



GAHC010204572017

Page No.# 1/9



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

**Case No. : WP(C)/7366/2017**

FORIDA BEGUM LASKAR and 5 ORS.  
D/O. ALI AKTAR LASKAR, R/O. VILL. ALGAPUR PART-II, P.O. EAST  
ALGAPUR, P.S. LAKHIPUR, DIST. CACHAR, ASSAM.

2: RAHELA BEGUM LASKAR

W/O. LT. MUZAMIL ALI CHOUDHURY  
R/O. VILL. ALGAPUR PART-II  
P.O. EAST ALGAPUR  
P.S. LAKHIPUR  
DIST. CACHAR  
ASSAM.

3: SAHIDA BEGUM CHOUDHURY

D/O. JAINUR UDDIN CHOUDHURY  
R/O. VILL. and P.O. KARAIKANDI  
P.S. LAKHIPUR  
DIST. CACHAR  
ASSAM.

4: ASMA BEGUM LASKAR

W/O. ABUL HUSSAIN LASKAR  
R/O. VILL. GOBINDAPUR PART-III  
P.O. GOBINDAPUR  
P.S. LAKHIPUR  
DIST. CACHAR  
ASSAM.

5: SAMSUN NESHA

W/O. SALAUR RAHMAN  
R/O. VILL. and P.O. MANIPUR PART-II



P.S. LAKHIPUR  
DIST. CACHAR  
ASSAM.

6: MAJIDA BEGUM

D/O. ABDUL MALIK  
VILL. and P.O. MANIPUR PART-II  
P.S. LAKHIPUR  
DIST. CACHAR  
ASSAM

VERSUS

THE STATE OF ASSAM and 4 ORS.  
REPRESENTED BY THE COMMISSIONER and SECRETARY, TO THE GOVT.  
OF ASSAM, SOCIAL WELFARE DEPTT., DISPUR, GUWAHATI-781006.

2:THE DIRECTOR  
SOCIAL WELFARE DEPTT.  
ASSAM

UZANBAZAR  
GUWAHATI-781001.

3:THE DIST. SOCIAL WELFARE OFFICER  
CACHAR

P.O. and P.S. SILCHAR  
DIST. CACHAR  
ASSAM  
PIN-788001.

4:THE CHILD DEVELOPMENT PROJECT OFFICER  
BANSKANDI ICDS PROJECT

P.O. BANSKANDI  
P.S. LAKHIPUR  
DIST. CACHAR  
ASSAM  
PIN-788103

5:THE DEPUTY COMMISSIONER  
CACHAR

P.O. and P.S. SILCHAR  
DIST. CACHAR  
ASSAM

**B E F O R E**  
**HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI**  
**JUDGMENT & ORDER**

Advocates for the petitioners : Shri J.U.N.M. Laskar, Advocate

Advocates for respondents : Shri R. Dhar, GA, Assam.

**Date of hearing : 22.04.2024**

**Date of judgment : 22.04.2024**

Heard Shri J.U.N.M. Laskar, learned counsel for the petitioners. Also heard Shri R. Dhar, learned State Counsel representing all the respondents.

**2.** The present case has a chequered history including a number of previous litigations.

**3.** The facts projected is that pursuant to a recruitment process in the year 2009, the petitioners who are 6 (six) in numbers were selected and appointed on 13.08.2010 in the following Anganwadi Centres:

- (i) 107 No. Laskarani Anganwadi Centre;
- (ii) 111 No. Adhargram Karoikandi Anganwadi Centre and;
- (iii) 114 Khunjaw Basti Mamong Leikai Anganwadi Centre.

The appointments of the petitioners in the respective Centres were as

Anganwadi Worker (AWW) and Anganwadi Helper (AWH). Since the honorarium of the petitioners were not paid, they had first approached this Court by filing WP(C)/1987/2012. The said writ petition was disposed of vide an order dated 25.05.2012 directing disposal of the representation filed by the petitioners. Subsequent thereto, a Speaking Order dated 24.07.2012 was passed by the District Social Welfare Officer, Cachar whereby the claim of the petitioners were accepted and steps were said to be taken for release of the honorarium. The aforesaid Speaking Order was followed by a communication dated 31.07.2012 to the Director of Social Welfare for release of the honorarium.

**4.** As no action was taken, the petitioners had filed the second writ petition WP(C)/2242/2013 which was disposed of vide an order dated 31.05.2013. This Court had directed the authorities to take necessary steps for release of the honorarium. The Director, Social Welfare, however vide the impugned order dated 22.05.2017 had directed for termination of the appointment pertaining to the aforesaid three Anganwadi Centres and also to take necessary action against the concerned District Social Welfare Officer, Cachar and the CDPO for misleading and giving wrong information.

**5.** Shri Laskar, the learned counsel for the petitioners has submitted that the aforesaid impugned order is not sustainable in law inasmuch as the petitioners were not given any opportunity. It is further submitted that the induction of the petitioners in their respective services were done by following the due process of law. It is also submitted that the vacancies being properly notified and the petitioners being appointed in full-fledged Anganwadi Centre, there was no reason to deny their honorarium. The learned counsel by drawing the attention of this Court to the communication dated 27.07.2009 has submitted that so far as an Anganwadi Centre is concerned, the same is required to be manned by

one AWW and one AWH and for a Mini Anganwadi Centre, there would be one AWW. He clarifies that in the instant case, all the three Centres in question are full-fledged Anganwadi Centre wherein there is a requirement of one AWW and one AWH. The learned counsel has also drawn the attention of this Court to the interim order dated 29.11.2017 passed in this proceedings whereby the impugned order dated 22.05.2017 has been stayed.

