

GAHC010008562023



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

WP(C)/3354/2022

NUR HOSSAIN
S/O- IMAN ALI
R/O VILLAGE NAMASHERSHOW
P/O- B.K. SHERSHOW, P/S- FAKIRGANJ
DIST- DHUBRI, ASSAM. PIN- 783330.

VERSUS

THE STATE OF ASSAM AND 6 ORS
TO BE REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM
ELEMENTARY EDUCATION DEPARTMENT
DISPUR, GUWAHATI-6.

2:THE DIRECTOR
ELEMENTARY EDUCATION DEPARTMENT
ASSAM, KAHILIPARA, GUWAHATI-19.

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
DISTRICT DHUBRI, ASSAM.

4:THE BLOCK ELEMENTARY EDUCATION OFFICER (BEEO)
DISTRICT- DHUBRI, ASSAM.

5:THE DISTRICT SCRUTINY COMMITTEE
DHUBRI, ASSAM
TO BE REPRESENTED BY ITS CHAIRMAN-CUM-DEPUTY COMMISSIONER
DHUBRI, DIST- DHUBRI, ASSAM.

6:THE STATE LEVEL SCRUTINY COMMITTEE
ASSAM
TO BE REPRESENTED BY ITS CHAIRMAN-CUM-THE DIRECTOR OF
ELEMENTARY EDUCATION DEPARTMENT
KAHILIPARA, ASSAM.

7:TAHMINA KHAN
C/O- SORHAB ALI CHOUDHURY
VILL- BILPARA, P/O- AIRKATA
DIST- DHUBRI, ASSAM- 783330.

Advocate for : MR. M H LASKAR
Advocate for : SC, ELEM. EDU appearing for THE STATE OF ASSAM AND 6 ORS

**BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR**

ORDER

15-02-2023

Heard Mr. M.H. Laskar, learned counsel for the petitioner. Also heard Ms. N. Phukan, learned standing counsel, Elementary Education Department, for respondent Nos. 1, 2, 3, 4 and 6 as well as Ms. D.D. Barman, learned Additional Senior Government Advocate, appearing on behalf of the respondent No. 5 and Mr. D.A. Kayum, learned counsel for the respondent No.7.

The petitioner was initially appointed as Hindi (language) Teacher at Namashershow M.E. Madrassa on 22-04-1991 under South Salmara Educational Block of Dhubri district. It is the case of the petitioner that he is the senior most founder teacher as well as the donor of land of the said school, whereas the respondent No. 7 was appointed as the Language Teacher (Assamese) of the same school on 11-03-2005. The name of the petitioner as well as the respondent No. 7 appeared in the DISE Code of 2009-10. When the case of the teaching and non-teaching staff of the said school was considered for provincialisation under the Assam Education (Provincialisation of Services of Teachers and Re-organization of Educational Institutions) Act, 2017 (for short, 'Act of 2017'), the case of the respondent No. 7 was recommended by the District Scrutiny Committee for provincialisation as Language Teacher. However, the case of the petitioner was rejected by the District Scrutiny Committee.

It is the case of the petitioner that he is the senior most founder teacher of the school and was appointed in 1991 whereas the respondent No. 7 was appointed as Language Teacher only in the year 2005. Further the case of the petitioner is that as the school has more than 100 students, 4 (four) teachers can be provincialised under the Act of 2017, therefore, being aggrieved with non-provincialisation of his case, the petitioner is before this Court by way of the present writ petition.

Section 14 of the Act of 2017 provides for an appeal against any recommendation of the District Level Scrutiny Committee before the State Level Scrutiny Committee.

Accordingly, the writ petition is disposed of directing the petitioner to file an appeal under Section 14 of the Act of 2017 before the State Level Scrutiny Committee within a period of two weeks from today. Thereafter, the State Level Scrutiny Committee shall consider the appeal filed by the petitioner and dispose of the same by a speaking order and in accordance with law, within a period of 2 months from the date of receipt of the appeal.

While considering the appeal, the appellate authority shall give an opportunity of hearing to the petitioner as well as to the respondent No. 7.

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

The interim order passed earlier stands vacated.

JUDGE

Comparing Assistant