2025 INSC 1506

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 13802 OF 2025
[@SPECIAL LEAVE PETITION (CIVIL) NO.30099/2024]

NUR ISLAM & ORS. **APPELLANTS**

A1: NUR ISLAM

A2: SRIMATI CHANDRAMA TALUKDAR

A3: SRI KAUSHIK BHARADWAJ

A4: SRI AMAR BAHADUR PRADHAN

A5: SRI BANKIM CHANDRA DAS

A6: SRI BIBUNGSAR KHUNGUR BARO

A7: SRI MUKUL KUMAR SARMAH

A8: SRI MANAB SARMAH

A9: SRI GANESH CH. DEKA

A10: SRI PRABAT CH. NATH

A11: SRI TARANI HALOI

A12: SRI DAIMALU BASUMATARY

A13: PRAGATI BARO

A14: SRI DEWAN SIDDIQUR RAHMAN

A15: PRANAB BARMAN

A16: SRI CHABIN CH. BAISHYA

A17: SRI RANJIT KR. DAS

A18: SRIMATI JONALI DEVI

A19: SRIMATI PRANJALI MAHANTA

A20: SRIMATI ARCHANA DEKA

A21: SRI MUNIN BARMAN

A22: SRI LANDRADHAR BORO

A23: SRI CHANAKYA SARMA

A24: SRI UPEN SWARGIARY

A25: SRI DHANESWAR TALUKDAR

A26: SRI BHUBANESWAR TALUKDAR

A27: SRI KALYANI KALITA

A28: SRIMATI MAYA SARKAR

A29: SRIMATI MADHUMITA SINGHA

A30: SRI DIBYAJYOTI HAZARIKA

A31: SRIMATI RUMI BORAH

A32: SRI RANJIT KUMAR BHARALI

A33: SRIMATI RUMI BORAH

A34: SRIMATI AROTI ROY

A35: SRI PRASANTA KR. SARMA

A36: SRI NAGEN CH. KAKATI

A37: SRI PANKAJ MEDHI

A38: SRIMATI ANAMIKA BAISHYA

VERSUS

THE STATE OF ASSAM & ORS. RESPONDENTS

R1: THE STATE OF ASSAM

R2: THE ADDITIONAL CHIEF SECRETARY TO THE GOVT. OF ASSAM

R3: THE PRINCIPAL SECRETARY FINANCE DEPARTMENT

R4: THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM

R5: THE SECRETARY TO THE GOVT. OF ASSAM SECONDARY EDUCATION DEPARTMENT

R6: THE UNDER SECRETARY TO THE GOVT. OF ASSAM SECONDARY

EDUCATION

R7: THE SECRETARY LEGISLATIVE DEPARTMENT

R8: THE DIRECTOR OF SECONDARY EDUCATION

WITH

CIVIL APPEAL NO. 13803 OF 2025

[@SPECIAL LEAVE PETITION (CIVIL) NO.29995/2024]

SUBRATA KUMAR RAY & ORS. APPELLANTS

A1: SUBRATA KUMAR RAY

A2: MALABIKA DIHIDAR

A3: MITHU GHOSH

A4: JINU DAS

A5: SATYENDRA NATH

A6: KALYANI PATHAK

A7: ASHIM SAGAR DAS

A8: SHIBABRATA BHATTACHARJEE

A9: NANDINI TANTY

A10: SUBRATA DEB

A11: SOUMEN PAUL

A12: SHITAL ROY

A13: SUSMITA NATH

A14: SABITA SINGHA

A15: PRATIMA SINGHA

A16: GITANJALI SINGHA

A17: TAPASH CHAKRABARTY

A18: GAUTAM CHAKRABARTY

A19: SAHIDA BEGUM CHOUDHURY

A20: T. SARAT KUMAR SINGHA

A21: SANGITA BAISHAY

VERSUS

THE STATE OF ASSAM & ORS. RESPONDENTS

R1: THE STATE OF ASSAM

R2: THE ADDITIONAL CHIEF SECRETARY TO THE GOVT. OF ASSAM

R3: THE PRINCIPAL SECRETARY FINANCE DEPARTMENT

R4: THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM EDUCATION DEPARTMENT

