



GAHC010174342020

Page No.# 1/7



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

Case No. : Cont.Cas(C)/589/2020

ROHINI PHANGCHOPI AND 6 ORS.
D/O. LT. HEM CHANDRA PHANGCHO, VILL. AMUPUKHURI, DOKMOKA,
P.O. DOKMOKA, P.S. DOKMOKA, DIST. KARBI ANGLONG-782460, ASSAM.

2: KABITA HAZARIKA
D/O. LT. KESHAB CHANDRA HAZARIKA
R/O. MATHURA NAGAR
K.K. HANDIQUE ROAD
P.S. DISPUR
GUWAHATI-781006
DIST. KAMRUP (M)
ASSAM.

3: HIRAK CHANDA
S/O. SRI HIRENDRA KUMAR CHANDA
R/O. SATIJOYMATI NAGAR
B.G. COLONY
P.O. GOTANAGAR
DIST. KAMRUP (M)
GUWAHATI-781033
ASSAM.

4: SIRAJUDDIN AHMED
S/O. LT. AFTAR ALI
R/O. AGGYATHURI
P.O. DADARA
DIST. KAMRUP
ASSAM-781014

5: KULEN DAS
S/O. LT. PRAFULLA CHANDRA DAS
R/O. DWARAKA NAGAR
NAVODOY PATH
HOUSE NO.45 P.O. KHANAPARA



DIST. KAMRUP (M)
GUWAHATI-781022
ASSAM.

6: SANJAY GOLA
S/O. LT. SHIBA PUJAN GOALA
VILL. BOALJUR
P.O. BOALJUR
P.S. SONAI
DIST. CACHAR-788115
ASSAM.

7: HARI DEKA
S/O. SRI DINESH CHANDRA DEKA
VILL. AGDALA
BAIHATA CHARIALI
P.O. BAIHATA CHARIALI
P.S. BAIHATA CHARIALI
DIST. KAMRUP
ASSAM

VERSUS

SYEDAIN ABBASI AND 2 ORS.
ADDL. CHIEF SECRETARY TO THE GOVT. OF ASSAM, INCHARGE
SECRETARY, WATER RESOURCES DEPTT., DISPUR, GUWAHATI-781006,
DIST. KAMRUP (M), ASSAM.

2:RAJENDRA PRASAD DAS
SECRETARY TO THE GOVT. OF ASSAM
(RETD.)
WATER RESOURCES DEPTT.
R/O. ARUNODAY PATH
HOUSE NO.12
SRIMANTAPUR
BHANGAGARH
GUWAHATI-781005
DISPUR
GUWAHATI-781006
DIST. KAMRUP
ASSAM.

3:PALASH JYOTI GOSWAMI

DY. SECRETARY (I) TO THE GOVT. OF ASSAM
WATER RESOURCES DEPTT.
DISPUR
GUWAHATI-781006



DIST. KAMRUP
ASSAM

Advocate for the Petitioner : MR N DUTTA

Advocate for the Respondent : MS. S CHUTIA

**BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA**

Date : 14-11-2022

JUDGMENT & ORDER (ORAL)

Heard Mr. P Bharadwaj, learned counsel for the petitioners. Also heard Ms. S Chutia, learned counsel for the respondents in the Water Resources Department, Government of Assam.

2. This contempt petition is instituted alleging willful and deliberate violation of the order dated 24.01.2020 in WP(C)No.889/2018.

3. It being a contempt petition, meaning thereby that there is a willful and deliberate violation by the respondent contemnors, we put a specific query to the learned counsel for the petitioners as to which direction of this Court has been violated by the respondent contemnors and it is pointed out that the directions contained in paragraphs 89, 91 and 92 of the aforesaid judgment have been violated. Paragraphs 89, 91 and 92 of the order dated 24.01.2020 in WP(C)No.889/2018 are extracted as below:

“89. The above communication between the State Government and the

AICTE was based on the premise that the course undertaken by the petitioners was through distance education mode, which premise however, has been denied by the petitioners. The response of the AICTE, in the opinion of this Court, does not sufficiently dispel the ambiguities and lack of clarity about the validity of the certificates obtained by the petitioners."

"91. As discussed above, the petitioners have asserted that they did not obtain the certificates by way of distance education mode. Since the petitioners are asserting that they had obtained these certificates not by way of distance education mode as mentioned above, it is incumbent upon them also to furnish all the relevant documents and necessary information in support of the claim to the State Government including the manner in which they had undergone the course and also as required by the State Government after which the State Government shall refer the matter to the AICTE for a fresh reconsideration on Page No.# 58/60 the basis of the documents and the information that may be furnished by the petitioners. These documents and information will be duly forwarded by the State Government to the AICTE for their opinion. As already observed above, the petitioners would be at liberty also to obtain necessary information or documents from the Institute of Civil Engineers (India), Ludhiana, Punjab to buttress their claim that the certificates obtained by them was not by way of distance education mode."

"92. The aforesaid exercise as directed above is to be undertaken and completed by the State Government in consultation with the AICTE as expeditiously as possible and preferably within a period of 3 (three) months from the date of receipt of a certified copy of this order. It is also provided that till such exercise is completed, a proportionate number of posts of

Assistant Engineers in the Water Resources Department, Government of Assam, as the number of petitioners, will not be filled up, which shall be filled up by the petitioners, in the event they are successful, or by a fresh recruitment process if they are not successful, as the case may be.”

4. A reading of the aforesaid extracted portion of the judgment makes it discernible that there was a requirement by the order of this Court to the authorities of the State Government to furnish all necessary relevant documents and information in support of the claim of the State Government that the course undertaken by the writ petitioners is a course under the 'distance education mode'.

5. Paragraph 92 provides that the aforesaid exercise as directed i.e. the direction to provide the AICTE with all relevant documents and information be completed by the State Government in consultation with the AICTE as expeditiously as possible preferably within a period of three months from the date of receipt of a certified copy of the order.

6. A statement is made by the respondents in the Water Resources Department that as directed by this Court in its order dated 24.01.2020 all relevant materials and documents have been forwarded by the authorities of the Water Resources Department to the AICTE, but no response is forthcoming from the AICTE. If the response is not coming from the AICTE, the remedy for the petitioners would be such, if necessary, for seeking a direction against the AICTE, but it cannot be construed that as because the AICTE is not giving its



response, as to why the authorities in the Water Resources Department are alleged to have willfully and deliberately violated the order of this Court. We reiterate that a contempt proceeding is neither an execution proceeding nor it is a jurisdiction enabling litigants to wrench out any kind of favorable situation from the respondents in their favour and that until such situation arrives the contempt jurisdiction can be continued with.

7. Mr. P Bharadwaj, learned counsel for the petitioners has also provided a circular dated 23.11.2020 of the AICTE to the respondent authorities for doing the needful. We do not understand as to how by providing the said circular would require the authorities in the Water Resources Department to do an act otherwise than what is directed by this Court in its judgment in order to arrive at a satisfaction that there is a willful and deliberate violation of this Court's order. In other words, we have been given to understand that in furtherance of the cause of the petitioners, the AICTE is not giving its response in the adequate manner and, therefore, the petitioners are unable to obtain the complete relief as they may like to. But the answer for such situation cannot be invoking a contempt jurisdiction.

8. Accordingly, the contempt petition is closed. The petitioners are given the liberty to approach again in any appropriate manner as may be advised for furtherance of their grievance.

JUDGE



Comparing Assistant