHIRANG.

13: SMT. MANJULA BRAHMA



W/O MR. JADAV BASUMATARY VILL- SUDEMPURI P.O. BIJNI  
PIN - 783390 DIST. CHIRANG.

14: MISS. RENU BALA ROY  
D/O LT. BIRENDRA RAM ROY VILL/P.O. CHAPRAKATA P.S. BONGAIGOAN  
PIN - 783380  
DIST. BONGAIGAON

15: SMT. MOUCHUMI BRAHMA  
W/O MR. PURONDAR SINGHA VILL/P.O. SIDLI P.S. SIDLI PIN - 783373  
DIST. CHIRANG.

16: SMT. BINITA DAS  
W/O MR. JAGAT CHANDRA BARUAH VILL/P.O. SIDLI  
P.S. SIDLI PIN - 783373  
DIST. CHIRANG.

17: SRI LORENCE KUMAR SORA  
S/O MR. RUBEN SORA VILL- SIMALUGURI  
P.S. BIHPURIA PIN - 784165  
DIST. NORTH LAKHIMPUR.

18: SMT. JAYANTI BRAHMA  
W/OMR. NAKHWRANG BRAHMA VILL/P.O. SIDLI  
P.S. SIDLI PIN- 783373  
DIST. CHIRANG.

19: MISS INDIRA GOGOI  
D/O LT. MENURAM GOGOI R/O MR. CHENIRAM GOGOI VILL- BUDHBARI  
P.O. KAMARGAON P.S. KAMARGAON  
PIN - 785619  
DIST. GOLAGHAT

20: SMT. RAJUMONI SAIKIA  
W/O MR. DUDUMONI SAIKIA VILL/P.O. BOKAKHAT  
P.S. BOKAKHAT  
PIN - 785612  
DIST. GOLAGHAT.

21: MISS. ARCHANA DAS  
C/O LT. LANKESWAR DAS VILL- DALOIGAON  
P.O./P.S. CHAYGAON PIN - 781124  
DIST. KAMRUP

22: SMT. RENU BARMAN  
W/O MR. JOHN BARMAN VILL- KULBIR  
P.O. CHAMATA P.S. BELSOR





PIN - 781306  
DIST. NALBARI.

23: MISS. NIKUMONI DUTTA  
D/O LT. PURN ACHANDRA DUTTA VILL/P.O. BONGOI CHUK  
P.S. NOWBOISA  
DIST. NORTH LAKHIMPUR.  
VERSUS

THE STATE OF ASSAM AND 31 ORS  
REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM  
DISPUR  
GUWAHATI-6  
DIST. KAMRUP M  
ASSAM.

2:ADDITIONAL CHIEF SECRETARY TO THE  
GOVT. OF ASSAM  
HEALTH AND FAMILY WELFARE DEPARTMENT  
DISPUR  
GUWAHATI -06.

3:COMMISSIONER AND SECRETARY TO THE  
GOVT. OF ASSAM  
HEALTH AND FAMILY WELFARE DEPARTMENT  
DISPUR  
GUWAHATI-06  
KAMRUP M.

4:DIRECTOR OF HEALTH SERVICES

ASSAM  
HENGRABARI  
GUWAHATI-36.  
5:DIRECTOR OF HEALTH SERVICES FAMILY WELFARE  
ASSAM  
HENGRABARI  
GUWAHATI-36  
KAMRUP M.

6:JOINT DIRECTOR OF HEALTH SERVICES  
TECHNICAL  
SHTO  
PATHERQUERRY  
NARENGI  
GUWAHATI-71  
KAMRUP M.

7:SELECTION COMMITTEE /COMMITTEES/  
BOARDS CONSTITUTED BY THE HEALTH DEPARTMENT  
GOVT. OF ASSAM FOR SELECTION TO THE POSTS OF STAFF NURSE C/O  
DIRECTOR OF HEALTH SERVICES



HENGRABARI  
GUWAHATI-36  
ASSAM.  
8:JOINT DIRECTOR OF NURSING  
OFFICE OF THE DIRECTOR OF HEALTH SERVICES  
HENGRABARI  
GUWAHATI-36  
ASSAM.  
9:THE MISSION DIRECTOR

NATIONAL RURAL HEALTH MISSION PRESENTLY KNOWN AS NATIONAL  
HEALTH MISSION  
ASSAM SAIKIA COMMERCIAL COMPLEX  
SRINAGAR PATH  
CHRISTIANBASTI  
G.S. ROAD  
GUWAHATI-05.  
10:THE DIRECTOR OF MEDICAL EDUCATION

ASSAM  
SIX MILE  
GUWAHATI-22  
ASSAM.  
11:PRINCIPAL CUM-CHIEF SUPERINTENDENT

GAUHATI MEDICAL COLLEGE AND HOSPITAL  
P.O. INDRAPUR  
GUWAHATI-32  
KAMRUP M  
ASSAM.  
12:THE PRINCIPAL CUM-CHIEF SUPERINTENDENT  
JORHAT  
MEDICAL COLLEGE  
HOSPITAL P.O. and DIST. JORHAT  
PIN - 785001  
ASSAM.  
13:PRINCIPAL CUM CHIEF SUPERINTENDENT

ASSAM MEDICAL COLLEGE AND HOSPITAL  
DIBRUGARH  
PIN - 786001  
ASSAM.  
14:PRINCIPAL CUM-CHIEF SUPERINTENDENT  
TEZPUR MEDICAL COLLEGE HOSPITAL  
TEZPUR  
PIN - 784001  
DIST. SONITPUR  
ASSAM.



15:PRINCIPAL CUM-CHIEF SUPERINTENDENT  
FAKHURUDDIN ALI AHMED MEDICAL COLLEGE HOSPITAL  
BARPETA

ASSAM

PIN - 781301

DIST. BARPETA.

16:PRINCIPAL CUM-CHIEF SUPERINTENDENT

SILCHAR MEDICAL COLLEGE

SILCHAR

PIN - 788016

SILCHAR.

17:REGISTRAR

ASSAM NURSES'

MIDWIVES AND HEALTH VISITORS' COUNCIL

DISPUR

GUWAHATI-06.

18:THE JOINT DIRECTOR OF HEALTH SERVICES

KAMRUP M

P.O. PANBAZAR

GUWAHATI- 781001.

19:THE JOINT DIRECTOR OF HEALTH SERVICES

GOLAGHAT NEAR KUSHAL KONWAR CIVIL HOSPITAL

P.O. and P.S. GOLAGHAT

DIST. GOLAGHAT

PIN - 785621.

20:THE JOINT DIRECTOR OF HEALTH SERVICES

BONGAIGOAN

P.O. BONGAIGOAN

DIST. BONGAIGOAN

PIN - 783380.

21:THE JOINT DIRECTOR OF HEALTH SERVICES

DIBRUGARH

P.O. DIBRUGARH

DIST. DIBRUGARH

P.O. DIBRUGARH

DIST. DIBRUGARH

ASSAM

PIN - 786001.

22:THE JOINT DIRECTOR OF HEALTH SERVICES

BAKSA

P.O. BAKSA



DIST. BAKSA.  
23:THE JOINT DIRECTOR OF HEALTH SERVICES

KOKRAJHAR  
P.O. KOKRAJHAR  
DIST. KOKRAJHAR  
PIN - 783370.  
24:THE JOINT DIRECTOR OF HEALTH SERVICES

CHIRANG  
P.O. CHIRANG  
DIST. CHIRANG  
PIN - 783380.CHIRANG  
P.O. CHIRANG  
DIST. CHIRANG  
PIN - 783380.  
25:THE JOINT DIRECTOR OF HEALTH SERVICES

NORTH LAKHIMPUR  
P.O. LAKHIMPUR DIST NORTH LAKHIMPUR  
PIN - 787001.  
26:THE JOINT DIRECTOR OF HEALTH SERVICES

NALBARI  
P.O. NALBARI  
DIST. NALBARI  
PIN - 783159.  
27:SMT. RIMA DAS  
C/O PRINCIPAL  
FAKHARUDDIN ALI AHMED MEDICAL COLLEGE AND HOSPITAL  
BARPETA  
PIN - 781301  
DIST. BARPETA

28:MALLIKA DAS  
SILCHAR MEDICAL COLLEGE  
PIN - 788016  
SILCHAR.  
29:USHA DAS

FAKHARUDDIN ALI AHMED MEDICAL COLLEGE AND HOSPITAL  
BARPETA  
PIN - 781301  
DIST. BARPETA  
30:SMT. ANGIKA BORA  
C/O THE JOINT DIRECTOR OF HEALTH SERVICES  
ASSAM  
HENGRABARI



GUWAHATI-36.  
31:SMT. PRANJU BORGOHAIN  
C/O THE JOINT DIRECTOR OF HEALTH SERVICES  
ASSAM  
HENGRABARI  
GUWAHATI-36.  
32:SMT. CHAMPA DEKA  
C/O THE PRINCIPAL CUM CHIEF SUPERINTENDENT JORHAT MEDICAL  
COLLEGE HOSPITAL  
P.O. and DIST. JORHAT  
PIN - 785001  
ASSAM.  
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Linked Case : WP(C)/7724/2015

MRS RITAMONI LASKAR and 27 ORS  
W/O KAMAL BARMAN VILL- SIMALUGURI P.O. KACHAMARI  
P.S. SADAR DIST. NAGAON  
- 782002.