R5: THE SECRETARY TO THE GOVT. OF ASSAM SECONDARY EDUCATION DEPARTMENT

R6: THE UNDER SECRETARY TO THE GOVT. OF ASSAM SECONDARY EDUCATION DEPARTMENT

R7: THE SECRETARY LEGISLATIVE DEPARTMENT

R8: THE DIRECTOR OF SECONDARY EDUCATION

WITH

CIVIL APPEAL NO. 13804 OF 2025

[@SPECIAL LEAVE PETITION (CIVIL) NO.30645/2024]

KUNTALA DEKA APPELLANT

VERSUS

THE STATE OF ASSAM & ORS. RESPONDENTS

R1: THE STATE OF ASSAM

R2: THE ADDITIONAL CHIEF SECRETARY TO THE GOVT. OF ASSAM

R3: THE PRINCIPAL SECRETARY, FINANCE DEPARTMENT

R4: THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM

R5: THE SECRETARY TO THE GOVT. OF ASSAM SECONDARY EDUCATION DEPARTMENT

R6: THE SECRETARY LEGISLATIVE DEPARTMENT

R7: THE DIRECTOR OF SECONDARY EDUCATION

WITH

CIVIL APPEAL NO. 13805 OF 2025

[@SPECIAL LEAVE PETITION (CIVIL) NO.30065/2024]

NARAYAN KALITA & ANR. APPELLANTS

A1: NARAYAN KALITA

A2: SITA RANI BRAHMA

VERSUS

THE STATE OF ASSAM & ORS. RESPONDENTS

R1: THE STATE OF ASSAM

R2: THE ADDITIONAL CHIEF SECRETARY TO THE GOVT. OF ASSAM .

R3: THE PRINCIPAL SECRETARY FINANCE DEPARTMENT

R4: THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM .

R5: THE SECRETARY TO THE GOVT. OF ASSAM SECONDARY EDUCATION DEPARTMENT

R6: THE UNDER SECRETARY TO THE GOVT. OF ASSAM SECONDARY EDUCATION DEPARTMENT

R7: THE SECRETARY LEGISLATIVE DEPARTMENT

R8: THE DIRECTOR OF SECONDARY EDUCATION GOVT. OF ASSAM

WITH

CIVIL APPEAL NO. 13806 OF 2025

[@SPECIAL LEAVE PETITION (CIVIL) NO.30248/2024]

BHARGAV BHARADWAJ BHUYAN AND ORS. APPELLANTS

A1: BHARGAV BHARADWAJ BHUYAN

A2: SOMA ROY DUTTA

A3: LIPIKA BARUAH (BHUYAN)

A4: MANJIT GOGOI

A5: NANDITA DUTTA (BHUYAN)

A6: NAZIMA KHATUN

VERSUS

THE STATE OF ASSAM & ORS. RESPONDENTS

R1: THE STATE OF ASSAM

R2: THE ADDITIONAL CHIEF SECRETARY TO THE GOVT. OF ASSAM

R3: THE PRINCIPAL SECRETARY FINANCE DEPARTMENT

R4: THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM

R5: THE SECRETARY TO THE GOVT OF ASSAM EDUCATION (SECONDARY) DEPARTMENT

R6: THE SECRETARY LEGISLATIVE DEPARTMENT

R7: THE DIRECTOR OF SECONDARY EDUCATION

WITH

CIVIL APPEAL NO. 13807 OF 2025

[@SPECIAL LEAVE PETITION (CIVIL) NO.30058/2024]

HIMANSHU PATHAK & ORS. APPELLANTS

A1: HIMANSHU PATHAK

A2: AMULLY RAJBONGSHI

A3: NAZMA RASHID

A4: SURJA KUMAR

VERSUS

THE STATE OF ASSAM & ORS. RESPONDENTS

R1: THE STATE OF ASSAM

R2: THE ADDITIONAL CHIEF SECRETARY TO THE GOVT. OF ASSAM

R3: THE PRINCIPAL SECRETARY FINANCE DEPARTMENT

R4: THE COMMISSIONER AND SECRETARY TO THE GOVT OF ASSAM

R5: THE SECRETARY TO THE GOVT.OF ASSAM SECONDARY EDUCATION DEPARTMENT

R6: THE UNDER SECRETARY TO THE GOVT. OF ASSAM

R7: THE SECRETARY LEGISLATIVE DEPARTMENT

R8: THE DIRECTOR OF SECONDARY EDUCATION

J U D G M E N T

AHSANUDDIN AMANULLAH, J.

