

GAHC010092522021



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

Case No. : WP(C)/3322/2021

PARVIN ANOWARA
W/O ATOWAR ALI
R/O VILLAGE CHARALDANGA
PO SILAIRPAR, PS GAURIPUR, DIST DHUBRI, ASSAM. 783331

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, DEPARTMENT OF ELEMENTARY EDUCATION, DISPUR,
GUWAHATI 06

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI 19

3:THE DEPUTY COMMISSIONER
DHUBRI
ASSAM 783301

4:THE DEEO.
DHUBRI
ASSAM 783301

5:THE BEEO

GAURIPUR EDUCATION BLOCK
DHUBRI
ASSAM 783331

6:ABDUL ROFIQUE
SCIENCE TEACHER
CHARALDANGA GIRLS MEM
VILLAGE CHARALDANGA
PO SILAIRPAR
DIST DHUBRI
ASSAM 78333

Advocate for the Petitioner : MR. M A ISLAM

Advocate for the Respondent : SC, ELEM. EDU

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 06.12.2023

Heard Mr. M. A. Islam, learned counsel for the petitioner. Also heard Mr. P. K. Borah, learned standing counsel, Elementary Education Department, Government of Assam, appearing on behalf of respondents No. 1, 2, 4 & 5, and Mr. D. A. Kaiyum, learned counsel, appearing on behalf of respondent No. 6.

By this writ petition, the petitioner has raised the grievance pertaining to non-provincialization of her services under the provisions of the Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017.

The petitioner was appointed as a Hindi Language Teacher on 15.12.2004 in Charaldanga Girls M.E. Madrassa in the District of Dhubri, and she claims that she

continued to remain in service in the said school. Being one of the senior-most and eligible, several representations were made by her in 2011, 2012 and 2013, for provincialization of her service under the provisions of the Venture Educational Institutions (Provincialization of Services) Act, 2011. As her prayer for provincialization did not materialize at that point of time, she made further application for provincialization of her service under the new Act namely, the Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017. However, the District Scrutiny Committee did not recommend the petitioner's name and instead, in an arbitrary manner, recommended the name of respondent No. 6, who according to the petitioner, is junior to her in service and his name was also not shown in the DISE Code of 2009-10. The recommendation of the District Scrutiny Committee was approved by the State Level Scrutiny Committee and accordingly, provincialized the services of the respondent No. 6 as a Science Teacher in the Charaldanga Girls M.E. Madrassa.

It is the case of the petitioner that though she had continuously served the Charaldanga Girls M.E. Madrassa as a Hindi Teacher w.e.f. 15.12.2004, but the District Scrutiny Committee committed an error in forwarding the name of the respondent No. 6 in her place who was not even eligible for provincialization since his name was not shown in the DISC Code of 2009-10. The petitioner therefore prays that the provincialization list of teachers of Charaldanga Girls M.E. Madrassa based on the incorrect Format Report of the District Scrutiny Committee be interfered with by the Court and the provincialization of the respondent No. 6 may be quashed.

The petitioner being aggrieved, has instituted the present proceeding claiming that she has been discriminated.

The grievance raised by the petitioner would require determination involving factual aspects and may also require oral depositions to be made which may not be possible before this Court in the present proceeding.

To meet such eventuality, the said Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017, has in Section 14, provided for an appellate authority.

In the present case, the State Level Scrutiny Committee having already considered the matter, the appellate authority under Section 14 of the Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017, would be the Secretary, Government of Assam, Department of School Education. Accordingly, the petitioner is now required to approach the said appellate authority ventilating her grievances.

In the event of such an appeal being filed within a period of 15 days from today, the appellate authority shall examine the claims made by the petitioner in accordance with the provisions of the Assam Education (Provincialization of Services of Teachers and Re-organization of Educational Institutions) Act, 2017, and thereafter, consider and dispose of the said appeal with a speaking order within a period of 2(two) months.

With the above directions, the present writ petition stands disposed of.

JUDGE

Comparing Assistant