

GAHC010002402023



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

Case No. : I.A.(Civil)/32/2023

ABDUL MOKKADDES TALUKDAR @ MOKKADES TALUKDER
S/O- ABDUL HAMID TALUKDER,
R/O- VILL. PALASHKANDI,
P.O.- KAMANDANGA,
P.S.- TAMARHAT,
DIST.- DHUBRI, ASSAM,
PIN- 783332.

VERSUS

THE STATE OF ASSAM AND 7 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO GOVT. OF
ASSAM, ELEMENTARY EDUCATION DEPARTMENT, DISPUR, GUWAHATI-6.

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM-CUM- CHAIRMAN
STATE LEVEL SCRUTINY COMMITTEE
KAHILIPARA
GUWAHATI-19.

3:THE MISSION DIRECTOR
SAMAGRA SHIKSHA
ASSAM
(THE THEN AXOM SARBA SIKSHAW ABHIJAN MISSION)

KAHILIPARA
GUWAHATI-19.

4:THE DISTRICT SCRUTINY COMMITTEE
REPRESENTED BY ITS CHAIRMAN-CUM-DEPUTY COMMISSIONER
DHUBRI

P.O. AND DIST.- KOKRAJHAR
ASSAM. PIN-

5:THE DISTRICT ELEMENTARY EDUCATION OFFICER

P.O. AND DIST.- DHUBRI
PIN-

6:THE DY. INSPECTOR OF SCHOOL
P.O. AND DIST.- DHUBRI
ASSAM

PIN- 783301.

7:HEAD MASTER-CUM-SECRETARY
PALASHKANDI M.E. SCHOOL

ABDUS SATTAR SK.

S/O- LATE MEHER ALI

R/O- VILL. PALASHKADI

P.O.- KAMANDANGA

P.S. TAMARHAT
DIST.- DHUBRI

ASSAM
PIN- 783332

Advocate for the Petitioner : MR. A RAHMAN

Advocate for the Respondent : SC, ELEM. EDU

Linked Case : WP(C)/8253/2022

ABDUL MOKKADDES TALUKDAR @ MOKKADES TALUKDER
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ASSAM

PIN- 783332.

Advocate for : MR. A RAHMAN

Advocate for : SC

ELEM. EDU appearing for THE STATE OF ASSAM AND 7 ORS

**BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK**

ORDER

17.01.2023.

Heard Mr. A Rahman, learned counsel for the applicant and Mr. SMT Chistie, learned Standing counsel, Department of School (Elementary) Education, Assam for the respondent/opposite party Nos. 1, 2, 5 & 6. Also heard Ms. D Das Barman, learned Government Advocate, Assam for the respondent No. 4.

2. Applicant/writ petitioner, is a Science Graduate and since 23.09.2006 he is serving as a Science Teacher of Palashkandi M.E. School, Dingdinga under Agomani Education Block of district-Dhubri, during the time of its venture stage. Though his name was recommended by the District Scrutiny Committee (Elementary), Dhubri for provincialisation under the Assam Education (Provincialisation of Services of Teachers and Re-organization of Educational Institutions) Act, 2017 as amended in 2018. However, the authorities in the Elementary Education Department without considering his case and seniority provincialised some other teachers of the said school.

3. Being aggrieved, the applicant as writ petitioner preferred the connected writ petition, WP(C) No. 8253/2022 that was disposed of on 22.12.2022 with the following direction:

“As there is a statutory provision of appeal under the said 2017 Act, the

petitioner is directed to prefer an appeal before the Secretary, Department of School Education (Elementary), Assam, under Section 14 of said 2017 Act for redressal of his grievances.

Within 15 (days) from the date of receipt of the certified copy of this order, the petitioner along with a copy of this writ petition including the Annexures appended thereto and the certified copy of this order shall submit such appeal before the Secretary, Department of School Education (Elementary), Assam, obtaining necessary acknowledgment from the said authority in that regard.

In the event of filing such appeal by the petitioner before the Secretary, Department of School Education (Elementary), Assam within the time so specified above, the concerned appellate authority shall dispose of the same within a period of 3 (three) months from the date of receipt of said appeal with a reasoned order, after verification of the relevant records and on hearing the petitioner intimating him about the outcome of the same."

- 4.** The applicant on obtaining the certified copy of the said order on 23.12.2022 found that there as some typographical errors at Para 3 & 4 in the said order 28.12.2022 passed in WP(C) No. 8253/2022.
- 5.** Hence, this Interlocutory Application for correction of certain facts as reflected at Para 3 & 4 of the said order dated 28.12.2022 passed in WP(C) No. 8253/2022.
- 6.** Perused the records of WP(C) No. 8253/2022.
- 7.** In the said WP(C) No. 8253/2022, the applicant as writ petitioner stated that his name was recommended by the District Scrutiny Committee, Dhubri and was forwarded along with two others as eligible for provincialisation of their services under the said 2017 Act. Thereafter, the State Level Scrutiny Committee, represented by its Chairman-cum-Director of Elementary Education, Assam, respondent No. 2 prepared school-wise list of Venture M.E. Schools under Agomani Education Block of District-Dhubri, including the school of the petitioner, namely, Palashkandi M.E. School, that was published in the official website of the Directorate of Elementary Education, Assam in the year 2021 at Sl. Nos. 4 & 5, but in the said list the name of the petitioner was not reflected. Petitioner stated that the said list was prepared by the respondent No. 2 as reflected in his official website,

without assigning any reasons and except the petitioner, the name of the other two teachers, namely, Mrs. Morjina Bhuyan and Mrs. Ashia Bhuyan were reflected in the said list published in the website and accordingly, their services have been provincialised, except the petitioner who is the only Science and Mathematics Teacher of the said school.

8. Being aggrieved with the recommendation of the State Level Scrutiny Committee, the petitioner on 01.09.2021 submitted a representation before the Director of Elementary Education, Assam as well as the Mission Director of Axom Sabra Siksha Abhijan, Kahilipara.

9. It is seen that in the order dated 22.12.2022, the correct facts as stated in the said writ petition, WP(C) No. 8253/2022 by its petitioner, the present applicant has been wrongly mentioned at Para 3 & 4 of the said order dated 22.12.2022, which should have been as mentioned above at Para 7 and 8.

10. After hearing the learned counsels for the parties, considering the entire aspect of the matter and comparing the order dated 22.12.2022 passed in WP(C) No. 8253/2022 with the original records of said WP(C) No. 8253/2022, the Court is of the view that in place of Para 3 & 4 in the order dated 22.12.2022 passed in WP(C) No. 8253/2022, the facts stated above at Para 7 and 8 should have been incorporated.

11. Accordingly, Para 3 and 4 in the order dated 22.12.2022 passed in WP(C) No. 8253/2022 is substituted by the contents of Para 7 and 8, made herein above.

12. This order be read together with the order dated 22.12.2022 passed in WP(C) No. 8253/2022 and to that extent, this Interlocutory Application stands allowed.

JUDGE

Comparing Assistant