Heard learned counsel for the parties. Leave granted.

2. *Vide* Order/Record of Proceedings dated 18.11.2025, we had allowed these appeals, mentioning that a separate Signed Order would follow. The instant Judgment completes that chain.

BACKGROUND:

3. The appellants, in the present batch of matters, are aggrieved by the common Final Judgment and Order dated 04.10.2024 (hereinafter referred to as the 'Impugned Judgment') [**2024 SCC OnLine Gau 1601** | **(2024) 5 Gau LT 689**], passed by a learned Division Bench of the Gauhati High Court (hereinafter referred to as the 'High Court') in Writ Petition (Civil) No.8148/2018 and connected matters, *viz*. Writ Petitions (Civil) No.7955/2019, 2225/2022, 6409/2021, 6989/2021 and 6945/2021, whereby the High Court, despite upholding the contentions of the appellants and recording findings in their favour on each and every issue, including their eligibility, declined to issue a writ of mandamus directing the respondent-State and its authorities to pass necessary orders for provincialisation of the services of the appellants, who were/are serving as Music Teachers in the various provincialised schools in Assam. Instead of granting relief, the High Court relegated them to pursue such remedies as may be available in law, leaving open the window to seek appropriate relief before the State Government/any other appropriate forum, as permissible under the law.

SUBMISSIONS:

4. Learned Senior Counsel for the appellants submitted that the present cases are a clear-cut scenario of an arbitrary and discriminatory approach adopted by the State authorities in not provincialising the appellants' services, despite the appellants having met and cleared all levels of eligibility and scrutiny. It was submitted that, under the Impugned Judgment, there are categorical findings on facts as well as on law, which establish that the case of the appellants ought to have been allowed. Still, the Division Bench, at the close of the Impugned Judgment, has relegated them to the authorities concerned. What really bothers the appellants, contended learned Senior Counsel, is that the State Government, in effect, has been empowered to take a fresh decision, meaning that the entire clock will be turned back and the matter will have to be reconsidered *de novo*. It was urged that the same is impermissible at this stage, when the appellants' rights have already fully crystallised.

5. It was further submitted that the Assam Venture Educational Institutions (Provincialisation of Services) Act, 2011 (hereinafter referred to as 'the Act of 2011'), as published in The Assam Gazette, clearly stipulated that for provincialisation of '*Venture Educational Institutions*'[1] and their employees, scrutiny

1 Section 2(t) of the Act of 2011 defines the same as follows:
'"*Venture Educational Institutions" means and includes Venture Degree College, Venture Higher Secondary School, Venture High School, Venture ME School and Venture Primary School situated within the State of Assam.*'

would initially be conducted by the '*District Scrutiny Committee*'[2] (hereinafter referred to as the 'DSC') constituted by the Deputy Commissioner of the District concerned under Section 10 of the Act of 2011. Upon proper verification, the DSC would forward the list to the Director concerned, who would re-verify the same and thereafter, forward the list to the State Government for notification.

6. It was submitted that, by Letter No.PC/Sec/288/2013/270 dated 06.06.2016, the Director of Secondary Education, Assam, forwarded to the Secretary to the Government of Assam, Education (Secondary) Department, Dispur, Guwahati, a list of 214 persons (204+10), being Music Teachers, for provincialisation of their services, after due verification. It was contended that this exercise ought to have culminated in issuance of a notification provincialising the services of the appellants. However, no such notification was issued, which led to litigation culminating in the present proceedings.

7. It was further submitted that the State cannot now take a U-turn and initiate a fresh process of verification at its own level *de novo*, from the level of the Director.

