

GAHC010031742023



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

Case No. : WP(C)/954/2023

MOINUL HOQUE LASKAR
S/O- KUTUB ALI LASKAR, VILL- SIBUTTAR, P.O. UJANKUPA, DIST.-
HAILAKANDI, PIN- 788152

VERSUS

THE STATE OF ASSAM AND 5 ORS
TO BE REP. BY COMM. AND SECY. TO THE GOVT. OF ASSAM, DEPTT. OF
ELEMENTARY EDUCATION, ASSAM, DISPUR, GHY-06

2:DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GHY-19

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
HAILAKANDI
DIST.- HAILAKANDI

4:THE BLOCK ELEMENTARY EDUCATION OFFICER
HAILAKANDI
DIST.- HAILAKANDI

5:THE HEAD TEACHER
404 NO. NABA SANTIPUR L.P. SCHOOL
DIST.- HAILAKANDI

6:MOYNUL HAQUE LASKAR
S/O- ABDUL LATIF LASKAR
VILL- APIN PART-II
P.S. LALA

DIST.- HAILAKANDI
PIN- 78816

Advocate for the Petitioner : MR M J QUADIR

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 07.12.2023

Heard Mr. M. J. Quadir, learned counsel for the petitioner. Also heard Mr. B. Talukdar, learned standing counsel, Elementary Education Department, Government of Assam, and Mr. H. A. Laskar, learned counsel, appearing on behalf of respondent No. 6.

The petitioner “Moinul Hoque Laskar” who contends that he was appointed as a stipendiary teacher in 359 No. Cheptibrojobpur L.P. School but was attached to 757 No. Uttar Lakhirbond L.P. School, Hailakandi, as a stipendiary teacher. The petitioner further contends that his services were thereafter, accommodated as a Tutor in 44 No. Nabosantipur L.P. School, vide order, dated 23.09.2022.

The petitioner also contends there is no school by the name “44 No. Nabosantipur L.P. School” and the correct description is “404 No. Nabosantipur L.P. School”. When the petitioner proceeded for joining at 404 No. Nabosantipur L.P. School, he found another person i.e. respondent No. 6 who had already joined the said school on the basis of the same appointment order. The name of the respondent No. 6 as contended by the petitioner is “Moynul Haque Laskar”. It is under the said circumstances that the present writ petition has

been instituted.

Mr. Quadir, learned counsel appearing on behalf of the petitioner, makes a submission in the line of the facts above-stated and prays that he being the actual appointee, he be allowed to join in the School, in question.

Per contra, Mr. Laskar, learned counsel appearing on behalf of respondent No. 6, contends that he is the actual beneficiary of the order, dated 23.09.2022 and it is his services that have been accommodated in the same very school in which he was working. Mr. Laskar, further contends that though the joining of respondent No. 6 was accepted by the school authority but, on account of the pendency of the present proceeding, the salary of respondent No. 6 has not been released.

I have heard the learned counsels appearing for the parties.

It is a case wherein, two persons having nearly the same names have presented a claim to an order of accommodation, dated 23.09.2022, and both contend that the said order was issued to him and not to the other.

Faced with the said situation and in the absence of any clarificatory affidavit from the State Respondents, this Court is left with no alternative but to require the Director, Elementary Education Department, Government of Assam, to examine the issue on the basis of the available records and thereafter, identify the actual beneficiary of the accommodation order, dated 23.09.2022(Annexure-10 to the writ petition).

On such identification being made; the actual beneficiary be given all requisite service benefits with effect from the date of issuance of the said order, dated 23.09.2022. Till the aforesaid exercise is completed and orders passed thereon, neither the petitioner nor the respondent No. 6 would be eligible to any salaries.

The Director, Elementary Education Department, Government of Assam, shall complete the entire exercise and pass appropriate speaking order thereon within a period of 3 months from the date of receipt of a certified copy of this order.

The parties are at liberty to furnish a certified copy of this order to the District Elementary Education Officer, Government of Assam, Hailakandi.

Needless to say that before passing any order in the matter; both the petitioner and the respondent No. 6 along with the concerned officials involved in the matter including the District Elementary Education Officer, Government of Assam, Hailakandi, shall be given a due hearing.

JUDGE

Comparing Assistant