

GAHC010081162021



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

Case No. : WP(C)/3654/2021

SOFIOR RAHMAN
S/O SHAHA ALOM SHEIKH
VILLAGE DHAKNABARI, PO KAYETPARA, DIST BONGAIGAON, ASSAM,
783389

VERSUS

THE STATE OF ASSAM AND 3 ORS
THROUGH THE SECRETARY TO THE GOVT. OF ASSAM, ELEMENTARY
EDUCATION DISPUR GHY 06

2:THE DIRECTOR OF ELEMENTARY EDUCATION ASSAM

KAHILIPARA
GUWAHATI 19

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER

BONGAIGAON
ASSAM

4:THE DISTRICT SCRUTINY COMMITTEE
BONGAIGAON

REPRESENTED BY ITS CHAIRPERSON CUM DEPUTY COMMISSIONER
BONGAIGAON
ASSA

Advocate for the Petitioner : MR M H AHMED

Advocate for the Respondent : GA, ASSAM

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

14.08.2023

Heard Mr. M.H. Ahmed, learned counsel for the petitioner. Also heard Mr. G. Pegu, learned Standing Counsel, Elementary Education for the respondent.

2. This writ petition has been filed by the petitioner seeking a direction to the respondent to Provincialise the service of the petitioner as an Arabic Teacher of Moukhowa M.E. Madrassa along with all service benefits.

3. The grievance of the petitioner is that the petitioner was appointed on 19.01.2006 as an Arabic Teacher in the said school. The said school was recognised from 01.01.2005 under Section 12 of the Assam Elementary Education (Provincialisation) Act, 1974. The appointment of the petitioner was approved by the DEEO, Bongaigaon by order dated 12.06.2008 and his name was also captured in the DISE Code of 2008-09, 2009-10 as an Arabic Teacher. Since his date of appointment, the petitioner has been rendering his services as an Arabic Teacher. The District Scrutiny Committee of Bongaigaon recommended the name of the petitioner for provincialisation. However by the impugned order dated 04.02.2021, in the list of Teachers provincialised, the name of the petitioner did not find mention in respect of the concerned school. Aggrieved that the present writ petition has been filed praying for appropriate order.

4. Mr. G. Pegu learned counsel for the respondents Department submits that there is a provision for a statutory appeal under Rule 14 of the Provincialisation Act 2017. The appeal is to be preferred before the Secretary of the Department. Since this is a matter pertaining to the grievances raised in respect of the claims

for provincialisation, the statutory prescribed must be availed of and the writ Court ought not to interfere without the petitioner exhausting the statutory remedy prescribed under the Rules.

5. The learned counsel for the parties have been heard. Pleadings available on record are perused.

6. The Assam Education (Provincialisation of Services of Teachers and Re-organisation of Educational Institutions) Act, 2017 prescribes the appellate authority under section 14. Under the said Section 14, the State Level Scrutiny Committee shall be the appellant authority against any recommendation of the District Scrutiny Committee.

7. In that view of the matter, the writ petition is closed with a direction to the petitioner to approach the statutory appellate authority prescribed. The writ petitioner is permitted to file the statutory appeal before the Secretary to the Government of Assam, Elementary Education/respondent No. 1, who in turn will place it before the statutory appellate authority prescribed under the Act. The appeal which is filed by the petitioner will thereupon be disposed of upon giving necessary hearing to the petitioner. Any such order that is passed by the appellate authority copy thereof shall be furnished to the petitioner. The petitioner will approach the respondent No. 1 within a period of one month from the date of receipt of certified copy of this order. The respondent No. 1 thereafter will forward the case of the petitioner before the appellate authority within a further period of one month from the date the same are received from the petitioner. The appellate authority upon receipt of the papers from the respondent No. 1 will dispose of the appeal upon giving adequate opportunity of hearing to the petitioner, within a period of 60 days from the date of receipt of the papers. Any such order that may be passed by the appellate authority, copy

thereof shall be furnished to the petitioner.

8. With the above observation the writ petition stand disposed of.

JUDGE

Comparing Assistant