

GAHC010071422018



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

Case No. : WP(C)/2309/2018

PUSPANJALI GOGOI
W/O SRI PURANANDA GOGOI, R/O BORDOLOI NAGAR, P.O. AND P.S.
TINSUKIA, DIST. TINSUKIA, ASSAM.

VERSUS

THE STATE OF ASSAM AND 3 ORS. (B)
REPRESENTED BY THE COMMISSIONER AND SECY. TO THE GOVT. OF
THE ASSAM, EDUCATION (SECONDARY) DEPTT., DISPUR, GUWAHATI-6

2:THE DIRECTOR OF SECONDARY EDUCATION

ASSAM
KAHILIPARA
GUWAHATI-19

3:THE INSPECTOR OF SCHOOLS

TINSUKIA DIST. CIRCLE
DIST. TINSUKIA
ASSAM.

4:SMTI NABANITA NEOG
W/O SRI RAJIB BARUAH
R/O VILL. NO. 5 GUIJAN
P.S. TINSUKIA
DIST. TINSUKIA
ASSAM

Advocate for the Petitioner : DR. B N GOGOI

Advocate for the Respondent : SC, SEC. EDU.

**BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK**

ORDER

24.02.2023.

Heard Dr. B N Gogoi, learned counsel for the petitioner and Mr. B Koushik, learned Standing counsel, Department of School Education, Assam for the respondent Nos. 1 to 3.

2. Both, the petitioner and the respondent No. 4 are Assistant Teachers in Borguri High School, Borguri in the district of Tinsukia.

3. Contention of the petitioner herein is that the Commissioner & Secretary to the Government of Assam, Secondary Education Department without determining the seniority between her and the respondent No. 4, namely, Smt. Nabanita Neog by Order under Memo No. ASE 59/2017/Pt-I/83-A dated 19.01.2018 allowed the said respondent No. 4 to hold the charge of Headmaster of said high school after amalgamation of Borguri L.P. School with Borguri High School under the scheme of Siksha Khetra by the said order dated 19.01.2018.

4. Being aggrieved, the petitioner on 07.04.2018 filed this writ petition, praying amongst others, to set aside and quash the said order of the Commissioner & Secretary to the Government of Assam, Secondary Education Department dated 19.01.2018, whereby the respondent No. 4 was shown senior to the petitioner and was allowed to be the Headmaster In-charge of the said school.

5. The respondent No. 4 by filing her affidavit on 27.07.2018 placed before the Court that pursuant to the order dated 07.02.2013 passed in WP(C) No. 545/2013 (Smt. Nabanita Neog -Vs- the State of Assam & Ors.), the Director of Secondary Education (DSE), Assam after giving opportunity of hearing to the present petitioner and the respondent No. 4 vide order dated 05.04.2013 determined the seniority between the petitioner and the respondent No. 4 and found the respondent No. 4 to be senior between them.

6. The respondent No. 4 in her affidavit has also stated that against the said order of the DSE, Assam dated 05.04.2013 determining the seniority of the respondent No. 4 above

the petitioner, a writ petition being WP(C) No. 3603/2013 was filed by the present petitioner, which was dismissed for non-prosecution on 25.10.2017, which fact the petitioner has not placed in this petition.

7. On being enquired, Mr. Koushik, Standing counsel, Department of School Education submitted before the Court that as per the instruction of the DSE, Assam, on being selected the respondent No. 4 is serving as the regular Headmaster of Borguri High School, Borguri, District-Tinsukia, which is not under challenge.

8. As such on appointment of the respondent No. 4 as the regular Headmaster of said Borguri High School, Borguri, District-Tinsukia after due process of selection as per relevant Recruitment Rules, this matter relating to Headmaster in-charge of said Borguri High School in terms of the amalgamation order of the Commissioner & Secretary to the Government of Assam, Secondary Education Department dated 19.01.2018, being without any merit, stands dismissed.

JUDGE

Comparing Assistant