

GAHC010065032021



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

Case No. : WP(C)/2505/2021

RABIN BORAH
S/O LATE BHUGESWAR BORAH, R/O VILL. NILAKH SUNDARPUR, P.O.
NILAKH CHARIALI, P.S. SILAPATHER, DIST. DHEMAJI, ASSAM 787110

VERSUS

THE STATE OF ASSAM AND 5 ORS
TO BE REPRESENTED BY THE COMMISSIONER AND SECY. TO THE GOVT.
OF ASSAM, ELEMENTARY EDUCATION DEPTT., DISPUR, GUWAHATI 6

2:THE DIRECTOR

ELEMENTARY EDUCATION DEPTT.
ASSAM
KAHILIPARA
GUWAHATI 19

3:THE DEPUTY COMMISSIONER

DIST. DHEMAJI
ASSAM.

4:THE DIST. ELEMENTARY EDUCATION OFFICER (DEEO)
DIST. DHEMAJI
ASSAM.

5:THE BLOCK ELEMENTARY EDUCATION OFFICER (DEEO)
DIST. DHEMAJI
ASSAM.

6:RAJIB KONWAR

S/O LATE TANKESWAR KONWAR
R/O SANTIPUR KONWAR GAON
P.O. RAMYAPUR
P.S. SILAPATHER
DIST. DHEMAJI
ASSAM
PIN 78711

Advocate for the Petitioner : MR. M H LASKAR

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR

ORDER

Date : 26.07.2023

Heard Mr. M.H.Laskar, learned counsel for the petitioner. Also heard Mr. A.Phukan, learned standing counsel, Elementary Education Department for the respondent Nos. 1, 2, 4 and 5; Ms. S.R.Baruah, learned Govt. Advocate for the respondent No.4 and Mr. N.Borah, learned counsel for the respondent No.6.

2. The petitioner claims that he is the founding teacher of Sundarpur Border M. E. School which was established in the year 1993. He was appointed as an Assistant Teacher of the said school by Managing Committee by appointment letter dated 23.12.1993 to which post he joined on 03.01.1994. The respondent No.6 was also appointed as Hindi Teacher in the said school on 01.09.2009. The said Sundarpur Border M. E. School has been provincialised under the Assam Education (Provincialisation of Services of Teachers and Re-organization of Educational Institutions), Act 2017, (Act of 2017 in short). Thereafter, the process for provincialisation of the teaching and non-teaching staff of the

Sundarpur Border M. E. School started and the Block Elementary Education Officer, Dhemaji submitted the field verification report for provincialisation of services of teaching staff of upper primary schools in terms of the Act of 2017. With regard to Sundarpur Border M. E. School, the name of the petitioner was included with two other teachers. Thereafter, the name of the petitioner was recommended by the District Scrutiny Committee along with five other teachers for provincialisation of their services. The name of the respondent No.6 was however not recommended by the District Scrutiny Committee. However, the State Level Scrutiny Committee provincialised the service of the respondent No.6 and rejected the case of the petitioner.

3. By the present writ petition, petitioner is challenging the provincialisation of the respondent No.6 on the ground that he is a founding teacher of the school and also the senior most teacher of the same school. It is the case of the petitioner that he was appointed on 23.12.1993, whereas, the respondent No.6 was appointed as Hindi Teacher only on 01.09.2009. Accordingly, petitioner made a representation before the Block Elementary Education Officer. Thereafter, the Block Elementary Education Officer, Dhemaji by letter dated 09.02.2021 addressed to the District Elementary Education Officer informed that his office has forwarded the list of three teachers including the name of the petitioner for the purpose of provincialisation in the Sundarpur Border M. E. School. However, the name of the petitioner was not included in the provincialisation list. Thereafter, the District Elementary Education Officer, Dhemaji forwarded the application of the petitioner to the Director of Elementary Education, Assam by letter dated 18.02.2021. However, no step has been taken till date despite the representation made by the petitioner.

4. Section 14 of the Act of 2017 provides for an appeal before the State Government on the recommendation of the State Level Scrutiny Committee.
5. Accordingly, petitioner is directed to file an appeal before the Secretary, School Education Department within a period of 2(two) weeks from today. Thereafter, the Secretary, School Education Department shall consider the appeal filed by the petitioner after giving an opportunity of hearing to both the petitioner as well as the respondent No.6 and thereafter pass an appropriate order in accordance with law after verifying all relevant records within a period of 2(two) months from the date of receipt of the said appeal.
6. With the aforesaid observations and directions the writ petition is disposed of.

JUDGE

Comparing Assistant