2: MRS GITANJALI HANDIQUE DAS  
W/O SRI MANTU KR. DAS  
VILL-ATHGAON CHAPORI  
P.O and PS- DHING  
DIST- LAKHIMPUR

3: TILUTTAMA BORDOLOI

W/O MOHITU SENAPATI  
VILL-PACHIM SALMARA  
P.O - PHULOGURI  
P.S- RAHA  
DIST- NAGAON.

4: RIMI RANI DAS

C/O NARUTIAM MEDHI  
VILL- KUJIDAH HATICHONG  
P.O.- HATICHONG  
P.S- JAJARI DIST- NAGAON.

5: MRS GAYATRI GOGOI BORAH  
C/O RINTU BORAH  
VILL- NA DEURI GAON  
P.O.- PATIAPAM



P.S- TAMPUR  
DIST- NAGAON

6: MRS BOBIMONI BAIRAGI

C/O MR. KUMUD SAIKIA  
VILL.-BRAHMACHARI SATRA  
P.O- TELIAGAON  
P.S - SAMAGURI  
DIST- NAGAON

7: MISS PURNIMA BORAH  
C/O LT KRISHNA RAM BORAH  
VILL- PURANIGUDAM MIKIHAT ALSIGAGAON  
P.O- PURANIGUDAM  
P.S- SAMAGURI  
DIST- NAGAON.

8: MEHMUDA YESMIN

C/O ASRAFUL ALAM  
VILL- SAILMARI  
P.O- MADUPUR  
P.S- SADAR  
DIST- NAGAON

9: BINA BORA KAKOTY  
C/O LT. NARAYAN KEOT  
W/O NRIPEN KAKOTY  
VILL- PANIGAON POLLY ROAD  
P.O- NAGAON  
P.S- SADAR  
DIST- NAGAON.

10: BABITA BORA

D/O BHUTHAR BORA  
C/O SANJAY BARMAN  
VILL- KOCHOLUKHWA  
MADHANAGAR  
P.O- NAGAON  
P.S- SADAR  
CIST- NAGAON.

11: MRS. ANIMA HAZARIKA



C/O LATE PADUM HAZARIKA  
VILL- POTANI SONAR GAON  
P.O- BIHARIGAON  
P.S- SADAR  
DIST- NAGAON.

12: MRS TULUMAI DAS

C/O BHOLA RAM DAS  
VILL- SENEHOWA  
P.O - SENEHOWA  
P.S- SADAR  
DIST- NAGAON.

13: MRS PHUNU GOGOI

D/O SUBHA CH. GOGOI  
VILL- M. AZAD ROAD  
P.O and DIST- NAGAON  
PIN 782002.

14: MRS. MINATI DEVI

C/O LT RATNESWAR NATH  
VILL- BIRAH BEBEJIA  
P.O- BEBEJIA  
P.S- SADAR  
DIST- NAGAON.

15: MRS LAKHI SAIKIA BORAH

W/O MR. BIPUL BORAH  
VILL- BIRAH BEBEJIA  
NEAR DAIRY DEVELOPMENT OFFICE P.O- and PS- BEBEJIA  
DIST - NAGAON.

16: JAYA DEY

D/O RANJIT DEY  
C/O SNEHASIS ACHARYA  
VILL- KOCHALUKHUWA  
MADHAB NAGAR  
P.O- NAGAON  
P.S- SADAR  
DIST- NAGAON  
PIN- 782001.

17: BORNALI PRADHAN GOLDSMITH



D/O LATE JHON PRADHAN  
VILL- CHRISTIAN PATTY  
ADP ROAD  
P.O- NAGAON  
P.S- SADAR  
DIST- NAGAON  
PIN- 782001

18: MRS BANTI BORA

D/O SASHI KT. BORA  
VILL- PARALIGURI  
P.O- KAMPUR  
DIST- NAGAON  
PIN- 782426

19: ANJU RABHA

C/O LATE PABONA KUMAR RABHA  
VILL- SAMAGURI  
DIST- NAGAON  
ASSAM

20: RUNU PROVA DEVI  
C/O PITRAM NATH  
VILL- JAMUGURI PUB  
P.O- JAMUGURI  
P.S- SADAR  
DIST- NAGAON  
PIN- 782142.

21: MINTU BEGUM

C/O LATE ASAN ALI  
VILL- BURAGOHATHAN P.H.C  
P.O- DEWRIGAON  
P.S- SADAR  
DIST- NAGAON  
PIN- 782144.

22: RIMA BHUIYAN  
W/O CHENA RAM KALITA  
VILL- RANTHALI RAJABHETI  
P.O- RANTHALI  
DIST- NAGAON  
PIN- 782101.





23: TARAMAI LALUNG

D/O KAMAL SING LALUNG  
VILL- MAJGAON  
P.O- MAJGAON  
P.S- JAJARI  
DIST- NAGAON  
PIN- 782142.

24: MRS DIPALI DEVI DAS  
W/O MR. PRADIP DAS  
VILL- PACHIM GHILANI  
P.O- GHILANI  
P.S- KAMPUR DIST- NAGAON  
PIN- 782426.

25: MRS PUSPALATA BORAH

D/O PUHIRAM BORA  
VILL- PUTANI CHUTIA GAON  
P.O- BIRAHIGAON  
P.S- SADAR DIST- NAGAON.

26: MRS NIRU SAIKIA

W/O MR SACHINDRA NATH  
VILL- BAHALPUR  
P.S- CHAPAR  
DIST- DHUBRI.

27: DALINA SULTANA

C/O SAJIDUL ISLAM  
VILL- BORBHETI  
P.O- KACHOMARI  
P.S- SADAR DIST- NAGAON.

28: BABITA DAS

C/O RANJAN KR. MEDHI  
VILL- NIZ DIMOW  
P.O and PS- BEBEJIA  
DIST- NAGAON.  
VERSUS

THE STATE OF ASSAM AND 4 ORS  
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM  
DEPARTMENT OF HEALTH



DISPUR  
GUWAHATI-06  
ASSAM.

2:THE DEPUTY SECRETARY TO THE GOVERNMENT OF ASSAM

HEALTH and FAMILY WELFARE DEPARTMENT  
DISPUR  
GUWAHATI-06.

3:THE DIRECTOR OF HEALTH SERVICES  
FW

ASSAM  
SWASTHA BHAWAN  
HENGARABARI  
GUWAHATI-36  
ASSAM.

4:CHIEF MEDICAL OFFICER  
SONAPUR HOSPITAL  
KAMRUP M.

5:THE DIRECTOR  
EMPLOYMENT AND VOCATIONAL TRAINING  
REHABARI  
GUWAHATI-08  
KAMRUPM.  
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Linked Case : WP(C)/1120/2016

SMT. REKHAMONI GOGOI and 9 ORS  
W/O MR. JADAV CHANDRA GOGOI R/O VILL- TOWN BANTOW  
WARD NO. 14  
P.O. HATILUNG BANTOW  
PIN - 787001  
DIST. LAKHIMPUR.

2: MISS. RABIN SULTANA BEGUM  
D/O LT. IBRAHIM ALI VILL- MOIDOMIA  
P.O. MOIDOMIA PIN - 787001  
DIST. LAKHIMPUR

3: SMT. REKHA DEVI SAIKIA  
W/O MR. MAHUDHAR SONOWAL VILL- PURONI BHARALIBARI  
P.O. ERA MESHLOW PIN -78600  
DIST. DIBRUGARH.

