

GAHC010070252021



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

Case No. : WP(C)/2734/2021

ANOWAR HUSSAIN
S/O. LT. MONSER ALI, VILL. DIGJANI, P.O. SHOWPUR, P.S. KALGACHIA,
DIST. BARPETA, ASSAM, 781319, NAME OF SCHOOL- CHAR DIGJANI MEM,
SITUATED AT VILL. DIGJANI.

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, ELEMENTARY
EDUCATION DEPTT., GUWAHATI-781006.

2:COMMISSIONER AND SECY.
TO THE GOVT. OF ASSAM
ELEMENTARY EDUCATION DEPTT.
GUWAHATI-781006.

3:THE DIRECTOR OF ELEMENTARY EDUCATION

ASSAM
KAHALIPARA
GUWAHATI-781019.

4:DISTRICT ELEMENTARY EDUCATION OFFICER

(D.E.E.O) BARPETA
DIST. BARPETA
ASSAM
PIN-781301

Advocate for the Petitioner : MD. M H CHOUDHURY

Advocate for the Respondent : SC, ELEM. EDU

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

14.08.2023

Heard Mr. M.K. Choudhury, learned counsel for the petitioner Also heard Ms. N. Phukan, learned Standing Counsel, Elementary Education for the respondent.

2. This writ petition has been filed by the petitioner praying for a direction to the respondent authorities to provincialise the service of the petitioner in the school which he is appointed. The writ petition was filed initially by about 15 petitioners. Considering that the grievances of the petitioners were separate in respect of their individual claim vis-à-vis their schools, the names of all the petitioners except Petitioner No. 1 were deleted by order dated 26.10.2021. The writ petition now pertains to only petitioner No. 1. The said petitioner is working in Char Digjani MEM which was established in the year 1986. The petitioner was one of the founder Teacher of the said school. The School was subsequently recognized by the department and the name of the School is also captured in the DISE Code from 2009 till the date of filing the writ petition and in the particulars captured in the DISE Code, name of the petitioner is also reflected which will substantiate the claim of the petitioner that they have been working as Teachers in the said school. During the process of the provincialisation, the names of the teachers, it is seen that three teachers namely, Abdur Rahim, Aynal Hoque Sikdar and Moynul Hoque were provincialised but the name of the petitioner was dropped. Being aggrieved, he has approached the authorities. However, his claim was not been ameliorated by the respondent authorities

because of which he has approached this Court by filing the present writ petition.

3. The learned counsel for the respondent No. 1 submits that there is an appellate provision under Rule 14 under Assam Education (Provincialisation of Services of Teachers and Re-organisation of Educational Institutions) Act, 2017. The said position has not been disputed by the learned counsel for the petitioner.

4. In that view of the matter, the writ petition is closed permitting the Petitioner to file an appeal in terms of Rule 14 of the Act of 2017. If the petitioner files the appeal within two weeks from the date of receipt of the certified copy of this order, the appellate authority will hear the appeal preferred by the petitioner and pass appropriate order in the said appeal preferred looking into the claims made by the petitioner. In order to facilitate the petitioner for effective relief, the petitioner is permitted to file copy of this writ petition before the appellate authority and the appellate authority will consider this writ petition to be an appeal filed under Section 14 and pass appropriate order in the matter. Any such order that is passed copy thereof shall be furnished to the petitioner. The appeal be decided within a period of 90 days for the date of receipt of the copy of the appeal as may be filed by the petitioner along with the certified copy of this order.

5. The writ petition stands disposed of in terms of the above.

JUDGE