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2 Section 2(g) of the Act of 2011 defines the same as follows:
'"*District Scrutiny Committee" means the District Scrutiny Committee constituted under section 10 for each District to recommend names of Venture Educational Institutions which are considered eligible for provincialisation of the services of the employees serving therein;*'

8. It was also submitted that the High Court, under the Impugned Judgment, had categorically held that a vested right had been created in favour of the appellants. It was further submitted that the Impugned Judgment itself had held that the appellants' claims, rights and entitlements under the Act of 2011 could not be taken away/adversely impacted either by the The Assam Education (Provincialisation of Services of Teachers and Re-organisation of Educational Institutions) Act, 2017 or The Assam Education (Provincialisation of Services of Teachers and Re-organisation of Educational Institutions) (Amendment) Act, 2018.

9. Learned Senior Counsel for the appellants emphasised that the Division Bench, in view of its own analysis and findings in favour of the appellants, erred in not directing for/issuing a writ of mandamus to the State Government to provincialise the appellants' services, on the ground that no such writ of mandamus had been prayed for in the writ petitions. Our attention was drawn to the prayers in the writ petitions, which would show that such prayer was, in fact, sought for by the appellants.

10. *Per contra,* learned Senior Counsel for the State submitted that, as per the pleadings and the Impugned Judgment itself, the appellants seem to have made out a case for the provincialisation of their services. However, he further submitted

that the State should be allowed to revisit the matter, so as to ensure that no ineligible person gets any undue benefit, to which they may not be entitled.

11. It may be recorded that the respondent-State has not:

(i) assailed the Impugned Judgment, and;

(ii) no Counter-Affidavit was filed, despite notice having been issued/further time granted for the said purpose on 31.01.2025/10.02.2025.

DECISION:

12. Having considered the matter in-depth, we find substance in the contentions put forth by learned Senior Counsel for the appellants.

13. It would be useful to reproduce Paragraphs 116, 118, 144 and 194 from the Impugned Judgment, which read as under:

> '***116.*** *From the record available before this court, we find that a number of Venure Educational Institutions and/or the teaching and non-teaching staff serving under them had, in reality attained the requisite eligibility for their services to be provincialised under the Act of 2011. In some cases [ref: 214 music teachers] we find that even the District Scrutiny Committee constituted under Section 10 of the Act of 2011] had verified their credentials whereafter, recommendation were also made on 06.06.2016 in favour of provincialisation of their services. Pursuant to such recommendation, these teachers had acquired the status of*

Government employees under the Act of 2011 for all practical purposes with only the issuance of formal orders of provincialisation of their services remaining pending with the Government. Therefore, we are of the opinion that a valuable right had undoubtedly accrued in favour of those eligible teachers/music teacher for issuance of formal order of provincialisation of their service under the Act of 2011. Notwithstanding the same, their services were not provincialised apparently due to repealing of the Act of 2011.

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118. *Having regard to the Scheme of the Act of 2011 and the various provisions contained therein, we are of the unhesitant opinion that in case of those Venture Educational Institutions, which were established before 01.01.2006, had fulfilled the eligibility norms prescribed under the Act of 2011 and had applied for recognition/permission/affiliation before the concerned authority prior to 01.01.2006, a vested right had accrued in their favour to receive the benefit of provincialisation under the Act of 2011. In the absence of any allegation of fraud, misrepresentation or mal-practice on their part, the right so accrued to these Venture Educational Institutions and their teaching/ non-teaching staff for provincialisation under Act of 2011, in our opinion, could not have been denied to them merely on the ground that there was delay in communicating the grant of permission/recognition/ affiliation, as the case may be, by the concerned authority.*

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144*. It would be relevant to mention herein that Section 24 of the Act of 2017, which is the repealing provision of the Act of 2011, does not lay down that the rights and privileges that had accrued upon the Venture Educational Institutions under the Act of 2011 would stand extinguished with retrospective effect. Rather, Section 24 protects all action taken for provincialisation of services of teachers prior to 23.09.2016. Such action, in our considered opinion, would also mean and include actions taken by the Departmental Authorities in processing the application submitted by the respective Venture Institutions prior to 01.01.2006 seeking permission/affiliation/ permission/concurrence as well as the decisions and recommendations of the District Scrutiny Committees, if any, recommending provincialisation of the services of the leaching and non-teaching staffs of the different Venture Educational Institutions. We are of the view that those employees, in*

whose favour, recommendations were made by the Scrutiny Committee had a vested right for their claims to be taken to its logical conclusion under the Act of 2011. As such, such vested rights of those employees could not have been taken away by the subsequent enactment of the Act of 2017.