4: SMT. MANJUBALA NEOG  
W/O MR. JITEN NEOG



VILL- NA-PAM RANGPURIA  
P.O. LILABARI PIN -787001  
DIST. LAKHIMPUR

5: SMT. URMILA CHETIA  
W/O MR. BIRINCHI PHUKON VILL- MORAN SANTIPUR P.O. MORANHAT PIN  
- 785669  
DIST. SIVASAGAR.

6: SMT. MOMI HAZARIKA  
D/O MR. BIJOY HAZARIKA VILL- KAKOPATHAR  
P.O. KAKOPATHAR PIN- 786152  
DIST. TINSUKIA  
ASSAM.

7: SMT. PINKU BORAH  
W/O DIPEN DUTTA VILL- KARCHAN  
P.O. AZAD PIN - 787001  
DIST. LAKHIMPUR

8: SMT. DIPANJALI BORAH  
W/O SARAT DUTTA VILL- GHARMORA SATRA P.O. GHARMORA PIN -787001  
DIST. LAKHIMPUR.

9: SMT. ALPANA DAS  
D/O MR. KAMALA DAS VILL- NIZMANKATA KHANIA GOAN  
P.O. MANKATA  
P.S. DIBRUGARH PIN - 786001  
DIST. DIBRUGARH.

10: SMT. UTTRA DEKA  
W/O MR. GOPAL DEKA R/O GANESHNAGAR  
BASISTHA  
HILL VIEW PATH  
H/NO. 13  
NEAR CID QUARTER  
PIN - 787029  
DIST. KAMRUP M.  
VERSUS

THE STATE OF ASSAM AND 21 ORS  
REP. BY THE CHIEF SECRETARY TO THE GOVT OF ASSAM  
DISPUR  
GUWAHATI-6  
DIST. KAMRUP M  
ASSAM.



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Linked Case : WP(C)/7528/2015

SMTI INDRAWATI TAMANG and 4 ORS

W/O MR. SANJIT KUMAR HANDIQUE R/O VILL- SUNPURA SARUDHANIA  
P.O. NATUNBALIJAN SADIYA P.S. CHENG SUL SADIYA  
PIN -786158 DIST. TINSUKIA  
ASSAM.

VERSUS

THE STATE OF ASSAM and 18 ORS

REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM  
DISPUR  
GUWAHATI-6  
DIST. KAMRUP M  
ASSAM.

### Advocates for the petitioners

Mr. C. Baruah, Advocate; Mr. A. T. Sarkar, Advocate; Mr. D. Borah, Advocate; Mr. N. Saikia, Advocate; Mr. P. K. Barman, Advocate; Mr. P. K. Das, Advocate; Mr. M. Sarania, Advocate; Mr. A. Gohain, Advocate.

### Advocate for the respondents

Mr. B. Gogoi, Standing counsel, Health Department  
Mr. D. Upamanyu, Standing counsel, Health Department  
Mr. S. P. Das, Standing counsel, Directorate of Employment and Vocational Training

**BEFORE  
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

**JUDGMENT AND ORDER (CAV)**

**Date : 14-02-2023**

Heard the learned counsels appearing on behalf of the petitioners in the batch of the writ petitions. I have also heard Mr. B. Gogoi and Mr. D. Upamanyu, the learned Standing counsels appearing on behalf of the Health Department as well as Mr. S. P. Das, the learned counsel appearing on behalf of the respondent No.5 in WP(C) No.7724/2015 and WP(C) No.7771/2015.

2. In the present batch of writ petitions before this Court, the petitioners herein have challenged the select list dated 14.10.2015 published in the Assam Tribune Newspaper, pursuant to the advertisement dated 14.11.2013, including the selection so made in favour of the private respondents. The petitioners have also sought for a Mandamus directing the respondent authorities to select the petitioners herein as staff nurse under the establishment of the respondent No.2, by virtue of their seniority and experience and on the basis of Minutes of the meeting adopted on 13.02.2015 with the representatives of All Assam NRHM Medical and Paramedical Employees Association along with the Minister of Health and Family Welfare Assam. There is also an alternative prayer made in some of the writ petitions for a direction upon the respondent authorities to regularize the services of the petitioners on the basis of their service as contractual nurse and in pursuant to the Minutes of the meeting adopted on 13.02.2015.

3. To appreciate the issues involved in the present batch of writ petitions, it

is relevant to take note of that the petitioners herein after having completed the Diploma in General Nursing and Midwifery were appointed on contractual basis as Staff Nurse under the National Rural Health Mission, a Sub-Mission of the National Health Mission. It is relevant to take note of that the petitioners herein claim to be appointed on the basis of a due selection procedure conducted by the respondent authorities and thereafter have been rendering services under the National Health Mission by executing respective contractual agreements.

4. On 14.11.2013, the Director of Health Services, Assam had issued an advertisement inviting in a standard form for 541 numbers of Staff Nurses under the Directorate of Health Services Assam for various Health Institutions and Medical Colleges in Assam. In the said advertisement it was stipulated that out of the 541 posts of Staff Nurses, 146 posts were reserved for OBC/MOBC; 38 reserved for SC; 54 reserved for STP; 27 reserved for STH and 276 were unreserved. In terms with the said advertisement, the candidates were required to apply along with certificates of passing GNM course/B.Sc. Nursing course, registration certificate under Assam Nursing Council, age proof, caste certificate (wherever applicable), employment exchange registration number and other supporting documents and 1 (one) copy of recent passport size photograph. The minimum qualification as stipulated in the said advertisement was GNM course/B.Sc. Nursing course passed from Assam Govt. Institution or Institution recognized by Indian Nursing Council and having registration under Assam Nursing Council. In respect to the age, it was specified in the said advertisement that the candidates should not be less than 18 (eighteen) years and not above 38 (thirty eight) years as on 01.01.2013. Further, the relaxation of upper age limit shall be applicable as per rules.

5. In pursuance to the said advertisement, the petitioners who were working on contractual agreements expressed apprehension before the concerned respondent authorities on the ground that if the regular selection proceedings are initiated, they would lose their right for regularization. It has been alleged in the writ petitions that the respondent authorities had assured the petitioners that their regularization would in no way be affected by the present selection process but on the other hand, if they participate in the selection process, weightage would be given to them in view of the service rendered by them and they would stand a fair chance of being selected regularly or as an alternative they could be considered for regularization. It also appears from the records that there was a meeting held between the representatives of All Assam NRHM, Medical and Paramedical Employees Association with the Minister, Health and Family Welfare Assam on 13.02.2015. The Minutes of the said meeting was duly recorded and the same have been signed by the Mission Director, NHM as well as by the Principal Secretary, Health and Family Welfare Department. In the said meeting, after detailed discussion, various decisions were taken as enumerated from Serial Nos. 1 to 12. Taking into account the relevance, the said enumerated decisions are reproduced hereinbelow:

“1. *It was decided to refer the demands to the High Level Committee to be constituted to examine and recommend:*

*a) Regularization process,*

*b) Salary hike,*

*c) Payment of CPF,*

- d) *Reconstructing the salary structure,*
- e) *Filling up of Govt. vacancies in Health & FW Department by giving preference to NHM employees and age relaxation.*
- All efforts will be made to fill up the vacant sanctioned posts.*
2. *A High Level Committee which includes representatives of Finance Department, Education Department, SSA, Assam with Special invitee of All Assam NRHM Medical & Paramedical Employees Association, Assam will deliberate upon all the issues. The High Level Committee will examine all the issues thoroughly to resolve the issues. The Committee will also take into consideration the present pay structure of the other states of National Health Missions, SSA and other Missions. A comprehensive report with clear recommendations will be submitted within a period of two months.*
3. *For implementation of CPF Scheme for NHM employees, Hon'ble Minister informed that this matter would be examined for incorporation under Annual State Budget, 2015-16. The matter would be also taken up with Govt. of India.*
4. *It was decided that the Committee will be constituted for making recommendation for giving preference to Medical & Paramedical Staff vacancies in Health Department considering their years of experience rendered. Age relaxation also will be considered, after following due procedure.*
5. *A High Level Committee will be formally notified by Government specifying the terms and conditions vis-à-vis demands raised by the All Assam NRHM Medical & Paramedical Employees Association, Assam. The timeline of the Committee to submit the report will be 2 (two) months. On receipt of the recommendations, the Govt. will take steps*



