

**BEFORE**  
**HON'BLE MR. JUSTICE S.R. SEN**  
**CrI. MC (SH) No. 44 of 2013**

**11.07.2013**

List this matter on **12.07.13** as prayed for by Mr. BK Dey Roy, the learned counsel for the petitioner.

Mr. ND Chullai, the learned senior state counsel is present.

However, parties are directed not to ask for further adjournment.

JUDGE

V. Lyndem.

**BEFORE**  
**HON'BLE MR. JUSTICE S.R. SEN**  
**BA (SH) No. 92 of 2013**

**11.07.2013**

Heard Mr. AS Siddiqui, the learned counsel for the petitioner.

Call for CD.

Bail application will be considered after perusal of CD.

List this matter on 16.07.13 as suggested by Mrs. NG Shylla, the learned Addl. PP.

JUDGE

V. Lyndem.

**BEFORE**  
**HON'BLE MR. JUSTICE S.R. SEN**  
**AB (SH) No. 87 of 2013**

**11.07.2013**

Heard Mr. R Kar, the learned counsel for the petitioner/accused who submits that, for the purpose of investigation, custody is not necessary in this instant case. Besides that the accused person sustained injuries and some of them are school teachers, Government servants etc., so they may be allowed to go on pre-arrest bail.

On the other hand, Mr. R Gurung, the learned Addl. PP is present in the Court and produced the CD.

I have perused the CD.

On perusal of CD it appears that, if pre-arrest bail is granted investigation may be hampered, hence, at this stage bail application cannot be considered and stands rejected.

Court Mater is directed to return the CD along with a copy of this order to the learned Addl. PP and the matter stands disposed of.

JUDGE

V. Lyndem.

**BEFORE**  
**HON'BLE MR. JUSTICE S.R. SEN**  
**AB (SH) No. 88 of 2013**

**11.07.2013**

Heard Mr. R Kar, the learned counsel for the petitioner/accused who submits that, for the purpose of investigation, custody is not necessary in this instant case. Besides that the accused person sustained injuries and some of them are school teachers, Government servants etc., so they may be allowed to go on pre-arrest bail.

On the other hand, Mr. R Gurung, the learned Addl. PP is present in the Court and produced the CD.

I have perused the CD.

On perusal of CD it appears that, if pre-arrest bail is granted investigation may be hampered, hence, at this stage bail application cannot be considered and stands rejected.

Court Mater is directed to return the CD along with a copy of this order to the learned Addl. PP and the matter stands disposed of.

JUDGE

V. Lyndem.

**BEFORE**  
**HON'BLE MR. JUSTICE S.R. SEN**  
**Crl. Petn.(SH) No. 32 of 2013**

**11.07.2013**

Heard Mr. HL Shangreiso, the learned counsel for the petitioner.

Also heard Mr. ND Chullai, the learned senior state counsel who informed that the matter has already been charge-sheeted.

Since the matter has already been charge-sheeted, the parties have got recourse to challenge the validity of the FIR and other documents at the time of consideration of the charge. Therefore, at this stage, interference by this Court is not necessary, let the parties approach the Trial Court concerned accordingly and the matter stands disposed of.

JUDGE

V. Lyndem.

**BEFORE**  
**HON'BLE MR. JUSTICE S.R. SEN**  
**WP(C)(SH) No. 235 of 2010**

**11.07.2013**

Heard Ms. M Dev, the learned counsel for the petitioner.

Also heard Mr. R Debnath, the learned CGC who submits that, he has received a letter from the Union Home Ministry pertaining to the question of citizenship of the petitioners.

However, Mr. Debnath, the learned CGC is directed to file the affidavit within 4(four) weeks.

Mr. KS Kynjing, the learned Advocate General is present.

List this matter on 8.08.13.

JUDGE

V. Lyndem.

**BEFORE**  
**HON'BLE MR. JUSTICE S.R. SEN**  
**WP(C)(SH) No. 249 of 2010**

**11.07.2013**

Heard Mr. MZ Ahmed, the learned senior counsel assisted by Mrs. B. Dutta for the petitioner.

The learned senior counsel submits that, the petitioners were initially appointed as adhoc teachers in the 3(three) district of Garo Hills after qualifying the District Elementary Eligibility Test (DEET) and they were continuing in their services for almost 10 years. Thereafter, all of a sudden they have been replaced by another group of adhoc teachers.

The learned senior counsel further contended that, adhoc employee cannot be replaced by another adhoc employee. In support of his submissions, he relied on **SCC (1992) Vol. IV State of Haryana and Others versus Piara Singh and Others Page-118 (Para-46)**, so necessary direction may be issued to the respondents to consider the case of the petitioners.

On the other hand, Mr. H. Kharmih, the learned Addl. PP submits that, petitioners were not qualified as they have not yet passed the Pre-University Examination.

The learned Addl. PP has also drawn my attention to Annexure-1 (Page-6) Paragraph-16 of the Government Notification dated 24.11.08 annexed with affidavit-in-opposition and also Annexure-IV (Page-36) dated 28.01.08.

After hearing the submissions advanced by the learned counsel for the parties as well as to the Annexures referred to above, it appears that both the Notification dated 24.11.08 and the Govt. letter dated 28.01.08 were issued much more after appointment of the petitioners. Moreover, from Annexure-IV, it is apparent that future appointees will have to qualify the SET Examination. If it is so, in my considered view, the Notification and Letter referred to above are not applicable in this instant case because they cannot take retrospective effect.

I am also of the further view that, since the petitioners are already in their services for almost 10 years as submitted by the learned senior counsel and to just throw them out of services all of a sudden is un-wanted. Moreover, it is admitted

fact that, second group of teachers appointed are also adhoc teachers. Hon'ble Supreme Court in the case of ***State of Haryana and Others versus Piara Singh and Others reported in SCC (1992) Vol. IV, Page-118*** has specifically stated that “*Secondly, an ad hoc or temporary employee should not be replaced by another ad hoc or temporary employee; he must be only be a regular selected employee. This is necessary to avoid arbitrary action on the part of the appointing authority*”. **(Para-46)**

Hon'ble Supreme Court further observed that “*If for any reason, an ad hoc or temporary employee is continued for a fairly long spell, the authorities must consider his case for regularization provided he is eligible and qualified; according to the rules and his service record is satisfactory and his appointment does not run counter to the reservation policy of the state*”. **(Para- 49)**

For the reasons discussed above and observation made by the Hon'ble Apex Court, I am of the considered view the Government respondents should consider this case of the petitioners. Hence, the respondents are directed to reconsidered the case of the petitioners within 3(three) months by condoning or relaxing their ages.

With these observations and directions, the petition is allowed and the matter stands disposed of.

JUDGE

V. Lyndem.

**BEFORE**  
**HON'BLE MR. JUSTICE S.R. SEN**  
**WP(C)(SH) No. 41 of 2011**

**11.07.2013**

Heard Mr. MZ Ahmed, the learned senior counsel assisted by Mrs. B. Dutta, the learned counsel for the petitioner.

Also heard Mr. SP Mahanta, the learned counsel appearing for respondent No. 1.

Mr. VGK Kynta, the learned counsel for the District Counsel could not appear before this Court due to ill-health as informed by his junior counsel Mr. R Thangkhiew appearing for respondent No. 2.

JUDGE

V. Lyndem.