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***194**. We have already noted here-in-above indicating that we are not entering into adjudication in respect of any question of fact involved in the individual writ petitions in this batch of petitions leading to passing of separate order(s) granting or rejecting the prayers made there-in. Therefore, in the light of the determination made herein above, it would now be open for the respective petitioners to seek appropriate legal remedy, before the appropriate forum, as may be permissible under the law, if so advised.*'

(emphasis supplied)

14. From the above passages, the relevant issues for determination, both factual as well as legal, have, in fact, been duly considered *in extenso* by the High Court, based upon the material available on record and the official communications of the respondent-State, which have not been controverted. We endorse the above-returned findings of the High Court.

15. Now, Paragraphs 7 and 9 of the Impugned Judgment assume significance. They read as below:

'***7.** … What would, however, be significant to note herein is that in this writ petition no writ in the nature of mandamus has been prayed for by the petitioners for directing the authorities to issue order of appointment in their favour based on the report submitted by the District Scrutiny Committee dated 06.06.2016 recommending*

provincialisation of services of the 214 Music Teachers who were shown to be eligible for being provincialised under the Act of 2011.

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9. *To conclude his arguments, Mr. Goswami has submitted that the rights of his clients to be provincialised had crystallized under the communication dated 06.06.2016 issued by the Scrutiny Committee during the currency of the Act of 2011 and therefore, a writ of mandamus be issued for implementation of the recommendations made in favour of the writ petitioners in the said communication.*'

(emphasis supplied)

16. In view of the aforenoted extract, we find that learned Senior Counsel appearing for the appellants in the High Court had, during the course of arguments, also sought the issuance of a writ of mandamus. However, the High Court seemingly was under the impression that no writ of mandamus had been prayed for/pleaded in the underlying Writ Petition.

17. We find that amongst the prayers made/reliefs sought in Writ Petition (Civil) No.8148/2018 in the High Court, Prayer/Relief No.4 reads as under:

'***4.*** *A Writ in the nature of Mandamus and/or any other appropriate Writ, order or direction thereby directing the respondent authorities to provide for provincialisation of services of the Petitioners with all financial benefits, including those retired after the recommendations by the Respondents, who were initially recommended or considered eligible for provincialisation but were not provincialised since they have been serving in their respective Schools since a long period of time.*'

(emphasis supplied)

18. In the circumstances, when findings by the High Court are clearly in favour of the appellants, we have no hesitation in holding that the appellants have made out a case for issuance of a writ of mandamus to the State and its authorities, in terms of the prayer made in the Writ Petition *supra*.

19. Be it noted, the categorical findings recorded in the Impugned Judgment, quoted hereinbefore, have not been challenged by the State-authorities and hence, the State-respondents have accepted the same.

20. Moreover, nothing contrary has been brought on record to indicate that, at any point of time, there was any controversy/dispute with regard to the veracity of the list of the 214 persons, taken note of in the Impugned Judgment.