*expeditiously to sort out the issues.*

6. *Efforts will be made for payment of yearly increment to the employees including proposal for 20-30% salary hike in the NHM PIP, 2015-16 with proper justification.*
7. *It was assured that the benefit of providing Group Insurance to NHM employees will be resolved within 7 days finalizing the L<sub>1</sub>. The decisions arrived at the Group Insurance issue will be shared with the office bearers of the Association for consideration.*
8. *The 10% increment as per approval of ROP, 2014-15 is released. The MD, NHM, informed that proposal in the SPIP has been sent already seeking approval for 39 categories who have been left out in the approved list.*
9. *Very soon Directorate of Nursing will be constituted to sort out all grievances and to ensure that norms are followed in recruitment, promotion and training and other matters related with Human Resource etc.*
10. *During performance appraisal all grievances will be given chance for appeal and will be examined in next Higher Level Committee to take necessary action.*
11. *Riverine PHCs will be examined to be considered as posting under difficult areas.*
12. *The matter raised about Urban PHCs regarding discrepancies about salary hike or increment, will also be examined for necessary action."*

6. Before further proceeding, this Court would also like to take note of the above quoted decisions which were taken in the said Minutes of the meeting dated 13.02.2015. It would reveal from the said decisions that a High Level Committee would be constituted to examine and recommend on the question of regularization process, salary hike, payment of CPF, reconstructing the salary structure, filling up of Govt. vacancies in Health and Family Welfare Department by giving preference to NHM employees and age relaxation. It was further decided that a High Level Committee which would include the representatives of the Finance Department, Education Department, SSA, Assam with special invitee of All Assam NRHM Medical & Paramedical Employees Association, Assam will deliberate upon the issues and thereupon the High Level Committee would examine all the issues thoroughly to resolve them. The High Level Committee would also take into consideration the present pay structure of the other States of National Health Missions, SSA and other Missions. A comprehensive report with clear recommendations on the basis thereof would be submitted by the High Level Committee. It was further decided that for implementation of CPF Scheme for NHM employees, the matter would be examined for incorporation under the Annual State Budget, 2015-16 and the matter would also be taken up with the Govt. of India. It was also decided that a Committee would be constituted for making recommendations for giving preference to Medical & Paramedical Staff vacancies in Health Department, considering their years of experience rendered. Age relaxation would also be considered after following due procedure. It was also mentioned that a High Level Committee would be formed formally notified by Government, specifying the terms and conditions vis-à-vis demands raised by the All Assam NRHM Medical & Paramedical Employees Association and the timeline of the Committee to submit the report

would be 2 (two) months. The Government as per the said decision would also take steps expeditiously to sort out the issues on the basis of such recommendations. Further, efforts would also be made for payment of yearly increment to the employees including proposal for 20-30% salary hike in the NHM PIP, 2015-16 with proper justification. Further, the benefit of providing the Group Insurance to NHM employees would be resolved within 7 (seven) days finalizing the L<sub>1</sub> and the decisions arrived at the Group Insurance Issue would be shared with the office bearers of the Association for consideration. It was also decided that 10% increment as per approval of ROP, 2014-15 would be released. The Mission Director, NHM had informed as recorded in the Minutes that the proposal in the SPIP has already been sent seeking approval for 39 categories who have been left out in the approved list. It was also mentioned that there would be a Directorate of Nursing which would be constituted to sort out all grievances and to ensure that norms are followed, in recruitment, promotion and training and other matters related with Human Resources etc.

7. At this stage, it is relevant to mention that in pursuance to the advertisement dated 14.11.2013, the petitioners have also participated in the selection proceedings. The pleadings however are silent as to when the petitioners applied in pursuance to the advertisement dated 14.11.2013. But a perusal of the advertisement reveals that the applications were required to be submitted on or before 04.12.2013. However, on 14.10.2015, the select list was published in the daily Newspaper Assam Tribune. The Petitioners having not found their names in the select list, being aggrieved have approached this Court by filing the present batch of writ petitions.

8. In the writ petitions, the petitioners inter alia contended as follows:

(i) That the advertisement in question did not say anything about the procedure to be adopted for selection. Under such circumstances, as there was no procedure mentioned, the respondent authorities being influenced by extraneous considerations had adopted a pick and choose policy and selected the candidates as appeared in the select list. It was also the case of the petitioners that during the course of interview, the Selection Board only asked about their names and addresses, qualifications and the year of passing of the three years Diploma in General Nursing and Midwifery Course, experience and the length of service. It was alleged that the Selection Board did not put any other question on merit.

(ii) It was further contended that the petitioners herein were senior to the persons who have been selected in as much as those selected candidates (some of whom have been arrayed as parties in some writ petitions) joined their services as Nurse under the NRHM on contractual basis much later than the petitioners. The action of the respondents in not selecting the petitioners suffers from non-application of mind as the petitioners were senior and were not taken into consideration.

(iii) The respondent authorities have clearly violated the Minutes of the meeting held on 13.02.2015 wherein it was clearly stated that the Committee will be constituted for making recommendations for giving preference to Medical & Paramedical Staff vacancies in the Health Department. In the alternative it was also the case of the petitioners that in view of the decision taken in the Minutes of the meeting dated 13.02.2015, the services of the petitioners ought to be regularized on the basis of their service as contractual nurses.

9. It appears from the records that all the 541 candidates have not been

impleaded in the writ petitions so filed, however some of the selected candidates have been arrayed as private respondents in some of the writ petitions in the present batch of writ petitions.

10. In the present batch of writ petitions, it appears that this Court on various dates had issued notice and there were interim orders to that effect that the contractual engagement of the petitioners as GNM in the National Health Mission (NHM) shall be maintained.

11. A perusal of the records reveals that in WP(C) No.6964/2015, WP(C) No.6581/2015 and WP(C) No.6727/2015, the Director of Health Service have filed affidavit-in-opposition. In the said affidavit-in-opposition in WP(C) No.6924/2015, and WP(C) No.6727/2015 which are similar in content, it was mentioned that the advertisement dated 14.11.2013 in the news daily "The Assam Tribune" was issued by the Director of Health Service Assam for filling up of 541 numbers of posts of Staff Nurse under the said Directorate for various Health Institutions and Medical Colleges of Assam by following the reservations policy. It was further mentioned that for conducting the selection of appointment of Staff Nurses pursuant to the advertisement dated 14.11.2013, the Director of Health Services, Assam vide an order No.NS/51/Apptt/SN/2013/8193 dated 20.06.2015 constituted a Selection Committee under the chairmanship of Director of health Services, Assam and the said selection process was scheduled to commence from 22.06.2015 to 02.07.2015 at the Office of the Director of Health Services (Family Welfare), Assam. The Selection Committee thereupon convened a meeting on 20.06.2015 and laid down the various criteria for selection of Staff Nurses. Taking into account the relevance, the criteria so laid down in the meeting of the Selection

Committee is quoted hereinunder:

- “(i) Three Boards are constituted consisting of minimum Members from the Selection Committee.*
- (ii) Each candidate will be interviewed by all the 3 (three) Members of the Board and mark will be awarded on a consensus.*
- (iii) 5 marks for passing out in first attempt will be awarded only to those candidates who will furnished all the marksheets of GNM/B.Sc. Nursing examinations. Candidates failing to submit all the marksheets will not be awarded 5 marks for first attempt.*
- (iv) Marks for academic performance for GNM/B.Sc. Nursing will be awarded as per the percentage of marks achieved in the final examination.*
- (v) For work experience, the members decided that, 1 (one) mark will be awarded for each completed year and marks will not be awarded to those candidates who are not able to submit valid experience certificate at the time of interview.*
- (vi) It is also decided that, the applicants having additional qualification will be awarded 5 marks, for post graduate degree and diploma.*
- (vii) In accordance to Nursing Registration, it is decided that Registration Number of applicants should be registered under Assam Nursing Council only.*
- (viii) Sheet containing allotment of marks format has been approved by the Members of the Committee.*
- (ix) It is also decided that, the candidates may appear before the interview board on 2<sup>nd</sup> July, 2015, who remained absent in the interview on the stipulated date.”*

