

GAHC010067582022



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

Case No. : WP(C)/2474/2022

NUR ISLAM ALI
S/O- AZU ALI, R/O- VILLAGE 2. NO LOHARKATHA, P.O- LOHARKATHA, P.S
MUKALMUA,
DIST- NALBARI, ASSAM, PIN-781126

VERSUS

THE STATE OF ASSAM AND 6 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF
ASSAM,ELEMENTARY EDUCATION, DEPARTMENT,DISPUR , GUWAHATI-
06, ASSAM

2:THE DIRECTOR
ELEMENTARY EDUCATION DEPTT.
KAHILIPARA
GHY.-19.

3:THE DIST. ELEMENTARY EDUCATION OFFICER
NALBARI
ASSAM

4:THE BLOCK ELEMENTARY EDUCATION OFFICER
NALBARI
ASSAM

5:THE DISTRICT SCRUTINY COMMITTEE
NALBARI
ASSAM
(TO BE REP. BY THE CHAIRMAN CUM DEPUTY COMMISSIONER
NALBARI
DIST- NALBARI
ASSAM)

6:THE STATE LEVEL SCRUTINY COMMITTEE
TO BE REP. BY THE CHAIRMAN CUM THE DIRECTOR

ELEMENTARY EDUCATION DEPTT.
KAHILIPARA
GHY.-19.

7:SARIFUDDIN AHMED
S/O- HIKMAT ALI
R/O- VILLAGE 2. NO LOHARKATHA
P.O- LOHARKATHA
DIST- NALBARI
ASSA

Advocate for the Petitioner : MR. M H LASKAR

Advocate for the Respondent : SC, ELEM. EDU

BEFORE

HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR

02.08.2023

O R D E R

Heard Mr. M.H. Laskar, learned counsel for the petitioner.

2. Mr. G. Pegu, learned Standing Counsel, Elementary Education Department, Government of Assam, appears for respondent Nos.1, 2, 3 and 4; Mr. P. Saikia, learned Government Advocate, Assam appears for respondent Nos.5 and 6 and Mr. J.H. Saikia, learned counsel, appears for respondent No.7.

3. The case of the petitioner, in brief, is that the petitioner was appointed by the Secretary, Loharkatha M.E. School as Assistant Teacher by appointment order dated 12.08.1984. The petitioner, thereafter, joined the said post on 16.08.1994. The respondent No.7 was also appointed as Assistant Teacher of Loharkatha M.E. School on 17.11.1997. During the process of provincialisation of the services of the teaching and non-teaching staff of the said School under the *Assam Education (Provincialisation of Services of Teachers and Re-Organisation of Educational Institution) Act, 2017* (the 2017 Act, in short), the petitioner, the respondent No.7 and three other teachers were recommended for provincialisation by the District Level Scrutiny Committee. Accordingly, the proposal as received from the District Elementary Education Officer,

Nalbari was placed before the State Level Scrutiny Committee. However, the State Level Scrutiny Committee provincialised the services of respondent No.7 along with three other teachers and left out the name of the petitioner.

4. Being aggrieved, the petitioner is before this Court by way of the present writ petition on the ground that he is senior to the respondent No.7 and, therefore, his case could not have been left out by the State Level Scrutiny Committee while considering his case for provincialisation.

5. The respondent No.2, i.e., Director, Elementary Education Department, Assam has filed counter affidavit in the present writ petition and in paragraph-6, it is stated that the District Level Scrutiny Committee, Nalbari recommended the case of the petitioner, the respondent No.7 along with three other teachers for provincialisation of their services against Loharkatha M.E. School as per the Act of 2017. Thereafter, the matter was placed before the State Level Scrutiny Committee as well as the Joint Committee constituted by the Government and after following due procedures, the case of the respondent No.7 along with three other teachers were recommended for provincialisation of their services as Tutors. Nothing is forthcoming from the affidavit of respondent No.2 the reasons for which the case of the petitioner was not considered by the State Level Scrutiny Committee despite he being senior to respondent No.7 and also being recommended by the District Level Scrutiny Committee.

6. Under the circumstances, this Court has no option but to remand the matter back to the Secretary, School Education Department, Government of Assam to reconsider the matter by giving an opportunity of hearing to the petitioner as well as the respondent No.7, who shall, on verifying the records, pass an appropriate order in accordance with law within a period of two months from the date of receipt of a copy of this order.

7. With the above observations and directions, this writ petition is disposed of.

JUDGE

Comparing Assistant