21. The above apart, even if it be assumed that no prayer for grant of a writ of mandamus was made, even orally or in pleadings, it was open for the High Court to mould and grant the relief. At the cost of repetition, the High Court had, in the present cases, returned conclusive findings in the appellants' favour. The High Court was *in seisin* of writ petitions filed invoking its extraordinary jurisdiction under Article 226 of the Constitution of India. A Division Bench of the Andhra Pradesh

High Court, speaking through one of us (Ahsanuddin Amanullah, J.) in ***Mangalagiri Textile Mills Private Limited v State Bank of India*****, 2022 SCC OnLine AP 525**, considered the power to mould relief under Article 226 of the Constitution of India, including a situation where the appropriate prayer/relief was not specifically pleaded for, and held:

> '***45. The power to mould relief is an inherent and intrinsic component of Article 226. At Paragraph 5 of B.R. Ramabhadraiah v. Secretary, Food and Agriculture Dept., AP, (1981) 3 SCC 528 and Paragraph 4 of State of Rajasthan v. Hindustan Sugar Mills Ltd., (1988) 3 SCC 449, it has been held that under Article 226, the High Court's power includes the capacity to mould relief to remedy injustice and as per the demand of the situation. In Air India Statutory Corporation v. United Labour Union, (1997) 9 SCC 377, it was observed:***
>
> > ***"59. <u>The Founding Fathers placed no limitation or fetters on the power of the High Court under Article 226 of the Constitution except self-imposed limitations. The arm of the Court is long enough to reach injustice wherever it is found. The Court as sentinel on the qui vive is to mete out justice in given facts.</u>*** *On finding that either the workmen were engaged in violation of the provisions of the Act or were continued as contract labour, despite prohibition of the contract labour under Section 10(1), the High Court has, by judicial review as the basic structure, a constitutional duty to enforce the law by appropriate directions. The right to judicial review is now a basic structure of the Constitution by a catena of decisions of this Court starting from Indira Nehru Gandhi v. Raj Narain [1975 Supp SCC 1: AIR 1975 SC 2299] to Bommai case [(1994) 3 SCC 1].* ***<u>It would, therefore, be necessary that instead of leaving the workmen in the lurch, the Court properly moulds the relief and grants the same in accordance with law.</u>*** *"*
>
> *(emphasis supplied)*

46. *Moreover****, in Rajesh Kumar v. State of Bihar, (2013) 4 SCC 690, particularly at Paragraphs 14-16, it has been held that the power to mould relief is well-recognised and is available to a Writ Court to render complete justice.***

47. We have noticed an injustice and a violation of law. We, thus, proceed to fashion out the appropriate relief, despite no formal application for the same being made via pleadings. However, in the course of arguments, learned counsel for the petitioner did urge us to pass an order that would subserve justice.

48. In Ramesh Chandra Sankla v. Vikram Cement, (2008) 14 SCC 58, the Hon'ble Supreme Court was pleased to state:

> *"98. From the above cases, it clearly transpires that* ***powers under Articles 226 and 227 are discretionary and equitable and are required to be exercised in the larger interest of justice. While granting relief in favour of the applicant, the court must take into account the balancing of interests and equities. It can mould relief considering the facts of the case. It can pass an appropriate order which justice may demand and equities may project.*** *As observed by this Court in Shiv Shankar Dal Mills v. State of Haryana [(1980) 2 SCC 437: (1980) 1 SCR 1170] courts of equity should go much further both to give and refuse relief in furtherance of public interest.* ***Granting or withholding of relief may properly be dependent upon considerations of justice, equity and good conscience.***
>
> xxx
>
> *(emphasis supplied)*'
>
> (underlining in original; our emphasis in bold)

22. More recently, In ***Vashist Narayan Kumar v State of Bihar*****, (2024) 11 SCC 785**, it was opined that a '*… writ court has the power to mould the relief. Justice cannot be forsaken on the altar of technicalities.*'

23. Accordingly, these appeals stand allowed. The Impugned Judgment stands modified by setting aside Paragraph 194 thereof. A writ in the nature of mandamus is hereby issued to the State-authorities concerned, in terms of Prayer No.4 *supra* of the Writ Petition.

24. The matter(s) being quite old, the necessary consequential action(s) shall be completed by the State and its authorities within a maximum period of three months, reckoned from today.

25. It goes without saying that the provincialisation will take effect from 01.01.2013.

26. Pending applications stand disposed of. However, we do not propose to pass any order as to costs, leaving parties to bear their own.

…….....J.
[AHSANUDDIN AMANULLAH]

…….....J.
[VIPUL M. PANCHOLI]

NEW DELHI
18TH NOVEMBER, 2025