12. Pursuant thereto, vide a communication dated 22.06.2015, the Government in the Health and Family Welfare (A) Department had approved the constitution of the selection board/committee to conduct the interview for selection of Staff Nurses. It further appears on record that the selection was conducted from 22.06.2015 to 02.07.2015. Total number of applicants who applied were 3617 and out of which 2325 numbers of candidates appeared in the interview. It further appears that out of the said candidates, 541 numbers of candidates were selected in the order of merit and the number of selected candidates as per the 100 point roster were 276 unreserved, 146 OBC/MOBC, 54 ST(P), 38 SC and 27 ST(H). The said aspect of the matter was duly recorded in the Minutes of the Selection Committee Meeting held on 31.08.2015. It was further mentioned in the said affidavit that the marks secured by the first and last selected candidate as per the categories which is reproduced hereinunder:

Sl. No.	CASTE	FIRST SELECTED CANDIDATE	LAST SELECTED CANDIDATE
1.	ST (HILLS)	59.11	55
2.	ST (PLAIN)	58.95	56.18
3.	SC	58.938	56.18
4.	OBC	59.34	56.503
5.	UNRESERVED	73.514	60.13

13. Further to that it was mentioned that the petitioners who belonged to the various categories scored lesser marks than the last selected candidate and for the said reason, the petitioners could not be selected. In the affidavit-in-

opposition, details were furnished in respect to the Petitioners' marks.

14. In the affidavit-in-opposition filed in WP(C) No.6581/2015, the stand taken is that the appointments under the National Health Mission was temporary and that they were not given assurance about registration of their services under the Directorate of Health Services. It was stated that National Health Mission is a separate establishment and the petitioners were working under National Health Mission as contractual employees under certain terms and conditions. In respect to the Minutes of the Meeting dated 13.02.2015, there is no mention as regards its effect. However, it was mentioned in paragraph Nos. 7 and 11 of the affidavit-in-opposition that the Director of Health Services have not received any instructions/recommendations for the High Power Committee. It was further stated that action will be taken if any instructions/recommendations by the Government is brought to the knowledge of the Deponent of the said affidavit. It was also mentioned that pursuant to the Selection, the 541 Staff Nurses have been appointed and they have joined their services.

15. It is also relevant to take note of that some of the selected candidates have been arrayed as respondents in WP(C) No.6964/2015 and WP(C) No.7528/2015. In WP(C) No.6964/2015, the private respondents have filed an affidavit-in-opposition wherein they had denied the various allegations made by the petitioners in the writ petition. It is however interesting to note that the private respondents were also appointed under the NRHM on contractual basis. This aspect of the matter is very pertinent and relevant to the issue involved in the instant case taking into account that the petitioners' claim made on the basis of the Minutes of the Meeting dated 13.02.2015. It further appears from the said affidavits filed by the private respondents that the selected candidates



applied for the posts in terms with the advertisement dated 14.11.2013 and were selected as declared in the select list dated 14.10.2015. Pursuant thereto, they have been appointed in their respective posts immediately thereafter and since then, the private respondents have been working. It was further stated in their affidavits that the private respondents were also appointed by the Mission Director, NRHM on contractual basis on the basis of the selection process. Taking into account that the selection process initiated on the basis of the advertisement dated 14.11.2013 is a regular selection process, it was averred that the year of passing the Diploma had no relevance. In respect to the Minutes of the meeting dated 13.02.2015, it was mentioned in the affidavit by the private respondents that neither they were present at the time of the meeting nor they were members of the said Association and as such, the said decision had no binding effect for making a regular selection process.

16. In the backdrop of the above pleadings of the parties, this Court finds it relevant to take note of respective submissions made by the learned counsels for the petitioners as well as the respondents.

17. In WP(C) No.6890/2015 and WP(C) No.1120/2016, the Union of India as well as the National Rural Health Mission have been arrayed as party respondents. However, there is no stand taken by the said respondents as there was no affidavit filed.

#### SUBMISSIONS ON BEHALF OF THE PETITIONERS:

(i) The learned counsels for the petitioners submitted that the selection so carried out on the basis of the advertisement dated 14.11.2013 is an eyewash in order to give appointments on pick and choose policy and this aspect of the

matter is clear from the fact that in the advertisement, there was no procedure prescribed as to how the selection would be made. The learned counsels submitted that the authorities concerned had adopted the procedure subsequent to the advertisement so that they could appoint their blue eyed candidates. The learned counsel submitted that in the interview, the petitioners were asked about their name, address, qualification and year of passing of their three years diploma in Nursing and Midwifery course, experience and length of service. There were no other question(s) asked on the subject to test the candidates on merits and as such, it was surprising as to how the respondent authorities have prepared the select list and thereby deprived the petitioners of being selected pursuant to the said selection proceedings merely on the basis of the said questions being put, more so, when the petitioners were senior and had more experience than the private respondents. It is on the basis of the above contention, the learned counsel for the petitioners have submitted that the select list so prepared is liable to be interfered with.

(ii) The learned counsels also submitted that there was another selection process initiated for filling up 835 vacancies for ANM Nurses under the Director of Health Services (Family Welfare), Assam. In respect to the said selection proceedings, the respondents have also admitted in their affidavit the anomalies and illegalities. The present selection proceedings also as per the petitioners, suffers from the same anomalies and illegalities for which it is required to be interfered with.

(iii) The learned counsels for the petitioners further submitted that if this Court is however not inclined to interfere with the select list, then in that regard, this Court may take note of the Minutes of the meeting dated 13.02.2015 and the

decisions recorded therein and on the basis thereof, directions may be issued to the respondents to regularize the cases of the petitioners taking into account that the petitioners have rendered service as of now for periods exceeding 15 years and in some cases more than 20 years.

(iv) There was a vain attempt made by one set of writ petitioners to claim parity in pay between the nurses working on contractual capacity under the National Rural Health Mission with the regular nurses appointed under the Directorate of Health Services on the ground that both the sets of nurses perform same work and as such they are entitled to pay as well as other emoluments. However, the learned counsels for the petitioners submitted that certain more details need to be brought on record for the purpose of claiming pay parity and as such this Court instead of adjudicating the said issue may grant the liberty to all the petitioners in the various batch of writ petitions to file a separate writ petition claiming pay parity, if they wish so.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS:

(i) Mr. B. Gogoi, the learned Standing counsel appearing on behalf of the Health Department submitted that the petitioners herein cannot maintain the writ petitions challenging the select list on the ground that they having participated in the selection proceedings and upon their failure to be selected, cannot now turn around and challenge the selection proceedings or the results thereof on the ground that the procedure was not prescribed in the advertisement.

(ii) The learned counsel further submitted that in the instant case pursuant to the advertisement dated 14.11.2013 as many as 3617 applications were

received by the department out of which 2325 candidates had appeared in the interview. He submitted that pursuant to the constitution of the Selection Committee, the Selection Committee in its meeting dated 20.06.2015 has laid down the parameters on the basis of which the selection would be carried out. It is on the basis thereof the Selection Committee which constitutes experts in the field have carried out the selection and have selected 541 candidates in order of merit. Referring to the affidavit-in-opposition, he submitted that in each of the categories, details have been mentioned as the marks obtained by the first selected candidate as well as the last selected candidate. The marks of the petitioners in the instant cases were however lower than the last selected candidate of each of the categories. The details of which have been mentioned in the affidavit-in-opposition. Under such circumstances, the learned counsel therefore submitted the question of interference with the selection proceedings on the ground that there was no selection procedure adopted, mentioned in the advertisement is totally misconceived. He further submitted that the question of suitability of the candidates who have been selected is based upon the subjective satisfaction of the experts who have selected them. There is no allegation in the petitions specifically against any of the members of the Selection Committee and it is only vague allegations that have been made in the petitions to the effect that the interview was not conducted by asking relevant questions on the subject. He further submitted that question of challenging the selection proceedings as well as the select list is totally misconceived.

(iii) On the question of claim of regularization, the learned Standing counsel has submitted that the petitioners herein are appointed on the basis of contractual agreements on year to year basis under the National Rural Health Mission. He submitted that in National Rural Health Mission, all appointments so

made are on contractual basis and as such the concept of regularizing them in the National Rural Health Mission does not arise. He further submitted that the appointments in the Directorate of Health Services and appointments made in the National Rural Health Mission are separate and distinct and under such circumstances, persons working in the National Rural Health Mission cannot be regularized on account of their services being rendered in the National Rural Health Mission. He further submitted that neither the State Government nor the High Powered Committee to be constituted in terms with the Minutes of the Meeting dated 13.02.2015 have made any recommendations in favour of the petitioners.

