

GAHC010022842017



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

Case No. : Review.Pet./65/2017

SHONAB UDDIN MOLLAH
S/O LATE TAHAJ UDDIN MUNSHI, VILL. BAHADURTARI, WARD NO. 11,
DHUBRI, DIST. DHUBRI, PIN 783301

VERSUS

THE STATE OF ASSAM and 7 ORS
REPRESENTED BY THE SECY. TO THE GOVT. OF ASSAM, EDUCATION
ELEMENTARY DEPTT., DISPUR, GUWAHATI 781006

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GHY-19

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
DHUBRI
DIST- DHUBRI
ASSAM
PIN-783301

4:THE DY. COMMISSIONER
DHUBRI
ASSAM
PIN-783301

5:THE MANAGING COMMITTEE
BAHADURTARI M.E. SCHOOL
REPRESENTED BY ITS PRESIDENT
P.O. DHUBRI
DIST- DHUBRI
ASSAM

PIN-783301

6:THE HEAD MASTER CUM MEMBER SECRETARY
BAHADURTARI M.E. SCHOOL WARD NO.11
DIST- DHUBRI
ASSAM
PIN-783301

7:SHEIKH MD. ZAKIR HUSSAIN
S/O SHEIKH A. BARI
R/O BAHADURTARI
WARD NO.11
DIST- DHUBRI
ASSAM
PIN-783301

8:SHEIKH ANOWAR HUSSAIN
S/O SHEIKH AYAN UDDIN
R/O KATLAMARI
P.O. PADMERALGA PART-IV
DIST- DHUBRI
ASSAM
PIN-783

Advocate for the Petitioner : MR. A SAYED

Advocate for the Respondent : MR. R ISLAM R- 7and8

BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR

ORDER

Date : 22.08.2023

Heard Mr. S.K.Talukdar, learned counsel for the review petitioner. Also heard Mr. A.Phukan, learned standing counsel, Elementary Education Department for the opposite party Nos. 1, 2 and 3; Mr. G.Pegu, learned Govt. Advocate for the respondent No.4 and Mr. R.Islam, learned counsel for the respondent Nos. 7 and 8.

2. By this review petition, the petitioner is seeking review of the order dated 28.05.2014, passed by this Court in WP(C)/4773/2012, wherein, a direction was issued to the Director of Elementary Education, Assam to cause scrutiny of the matter through the prescribed agencies to determine as to who is senior, the petitioner or the respondent No.7/ Sheikh Md. Zakir Hussain entitling to provincialisation of service.

3. It is the case of the review petitioner that he had earlier filed a writ petition which was registered as WP(C)/633/2012, whereby, financial assistance was sought on the ground that the petitioner is senior to the respondent Nos. 6 and 7 therein in the School called Bahadurtari M.E. School, Dhubri. This Court by order dated 10.02.2012, disposed of WP(C)/633/2012, by holding that as the matter involves disputed questions of facts, the said writ petition was disposed of directing the Director of Elementary Education, Assam to cause an enquiry and then to decide the issue relating to seniority of the writ petitioner vis-a-vis the respondent Nos. 6 and 7/opposite party Nos. 7 and 8 herein for the purpose of financial assistance. Thereafter, the Director of Elementary Education, Assam, after hearing all the parties concerned, passed an order on 21st of June, 2012 holding that the petitioner is senior to the Sheikh Md. Zakir Hussain / opposite party No.7 herein. However, this Court while passing the order dated 28.05.2014 passed in WP(C)/4773/2012, the said order of the Director dated 21st of June, 2012 was not placed before this Court and therefore, this Court have committed an error apparent on the face of records by further directing the respondents, particularly, the Director of Elementary Education, Assam to cause scrutiny of the matter through the prescribed agencies to determine who is senior between the petitioner and the respondent No.7 herein.

4. On consideration of the materials available on record, particularly, the order dated 21st of June, 2012, issued by the Director of Elementary Education, Assam, whereby, the petitioner was held to be senior to the present opposite party No.7, this Court is of the considered opinion that an error apparent on the face of records has occurred while passing the order dated 28.05.2014, passed in WP(C)/4773/2012.

5. In that view of the matter, the order dated 28.05.2014 passed in WP(C)/4773/2012 is hereby recalled.

Review petition is accordingly allowed.

The WP(C)/4773/2012 is accordingly restored back to file.

List WP(C)/4773/2012 after 3(three) weeks.

JUDGE

Comparing Assistant