

GAHC010042312022



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

Case No. : WP(C)/1588/2022

MAHBUB ZAKARIA LASKAR
S/O. LT. JALAL UDDIN LASKAR, VILL. DAKSHIN SONAPUR PART-I, P.O.
MATIJURI, P.S. HAILAKANDI, DIST. HAILAKANDI, ASSAM, PIN-788155.

VERSUS

THE STATE OF ASSAM AND 3 ORS.
THROUGH- THE COMMISSIONER AND SECRETARY, TO THE GOVT. OF
ASSAM, EDUCATION (SECONDARY) DEPTT., DISPUR, GUWAHATI-781006.

2:THE DIRECTOR OF SECONDARY EDUCATION

ASSAM
KAHILIPARA
GUWAHATI-781019.

3:THE INSPECTOR OF SCHOOLS

HAILAKANDI DISTRICT CIRCLE
DIST. HAILAKANDI
ASSAM.

4:THE DISTRICT SCRUTINY COMMITTEE

REP. BY ITS CHAIRMAN
THE DEPUTY COMMISSIONER
HAILAKANDI
DIST. HAILAKANDI
ASSAM

Advocate for the Petitioner : MS. S SEAL
Advocate for the Respondent : GA, ASSAM

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

06-02-2023

Heard Ms. S. Kanungoe, learned counsel for the petitioner and Mr. S.M.T. Chistie, learned Standing counsel, Department of School Education, Assam for the respondent Nos. 1 to 3. Also heard Mr. P. Saikia, learned Government Advocate, Assam for the respondent No. 4.

It is submitted by the petitioner that the School Managing Committee of Matijuri Girls High School, Matijuri, District-Hailakandi on 01.01.1996 appointed him as a Hindi Teacher in said school during its venture stage and since then he is serving as a Hindi Teacher in it.

It is also submitted by the petitioner that considering the enrollment of students of 5 Classes Matijuri Girls High School, though the District Scrutiny Committee for Secondary Education, District-Hailakandi recommended his name for provincialisation of service under the provisions of the Assam Education (Provincialisation of Services of Teachers and Re-organisation of Educational Institutions) Act, 2017, but the respondents in the Secondary Education did not consider his case for provincialisation and provincialised the services of the other teaching and non-teaching staff of said School including a Hindi Teacher excluding the name of the petitioner.

Being aggrieved, the petitioner preferred this writ petition praying amongst others for a direction to the respondent authorities in Secondary Education to provincialise his service as 2nd Hindi Teacher in said Matijuri Girls High School, District- Hailakandi.

The petitioner submitted that earlier he filed a representation before the Director of Secondary Education, Assam through the Headmaster of said Matijuri Girls High School, which is yet to be disposed of.

Section 14 of said 2017 Act relates to "Appellate Authority" which reads as follows:-

"Appellate Authority:-

The State Level Scrutiny Committee shall be the appellate authority against any recommendation of the District Scrutiny Committee and the State Government in the concerned administrative department shall be the Appellate Authority against any recommendation of the State Level Scrutiny Committee."

After hearing the learned counsels for the parties and considering the entire aspect of the matter, the petitioner is directed to prefer a statutory appeal before the Secretary to the Government of Assam in the Department of School (Secondary) Education as provided under Section 14 of said 2017 Act as amended **on or before 27.02.2023** along with a certified copy of this order and a copy of this writ petition including the Annexures appended thereto, obtaining necessary acknowledgment from the said authority in that regard.

In the event of filing such statutory appeal by the petitioner within the time so specified, the Secretary to the Government of Assam in the Department of School (Secondary) Education on verification of the relevant records, shall dispose of the said statutory appeal of the petitioner with a reasoned order within a period of 90 (ninety) days after giving an opportunity of hearing to the petitioner intimating him about the outcome of said appeal.

However, in the event, the petitioner is found to be eligible for provincialisation following the provisions of said 2017 Act, the respondent authorities in Secondary Education shall provincialise his service from the date of provincialisation of the other teachers of said Matijuri Girls High School, Matijuri, District-Hailakandi giving him all such financial and other service benefits as applicable under the law.

With the above observation and direction, this writ petition stands disposed of.

JUDGE

Comparing Assistant