(iv) On the decisions taken in the Minutes of the Meeting dated 13.02.2015, the learned counsel submits that the decisions taken therein in the meeting dated 13.02.2015 is not enforceable in law in as much as the said decision cannot be construed as a policy decision and as such the question of issuing any direction by this Court to regularize the petitioners on the basis of the decision taken in the meeting dated 13.02.2015 do not arise.

18. Upon hearing the learned counsels for the parties and upon perusal of the materials on record, three issues arise for consideration.

- (i) Whether the Selection proceedings initiated on the basis of the advertisement dated 14.11.2013 and culminated with the issuance of the select list dated 14.10.2015 is required to be interfered with on the present facts?
- (ii) Whether a writ of Mandamus can be issued directing the respondent authorities to regularize the services of the

petitioners on the basis of their service as contractual nurses in terms with the decision taken in the Minutes of the Meeting held on 13.02.2015?

- (iii) If the answer to the Issue Nos. (i) & (ii) are in the negative, what relief(s) the petitioners are entitled to?

19. Let this Court first take into consideration the first Issue so formulated. A perusal of the writ petitions would show that in pursuance to the advertisement dated 14.11.2013, the petitioners who are employed as contractual nurses under the National Rural Health Mission along with various other candidates have applied for the posts of Staff Nurses under the Directorate of Health Services. The petitioners participated in the entire selection proceedings and later finding out that their names did not appear in the select list dated 14.10.2015 published in the Assam Tribune Newspaper have filed the present batch of writ petitions assailing the selection process on the ground that the advertisement did not say anything about the procedure to be adopted for selection and the petitioners were under the impression that the selection will be made on the basis of the date of passing 3 years Diploma in General Nursing and Midwifery Course and the experience of the candidates. It is also the case of the petitioners that in the interview so held that the petitioners were only asked their names and addresses, qualifications and the year of passing of their 3 years Diploma in General Nursing and Midwifery Course, experience and length of service and there were no questions asked on the subject. The first question therefore arises is as to whether the petitioners having full knowledge that the advertisement did not prescribe the procedure for selection and having participated in the selection proceedings, can they be permitted now to assail

the selection proceedings on the ground that there was no procedure mentioned in the advertisement? The law in this regard is well settled by various judgments of the Supreme Court starting from the case of ***DR. G. Sarana Vs. University of Lucknow and Others*** reported in (1976) 3 SCC 585; ***Madan Lal and Others Vs. State of J&K and Others*** reported in (1995) 3 SCC 486; ***Manish Kumar Shahi Vs. State of Bihar and Others*** reported in (2010) 12 SCC 576; ***Ramesh Chandra Shah and Others Vs. Anil Joshi and Others*** reported in (2013) 11 SCC 309; ***Madras Institute of Development Studies and Another Vs. K. Sivasubramaniyan and Others*** reported in (2016) 1 SCC 454; ***D. Sarojakumari Vs. R. Helen Thilakom and Others*** reported in (2017) 9 SCC 478 and ***Mohd. Mustafa Vs. Union of India and Others*** reported in (2022) 1 SCC 294.

20. Let this Court take into consideration some of the aforesaid judgments. In the case of ***Madan Lal (supra)***, the Supreme Court had observed that the petitioners therein having taken a chance to get himself selected at the said oral interview and only because the petitioners therein did not find themselves to have emerged successful as a result of their combined performance both at written test and oral interview, they have filed the petition. It was observed by the Supreme Court that if a candidate takes a calculated chance and appears at the interview, then, only because the result of the interview was not palatable to him, he cannot turn round and subsequently contend that the process of interview was unfair or the Selection Committee was not properly constituted. In the case of ***Manish Kumar Shahi (supra)***, the Supreme Court further observed that if the petitioner's name had appeared in the merit list, he would not have even dreamed of challenging the selection. The petitioner therein invoked jurisdiction of the High Court under Article 226 of the Constitution of India only after he found that his name did not figure in the merit list prepared by the

Commission. It was observed by the Supreme Court in the said judgment that the conduct of the petitioner clearly disentitles him from questioning the selection and the High Court did not commit any error by refusing to entertain the writ petition. Subsequently, in the case of **Ramesh Chandra Shah (supra)**, the Supreme Court observed that having taken part in the process of selection with full knowledge that the recruitment was being made under the General Rules, the respondents had waived their right to question the advertisement or the methodology adopted by the Board for making selection.

21. In the instant case, it would be seen that the petitioners herein had full knowledge that there was no procedure stipulated in the advertisement but then also had participated in the selection proceedings and having not found themselves to be selected, have approached this Court challenging the said selection proceedings. In the opinion of this Court, this disentitles the petitioners to challenge the said advertisement as well as the selection proceedings on the ground that there was no procedure mentioned advertisement.

22. Now, coming into the question of the allegation that without there being a procedure, the respondent authorities being influenced by extraneous consideration have adopted a pick and choose policy. This Court is of the opinion that the said contention of the petitioners is totally misconceived and unsustainable inasmuch a perusal of the Minutes of the Meeting dated 20.06.2015 of the Selection Committee reveals that the Selection Committee had adopted certain parameters/criteria on the basis of which the selection would be made. The details of which have already been quoted hereinabove. The Selection Committee so constituted is an expert body knowing fully well the



requirements for the job in question and have formulated the procedure to assess the suitability of the candidates. This Court cannot and ought to interfere with the said formulation of the criteria unless the same appears to be perverse. Moreover, no perversity have been shown to the said formulation of criteria.

23. It further transpires from the affidavit filed by the State Respondents as to how much the first selected candidate and the last selected candidate achieved in the various categories. As per the affidavits of the State Respondents, some details have been furnished in respect to some of the petitioners which show that they obtained marks less than the last selected candidate in their respective categories. It would also be seen that the selection was conducted by expert body and the decision of the expert body cannot be questioned on mere vague statements that the respondent authorities being influenced by extraneous considerations have adopted a pick and choose policy. Furthermore, another important aspect is that the petitioners never agitated the issue of the manner of selection immediately after the interview but have agitated the same only after coming to learn about the results. This Court is of the opinion that the same analogy as laid down in the case of **Madal Lal (supra)** would also apply. Under such circumstances, the question of challenging the selection process does not arise in the facts and circumstances of the instant case. In that view of the matter, this Court is of the opinion that the select list dated 14.10.2015 published in the Assam Tribune Newspaper pursuant to the advertisement dated 14.11.2013 is in conformity with the selection procedure adopted and accordingly no interference is therefore called for to the select list dated 14.10.2015.

24. The second issue so formulated is as to whether a writ of Mandamus can

be issued directing the respondent authorities to regularize the services of the petitioners on the basis of their services as contractual nurses under the National Rural Health Mission in terms with the decisions taken in the Minutes of the Meeting dated 13.02.2015. This Court in the foregoing paragraphs of the instant judgment have already specifically dealt with the decisions taken in the Minutes of the Meeting dated 13.02.2015. It is relevant to take note of that in the Minutes of the Meeting dated 13.02.2015, there is no mention whatsoever that the said decisions were taken in view of the advertisement dated 14.11.2013 or for that matter, the vacancies in pursuance to the said advertisement dated 14.11.2013 would be filled up on the basis of the said decisions taken in the Minutes of the Meeting dated 13.02.2015. The learned counsels for the petitioners have failed to show that there is a statutory duty imposed upon the respondent authorities on the basis of the contractual appointments being given to the petitioners that the services of the petitioners would be regularized in the vacancies of the Health Department of the State of Assam. The learned counsels for the petitioners have also failed to show that the decisions taken in the Minutes of the Meeting dated 13.02.2015 is a policy decision of the State on the basis of which the petitioners have a right and the respondents in the State Health Department have a corresponding duty to regularize the services of the petitioners. Even otherwise, this Court is of the opinion that the perusal of the Minutes of the Meeting dated 13.02.2015 cannot be enforced in a Court of law inasmuch as the said decisions so taken were not in accordance with the Assam Rules of Executive Business, 1968. The reason for coming to the said finding would be apparent from a perusal of the Minutes of the Meeting dated 13.02.2015 itself wherein it has been mentioned that the demands pertaining to regularization process, salary hike, payment of CPF,

reconstructing the salary structure, filling up of vacancies in Health and Family Welfare Department by giving preference to NHM employees and age relaxations would only be referred to the High Level Committee to be constituted to examine and recommend. It is also very pertinent to take note of that the said decision was taken in presence of Minister of Health and the Minutes were signed by the Mission Director, NHM as well as Principal Secretary, Health and Family Welfare Department. Now the question therefore arises as to whether the said decisions can at all be enforced in view of Rule 10 of the Assam Rules of Executive Business, 1968 which categorically mandates that no department shall without previous consultation with the Finance Department amongst others authorize any orders which relates to the number or grading of cadre of posts or the emoluments or other conditions of service of post; involve the addition of post in a public service or the variation of emoluments of any post; involve the sanction of any allowance or special or personal pay for any post or class of post or to any employees of the Government of Assam as well as involves an expenditure for which no provision have been made in the Appropriation Act or which is in excess of the provisions made in the Act.

