

GAHC010048892023



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

Case No. : WP(C)/1288/2023

MINTU KAKOTI
S/O- MONIRAM KAKATI ,
VILL AND P.O-MAJPATHORI, P.S- MAGAON SADAR, DIST- NAGAON,
ASSAM, PIN-782003

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF
ASSAM, DEPARTMENT OF SCHOOL EDUCATION , DISPUR, GUWAHATI-
781006

2:THE SECRETARY
TO THE GOVERNMENT OF ASSAM
DEPARTMENT OF SCHOOL EDUCATION
DISPUR
GUWAHATI- 781006

3:THE DIRECTOR OF SECONDARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI-781019.

4:THE INSPECTOR OF SCHOOLS
NAGAON DISTRICT CIRCLE
DISTRICT- NAGAON
ASSAM
PIN- 782120

5:ABDUL MUTALIB
S/O- LATE ABDUL AZIZ
VILL- DHINGBORI PATHAR
P.O- KASHORI
NAGAON

PIN-782120
ASSAM.
I/C HEADMASTER OF KASHORI HIGH SCHOOL NAGAO

Advocate for the Petitioner : MR. A DEKA
Advocate for the Respondent : SC, SEC. EDU.

BEFORE
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK
ORDER

10-03-2023

Heard Mr. A. Deka, 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 4.

The petitioner was appointed as a Science Graduate Teacher in Kashori M.V. School in the district of Nagaon by order dated 06.11.1993 issued by the District Elementary Education Officer, Nagaon, pursuant to which, he joined the said post on 06.11.1993 itself and since then, he is receiving Graduate Scale of Pay.

Said Kashori M.V. School was amalgamated with Kashori High School, another provincialised School of the State by order dated 20.06.2017 issued by the Director of Secondary Education, Assam and thereafter, the service of the petitioner was brought under the Directorate of Secondary Education, Assam within the jurisdiction of the Inspector of Schools, Nagaon District Circle, Nagaon.

The Director of Secondary Education, Assam vide order under No. DSE/ET/B.Ed Deputation/1/2019/98 dated 09.07.2019 deputed the petitioner to undergo B.Ed. course in Shikshan Mahavidyalaya (CTE), Nagaon for the Academic Session 2019-2021 and the petitioner completed his two years B.Ed. degree in the month of September, 2021.

The petitioner stated that the respondent No. 5, an Assistant Teacher who is presently holding the post of Headmaster In-charge of said Kashori High School though received Graduate Scale of Pay w.e.f. 01.08.1995, but he does not have the B.Ed. degree. As such, said respondent No. 5 does not have the eligibility to be a Headmaster in a provincialised Secondary School.

By placing the seniority position of teaching and non-teaching staff of Kashori M.V. School after its amalgamation Kashori High School that was forwarded by the Inspector of Schools, Nagaon District Circle, Nagaon to the Director of Secondary Education, Assam on 01.11.2022, the petitioner stated

that said respondent No. 5 is junior to him as the said respondent received Graduate Scale of Pay two years later than him.

It is contended by the petitioner that since the respondent No. 5 does not have the B.Ed. degree, he does not possess the eligibility to be a Headmaster of any provincialised Secondary Schools of the State as provided under the provisions of the Assam Secondary Education (Provincialised Schools) Service Rules, 2018.

In that regard, Mr. Deka, learned counsel for the petitioner placed before the Court the relevant judgment passed in the case of *Jagannath Pegu Vs. State of Assam and others* reported in 2007 (3) GLT 389 as well as a Division Bench judgment passed in the case of *Md. Anowar Firoz Mehdi vs. Abdul Matlib and others* reported in (2016) 5 GLR 52.

Relying on the provisions of Rule 24 (5) of said 2018 Rules, the petitioner submits that he is senior to the respondent No. 5 and has all the requisite eligibility to be a Headmaster in said Kashori High School.

After hearing the learned counsels for the parties and considering the entire aspect of the matter, the petitioner is directed to submit a fresh representation before the Director of Secondary Education, Assam **on or before 30.03.2023** along with a certified copy of this order and a copy of this writ petition including the Annexures appended thereto stating his grievances.

In the event of filing such representation by the petitioner within the time so specified, after giving an opportunity of hearing to the petitioner as well as the respondent No. 5 and considering the relevant records of the Inspector of Schools, Nagaon District Circle, Nagaon, the Director of Secondary Education, Assam shall dispose of the said representation of the petitioner with a speaking order, intimating him about the outcome of the same.

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

JUDGE

Comparing Assistant