**6.** The learned counsel however fairly submits that due to want of recent communications, he cannot submit with certainty as to whether the petitioners are still rendering their service.

**7.** Shri R. Dhar, the learned State Counsel, on the other hand has submitted that the Director, Social Welfare had the occasion to deal with the matter for the first time only during passing of the impugned order dated 22.05.2017 when the records were properly verified. He submits that it was at that point of time that the anomalies were noticed and also the role played by the concerned District Social Welfare Officer, Cachar and the CDPO. He points out that apart from the direction to terminate all appointments in the concerned three Anganwadi Centres, action against the concerned District Social Welfare Officer, Cachar and the CDPO was also directed. The learned State Counsel submits that the appointments of the petitioners being done without following the due process of law, the petitioners are not entitled to any equitable relief. It is also submitted that the entry of the petitioners in their services being without following the due process of law, they will not have any legitimate claim for their honorarium.

**8.** Shri Laskar, the learned counsel for the petitioners has however submitted that prior to this case, there are two earlier writ petitions where the present stand was never taken. He further submits that it was only after institution of a contempt case that a stand was taken by the Director, Social Welfare in the

affidavit filed in the said contempt case that the concerned file was misplaced. It is submitted that when the petitioners had duly furnished the orders of this Court, such stand is not acceptable.

**9.** The rival contentions have been duly considered and the materials placed before this Court have been carefully perused.

**10.** The present writ petition is the third round of litigation pertaining to the claim of honorarium by the petitioners. The first writ petition WP(C)/1987/2012 was disposed of vide order dated 25.05.2012 by directing disposal of the representation.

**11.** The representation was disposed of vide a Speaking Order dated 24.07.2012 which was however not by the Director of Social Welfare but by the District Social Welfare Officer, Cachar wherein steps were directed to be taken for payment and in that regard, a communication was also issued on 31.07.2012 to the Director. As the honorarium was not released, the petitioners had filed the second writ petition WP(C)/2242/2013 which was disposed of on 31.05.2013 by directing to take steps for such release. The aforesaid order was forwarded to the Director immediately. It is long after about 4 (four) years that the impugned order has been passed on 22.05.2017 by the Director. This Court has also noticed that the order has been passed after the petitioner had taken recourse to the contempt of Courts Act as there was no compliance.

**12.** Though the Director, Social Welfare has placed on record the stand in the contempt petition that consequent orders could not be passed immediately as the file was misplaced, that may not be a sufficient reason for the long delay of about 4 (four) years in considering the case of the petitioners.

**13.** Be that as it may, without going to that aspect of the matter, the reasons

assigned in the impugned order and the method adopted for arriving at the findings are required to be examined.

**14.** Though there were two earlier writ petitions filed by the same petitioners, this Court has noticed that the disposal of the first writ petition vide order dated 25.05.2012 had led to passing of a Speaking Order dated 24.07.2012 by the District Social Welfare Officer wherein there was direction towards payment of the honorarium. The said order would reflect that at that occasion, no role was played by the Director of Social Welfare. The role of the Director is reflected only in the impugned order dated 22.05.2017 wherein the Director has noticed gross anomalies in the appointment of the petitioners. It has been noted that the aforesaid 3 (three) numbers of Centres were Mini Anganwadi Centres and without proper verification, the appointment process was made at the behest of the District Social Welfare Officer, Cachar. The Director has even noted that due to the anomalies / mistake, the petitioners were appointed in Mini Anganwadi Centres which was not permitted in law. As noted above, in a Mini Anganwadi Centre, only one appointment can be made unlike a full-fledged Anganwadi Centre wherein two appointments, one as AWW and one as AWH can be made. The Director had accordingly given a finding to terminate the services of the persons who were appointed in the aforesaid three concerned Anganwadi Centres with immediate effect and also to take necessary steps for engagement of Anganwadi Workers in those Mini Anganwadi Centres. As noted above, Disciplinary Proceeding was also directed to be taken against the concerned District Social Welfare Officer, Cachar and the Child Development Project Officer, Banskandi.

**15.** Though the verification exercise by the Director on the status of the Anganwadi Centres may be correct, the action to terminate the petitioners from

their services without giving them any opportunity is not permissible under the law. The law mandates that before any adverse action is taken by an authority, the incumbent is required to be given a notice and opportunity and in this case, no such opportunity appears to have been given. It is also not the case that the induction into the service was by any fraudulent activity or by forgery and it appears that there were some misinterpretation regarding the status of the Anganwadi Centre. Even if such misinterpretation is assumed to be done by the concerned officials intentionally, the petitioners would still be entitled to be given an opportunity before any adverse action. This Court has also noted that the impugned order has been stayed by this Court in this proceeding vide order dated 29.11.2017 which has been extended from time to time.

**16.** Shri Laskar, the learned counsel for the petitioners has already submitted that he does not have the present instructions regarding the aspect as to whether the petitioners are serving or not.

**17.** Be that as it may, this Court is of the considered opinion that the decision to terminate the services of the petitioners contained in the order dated 22.05.2017 cannot be sustained as the same is not preceded by an opportunity to the petitioners. Though this Court would refrain from making any observations regarding the reasons to terminate, the impugned order dated 22.05.2017 is set aside to the extent that in case, the appointments of the petitioners are held to be not in accordance with law, any decision to terminate their services are required to be preceded by an opportunity to the petitioners. As a corollary, it is also directed that for the period, the petitioners have rendered their services, there honorarium is required to be paid.

**18.** The aforesaid exercise of payment as well as for giving a notice to the petitioners and take consequent action on the aspect of their appointment vis-a-





vis their continuation be completed within a period of 3 (three) months from today.

**19.** The writ petition accordingly stands allowed to the extent mentioned above.

**JUDGE**

**Comparing Assistant**