25. The learned counsels for the petitioners have failed to show that the said decisions so taken in the Minutes of the Meeting dated 13.02.2015 had been done with the consultation of the Finance Department prior or even post facto. Under such circumstances, the question therefore arises is as to whether this Court can issue a Mandamus in the present facts and circumstances.

26. There is abundant authority in favour of the proposition that the writ of Mandamus can be granted only in the case where there is a statutory duty imposed upon the officer concerned and there is failure on the part of the

officer to discharge the statutory obligations. The chief function of a writ of Mandamus is to compel performance of public duties prescribed by the statute and to keep Subordinate Tribunals and Officers exercising public functions within the limits of their jurisdiction. It follows, therefore that in order that the Mandamus may be issued to compel the authorities to do something, it must be sworn that there is a statute which imposes a legal duty and the aggrieved party has a legal right under the statute to enforce its performance. In the case of ***Bihar Eastern Gangetic Fisherman Co-operative Society Ltd. Vs. Sipahi Singh and Others*** reported in (1977) 4 SCC 145, the Supreme Court had observed that as there was no statute or Rule having the force of law, which casts a duty upon the respondent authorities which they failed to perform and what was sought to be enforced is an obligation flowing from a contract which was held to be not binding and enforceable, the Supreme Court was of the opinion that the petitioners therein were not entitled to apply for a grant of writ of Mandamus under Article 226 of the Constitution and the High Court was not competent to issue the same.

27. ***In the case of Comptroller and Auditor General of India Vs. K. S. Jagannathan*** reported in (1986) 2 SCC 679, the Supreme Court of India discussed the contours of the powers of the High Courts exercising their jurisdiction under Article 226 of the Constitution in respect to a writ of Mandamus. Paragraph No.20 of the said judgment being relevant is quoted hereinbelow:

***“20. There is thus no doubt that the High Courts in India exercising their jurisdiction under Article 226 have the power to issue a writ of mandamus or a writ in the nature of mandamus or to pass orders and give necessary directions where the government or a public authority has***

*failed to exercise or has wrongly exercised the discretion conferred upon it by a statute or a rule or a policy decision of the government or has exercised such discretion mala fide or on irrelevant considerations or by ignoring the relevant considerations and materials or in such a manner as to frustrate the object of conferring such discretion or the policy for implementing which such discretion has been conferred. In all such cases and in any other fit and proper case a High Court can, in the exercise of its jurisdiction under Article 226, issue a writ of mandamus or a writ in the nature of mandamus or pass orders and give directions to compel the performance in a proper and lawful manner of the discretion conferred upon the government or a public authority, and in a proper case, in order to prevent injustice resulting to the concerned parties, the court may itself pass an order or give directions which the government or the public authority should have passed or given had it properly and lawfully exercised its discretion.”*

28. In a very recent judgment in the case of ***Union of India Vs. Bharat Forge Ltd.*** reported in **(2022) SCC Online SC 1018**, the Supreme Court further dealt with the scope of a writ of Mandamus. Paragraph 18 being relevant is reproduced hereinbelow:

*“18. Therefore, it is clear that a Writ of Mandamus or a direction, in the nature of a Writ of Mandamus, is not to be withheld, in the exercise of powers of Article 226 on any technicalities. This is subject only to the indispensable requirements being fulfilled. There must be a public duty. While the duty may, indeed, arise from a Statute ordinarily, the duty can be imposed by common charter, common law, custom or even contract. The fact that a duty may have to be unravelled and the mist around it cleared before its shape is unfolded may not relieve the Court of its duty to cull out a public duty in a Statute or otherwise, if in substance, it exists. Equally, Mandamus would lie if the Authority, which had a*

*discretion, fails to exercise it and prefers to act under dictation of another Authority. A Writ of Mandamus or a direction in the nature thereof had been given a very wide scope in the conditions prevailing in this country and it is to be issued wherever there is a public duty and there is a failure to perform and the courts will not be bound by technicalities and its chief concern should be to reach justice to the wronged. We are not dilating on or diluting other requirements, which would ordinarily include the need for making a demand unless a demand is found to be futile in circumstances, which have already been catalogued in the earlier decisions of this Court.*

29. It would therefore appear from a perusal of the law laid down by the Supreme Court that a writ of Mandamus can be issued where a Government or the public authority has failed to exercise or has wrongly exercised its discretion conferred upon it by a statute or a Rule or a policy decision of the Government or has exercised such discretion mala fide or on irrelevant considerations or by ignoring the relevant considerations and materials or in such a manner as to frustrate the object of conferring such discretion or the policy for implementing where such discretion has been conferred. Further, it was also observed in the case of **Bharat Forge (supra)** that the writ of Mandamus or a direction in the nature of a writ of Mandamus is not to be withheld in exercise of the powers under Article 226 of the Constitution on any technicalities. It was however observed that the said observations is subject only to the indispensable requirement being fulfilled i.e. there must be a public duty. It was further clarified as to when a duty may arise i.e. from a statute ordinarily, the duty can be imposed by a common charter, common law, custom or even a contract. It was further observed that the fact that the duty may have to be unravelled and the mist around it cleared before its shape is unfolded, may not relieve the

Court of its duty to cull out a public duty in a statute or others, if in substance, it exists.

30. In the backdrop of the above law, it would be seen that neither from the contracts entered into by the petitioners with the NRHM nor anything has been shown that there is a duty cast upon the respondent authorities to regularize the petitioners in the services of the State Health Service. This Court further reiterates that the decision so taken in the Minutes of the Meeting dated 13.02.2015 under no circumstances can also be termed to be a policy decision of the State Government. Further to that, the said decisions cannot be enforced without there being a concurrence with the Finance Department as already observed hereinabove. Under such circumstances, this Court is therefore of the opinion that this Court cannot issue a writ in the nature of Mandamus directing the State respondents, more particularly the Health and Family Welfare Department to regularize the services of the petitioners on the basis of their contractual service under the National Rural Health Mission and the Minutes of the Meeting dated 13.02.2015.

31. In addition to the above observations, this Court at this stage would like to take note of the submissions made by the learned counsel appearing on behalf of the Health and Family Welfare Department that the services under the National Rural Health Mission is completely different from the services under the Health and Family Welfare Department of the Government of Assam. He submitted that the concept of regularization is completely foreign in the National Rural Health Mission and under such circumstances, the question of petitioners being regularized on the basis thereof do not arise. This Court is of the opinion that taking into consideration that the services of the petitioners are on

contractual basis employed under the National Rural Health Mission, issuance of a writ of Mandamus thereby directing the National Health Mission to regularize the services of the petitioners in the National Health Mission would also not be proper taking into account that all employees under the National Health Mission are appointed on contractual basis. The above discussion therefore answers the second issue so framed against the petitioners.

32. This Court has already observed that the petitioners are not entitled to any relief on the Issue Nos. (i) and (ii). Now, the question therefore arises as to whether any other relief(s) the petitioners are therefore entitled to. It would be seen from a perusal of the batch of writ petitions that except in WP(C) No.6590/2015 and the WP(C) No.1120/2016, the National Rural Health Mission is not a party. Be that as it may, the National Rural Health Mission have not filed any affidavit in those two writ petitions.

33. Before proceeding further, this Court finds it necessary to understand what is the National Health Mission. The National Health Mission encompasses two Sub Missions i.e. National Rural Health Mission (NRHM) and National Urban Health Mission (NUHM). The institutional mechanism of the National Health Mission comprises of two levels i.e. National Level and the State Level. At the National Level, the Mission Steering Group (MSG) and the Empowered Programme Committee (EPC) are in place. The MSG provides policy directions to the Mission. The financial proposals brought before the MSG are first placed before and examined EPC. The Union Minister of Health and Family Welfare chairs the MSG and the Convener is the Secretary, Department of Health and Family Welfare and the Co-convener is the Additional Secretary and Mission Director.



34. In the State Level, the Mission functions under the over all guidance of the State Health Mission (SHM) headed by the State Chief Minister. The State Health Society (SHS) would carry the functions under the Mission and would be headed by the Chief Secretary. The District Health Mission (DHM)/City Health Mission (CHM) would be headed by the Head of the local self-Government i.e. the Chairperson Zila Parishad/Mayor as decided by the State depending upon whether the District is predominantly rural or urban. Every district will have a District Health Society (DHS) which would be headed by the District Collector.

35. State Health System Resource Centre (SHSRC) serves as the body for technical support on problem identification, analysis and problem solving in the process of implementation. It also includes capacity building for District/City planning and organization of community processes and over all dimension of institutional capacity of which skill is only a part. The State Institute of Health and Family Welfare (SIHFW) focuses in training in respect of public health education, development of skills in public health management and all training needs of health care providers. The training is focused on skill based training of service providers and includes selected aspects of health management training. The State Programme Management Unit (SPMU) acts as the main Secretariat of SHS (State Health Society). The constitution and functioning of the SPMU and the Executive Committee of SHS shall be such that there is no hiatus between the Director of Health and Family Welfare Service and the SPMU. The SIHFWs and the SHSRCs duty is to strengthen with necessary infrastructure and human resources to enable provisions of quality training and skill development programmes. The said information is available in the official website of the National Health Mission i.e. [nhm.gov.in](http://nhm.gov.in). In the said information so provided pertaining to the National Health Mission, there is a section pertaining to **Human**

**Resource Development** which this Court finds it pertinent taking into account the issue involved herein. The said portion is quoted herein below:

**“HUMAN RESOURCE DEVELOPMENT**

*The component of the Human Resources (HR) strategy that relates to increasing numbers of key staff in consonance with IPHS and assured services has already been presented as a sub-component of facility strengthening. Many areas of skill development are presented as part of specific RCH, and communicable and non-communicable disease control programmes. This section focuses on the overall strategy for HR development.*

*NHM shall have a substantial programme of creating/strengthening institutions for building capacity at state and sub-state and regional levels. States will be supported to develop strong HR Management systems with improved practices for decentralized recruitment, fair and transparent systems of postings, timely promotions, financial and non financial incentives for performance and service in underserved areas, measures to reduce professional isolation by provisioning access to continuing medical education and skill up gradation programs, provide career opportunities for frontline workers, and utilize the enormous flexibility available under the Mission.*

*NHM will support in-service programmes, both residential and through distance education mode on family medicine, epidemiology, public health management skills and such other skills and specializations as are needed. In service training will also emphasize building leadership skills among key functionaries. Special emphasis is need for family medicine programmes to ameliorate the specialist gaps at secondary care levels and provide a better quality and range of services at both primary and secondary levels.*

*NHM would encourage development of bridge courses for ASHAs to become ANMs/GNMs and for ANMs to become nurses and nurses to become nurse practitioners.*

*NHM will support development of a three-year course for B.Sc. in Community Health for mid-level clinical care provider. Graduates from different clinical and paramedical backgrounds, like pharmacists, B.Sc. Nurses, etc, would also be able to obtain this qualification through appropriate bridge courses. The design and duration of the bridge course would depend upon an assessment of the gap between current and desired competencies. Locale based selection, a special curriculum of training close to the place where they live and work, conditional licensing and a positive practice environment will ensure that this new cadre is preferentially available where they are needed most, i.e. in the under-served areas. Nurses will serve as the backbone of clinical facilities and NHM will support the expansion of their role as clinical care providers. NHM will support advanced training of nurses, including multi skilling and task shifting in order to enable and empower them to take on newer service areas. They will also be supported to obtain educational advancement through bridge courses and other training.*

*NHM envisages the use of telemedicine to support continuing medical and nursing education and on the job support providers working in professional isolation in rural areas.*

*NHM would also support strategies to recruit, and deploy skilled health workers in rural and remote areas. These strategies would include financial and non-financial incentives, regulatory measures, workforce management and measures to reduce professional and social isolation.*

*For the staff of programme management units, improved performance will be enabled through setting clear deliverables,*

*undertaking regular performance monitoring and instituting a proper appraisal system. In addition, training based on gaps identified through skill assessment and supportive supervision will enable service providers to achieve their performance goals. One related issue is the conflict of interest situations that arise when government doctors are also involved in private practice. This should be discouraged and suitable incentives made available to such providers to spend extra time in public service in the public hospital. However many states would need to start by focusing on conflict of interest situations such as, private practice on public time, cross referral to their own clinics, and other unscrupulous practices. The RKS should also be enabled to address such situations."*

36. The above quoted portion would show that there is a special focus on the overall strategy for Human Resource Development. In that regard, the National Health Mission envisages having a substantial programme of grouping/strengthening institutions for building capacity at State and Sub-State and regional levels. The States would be supported to develop strong Human Resource Management systems with improved practices for decentralized recruitment, fair and transparent systems of postings, timely promotions, financial and non-financial incentives for performance and service in underserved areas, measures to reduce professional isolation by provisioning access to continuing medical education and skill up gradation programs, provide career opportunities for frontline workers, and utilize the enormous flexibility available under the Mission. It has also been envisaged that the National Health Mission would encourage development of bridge courses for ASHAs to become ANMs/GNMs and for ANMs to become nurses and nurses to become nurse practitioners. It has also been provided that the nurses would serve as the backbone of clinical facilities and National Health Mission would support the

expansion of their role as clinical care providers. The National Health Mission would also support advanced training of nurses, including multi skilling and task shifting in order to enable and empower them to take on newer service areas. The nurses would also be supported to obtain educational advancements through bridge courses and other training. It has also been mentioned that the National Health Mission would also support strategies to recruit, and deploy skilled health workers in rural and remote areas. These strategies would include financial and non-financial incentives, regulatory measures, workforce management and measures to reduce professional and social isolation.

37. No doubt that the decisions taken in the Minutes of the Meeting dated 13.02.2015 as already held hereinabove cannot be enforced in the Court but one aspect of the matter cannot be lost sight of that the said decisions were taken in presence of the Departmental Minister and the Minutes have been signed by the Director of National Health Mission and the Principal Secretary of Health and Family Welfare. However, it is saddening to note that the affidavits so filed by the State respondents, there is no mention as to what steps have been taken pursuant to the decisions taken in the Minutes of the Meeting dated 13.02.2015. There is also no mention as to whether any steps were being taken on the basis of the said decision so taken or for that matter as to whether any High Power Committee was at all constituted. This Court is of the opinion that in view of the decisions so taken in the Minutes of the Meeting dated 13.02.2015 and the objectives of the National Health Mission and more particularly which have been mentioned in the Human Resource Development section as quoted hereinabove, the petitioners have a legitimate expectation that their claims deserves due consideration.



38. This Court would also further like to take note of that the National Health Mission functions under the overall guidance of the State Health Mission headed by the State Chief Minister and the State Health Society carries out the functions of the Mission under the aegis of the Chief Secretary of the State. Taking into account that the petitioners have a legitimate expectation for consideration of their claims, the petitioners are given the liberty to submit the representations to the Chief Secretary, Government of Assam as well as to the Director of National Health Mission for consideration of their claims in terms with the decisions taken in the Minutes of the Meeting and the objectives of the National Health Mission and this Court requests the State Government as well as the Director of National Health Mission to consider such representations, if made, in accordance with what has been observed hereinabove as well as in a expeditious manner.

39. In the result, all the writ petitions stands dismissed, save and except the observations made hereinabove more particularly in paragraphs 33 to 38 hereinabove.

40. Before concluding, this Court also taking note of the submissions of the learned counsel for the petitioners as the question of pay parity clarifies that the instant judgment shall not be a bar to claim pay parity if entitled under law by the petitioners in a properly instituted writ petition.

**JUDGE**

**Comparing Assistant**